

**Office of the United Nations High Commissioner for Human Rights
Tunisia Office**

Prisons in Tunisia

International Standards versus Reality

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International Standards versus Reality

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Preface

General Context

The Office of the High Commissioner for Human Rights (hereby referred to as “the Office” or “OHCHR”), according to the Headquarters Agreement (*Accord de siège*) concluded with the Tunisian Government¹, provides technical advice and assistance to the Government, various national institutions and civil society organisations, with the aim of promoting and protecting human rights. Part of the Office’s mission is also the monitoring of the human rights situation and cooperation with the Government on the implementation of international standards and recommendations provided by the international human rights treaties and instruments ratified by the State of Tunisia. In this context, OHCHR Tunisia Office’s staff members conduct visits to prisons and detention centres under the Ministry of Justice to monitor the human rights situation therein and their conformity with the international standards. Such visits are followed by reports containing conclusions and recommendations that are shared with the competent authorities.

The current report on prison conditions in Tunisia is one form of technical assistance and advice the Office puts at the disposal of the Tunisian Government, and particularly the Ministry of Justice which is the competent authority supervising prisons and prison administration reform. This report aims to contribute to the development and promotion of the correctional sector taking into account the national context as well as the relative means available.

Methodology

This report is based primarily on information gathered by the Office during its prison visits in the past two years². The reports of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez³ and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin⁴, following their official missions to Tunisia constitute also an important source of information. This is in

¹ See the Headquarters Agreement between the Government of the Republic of Tunisia and the United Nations High Commissioner for Human Rights on 13 July 2013 and ratified by Decree-law No. 2011-94 dated on 29 September 2011.

² The OHCHR staff members have conducted many visits to a large number of prisons in Tunisia.

³ See the Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to Tunisia between 16 and 22 May 2012.

⁴ See the Report of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while counter-terrorism dated on 28 December 2010 (A/HRC/16/51/Add.2) following his official mission to Tunisia between 20 and 26 January 2010. See also the additional report dated on 14 March 2012 (A/HRC/20/14/Add.1) related to his second mission to Tunisia between 22 and 26 May 2011.

addition to the data provided directly by the Ministry of Justice and to the General Directorate of Prisons and Rehabilitation.

For the purpose of this report, the international standards related to the prison conditions and treatment of prisoners were used as a reference to evaluate the relevant national legislations and as well as their enforcement. This report is also based on the observations recorded by OHCHR Tunisia during public and private visits to the different Tunisian prisons as provided for in the aforementioned Headquarters Agreement.

The 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 United Nations Economic and Social Council⁵, were used as one of the main references of this report. The Report focuses on the first part of the Standard Minimum Rules for the Treatment of Prisoners – the rules that are related to the general management of penal justice institutions and applicable to all categories of prisoners. An additional report will be dedicated to the second part of the Standard Minimum Rules and their applicability which are “rules applicable to special categories” to be published some time during this year.

The report will end with a conclusion and provide a set of recommendations with the objective of supporting and improving the prison conditions in the Republic of Tunisia.

⁵ See the United Nations Economic and Social Council’s both resolutions: Resolution 666 (D, 24) of 12 July 1957 and Resolution 2076 (D, 62) of 13 May 1977.

PART ONE

Legislative Framework of the Prison System in the Republic of Tunisia

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Legislative Framework of the Prison System in the Republic of Tunisia

In 1971, the administrative structures related to prisons and rehabilitation in Tunisia became a public service with an administrative character called “Prison and Vocational Rehabilitation Institution” under the Ministry of Interior. This institution has its own civil personality as well as financial and administrative independence whose budget is allotted by the State Budget according to Article 13 of the Financial Law No. 1971-59 of 29 December 1971 according to which the Prison Sector is regulated by Presidential Order (Order No. 1988-1876 of 4 November 1988) and Law of 2 August 1999 amending the Penal Code.

In 2001, under the terms of Law No. 2001-51 of 3 May 2001 relating to the Prison Administration Officials and Agents, the management of correctional and rehabilitation institutions was transferred from the Ministry of Interior to the Ministry of Justice and Human Rights.

Law No. 2001-52 of 14 May 2001 on the organisation of prisons – according to which the prison system is organised by “law” rather than by “decree” – regulates referral to prison, prisoners’ rights and duties, discipline and punishment, visits, social care and other general rules.

The legislative framework of the prison system includes many laws such as in particular Law No. 2011-52 of 14 May 2001 directly regulating the sector and those relating to specific in-prison situations. It should be noted that there is a number of application circulars and orders relating to the legislative framework of the prison system that are not published in the Official Gazette of the Republic of Tunisia (JORT) that we have requested from the Ministry of Justice; but in vain, until the release of the current report.

A. Mission of the Prison and Rehabilitation Institution

The prison and rehabilitation institution, according to the prison-regulating laws, has the following mission:

- Implementing the correctional and rehabilitation policy.
- Ensuring the implementation of the judicial provisions of deprivation of liberty as well as judicial measures and procedures prescribed for young delinquent persons.
- Maintaining the security of prisons and rehabilitation centres and their prisoners.

- Coordinating cooperation with various national structures in the areas of correction, rehabilitation and reintegration of prisoners and young delinquent persons.
- Assisting the Judge on the Execution of Sentences in monitoring the execution of the deprivation of liberty sentence as well as the non-custodial community work.

B. Organisation of the Prison and Rehabilitation Institution

The prison and rehabilitation institution is composed of the following central administrative structures: the Inspectorate of Prisons and Rehabilitation Services, Directorate of Prisons, Directorate of Prisons and Correctional Centres Security, Directorate of Common Services, Directorate of Penal Affairs, Directorate of Rehabilitation and Correction, Sub-Directorate of Health.

C. Prison Institution-Related Laws

In addition to the Law on the organisation of prisons, there is a significant number of other relevant laws relating to prison sector, namely:

- Law No. 2000-77 of 31 July 2000, amending and supplementing certain provisions of the Code of Penal Procedure and instituting the post of Judge on the Execution of Sentences, so as to provide for judicial review of conditions of detention and of the serving of custodial sentences and Law No. 2002-92 of 29 October 2002 amending and supplementing the Code of Penal Procedure so as to strengthen the rights of the Judge on the Execution of Sentences.
- Law No. 2002-94 of 29 October 2002 on the compensation of persons who have been held in pre-trial detention or who have been sentenced and whose innocence has been proven, is intended to establish the principle of the responsibility of the State for injury caused by the administration of justice.
- Law No. 2007-32 of 22 March 2007 supplementing certain provisions of the Code of Penal Procedure, which guarantees the right of the suspect to be assisted by counsel of his or her choice at hearings by the judicial police (Police or National Guard) in charge of investigation pursuant to letters rogatory from the Investigating Judge.
- Law No. 2008-21 of 4 March 2008 supplementing certain provisions of the Code of Penal Procedure on providing written reasons in fact and in law for any decision to extend the length of police custody or pre-trial detention.
- Law No. 2008-58 of 4 August 2008 on the treatment of pregnant and breastfeeding women in detention.
- Law No. 2008-75 of 11 December 2008 on strengthening the guarantees afforded to accused persons, improve the situation of prisoners and ease conditions relating to rehabilitation.

- Law No. 2009-68 of 12 August 2009 on punitive damages and alternatives to prison sentences.
- Circular No. 2010-187 of 19 June 2010 regulating the prison administration.

D. Judicial Control of Treatment of Persons Deprived of their Liberty

Prior to the institution of the Judge on the Execution of Sentences by Law No. 2000-77 of 31 July 2000 and Law No. 2002-92 of 29 October 2002 amending and supplementing the Code of Penal Procedure so as to strengthen the jurisdiction of Judge on the Execution of Sentences, judges in the Tunisian justice system had not been entitled to conduct any judicial control over the terms and conditions of accommodation in prisons.

The main jurisdiction of the Judge on the Execution of Sentences includes the following:

- Supervising the conditions of the deprivation of liberty sentence execution in prison institutions under the territorial competence and trusteeship of the Court of First Instance.
- Visiting the prison once in two months at least to observe the prisoners' conditions.
- Informing the family court on situation of children accompanying mothers in detention so that one of the measures stipulated in their regard in Article 59 of the Child Protection Code which includes custodial measures such as custody by family (*kefala*), or placement in the National Child Welfare Institute, "SOS Villages" or other children's educational and training centres.
- Meeting with prisoners at their own request, or whom the judge wishes to hear in a special office; so he or she can present to the prison administration a list of the names of the prisoners he wishes to hear in a special office and identify the names in the light of the information and complaints that he or she receives.
- Looking at the discipline register.
- Asking the prison administration to provide social services for prisoners, such as those relating to solve disagreements between them and their family members or the difficulties that children may face in their studies.
- Providing special authorisations for convicted prisoners to leave the prison institution momentarily to visit the spouse, one of ascendants or descendants in case of extreme illness or to attend the funeral of one of the relatives.
- Being informed, in writing, of the serious cases by the prison's doctor that the latter identifies. The purpose of this notification is to alert the judge of a medical situation experienced by a prisoner, examine its causes and then do whatever is necessary, including notifying the Public Prosecutor about the physical assault crime against the prisoner or informing the prison director of the deterioration of

the patient's condition as a result of failure in providing medical assistance in a timely manner, urgent intervention to save the prisoner's life, and assigning responsibilities to different actors as required by such notifications.

- Drafting an annual report with comments and suggestions submitted to the Minister of Justice.
- Suggesting that some of the prisoners benefit from a parole release.

PART TWO

Compliance of Correctional and Rehabilitation Centres' Laws and Conditions with the UN Standard Minimum Rules for the General Management of Penal Justice Institutions

PART TWO

Compliance of Correctional and Rehabilitation Centres' Laws and Conditions with the UN Standard Minimum Rules for the General Management of Penal Justice Institutions

The United Nations, since its creation, has been working on combatting torture and inhuman treatment of prisoners. Article 5 of the 1948 Universal Declaration of Human Rights, like many other international conventions and resolutions promulgated thereafter, prevents torture or cruel, inhuman or degrading treatment or punishment.

The international efforts have led to achieving a greater human rights protection for persons deprived of their liberty through the development of “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 1955⁶, and approved by the Economic and Social Council⁷. These rules cover the minimum requirements that must be met in prisons and in the treatment of persons deprived of their liberty; they do not provide a detailed description of a typical prison system, but try to determine what is generally considered the best principles and practical rules on the treatment of prisoners as well as prison management.

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment was set in 1988, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty in 1990.

In order to assess the compatibility of the legislative framework governing the prison system and the state of the penitentiary institution with international norms and standards, we will proceed in this section to the study of international rules and criteria and relate them with domestic law, on the one hand and the reality of prisons, on the other.

As mentioned earlier, this report focuses on Part I of the Standard Minimum Rules for the Treatment of Prisoners which 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. OHCHR is working on a complementary report focusing on Part II of these rules that are applicable only to the special categories of prisoners, which should be separated and

⁶ See the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva between 22 August and 3 September 1955.

⁷ See the Economic and Social Council by its resolutions 666 D (XXIV) of 12 July 1957 and 2076 D (LXII) of 13 May 1977.

categorised according to age, gender, type of crime, criminal record, as well as “convicted vs. untried” status.

Part I of such Rules – covered by this report – consist of 19 standard rules that should be applied impartially and without any discrimination in treatment. They should 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.

Rule One: Register⁸

Article 11 of the Law on the organisation of prisons⁹ provides for this rule: “The prison director shall keep a registration book with numbered and sealed pages by the President of the First Instance Court with territorial jurisdiction in which shall be entered in respect of each prisoner received the identity, incarceration reasons, judicial authority issuing the warrant, and the day and hour of incarceration and release.”

Moreover, Article 4 of the aforementioned law states that “No person shall be admitted to prison by virtue of a committal warrant, arrest warrant or in execution of a judgment or an imprisonment decision.

Children accompanying mothers in detention are allowed to remain there until the age of two years. The same system applies to children born during their mothers’ detention according to the dispositions of Article 9 of the Law on the organisation of prisons¹⁰.

To what extent do correctional and rehabilitation centres respect this rule?

The method of registering prisoners at the time of their admission into the facility was monitored. The registration books – in which entry and exit movements as well as all kinds of movement into and out of the prison for medical treatment or to go to the courts are registered – were examined. Besides, the registration, retention of prisoners’ property and money and the archiving of medical files for each prisoner (from day of admission to day and hour of release) were also examined.

⁸ See Rule One of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

⁹ Law No. 2001-52 of 14 May 2001 on the organisation of prisons.

¹⁰ See Article 9-New of the Law on the organisation of prisons which was supplemented by Law No. 2008-58 of 4 August 2008 under which the maximum age of children accompanying their mothers in detention was reduced from three to two years.

It is to be admitted that most of prisons detain three main registration books for each prisoner which are as follows: Criminal Register, Social Register and Healthcare Register. The different prison administrations submit a monthly report to the General Directorate of Prisons and Rehabilitation.

Moreover, we observed during our visits to a number of prison facilities the existence of various registration books which were not, however, organised on individual-prisoner basis: Prisoners' Register, Admission Register, Safe Custody Register, Social Work Register, and Visitor Register.

In the Manouba Women's Prison, for instance, we noticed the keeping of the following registration books: Admission Register, Release Register, Admission Register, Statistics Register, Visitor Register, Basket Register, Safe Custody Register, Post Office Register, Social Work Register, Psychological Work Register, and Treasurer Register.

We noted, however, the absence of a registration book for the "prisoner's journal" which is a specific register for each prisoner in which the prison administration enters observations about each prisoner's behaviour, acts, and relations with other prisoners. It also includes their transfer from one dormitory to another within the same pavilion or into another one. This register is considered an important reference, in addition to the Criminal Register, in this report as it demonstrates the prisoner's "good" or "bad" discipline. Most of prison administrations, however, use the prisoner's Criminal Register as a main indicator to assess the prisoner's behaviour; i.e. those who do not have any punishment decisions registered on their Criminal Registers are considered "well-behaved." Many of the prisoners who are categorised as loyal with the prison administrations are well-behaved.

Rule Two: Separation of Categories¹¹

The Tunisian legislation addressed the issue of separation between categories in the prison institutions on the basis of prison categorisation, on the one hand, and prisoners' categorisation inside the prison, on the other. Article 3 of the Law on the organisation of prisons divides them into three categories¹²:

- Detention centres in which persons on preventive detention are kept.
- Enforcement prisons in which convicted persons with sentences of deprivation of liberty or a more severe punishment are kept.

¹¹ See the Second Rule of Standard Minimum Rules for the Treatment of Prisoners.

¹² According to the data provided by the Ministry of Justice, the General directorate of Prisons and rehabilitation follows an administrative categorisation of prison facilities – according the capacity of prisoners. Prisons are divided administratively into three categories: Category "A" – more than 2000 prisoners, Category "B" – more than 1000 prisoners, and Category "C" – less than 1000 prisoners.

- The semi-open prisons in which persons convicted for offences and rehabilitated to do farm work are kept. Note should be added that what called semi open prisons it means prisons with agriculture nature

Article 6 of the same law states: “Prisoners are kept in separate categories on admission taking account of sex, age, nature of the crime and criminal record of whether being a first or recidivist prisoner”.

Article 7 mentions that “Women are incarcerated either in women's prisons, or in separate facilities in other prisons, are guarded by female guards working under the authority of the prison director”.

Article 10 of the same law states that “If a minor has to be detained, he shall be placed in a block reserved for minors with the obligation of being separated from adult prisoners at night. Is considered a minor any person whose age does not exceed eighteen years at the time of imprisonment and until reaching that age.”

To what extent do correctional and rehabilitation centres respect this rule?

There are 27 prisons¹³ and rehabilitation centres¹⁴ in Tunisia including 19 prisons¹⁵ that are originally meant to serve as detention pre-trial centres and 8 as enforcement prisons¹⁶.

Even though men and women and minors and adults are detained separately in all correctional and rehabilitation centres; yet separation on grounds of charges and criminal record or “convicted vs. untried” varies from one centre to another.

It is to be admitted that, through our monitoring of correctional and rehabilitation centres, such institutions generally have a problem of severe overcrowding. In some centres, two or more prisoners share the same bed in rotation; and when beds are unavailable, prisoners may sleep on the floor. In addition to being a violation of international standards on the protection of all persons subjected to any form of

¹³ List of prisons in Tunisia : Mornaguia, Borj El Amri, Mornag, Rabta, Manouba, Saouaf, Borj Erroumi, Ennadhhour, Bizerte, Beja, Kef, Jendouba, Eddir, Sers, Seliana, Messadine of Sousse, Monastir, Mahdia, Kairouan, Houareb, Sidi Bouzid, Kasserine, Gafsa, Sfax, Gabes, Harboub, and Kebili.

¹⁴ List of juvenile rehabilitation centres: El Mghira, Gammarth, El Mourouj, Mjez El- Bab, Sidi El Hani, Agareb, and Souk Ejjdid.

¹⁵ Detention centres: Mornaguia, Mornaguia, Mannouba, Bizerte, Beja, Kef, Jendouba, Seliana, Messaadine of Sousse, Monastir, Kairouan, Sidi Bouzid, Kasserine, Gafsa, Sfax, Gabes, Harboub, and Kebili.

¹⁶ Enforcement Prisons: Rabta, Saouaf, Borj Erroumi, Ennadhhour, Eddir, Sers, Mahdia, and Houareb.

detention or imprisonment; this may raise problems in-between prisoners and cause the spread of skin diseases, such as, *inter alia*, scabies.

We also noticed that there was a large number of convicted prisoners in detention centres (for untried prisoners) such as the Mornaguia, Jendouba, Kef, Messadine, Kairouan, Kasserine, Gafsa, and Sfax prisons. For example, in the Kef Prison, categorized as a detention centre, there are 111 convicted and 422 untried prisoners even though its capacity according to the number of beds is 414 prisoners; that is with 119 prisoners more than its capacity in spite of the existence of an enforcement prison – the Sers Prison – in the Governorate with a capacity of 630 prisoners in which only 334 are detained on the date of 14 November 2013.

The Mornaguia Prison, a 5021-bed detention centre, accommodated 6308 prisoners on the aforementioned date. This 25.6% overcrowding rate is measured according to the number of beds and not to the surface area that is supposed to be allocated to every prisoner, bearing in mind that most of prisons use the two- or three-level bedside system.

According to the statistics and data provided to us by the General Directorate of Prisons and Rehabilitation on 25 October 2013, the overcrowding rates in Tunisian prisons is very high, reaching more than 150% in some centres, and the total number of prisoners often exceeds the capacity of prison facilities based on the number of beds and not the surface area. If we refer to the relative best practices of each 16 square meters for four prisoners, we find that the 200-square-meter large Dormitory No. 8, for example, in the Houareb Prison, had 125 inmates ; that is, 75 prisoners above the capacity and an overcrowding rate of two times and half the capacity. This rate went up to ten times in other dormitories and even more in some other prisons.

The highest overcrowding rates according to the number of beds were recorded in the following prisons: 44.4% in Jendouba¹⁷, 115.6% in Messaadine-Sousse¹⁸, 138.2% in Kairouan¹⁹, and 150.6% in Kasserine²⁰. It should be noted that these statistics are related to the male pavilions in the mentioned prisons.

Overcrowding and lack of separation between prisoner categories are the main causes behind the dangerous situation of Tunisian prisons. This makes the rehabilitation and reintegration process therefore more complex, and contributes to increasing recidivism and spreading of diseases. This is added to the weakness or

¹⁷ Jendouba Prison's capacity is 306 prisoners whereas the number of prisoners was 442.

¹⁸ Messadine Prison's capacity is 842 whereas the number of prisoners was 1816.

¹⁹ Kairouan Prison's capacity is 280 whereas the number of prisoners was 667.

²⁰ Kasserine Prison's capacity is 328 whereas the number of prisoners was 822.

absence of rehabilitation and reintegration programmes, the fact that transforms the prison into a dangerous environment, helps produce new criminals, and makes it a penal institution instead of an institution of deprivation of liberty with a correctional and rehabilitation mission.

Through the visits, it seemed to us that overcrowding is a source of pressure on the guards as it makes the time they spend on controlling the inmates longer. Moreover, overcrowding has a negative effect on the rights of prisoners and prison guards alike as it makes the latter incapable of providing prisoners with enough time for exercise and sport, work, and visits from outside. It also obliges prisoners to remain confined within the walls of their dormitories for a period of no less than 23 hours per day during which they are not allowed to have just one outer break per day. According to some of the good practices, no more than 16 prisoners are placed under the control of one security guard; a rule that is by no means applied in the Tunisian prisons.

For instance, in the Kef Prison, which has 181 staff members working in administration and security out of which only 7 work in direct contact with the prisoners, we find that every security guard controls 76 prisoners, which is very dangerous. As to the Sfax Prison, the entire prison population on the date of the visit was 1776 with 36 (out of 100) guards working in direct contact with the prisoners; i.e. with an average of 13 guards per pavilion and 50 prisoners per guard.

Moreover, overcrowding causes the deterioration of the material conditions of the prisoners who have been suffering from distress resulting of the many hours they spend inside the dormitories and lack of natural light and air, the fact that prevents them from sleeping naturally and causes slackening. This diminishes therefore the control that the prison administration has over the inter-prisoners violence. Overcrowding also reduces the time allotted to the daily break as well as external visits especially that the space for visits is limited.

What could be noted through our visits to the prisons is that the gender-based separation between categories is respected by allotting special sections to women. But with the issue of overcrowding, it was difficult to separate between the categories on the basis of other criteria: Prisoners serving long sentences are detained with those awaiting trial, and those with serious criminal records are with first prisoners. We also noticed that some of the prison administrations were separating categories of prisoners according to political or ideological convictions or backgrounds; or keeping special categories in separate sections away from the rest of the fellow prisoners while not taking into account the “convicted vs. untried” or age criteria.

Many of the prison administrations explained the cause of overcrowding by the high rate of referral decisions by the legally competent authorities, such as Public Prosecutors and Investigating Judges, and the slow pace of the legal proceedings. During the visits, we met prisoners who had been awaiting trial for three years, including those who were arrested for a number of cases and by warrants that do not take into account the fourteen-month maximum period of pre-trial detention. It should be noted in this context that the 2008 Parliament's deliberations concerning the reform of Code of Criminal Procedure insisted that the maximum pre-trial detention period is 14 months for felonies and 9 months for misdemeanours²¹.

There is a lack of compliance between the Tunisian penal legislation with the related international standards and that the defendant may be subjected to multiple warrants that do not respect the maximum fourteen-month pre-trial detention period; hence, reforming the Tunisian legislation in this regard.

It should be noted that the issue of pre-trial detention in the Tunisian legislation is regulated by Article 85 of the Code of Criminal Procedure which states that "Accused persons may be held in pre-trial detention in the case of serious or in flagrante delicto offences and whenever there are substantial grounds for believing that detention is necessary as a security measure to prevent further offences, as a guarantee that the sentence will be served or as a means of protecting information. Pre-trial detention in the above cases may not exceed six months. The pre-trial detention decision shall be duly motivated and include the factual grounds and legal reasons justifying it"²².

This is in harmony to a large extent with the Rule 2.3 of the Tokyo Rules²³, which states that pre-trial detention should be used except in cases where it is legal, reasonable and necessary. The Human Rights Committee gives a narrow interpretation of the requirement of "necessity." Detention may be necessary only "to prevent escape or interfere with evidence or the recurrence of crime," or "when the person concerned constitutes a clear and serious threat to the society, and cannot be contained in any other way." Moreover, considering the seriousness of the crime or the need to continue investigations in isolation from other elements does not justify pre-trial detention²⁴.

²¹ See the 2008 Parliament's deliberations, Session of Wednesday, 26 November 2008, p. 309.

²² Article 85 as amended by Law No. 1993-14 of 22 November 1993, and Law No. 2008-75 of 12 November 2008.

²³ See the United Nations Standard Minimum Rules for Non-custodial Measure ("The Tokyo Rules"), adopted by General Assembly resolution 45/110 of 14 December 1990.

²⁴ See General Comments adopted by the Human Rights Committee, under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights (CCPR/C/21/Rev.1 and Add.1 and 2).

Accordingly, OHCHR considers that, in order to provide greater flexibility consistent with the nature and severity of the offence, with the personality and background of the offender, and with the protection of society; and to avoid the unnecessary use of imprisonment, non-custodial measures, from pre-trial²⁵ to post-sentencing dispositions²⁶, as organised by the Tunisian Law, should be applied. Article 5 of the Penal Code provides a list of legally determined sanctions that include alternatives to prison sentences²⁷, in addition to Law No. 2009-68 of 12 August 2009 on punitive damages and alternatives to prison sentences.

Rule Three: Accommodation²⁸

Article 15 of the Law on the organisation of prisons states that “Prisoners are accommodated in cells that have adequate ventilation and light. They shall also be equipped with sanitary facilities. The prison administration is also required to provide every prisoner with a single bed and the blankets he needs.”

To what extent do correctional and rehabilitation centres respect this rule?

Detention conditions vary from one centre to another in terms of ventilation, lighting, capacity and availability of toilets. This depends on each centre’s infrastructure and capacity, in addition to the age of its building and whether it was erected to be used for the same purpose or not. For example, the Kef Prison was established in 1887 and began to be used as a prison only in 1962. It is to be noted that such conditions are generally reasonably respected; but they become inconsistent with the size of the prison population due to the problem of overcrowding.

Usually there is both natural and artificial ventilation in the dormitories through fans installed in the ceiling depending on the surface area of each dormitory. Natural light through windows and artificial through electric lighting are available. In every dormitory, there is one toilet or more, depending on the surface area of the room. Yet, it is to be noted that compliance between such conditions and international standards becomes generally problematic in most of prisons because

²⁵ See Articles 13, 14 and 113 to 117 of the Child Protection Code relating to mediation, Articles 335 (bis) to 335, paragraph 7 of the Penal Code, Articles 86 to 92 of the Code of Criminal Procedure relating to provisional release, and Article 93 of the Child Protection Code on handing over the child to his parents or other.

²⁶ See Articles 353 to 360 of the Code of Criminal Procedure related to parole release, Articles 371 to 375 of the same code, and Article 110 of the Child Protection Code.

²⁷ Article 5 of the Penal Code establishes sanctions including: capital punishment, life imprisonment, imprisonment for a certain period, community work, fine, and penal compensation.

²⁸ See Rule Three of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

of the extreme overcrowding especially when compared to the best practices in terms of space allocated to each prisoner.

Rule Four: Personal Hygiene²⁹

Article 17 of the Law on the organisation of prisons in its paragraphs 3 and 4 states that every prisoner has the right to have shaving and hygiene materials under the regulations of the institution, the right to shower at least once a week or at the discretion of the prison doctor.

Article 13 of the same law establishes that “the prisoner, on admission to the prison, is examined by the prison’s doctor; if it turns out that he is suffering from a contagious disease, he should be isolated in a pavilion designed for the purpose.”

Paragraph 6 of Article 20 states that “The prisoner should clean his clothes as well as his bed and blanket and keep them in proper condition.”

To what extent do correctional and rehabilitation centres respect this rule?

Practically, as to the prisoners’ physical hygiene, every prisoner generally exercises the right to shave on a permanent basis and take a shower at least once a week in a place dedicated to the purpose. The prisoners buy their shaving and hygiene materials from the prison’s shop (store).

With regard to clothing requirements and cleanliness, there is no uniform for prisoners or a specific type of custom-tailored dresses that are used in place by the correctional centre’s administration. This is left up to the prisoner and his family to get the necessary clothes that he should clean and wash himself using detergents he purchases at the prison’s shop.

During our visits, we noticed a discrepancy between prisoners when it comes to personal hygiene and clothes which may be attributed to the prisoner’s financial capacity and that of his family. The detention centres’ administrations, however, do not examine or observe this situation and impose it periodically on the prisoners; usually the prison administration takes steps to impose hygiene on the prisoner when it receives complaints of someone’s lack of hygiene lodged by other prisoners against him.

Regarding beds, as noted above, it is difficult to find a prisoner who has a single bed, except in limited cases; more than one prisoner share the same bed most of the time. Beds in rehabilitation centres generally lack the minimum cleanliness and

²⁹ See Rule Four of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

hygiene. They are substituted only at the happening of some disaster, such as when they were set in fire during the disturbances that took place in Tunisian prisons during the 2011 Revolution.

The General Directorate of Prisons provides prisons with bedding and blankets – one mattress and two blankets for each prisoner – and it is possible to increase the number of blankets, if requested by the prisoner, depending on their availability in the prison administration, otherwise they are provided by the family. It appeared to us during our visits that the blankets provided by the prison administration did not have one model and same specifications. Moreover, the majority of the officials we interviewed do not know the particular specifications of bedding approved by the public administration, except that some of the beddings were replaced by non-flammable ones because of the fires that had occurred in some prisons during the revolution. We noted the absence of heating in prisons.

We would also like to emphasize that the bedding and blankets' cleanliness is not observed periodically by the prison administration. We noted during our visits that each prisoner participates in the cleaning of his dormitory – known as “*el-korfi*” – according to the rotating schedule which is observed by the dormitory's principal. We came across a number of vulnerable prisoners who were bearing the cleaning burden outside the set schedule assigned to each prisoner in exchange for food, cigarettes or other materials circulating within the prison; this even almost continuously includes cleaning toilets. Causing discrimination and inequality among prisoners, it is then important for the Directorate of Prisons and Rehabilitation to find other formats to ensure that each prisoner's dignity is preserved and is not discriminated.

Rule Five: Food³⁰

Article 17 of the Law on the organisation of prisons states in its first paragraph that “Every prisoner has the right to free nutrition” and Article 18 of the same Law in its paragraph 4 states that “The prisoner has the right to receive provisions, parcels and clothing from the family.”

To what extent do correctional and rehabilitation centres respect this rule?

During the visits, we noted the following:

Every prisoner receives from his family what is known as “*el-koffa*” (or basket) two to three times a week which should not contain some types of cooked food by the

³⁰ See Rules Four and Five of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

families, and this is for security reasons. It is worth mentioning that the “*el-koffa*” system is not used in most of the world prisons as providing three sufficient meals according to healthy nutrition standards is the responsibility of the State. Despite the fact that the prison administration provides three meals a day that, to some extent, respect healthy nutrition standards, a number of prisoners complained about the delay in offering such meals; i.e. the absence of regular schedules. As reported by a large number of them, the quality of food provided by the prison administration is below the standards, the reason why they prefer the food prepared by and received from their families.

The prison administration provides three meals a day for prisoners. We noticed that each prison facility was equipped with kitchen and a cook (a graduate of the prison agents training centres). The prisoners are offered food decided by a committee that selects meals on a weekly and periodic basis; but agents do not observe the way such food is prepared.

Each prisoner eats his food in the place reserved for him in his dormitory (on or beside his bed or with other prisoners). It is always possible to buy from the prison’s store some products that are not allowed to enter the prison from outside (such as canned food) as they are difficult to be screened.

Some of the prisoners, who are entitled to, work inside the prison’s kitchen and serve food to the rest of prisoners, but are not subjected to medical examination on a regular basis.

It should be noted that a number of prisoners have no access to “*el-koffa*” or basket, either for economic reasons specific to their families, because of prison’s location away from their place of residence or for being subjected to the penalty of deprivation of “*el-koffa*” for specific periods as a disciplinary punishment.

Rule Six: Exercise and Sport³¹

Paragraphs 5 and 6 of Article 19 of the Law on the organisation of prisons state that “Every inmate has the right to conduct cultural and sports activities supervised by qualified prison administration staff member according to the means available, and every prisoner has the right to benefit from recreation programmes under the regulations of the institution.”

To what extent do correctional and rehabilitation centres respect this rule?

³¹ See Rule Six of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

According to the information available to the Office, prisoners have a certain time for exercise usually in the space allocated for the break (called “*el’eryia*”). Such activities are personal and are not governed by rules and regulations set by the Directorate of Prisons and Rehabilitation. Moreover, many prisons have neither gyms nor designated areas for sport.

Rule Seven: Medical Services³²

Article one of the Law on the organisation of prisons states that “conditions of detention in prisons ensure the prisoner’s physical and moral integrity, and the prisoner benefits, to this end, from medical and psychological care.” Article 8 states that “Pregnant women in detention receive prenatal and postnatal medical care, and measures are taken for children born in hospitals outside prisons.”

Article 13 of the same Law establishes that “the prisoner, on admission to the prison, is examined by the prison’s doctor; if it turns out that he is suffering from a contagious disease, he should be isolated in a pavilion designed for the purpose.”

The child accompanying his mother in detention is subjected to medical treatment, and the prison administration provides him toiletries, food as well as any medical and preventive services. The same measures are extended to include children born during the maternal incarceration.”

Article 17 of the same Law in its paragraph 2 states that “Every prisoner has the right to benefit from free medical treatment and medicines inside the prison and, when needed, in medical institutions by decision of the prison’s doctor.”

Article 342 of the Code of Penal Procedure in its paragraph 3 states that “The Judge on the Execution of Sentences visits the prison at least once every two months to inspect the prisoners’ conditions and meets with the prisoners or other persons who wish to be heard in a private office.”

Article 342 (4) of the same Code establishes that “The prison’s doctor reports to the Judge on the Execution of Sentences in writing on the precarious cases he identifies.”

To what extent do correctional and rehabilitation centres respect this rule?

The prison administrations fill up a health card for every prisoner on admission. This card is filled according to the model adopted by the General Directorate of Prisons and Rehabilitation and used in all the prisons we visited. However,

³² See Rule Seven of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

according to our observations and what many prisoners brought to our attention was that the prisoners' health card is filled on the basis of oral statements made by the concerned prisoner and not on the basis of the medical examination that every prisoner is supposed to be subjected to on admission to the prison.

It seems that prisoners have rarely been denied admission to the prison for medical reasons or even for reasons of ill-treatment or torture prior to his imprisonment. Prison directors usually believe that they are not entitled to refuse the admission of a prisoner referred to them by a judicial authority even if abuse or torture symptoms are clear on him. But doctors generally document the prisoner's condition in his health record and accept his admission even though he is transferred to them from another prison or detention centre. Doctors or prison administrations often do not report to the judicial authorities on these cases or inform the prisoner of his right to file a complaint about the abuse he received prior to his imprisonment to the competent authorities.

Generally, in every prison, there is a clinic and health department with a general practitioner, contracted or permanent, assisted by nurses. Prisoners are referred to a doctor at their request, and in some cases, are examined by the nurse. But those health departments do not conduct any mandatory examinations on a periodic basis for all prisoners. Through our visits and inspections of the medical records, we did not note any trace of any periodic examination of all prisoners according to a specific schedule. Also we did not note if the prisoners working in the kitchen and other facilities were being subjected to periodic medical examinations. The prison's clinics maintain the medical records of the prisoner patients and issue a medical report on the status of the patient. Prisoner patients are transferred to public hospitals if necessary following the recommendation of the prison's doctor. Moreover, the prisoner patients are provided with medicines free of charge from the prison pharmacy that are supplied by the General Directorate and the Central Pharmacy on the basis of an inventory of the medicines requested and submitted by each prison.

Rule Eight: Discipline and Punishment³³

Article 12 of the Law of the organisation of prisons states that "The prisoner shall be informed on his admission of the content of laws and regulations of the institution. The information are transmitted orally to illiterate and foreign prisoners to ensure understanding of their content."

Article 20 of the same Law enumerates the prisoner's obligations which are thirteen in number:

³³ See Rule Eight of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

- 1) To submit to the rules of the prison and comply with its regulations.
- 2) To obey the agents' orders under the applied regulations.
- 3) To align for the daily census operations.
- 4) To refrain from refusing to take part in the daily walk.
- 5) To put the outfit for the convicts.
- 6) To wash clothes and other bedding and blankets in his possession and keep them in proper condition.
- 7) To clean the incarceration room and the workshop.
- 8) To refrain from damaging property belonging to the prison.
- 9) To respect the administrative rules for sending or receiving correspondences.
- 10) To detain objects prohibited under the regulations of the institution during incarceration.
- 11) To refrain from writing or encouraging mobilizing the drafting of collective petitions.
- 12) To refrain from violating one's physical integrity or that of others.
- 13) To refrain from participating in gambling games.

Articles 22, 23, 24, 25 et 26 of the same Law aimed at organising the question of discipline inside prisons.

According to Article 22, "A prisoner who fails to comply with the obligations exposed in the abovementioned Article 20 of this Law or undermines the proper functioning of the service or safety of the prison is exposed to one of the punishments listed below:

- 1) To be deprived of receiving provisions and parcels for a fixed period not exceeding fifteen days.
- 2) To be deprived of family visits for a period not exceeding fifteen days.
- 3) To be deprived of receiving writing and reading materials for a period not exceeding fifteen days.
- 4) To be deprived of work.
- 5) To be deprived of reward.

6) To be deprived of the right to make any purchases in the prison shop for a period not exceeding seven days.

7) To be placed in a solitary confinement equipped with the necessary sanitary facilities, after consulting the doctor of the prison, and for a period not exceeding ten days during which the prisoner remains under the control of the doctor who may request a reconsideration of this measure for health reasons.

Article 23 states that “In case of concurrent offences, the prisoner shall be brought only once before the Disciplinary Committee; it cannot in any case be more than two disciplinary actions at a time.”

According to Article 24, “The prisoner shall be subject to disciplinary sanction after having been heard and given a proper opportunity of presenting his defence. The assistance of an interpreter for foreign prisoners should be sought, if necessary. The authority in charge of prisons and rehabilitation must be informed in writing of any disciplinary action taken by the Disciplinary Committee.”

Article 25 of the Law states that “A prisoner may lodge an appeal on the disciplinary action taken against him within no more than the day following his notification with the prison administration, which immediately notifies the authority in charge of prisons and rehabilitation. The rejection of the disciplinary decision does not suspend its execution. The Authority in charge of prisons and rehabilitation could either confirm the disciplinary decision or reduce it.”

These punishments and their durations are determined by the Disciplinary Committee regardless of the existent penal prosecutions. Article 26 of the Law determines the composition of the prison Disciplinary Committee which is as follows: “The prison director in his capacity as chairman, his deputy, head of Social Work Office as well as a prisoner of with a good conduct chosen by the prison director from the same dormitory of the offender or the same workshop or work site. The Disciplinary Committee may call the psychologist to request his opinion to that effect.”

To what extent do correctional and rehabilitation centres respect this rule?

The abovementioned paragraph 11 of Article 20 of the Law on the organisation of prisons is not compliant with the international standards on the right to lodge complaints and petitions in case of violation of one of the prisoner’s guaranteed rights under the national and international law on the treatment of prisoners.

In general, in every prison there is a Disciplinary Committee composed of the prison director, his assistant in charge of security affairs, head of the Social Work Office, head of the clinic, head penal affairs office, and a number of “well-behaved” prisoners in

order to hear their testimonies if necessary. In most cases, the prisoners members of the Disciplinary Committee presenting their testimonies are generally the dormitories' principals (or known as "*el-kabrane*") who are appointed by the different prison administrations. Usually, they are former recidivist prisoners and considered as workers – they receive financial compensation for the task they perform similarly to other prisoners working in the different sections of the prison.

The dormitories' principals represent a link between the prisoners and the prison administration. The principal is also in charge of supervising his fellow inmates and reporting to the administration on any irregularities or needs of one of the prisoners who are in the dormitory with him. As to the criteria that the principal should have, which are kind of customary and unwritten criteria that are subject to the discretion of the prison director or his assistant in charge of security affairs, they are generally contrary to the standards that a well-behaved prisoner should have.

Principals are usually convicts with a strong personality and able to maintain order and other issues inside the dormitory. They also must be well informed of the prison life and system – that is why most of them are recidivist prisoners and have the confidence of prison administration thanks to their cooperation. They are always considered among the "well-behaved" prisoners from the standpoint of prison administrations for the services they provide; they are offered certain privileges and are respected by prisoners who offer them services – such as having their clothes washed and other things – for having some of their requests transmitted to the administration or some offences overlooked.

We did not notice in some of the prisons we visited the list of duties, rights and discipline rules of prisoners hanged inside the dormitories; and if so, they are not usually inside the dormitories but in places that are not accessible and clear to the prisoners who do not work inside the prison sections. We were told by some of the prison directors that the head of the Social Work Office explains the list of rights and duties to the prisoners on their admission to the prison – which is not sufficient.

As to the gradual decrease of punishment, it was difficult for us to identify but this is often done as provided for in the Law on the organisation of prisons. After deciding the punishment, an official report (or minutes) is drafted and signed by the aforementioned parties and the punishment is registered in the criminal record of the prisoner. Some detainees told us that some of the punishments, like solitary confinement, may exceed the ten-day period stated in the law, which could not be ascertained in the prison registers and records. Some of the prisoners ask to stay in a solitary confinement for conscience-related reasons and are not followed by the doctor during the period of punishment. Some detainees also informed us about the existence of degrading

punishments, such as making inappropriate haircuts or beating, which we could not prove.

Rule Nine: Instruments of Restraint³⁴

There is no indication in the Tunisian legislation to the use of instruments of restraint.

In practice, cuffs are used in cases of a prisoner's transfer outside the prison walls, either for medical treatment, hearings or to appear before the judge; except for these cases, we did not see them being used within any of the prisons' sections that we visited. It should also be noted that cuffs are taken off once the prisoner appears before the judicial authority.

Rule Ten: Information for and Complaints by Prisoners³⁵

Article 12 of the Law on the organisation of prisons states that "The prisoner shall be informed, upon admission, of the content of laws and regulations of the institution. The information are transmitted orally to illiterate and foreign prisoners to ensure understanding of their content."

Article 17 defines the prisoner's rights and paragraphs 5, 6, 7, 8 and 9 assert the prisoner's right to:

- Have access to the lawyer of his defence, without the presence of a prison official for untried and convicted prisoners, and that by an authorisation from the competent judicial authority (Paragraph 5).
- Have access to a lawyer in the presence of a prison official for convicted prisoners, by an authorisation from the Authority in charge of prisons and rehabilitation (Paragraph 6).
- Talk to the Judge on the Execution of Sentences in the cases determined by the law for convicted prisoners (Paragraph 7).
- Consult with the prison director (Paragraph 8).
- Write to the lawyer of his defence and to the relevant judicial authorities via the prison administration (Paragraph 9).

To what extent do correctional and rehabilitation centres respect this rule?

³⁴ See Rule Nine of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

³⁵ See Rule Ten of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

In theory, each prisoner is entitled to lodge a complaint about his detention life and conditions as well his treatment in the prison where he is serving his sentence to the prison administration or even to the judicial authorities such the Public Prosecutor, the Ministry of Justice or any other authority via the prison administration. Those complaints are often transferred either verbally or in writing via the agents charged with contacting the prisoners or the principals; yet there are no special boxes for the purpose. The prison administration receives – via the director, his assistant in charge of security affairs, or other administration staff members – the complaint report, following the model drafted by the judicial police, which has to be signed by the prison director.

Most of the complaints and hunger strikes that we documented were about the length of legal proceedings and pre-trial detention; whereas other complaints were emanating from feeling of injustice in relation to the judiciary and judges' adoption of sentences and issuing of committal warrants based on the preliminary investigations carried out by the Law Enforcement Officials, Public Prosecutor, and Investigating Judges. The complaints about health status and social situation are sent to the Social and Health Department in the Directorate General of Prisons and Rehabilitation for consideration or to Judge on the Execution of Sentences for those whose sentences are under eight months of imprisonment.

During our visits to the prisons, we were not informed of any visits conducted by judges, except for the Judge on the Execution of Sentences, or other authorities entitled to have inspection and monitoring missions, neither regularly nor punctually, except for non-periodic visits carried out by the Ministry of Justice, the High Committee for Human Rights and Fundamental Freedoms, or recently some civil society organisations and also the International Committee of Red Cross (ICRC).

We also did not notice the presence of a special form of complaint adopted by the prisons and recorded in a complaint register unless the complaint was meant to be transferred to an authority outside the prison (for example, those that are referred to the Public Prosecutor or other judicial authorities). Often, as we have said, the number prisoners' complaints concerning their detention conditions or ill-treatment in prisons are limited and most of the complaints are related to a feeling of injustice in the Court.

Rule Eleven: Contact with the Outside World³⁶

A. Right to Receiving Visits

³⁶ See Rule Eleven of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

The prisoner is entitled to contact one of the members of his family. The Law on the organisation of prisons allows the prisoner, whether untried or convicted by final judgement, to receive visits from his relatives once a week using a visit authorisation (or certificate) issued by the competent judicial authorities. As for convicted prisoners, they have the right to receive visits once a week and in religious holidays using an authorisation issued by the Authority in charge of prisons and rehabilitation³⁷. The authorisation is valid for one visit or more³⁸. The Law on the organisation of prisons determines the relatives who are authorised to visit the prisoner³⁹.

Apart from such cases, no one is allowed to visit the prison without an authorization from the Minister or the Authority in charge of prisons and rehabilitations, with the exception of the Governor of the region of the prison and the magistrates authorized by law⁴⁰.

Children who have not attained the age of thirteen years are allowed to visit one of their parents in detention outside the usual time of visit and without a barrier and in presence of prison agent in civilian/ ordinary clothes⁴¹. It is also exceptionally possible for non-relatives or for people who have a moral effect on the prisoner to visit him, and the encounter takes place in a special office in the presence of the prison director or who represents him⁴².

Consular officials or diplomatic officials in charge of consular functions can visit their detained nationals with an authorization issued by the judicial authority for both untried and convicted prisoners by final judgement and by the Authority in charge of prisons and rehabilitation for prisoners convicted by final judgement. The visit takes place the prison director's office or a special office in the presence of the prison director or who represents him⁴³.

B. Right to be Informed of the Outside World

According to Article 19 of the Law on the organisation of prisons, the prisoner is entitled to continue being informed of what is happening in the outside world, through access to

³⁷ Article 31 of Law No. 52-2001 on 14 May 2001.

³⁸ Article 32 of the Law.

³⁹ Article 33 of the Law determines the list of visiting relatives including spouses, ascendants or descendants, brothers and sisters, paternal uncles and aunts, maternal uncles and aunts, legal guardian, and first-degree in-laws. Every person related to a prisoner who does not have family relatives living in the region may be authorized by the Authority in charge of prisons and rehabilitation to visit him.

⁴⁰ Article 30 of the Law.

⁴¹ Article 34 of the Law.

⁴² Article 35 of the Law.

⁴³ Article 36 of the Law.

writing instruments, reading books, magazines and daily newspapers through the prison administration under the regulations of the institution. Every prison should have a library with books and magazines for reading. A prisoner is also allowed obtain other written documents enabling him to pursue his educational programs in educational institutions from inside the prison.

To what extent do correctional and rehabilitation centres respect this rule?

Correctional and rehabilitation centres allows detainees to establish contact with the outside world through various means including: weekly visits, special visits, contacting a lawyer, television broadcasting, daily newspapers, correspondence, Judge on the Execution of Sentences, visits by local and international agencies that are mandated to do so.

The prisoner receives one visit a week by his family members as specified in the Law using a telephone across glass barrier for a period of fifteen to twenty minutes, even though the law states that the period should be fifteen minutes to half an hour a week. The time allotted for the visit is rarely increased to reach half an hour for reasons related to the scarcity and inadequacy of space allocated for the visit as well as overcrowding. If, for example, we divide the number of the Kef Prison detainees by five working days, with a half-hour visit for each prisoner, the time required for daily visits is then nearly thirteen and a half hours a day! – which is impossible to happen. Special visits are organised according to special conditions which are mostly humanitarian such as illness and old age; but this service is not available in a large number of prisons we visited.

The prisoner in preventive detention receives the visit by his lawyer after getting authorisation from the competent judicial authority responsible for his arrest/preventive detention and the time allotted for the visit is approximately twenty minutes, and in case the prisoner is convicted by final judgement, it should be in the presence of a prison official.

In each dormitory in most of the prisons we visited, there is television set and broadcasting time and hours are organised according to a specific list determined by the prison administration. This list, which specifies the permitted TV channels, could sometime be overlooked by the prison administration when there is a special request from the prisoners to watch a specific programme, such as recreational or football programmes.

Regarding the daily newspapers, private and public newspapers are admitted into the prison following instructions given orally on a daily basis by the Directorate General of Prisons and Rehabilitation. There are no specific procedures preventing certain newspapers from entering the prison that are known in advance by the prison directors.

Such newspapers are often related to public affairs, even to topics and articles criticizing the government, or to security reasons that are unclear to prison directors. The prisoners are allowed to exchange (send and receive) letters with their relatives or other after being checked by the prison administration. Foreign prisoners receive visits from their consulates. No phone services with relatives or the lawyer are provided.

Rule Twelve: Religion⁴⁴

The Tunisian legislator did not include this issue in Law No. 2001-52 which is an important component in the life of the prisoners, not only from a human rights and State obligation perspective, but also as a significant factor in the rehabilitation and reintegration of detainees as well as in combatting religious extremism and excesses of ideas and beliefs.

To what extent do correctional and rehabilitation centres respect this rule?

All prisoners are allowed to practice religious rites inside the dormitories as there are no designated areas for the purpose. Some of preachers of the Ministry of Religious Affairs conduct non-regular visits to prisons, especially for Friday prayers, or to deliver religious and educational lessons. Non-Muslims could receive visits by clerics especially for the Sunday prayers. In some prisons and in an earlier period dating back to the last quarter of 2012, we noticed that a number preachers and clerics – not acting under the Ministry of Religious Affairs – were delivering religious lessons in prisons.

Rule Thirteen: Retention of Prisoners' Property⁴⁵

Article 28 of the Law on the organisation of prisons states that “The money in the possession of the prisoner on admission to the prison, addressed to him by his family or given to him in return for his work shall be placed in the safe custody and returned to him upon his release after signing in the register kept for this purpose.”

It also states that “The prisoner may have all or part of the money deposited during his incarceration for the purchase of his needs from the prison’s store or may send it to his family.”

Article 29 establishes that: “The money paid to the prisoner in return for his work is divided into two parts; the first is put at his disposal to be spent during his incarceration and the second is paid to him upon his release.”

⁴⁴ See Rule Twelve of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

⁴⁵ See Rule Thirteen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

To what extent do correctional and rehabilitation centres respect this rule?

On the admission of the prisoner in the Department of Properties within the detention centre, three-copy receipt is issued for his property in custody: One copy goes to the prisoner, another copy is left with the property in custody, and the third one is placed in prisoner's record in the Department of Prisoners Affairs that keeps all the files and registers. The property in custody is registered in the Admission Register with serial number, encased and placed in a locked cupboard. The prisoner is entitled to request the release of his property in custody to be delivered to his family. The property in custody is delivered when the receipt kept by the prisoner is presented. The property in custody is handed over even if the receipt is lost.

We also observed the financial process in prisons (converting money into vouchers) and the prisoner inventory. The procedure for converting the currency into vouchers or coupons, however, has many integrity-related flaws and problems; it even came to our knowledge that there had been many complaints in this regard the fact that requires a serious investigation into those allegations and the replacement of the current procedure by another system that ensures greater transparency and rigor.

Rule Fourteen: Notification of Death, Illness or Transfer⁴⁶

According to Article 43 of the Law on the organisation of prisons, “In case of death of a prisoner inside the prison, the prison director must inform the competent judicial authorities immediately and the Authority in charge of prisons and rehabilitation as well as the concerned prisoner's family and the Civil Status Officer. A death certificate is issued to the family of the deceased by the Doctor of Public Health.”

Article 44 states that “In case of death of a prisoner, the money he owns in custody are transferred to the legatee to the extent permitted by law and to the inheritors. In the absence of these persons, the money is returned to the Treasury in accordance with the provisions of the Personal Status Code.”

Article 342 of the Code of Penal Procedure states that “The Execution Judge is empowered to grant prisoners authorisations to leave the prison. He can grant these permissions to visit the spouse or one of ascendants or descendants in case of serious illness or to attend the funeral of one of the following relatives: The spouse, descendant or ascendant, brothers and sisters, paternal or maternal uncles, first-degree in-law, or legal guardian. Permissions are implemented according to the regulations. Exit

⁴⁶ See Rule Fourteen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

permissions concerning untried detainees (in preventive detention) are granted by the judge in charge of the case.

To what extent do correctional and rehabilitation centres respect this rule?

In all cases of ordinary or abnormal death happening inside the correctional and rehabilitation institution, the administration immediately informs the Public Prosecutor who in turn shall inform the family of the deceased, open investigation into the case and launch the forensic procedures, if necessary. He then moves to the procedures of handing over the corpse, the property in custody as well as the money the late detainee earned from his work inside the prison or otherwise. In case of death of one of the prisoner's relatives, the judge in charge of the case or to Judge on the Execution of Sentences may grant the prisoner an urgent leave after getting an approval especially from the General Directorate of Prisons and Rehabilitation to attend the funeral provided that he presents a guarantor during the leave period who guarantees his return to prison upon its expiration or that he is accompanied by security officials during the leave.

Rule Fifteen: Removal of Prisoners⁴⁷

Article 14 of the Law on the organisation of prisons establishes that “The prison administration shall inform one of the prisoner's ascendants, descendants, brothers or sisters, or spouse, of his choice, on admission or removal. Every prisoner shall communicate, on admission to the prison, the name and address of the person to contact in emergency cases.”

To what extent do correctional and rehabilitation centres respect this rule?

Prisoners are removed from one correctional and rehabilitation centre to another by decision of the General Directorate of Prisons and Rehabilitation and at their own expense, which is compliant with international standards in this area. This is done in a transport convoy (called “*el-kounfa*”) with the assistance of the Prisons and Rehabilitation Officials using their appropriate means of transport. We learned that the process of removing prisoners from one detention centre into another either at the request of the concerned person who wishes to get closer to his family address, following a disciplinary action taken by the prison administration, or for security reasons. Due to the limited means available, priority is always given to reasons of disciplinary action over personal requests for removal. Prisoners are

⁴⁷ See Rule Fifteen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

transported outside the prison handcuffed to one another; a measure that needs to be reconsidered.

The prisoner moves from one correctional and rehabilitation centre into an interrogation centre under the decision of the Public Prosecutor or Investigating Judge and should be admitted after signing a receipt thereof. The prisoner is removed from one correctional and rehabilitation centre into the court according to his hearings schedule set by the prison of his detention. It came to our knowledge that many prisoners could not attend their hearings due to the lack of means of transport available to the prison administration, especially when many hearings coincided with each other in different courts.

Rule Sixteen: Inspection⁴⁸

Article 16 of the Law on the organisation of prisons establishes that “Prisoners, their rooms and their belongings are subject to control and inspection periodically and whenever it is deemed necessary both night and day.”

To what extent do correctional and rehabilitation centres respect this rule?

The prison administrations conduct inspections on regular and almost daily bases by making the rounds in the different prison sections and listening to the prisoners’ complaints or needs. They also do security inspections in light of the information received in relation to the contraband smuggling into the prison, such as drugs, sharp instruments or any other prohibited materials.

Rule Seventeen: Labour⁴⁹

A. Prisoner’s Right to Unfree Prison Labour

The Law on the organisation of prisons provides for the possibility of unfree prison labour as a right that the prisoner enjoys within the limits of resources available and under the necessary guarantees. Article 19 of the aforementioned Law, which enumerates the prisoner’s rights, in its paragraph 7, states that “The convicted prisoner by final judgement is entitled to perform unfree labour within the limits of resources available, and work sessions should not exceed the legal period. A joint decision of the Minister in charge of prisons and rehabilitation and the Minister in charge of social affairs sets the terms and conditions of remuneration.”

⁴⁸ See Rule Sixteen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

⁴⁹ See Rule Seventeen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

B. Terms and Conditions of Prison Labour

Prisoners are employed to work in the professional, handicraft or agricultural field within the limits of the work hours established by the law and a joint decision of the Minister in charge of prisons and rehabilitation and the Minister in charge of social affairs sets the terms and conditions of remuneration. Referring to this joint decision, we find that it includes a salary grid determining the terms of reference, professional qualifications and guarantees. Only convicted prisoners and those who overtly expressed their desire to work are entitled to perform unfree labour, and this is possible only with the approval of the Labour Committee of the prison of their detention⁵⁰.

Under Article 19 of the Law on the organisation of prisons in paragraphs 7 and 8 on the right of the working prisoner, as a result of his prison labour, to the guarantees and rights established by the legislation relating to occupational accidents and diseases⁵¹. Moreover, the Law establishes that persons serving sentence of unpaid community works benefit from the legal system of compensation for occupational accidents and diseases⁵².

To what extent do correctional and rehabilitation centres respect this rule?

There are three categories of prisons in Tunisia: Preventive Detention Prisons, Enforcement Prisons, and Semi-Open Prisons where persons sentenced for misdemeanours and qualified to work in agriculture are detained⁵³. For example, the Mahdia Prison and Sidi El Hani Juvenile Rehabilitation Centre are classified as semi-open prisons with an agricultural character. They have large agricultural land parcels and sheds for cattle, sheep and horses. Other prisons, such as Mornaguia, possess workshops for carpentry and other activities for prisoners.

Prisoners are employed to work according to their skills in their respective fields. It is up to the Prison Labour Committee that has the same composition as the Disciplinary Committee in every prison to decide on a prisoner's right to work either in the sections or outside the walls of prison. In the case of semi-open prisons, the working prisoner is required to be convicted for a period that is not too

⁵⁰ See the joint decision of the Minister of Justice and Human Rights and the Minister of Social Affairs, Solidarity and Tunisians Abroad relating to the terms and conditions of hiring employed prisoners of 8 April 2004.

⁵¹ Law No. 1994-28 of 21 February 1994 on occupational accidents and diseases.

⁵² This in under Law No. 2009-68 of 12 August 2009 relating to the establishment of the sentence of criminal compensation and modernization of the alternate processes to the imprisonment.

⁵³ Article 3 of the Law No. 2001-52 on the organisation of prisons.

long so as not to be tempted to escape, to be well behaved, and to express his wish of wanting to work.

Through discussions we had with the prisoners who work inside the prison in the kitchen, shaving or cleaning, it came to our knowledge that they were paid 800 to 1200 millimes (which is the equivalent of 0.8 to 1.2 dinars) a day, which is considered a meagre pay compared to the same job and wage free workers have. As for the other activities, the working prisoner's pay reaches about 60 dinars a month in agriculture; whereas in carpentry workshops, for instance, it is calculated based on percentage of the value of the product and number of its items so that daily wage may reach in some cases, 20 dinars.

Usually the percentage of working prisoners both inside and outside the prison is very small. For example, 20 out of 111 convicted prisoners work in the Kef Prison⁵⁴, while there are 49 working prisoners in the Houareb Prison out of 553 prisoners⁵⁵. In the Sfax Prison, 54 out of 1776 prisoners⁵⁶ were employed to work whereas, in the Harboub Prison, the number is 25 out of a total of 798 prisoners⁵⁷. The untried detainees are not entitled to work despite the fact that more than 60 percent of the entire prison population in Tunisia are in that category and some of them spend three years and more in preventive/ pre-trial detention.

Each prison administration transfers the prisoner's daily work pay into the Safe Custody Office according to a non-computerized accounting system. Except in four prisons where this system is computerized, the prisoner gets from the accountant a receipt of his safe custody balance including his debit and credit. The system has numerous problems and shortcomings making it difficult to be adjusted and controlled; many prisoners believe that their money is stolen because of this non-computerized financial system used in prisons.

Prisoners purchase what they need from the prison's store including cleaning materials, cigarettes or items not permitted to be brought inside the prison from outside. There is no specific quota system for purchase; so prisoners can buy ten packs of cigarettes a day or more which allows for bartering them. Some of the prisoners told us that it was possible to buy contraband inside the prison according to this barter system, something we could not verify although it remains theoretically probable.

⁵⁴ The 14 November 2013 visit.

⁵⁵ The 15 November 2013 visit.

⁵⁶ The 18 November 2013 visit.

⁵⁷ The 19 November 2013 visit.

With regard to the prisoner's transferring funds he gained from his work inside the prison to his family, this requires the approval of General Directorate of Prisons and Rehabilitation following a special request filed by the prison administration. When the prisoner's request is approved by the General Directorate, an official report should be drafted thereon.

Rule Eighteen: Education, Recreation, and Books⁵⁸

Article 19 of the Law on the organisation of prisons states that "The prisoner is entitled to:

- 1- Get writing instruments, reading books, magazines and newspapers through the prison administration under the regulations of the institution. A library equipped with books and magazines for reading is installed in each prison.
- 2- Get other written documents enabling him to continue his studies in educational institutions from within the prison.
- 3- Follow educational, cultural and awareness programmes provided by the prison administration.
- 4- Go out for a daily walk whose duration cannot be less than an hour.
- 5- Conduct cultural and sports activities supervised by qualified prison administration staff member according to the means available.
- 6- Benefit from recreation programmes under the regulations of the institution."

To what extent do correctional and rehabilitation centres respect this rule?

Prison administrations implement some of the educational and cultural programmes, such as:

- The national adult education programme which is implemented all the prisons in cooperation with the Ministry of Social Affairs.
- The secondary and tertiary education-continuing programme from within the prison which is implemented in collaboration with national structures concerned with education.
- The cultural programme, which is implemented in all penal institutions in the form of cultural activities including internal radio, library, intellectual games, video network, theatre, painting, manual dexterity, books and magazines, languages and computer, and music.

⁵⁸ See Rule Eighteen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Musical and theatrical performances are organised in spaces inside the prison and are produced by detainees or made in cooperation with the cultural and youth structures in the region. Exhibitions are also organized inside the prison facilities or the products of cultural clubs, such as paintings and creations, are exposed in regional and local exhibitions.

The programmes implemented in the Tunisian prisons, according to this rule, could be considered as “poor” for several reasons including lack of possibilities and budgets as well as the low educational level of prisoners. The use of books available in prison library by prisoners is almost inexistent, which is, therefore, reflected in the administration's lack of interest in feeding it with new books, magazines and other cultural materials. In terms of the prisons' budgets as exposed to us by the directors, we did not notice any financial allocations earmarked for the purpose.

Rule Nineteen: Social Relations and After-care⁵⁹

A. Prisoner's Rehabilitation after Sentence Execution

The law on the organisation of prisons contains measures in this context such as:

- Allowing the prisoner to be visited by relatives in and out of prison in a few exceptional cases.
- Prisoner rehabilitation by providing possibilities for learning and acquiring a new craft and working if he wishes according to the possibilities available and with the guarantees in accordance with the labour law and the occupational accidents system.
- The adoption of good behaviour incentives for a prisoner by recommending him for pardon decisions, obtaining a certificate of professional competence, and providing him with the necessary tools for free enabling him to start working upon leaving prison.

B. Rehabilitation Programmes in Prisons and Rehabilitation Centres

- Prisoner Rehabilitation Programmes:

The prisoner rehabilitation programme is implemented within 13 prison facilities in coordination and cooperation with some of the ministries and national structures concerned with vocational, professional and agricultural training. The training period lasts for 6 months at the end of which the prisoner obtains an End-of-Training Certificate after passing a professional test and benefitting from a rehabilitation amnesty. The rehabilitated prisoner is provided with an end-of-training or qualification

⁵⁹ See Rule Nineteen of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

certificate that is certified by the competent authorities and not including any reference to the imprisonment situation of the concerned person⁶⁰.

- Vocational Specialties in Rehabilitation Centres:

Vocational specialties vary between the professional (computer, shaving, electricity, construction, wood carpentry, aluminium carpentry, sewing, patisserie, blacksmithing and welding), the craft (leather and footwear, binding, silver-jewellery making, carpet and rug making) and the agricultural (vegetable farming, protected cultivation, ornamental plants cultivation and green houses, and cattle, sheep and rabbit breeding).

To what extent do correctional and rehabilitation centres respect this rule?

The correctional and rehabilitation programmes are the most important services provided to prisoners as they help professionally, psychologically and socially reintegrate prisoners into the post-prison life.

In this regard, we noticed that all the prisons that we visited contain a special office called the "Social Work Office" which directly supervises prisoner vocational training programmes in the aforementioned specialties. However, we noticed that there were no funds – as part of the prisons' budgets – allotted to this field. Workshops were suffering from a lack of required equipment or raw materials for them to be able to function⁶¹. In addition, the beneficiaries of these deficient vocational training programmes are subject to the same prison labour terms and conditions for prisoners. The working prisoners represent no more than 1 % of the entire prison population, making Tunisian prisons therefore more of custodial and penal rather than correctional and rehabilitation institutions. What reinforces this conclusion is the high rate of recidivism among prisoners that reaches approximately 60 % bearing in mind that approximately 66 % of prisoners are between 18 and 49 years old.

Regarding the partnership with civil society and other institutions, we can say that there is a general weakness in the presence of institutions concerned with the integration and follow-up of prisoners before and after their release, given that the law governing prisons does not allow anyone to visit prisons without an authorisation from the Minister in charge of prisons and rehabilitation or the Authority in charge of prisons and rehabilitation⁶². The institutions allowed to visit prisons are very few even though the Ministry of Justice signed an agreement with a number of non-governmental

⁶⁰ Paragraph 2 of Article 39 of the Law on the organisation of prisons.

⁶¹ For example, the workshops in the Manouba Women's Prison during the 14 November 2013 visit and the Kasserine Prison during the 15 November 2013.

⁶² Article 30 of the Law.

organisations; most of which are not dealing with the human rights-related aspects of rehabilitation and reintegration; in December 2012 permitting them to visit prisons.

Conclusion and Recommendations

Conclusion and Recommendations

A. Conclusion

OHCHR Tunisia values the cooperation of the Ministry of Justice – the competent authority supervising the prisons and detention and correction centres that have been visited by the Office staff members following its mandate to monitor human rights situation in the Tunisian prisons. It also appreciates the invested efforts to facilitate the OHCHR staff members’ mission in this regard. The Office notes with great satisfaction the competent authorities’ endeavour by facilitating the visits’ procedures described in the aforementioned Memorandum of Understanding and simply informing the concerned party on the visit and names of the team members conducting the visit. The Office also thanks the Ministry of Justice for providing its OHCHR staff members with badges allowing them to enter all correction institutions under their supervision to facilitate their missions.

During our visits to the prisons, we noticed the separation between the prisoner categories on the basis of gender by allocating either section for women within each prison institution or entire prison institutions for women. In light of the overcrowding phenomenon, however, it is difficult to separate between the categories according to other criteria; the long-sentence detainees are mixed with pre-trial ones, and those with serious criminal records are detained with those imprisoned for the first time. We also observed that some prison administrations place inmates with certain ideological beliefs or opinions or other specific categories in separate sections away from the remaining detainees. This measure is not implemented on the basis of “convicted vs. untried” criterion and does not take into account the age of the detainee.

During the meetings, most of the different prison administration members have attributed the cause of overcrowding to the high referral rate by the competent judicial authorities, such as the Prosecutors and Investigating Judges, as well as the length of proceedings. During the visits, we even met some prisoners who had been awaiting trial for three years even though the 2008 Parliament’s deliberations on the reform of the Code of Penal Procedures flagged that the maximum preventive custody is 14 months for felonies and 9 months for misdemeanours.

With reference to an enumeration of world prisoners prepared by the International Centre for Prison Studies, the Republic of Tunisia is in 28th position in the world in terms of the size of prison population per one hundred thousand citizens as it counts 297 prisoners per one hundred thousand citizens, making it the third Arab country in Africa after Morocco and Algeria⁶³; hence, the effectiveness of the State’s penal policy!

⁶³ « *Liste de la population carcérale mondiale* », (neuvième édition), Roy Walmsley, Centre International d’Etudes Pénitentiaires, mai 2011.

Throughout our visits and our follow-up with prisoners and prison administrations, it appeared to us that many of the complaints are related to the feeling of injustice and lack of remedy (equity) among many prisoners as to the litigation procedures, length of the pre-trial period, not considering the sentence reduction element, or not granting parole release to the non-recidivist. This has therefore contributed to the increase of overcrowding and lack of separation between the categories of prisoners; hence, making the prison an environment that is not suitable for rehabilitation and reintegration; on the contrary, it causes crimes to spread and recidivism to rise.

We noticed also that a large number of male and female prisoners who are in their early twenties and engaged in university education were in the process of serving a prison sentence as a result of their committing a drug-consumption crime. In this context, some statistics indicate that more than 53 percent of the total number of prisoners is accused of drug-related crimes including holding, consuming or dealing⁶⁴.

OHCHR concluded, *inter alia*, that the number of the pre-trial detainees is far more important than that of the sentenced prisoners⁶⁵. As we have noted and recorded, there is a large number of detainees who have been awaiting trial for a period exceeding fourteen months. We can generally observe that the competent judicial authorities have a high prison referral tendency not as a last resort on a case-by-case basis as required by international standards.

We also recorded the presence of prisoners serving a sentence of six months and sometimes three months only; hence, intensifying the strain of overcrowding. Moreover, the objective of imprisonment – rehabilitation and re-education – (due to the short imprisonment period) loses its value as it would affect negatively the concerned detainee especially if she/he is a first non-recidivist prisoner, in addition to other negative social and/or economic consequences.

We have also noted a general lack in the number of agents specialized and qualified to deal directly with the detainees, which negatively affects their competence to carry out the tasks entrusted to them as well as their rights and those of detainees due to the high level of overcrowding.

B. Recommendations

It is clear that these recommendations are related to an area where opinions are constantly evolving and therefore do not exclude the possibility of experimentation and practice as long as they are consistent with the principles and objectives on which

⁶⁴ The white paper on the reform of the prison system in Tunisia presented during the consultation held on 13-14 September 2013 as part of the Justice Sector Reform Program in Tunisia, p.1.

⁶⁵ During the visit to the Manouba Women's Prison on 15 November 2013, we noticed that one the dormitories contained 60 prisoners 50 of whom were on a pre-trial and only 10 were sentenced.

Standard Minimum Rules for the Treatment of Prisoners are based. In this context, and with the aim of increasing the compliance of the conditions of the Tunisian correctional and rehabilitation centres with international standards, the Office of the High Commissioner for Human Rights proposes the following:

1. Overcrowding

- Developing the existing legislation in a way that guarantees a fair trial and a fair criminal investigation in conformity with the new Tunisian Constitution and international human rights standards;
- Reviewing the penal legislation concerning pre-trial detention and trial period in conformity with the new Tunisian Constitution and international human rights standards;
- Supporting the exceptional character of the preventive detention and apply it in the cases provided by the law and stating upon cases within reasonable times;
- Implementing non-custodial measures trial in conformity with the new Tunisian Constitution and requirements of public interest and international human rights standards;
- Reducing the number of short-term prison sentences (three or six months) for those with clean criminal records and replace them with suspended sentences;
- The necessity of reforming the laws regulating investigation relating to the drug consumption charges in a way they should be under the control of the court seized with the case;
- Adopting the principle of progression of sentences for drug-consumption crimes (from fines to sentence suspension then imprisonment) especially for first offenders. Taking into account those who are students or have a stable job and having clean criminal records so as to give them a chance of rehabilitation and to contribute to the alleviate the strain of prison overcrowding, especially that the number of both pre-trial and sentenced prisoners who have been charged with this crime exceeds 53 percent; and
- Sensitizing Public Prosecutors, Investigating Judges and Members of criminal and accusation chambers about the situation of prisons, strain of overcrowding and conditions of liberty-deprivation sentence execution.

2. Prison Infrastructure

The need to work in cooperation with the international community to create new buildings especially designed for re-education and rehabilitation and offering all the necessary facilities in accordance with the relevant international standards, both in relation to prison-population categorization on the basis of gender, age, offense seriousness, nature of the arrest, etc., especially that the buildings that are currently

used as re-education and rehabilitation centres have not originally designed for this purpose.

3. Healthcare in Prisons

- The need to revise the healthcare system and medical services provided to detainees in prisons in order to ensure the availability of medical services in all facilities. This requires the presence of a medical clinic in each prison, staffed by resident as well specialized doctors. This is in addition to paying special attention to detainees who suffer from chronic diseases, the obligation of conducting medical examinations on a regular basis to all prisoners and considering the possibility of offering parole release to the sick and elderly prisoners;
- Allocating cars belonging to the Directorate of Prisons for the transfer of prisoners to and from courts and ambulances to transport prisoners outpatient treatment;
- The need to issue the adequate instructions by the Directorate of Prisons not to accept a prisoner bearing symptoms of violence, torture or ill-treatment and to inform the competent judicial authorities;
- The necessity to be committed to and implement the procedures of informing the competent judicial authorities when symptoms of violence, torture or ill-treatment are noticed on persons sent to prisons and not only at her/his request or consent to conduct or not the legal proceedings; and
- Publishing administrative decisions and orders related to life in prison in the Official Gazette of the Republic of Tunisia (JORT).

4. Integration and Rehabilitation

- Facilitating the prisoner's integration in the community after having served the prison sentence, and the need to maintain an appropriate prisoner's contact with the outside world through the development of professional training programs and a rehabilitation and reintegration-oriented general policy in which the local community and banking institutions participate in order to provide flexible bank loans for trained released prisoners with the aim of creating income-generating projects;
- Enabling well-behaved prisoners to benefit from prison leaves, special visits by the family or the prisoner rehabilitation and integration institutions;
- Implementing the role of judicial supervision and reviewing the legal mandate assigned to the Judge on the Execution of Sentences with the purpose of reinforcing the control over the re-education and rehabilitation centres as well as custody and investigation centres;

- The need to allocate sufficient funds from the general budget to enable the rehabilitation centres to implement their re-education and rehabilitation programs;
- Enhancing the possibility of all prisoners' access to work and rehabilitation inside the prison for their great impact on the process of re-education and rehabilitation and the cohabitation inside the prison;
- Strengthening the role of human rights associations, particularly those concerned with social integration and rehabilitation after release from prison;
- Organizing training courses for prison officials and agents on human rights; and
- Increasing the number of specialized and qualified agents in dealing directly with the prisoners.

5. Prevention

- Accelerating the establishing procedures of the National Preventive Mechanism of torture in accordance with the Organic Law No 2013-43 dated on 21 October 2013 related to the National Authority for the Prevention of Torture;
- Replacing the first prisoner's health card by a preliminary global medical statement in conformity with the guidelines contained in the Istanbul Protocol;
- Guaranteeing access to health services and medical examination since the initial interrogation, and establishing an integrated and easily-accessed system in case of an evidenced existence of serious human rights violations, not only when subjected to torture⁶⁶; and
- The need to condemn and prosecute torture crimes and not just condemn them to ensure the impunity of the perpetrators, and to create the legal mechanisms to prevent torture, especially after the inclusion of the torture crime in the new Tunisian Constitution⁶⁷.

⁶⁶ The Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism dated on 14 March 2012 included recommendations in this regard (A/HRC/20/14/Add2).

⁶⁷ Article 23 of the 27 January 2014 Constitution criminalizes torture and considers it an imprescriptible crime, and the Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment contained recommendations in this regard.

ANNEXES

- 1. Standard Minimum Rules for the Treatment of Prisoners**
- 2. Various Statistics Related to Prison Institutions in Tunisia**

Annex 1:

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

(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 s 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.

Annex 2:

Various Statistics Related to Prison Institutions in Tunisia

Type of Prison Institution	%
Prison for adults	79%
Rehabilitation Centre for Juvenile Offenders	21%

Statistics of Juvenile Offenders	%
Male	95%
Female	5%

Statistics of Juvenile Male Offenders According to Penal Status	%
Awaiting Trial	95%
Sentenced	5%

Statistics of Juvenile Female Offenders According to Penal Status	%
Awaiting Trial	60%
Sentenced	40%

Statistics Related to Capacity of Male Detainees	Number	%
Prison for Male Adult Detainees	19	70%
Mixed Prisons	7	26%

Statistics of Detainees According to Penal Status	%
Awaiting Trial	58%
Sentenced	42%

Statistics of Detainees Awaiting Trial According to Gender	%
Male	97%
Female	3%

Statistics of Detainees According to Criminal Record	%
Primary	55%
Recidivist	45%

Statistics According to Type of Prison Institution for Adults	Number	%
Enforcement Prisons	8	30%
Preventive Detention Prisons	19	70%

Statistics of Detainees According to Type of Charges	%
Theft and Burglary	31%
Drugs	26%
Homicide	11%
Violence and Possession of a Weapon	3%
Sequestration	3%
Rape and Molestation	3%
Other Offenses	17%

Statistics of Detainees According to Age	%
18-29 years	55%
30-39 years	29%
40-49 years	11%
50 years and above	5%

Statistics of Detainees According to Educational Level	%
Primary	50%
Secondary	43%
University	3%
Illiterate	4%