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THE DEMANDS OF THE INMATES OF ATTICA STATE PRISON
AND
THE UNITED NATIONS STANDARD MINIMUM RULES
FOR THE TREATMENT OF PRISONERS:
A COMPARISON

DOUGLAS J. BESHAROV * and GERHARD O. W. MUELLER †**

The recent tragic disturbances in various American and foreign prisons have dramatized anew the enduring and painful questions concerning the treatment of those of our fellow citizens who, by operation of law, have been temporarily or permanently removed from free society and confined into institutions called prisons. Almost without exception, the inmates who participate in such disturbances make a series of "demands" on the authorities regarding the nature of their confinement and management.¹ Much has and more will be written about the reasons for the outbreaks and the reasonableness of the demands made. This article is limited to one small, but we think not insignificant issue, namely, the similarity of the Attica demands to the *United Nations Standard Minimum Rules for the Treatment of Prisoners*. The *United Nations Standard Minimum Rules* were origi-

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The opinions expressed by the authors in this article are purely personal and in no way reflect any official position of the United Nations or any of its agencies.

1. There were six disturbances reported during the week of January 15, 1972 in French prisons. The *New York Times* reported:

In all cases, prisoners asked for better living conditions—better food, more adequate heating, more time for sports, more access to newspapers and radio, better pay for prison work.

At Nancy, prisoners also complained of unfair punishment and unequal treatment. A tract thrown to the crowd said in part: 'We demand that the inmates no longer be beaten by the guards for slight infractions.'

N.Y. Times, Jan. 16, 1972, at 18, cols. 1-2.

There have also been disturbances in British prisons which have been reported in United States papers. *N.Y. Times*, Oct. 3, 1971, at 21, col. 1.

nally drawn up by the International Penal and Penitentiary Commission (IPPL) in 1933, and endorsed by the Assembly of the League of Nations in 1934.² After being revised by the United Nations Secretariat, the present text of the *Rules* was approved by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955.³ In 1957, the United Nations Economic and Social Council approved the *Rules* and drew them to the attention of all National governments for adoption and application.⁴

The *Rules* are not a part of international criminal law in the strict sense, and thus, are "not binding"⁵ in the sense of enforceability. In their own words, the *Rules* "seek only . . . to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions."⁶ In that light, the *Rules* are meant to be binding on the conscience of Nations.

Although, thus, not "international law," the *Rules* demonstrate and voice the international concern for the recognition and protection of prisoners' rights. They prescribe the "minimum conditions which are accepted as suitable by the United Nations."⁷ Basically, "the *Rules* inject the humanitarian spirit of the Universal Declaration of Human Rights into the correctional system without compromising public safety or prison security."⁸

Specifically, the *Rules* deal with such issues as a register of inmates,⁹ separation of categories of prisoners,¹⁰ accommodations,¹¹ personal hygiene,¹² clothing and bedding,¹³ food,¹⁴ exer-

2. Resolution of 26 September 1934, League of Nations, Official Journal, Special Supplement No. 123, VI, 4 (1934).

3. *Standard Minimum Rules for the Treatment of Prisoners*, U.N. Doc. A/CONF/6/1 (1956) [hereinafter cited as *S.M.R.*]

4. U.N. ECOSOC Res. 663 C(XXIV) (1957).

5. *Implementation of the Standard Minimum Rules for the Treatment of Prisoners*, Working Paper, U.N. Doc. ST/SOA/SD/CG.2/WP.3 at 8 (1968) [hereinafter cited as *Working Paper*].

6. *S.M.R.*, *supra* note 3, Rule 1.

7. *Id.* Rule 2.

8. *Working Paper*, *supra* note 5, at 4. For the text of the Universal Declaration of Human Rights, see U.N. Doc. A/810 (1948).

9. *S.M.R.*, *supra* note 3, Rule 7.

10. *Id.* Rule 8.

11. *Id.* Rules 9-14.

12. *Id.* Rules 15-16.

13. *Id.* Rules 17-19.

14. *Id.* Rule 20.

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cise and sport,¹⁵ medical services,¹⁶ discipline and punishment,¹⁷ instruments of restraint,¹⁸ information to and complaints by prisoners,¹⁹ contact with outside,²⁰ books,²¹ religion,²² retention of prisoners' property,²³ notification of death, illness, transfer, etc.,²⁴ institutional personnel,²⁵ inspection,²⁶ treatment,²⁷ classification and individuation,²⁸ privileges,²⁹ work,³⁰ education and recreation,³¹ social relations and after care,³² insane and mentally abnormal prisoners,³³ prisoners under arrest or awaiting trial,³⁴ and civil prisoners.³⁵

Due to the lack of any governmental machinery capable of properly receiving and recording the prisoners' demands at the time of the Attica rebellion—to our knowledge no such machinery is even today in existence—there remains a dispute as to what and how many demands were actually made on the authorities. While according to one source, the Attica prisoners, at least initially, made only a few but politically pungent demands,³⁶ all newspaper accounts reported that, through the committee of observers, they made thirty demands on the prison authorities.³⁷ The demands

15. *Id.* Rule 21.

16. *Id.* Rules 22-26.

17. *Id.* Rules 27-32.

18. *Id.* Rules 33-34.

19. *Id.* Rules 35-36.

20. *Id.* Rules 37-39.

21. *Id.* Rule 40.

22. *Id.* Rules 41-42.

23. *Id.* Rule 43.

24. *Id.* Rules 44-45.

25. *Id.* Rules 46-54.

26. *Id.* Rule 55.

27. *Id.* Rules 65-66.

28. *Id.* Rules 67-69.

29. *Id.* Rule 70.

30. *Id.* Rules 71-76.

31. *Id.* Rules 77-78.

32. *Id.* Rules 79-81.

33. *Id.* Rules 82-83.

34. *Id.* Rules 84-93.

35. *Id.* Rule 94.

36. *See, e.g.,* NATIONAL LAWYERS GUILD, SAN QUENTIN TO ATTICA 1 (1971), claiming that the actual demands were (1) complete amnesty, (2) transportation to and freedom in a non-imperialistic country, (3) assumption of federal jurisdiction, (4) reconstruction of Attica prison, (5) a negotiating committee composed of named persons, and (6) negotiations to take place with cell blocks held by the prisoners. "The 28 'accepted' proposals amounted to nothing more than what the observer committee could get out of the prison authorities by the process of beggins and cajoling." *Id.* at 3.

37. *E.g.,* N.Y. Times, Sept. 13, 1971, at 71, cols. 1-3 [hereinafter cited as Demands]; New York Amsterdam News, Sept. 18, 1971, at c-4, cols. 1-4.

covered the issues of food, shelter, return to cells and amnesty, work, complaints and ombudsman, political action, religious freedom, contact with outside world, treatment and education, narcotics treatment, legal assistance, recreation, medical treatment, minority personnel, inmate funds, resentencing and parole, discipline, implementation, complete amnesty from criminal prosecution for the uprising itself and for any incidents arising therefrom and the dismissal of the Warden.³⁸ All but the last two demands were "accepted" by the State Commissioner of Correctional Services.

The Attica demands were striking in their similarity to the *United Nations Standard Minimum Rules for the Treatment of Prisoners*. With few exceptions, each Attica demand has a parallel if not identical counterpart in the *Rules*.

Food

The inmates' first Demand was for adequate food and water; Demand #15 is even more specific: "Provide a healthy diet, reduce the number of pork dishes, increase fresh fruit daily." The parallel provision in the *United Nations Standard Minimum Rules* is Rule 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.

Return to Cells and Amnesty

Demands #2 and #3 refer to the manner in which the rebelling inmates were to be permitted to return to their cells, at the end of the uprising, and their protection against administrative reprisals, and their subsequent amnesty. While prison uprisings, as such, are not dealt with in the *Rules*, in light of the charges that have been brought by Attica prisoners in federal court, alleging brutality by state police and prison guards,³⁹ the following two rules come into play:

31. Corporal punishment . . . shall be completely prohibited as punishments for disciplinary offenses.

54. (1) Officers of the institutions shall not, in their relations with

38. *Id.*

39. *See, e.g.,* Gonzales v. Rockefeller, N.Y. Times, Jan. 7, 1971, at 54, col. 5, *rev'd* 40 U.S.L.W. 2376 (2d Cir. 1971), N.Y. Times, Dec. 2, 1971, at 1, col. 3.

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prisoners, use force except in self-defense or in cases of attempted escape, or active or passive physical resistance. . . .

The issue of amnesty does not arise under the *Rules*, and American law on the issue of amnesty is extremely undeveloped.

Work

In Demand #4 the inmates requested "the application of the New York State Minimum Wage Law standards to all work done by inmates." The *Rules* require:

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

The duty to remunerate equitably would seem equivalent or nearly equivalent to the wage set by the state legislature as the minimum required. Such a system of full remuneration has indeed developed in some of the more advanced countries, *e.g.*, Sweden.⁴⁰ New York State, on the other hand, seems to authorize payment of 10¢ per day for inmate labor.⁴¹

Of course, if inmates are being paid minimum wages, they must expect to contribute to their living expenses, as do those on the outside who are paid the same wages.

Complaints and Ombudsman

Demand #5 and Demand #18 call for the establishment of an Ombudsman and an inmate grievance commission, respectively. In our view, these Demands are not only in accord with the spirit of the *United Nations Standard Minimum Rules*, but, in fact, go to their very heart. By providing elaborate complaint and inspection procedures, the *Rules* codify a complaint and inspection system in the tradition of continental law which has long utilized a special judge, called in the Italian system the "Surveillance Judge," who has the exclusive jurisdiction over the proper, lawful and humane execution of prison sentences, which after all are court orders.⁴² (By contrast, the American judiciary has until recently adhered strictly to a judicial "hands-off" doctrine under

40. A. NELSON, *RESPONSES TO CRIME: AN INTRODUCTION TO SWEDISH CRIMINAL LAW AND ADMINISTRATION* (1972).

41. N.Y. CORREC. LAW § 481 (McKinney 1968).

42. Seewald, *The Italian Surveillance Judge* (Giudice Di Sorveglianza), in *THE TASKS OF PENOLOGY* 85 (H.S. Pearlman & T.B. Allington eds. 1969).

which they refused "to enter the domain of penology."⁴³) In terms of preventing future prison disturbances, this may be the most far-reaching aspect of both the *Rules* and the Demands. For elementary psychology is cognizant of the fact that whenever large numbers of human beings are confined in close quarters, frictions increase to potentially explosive effect. The cathartic effect of an authentic governmental grievance machinery which would provide an outlet for complaints and dissatisfaction is self-evident.

The *Rules* provide:

55. There shall be 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.

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.

As part of the complaints and inspection mechanism, the *Rules* require regular inspections by the medical doctor permanently assigned to the prison. The medical officer is expected to review such things as (1) the inmates' food, (2) the hygiene and cleanliness of the institution and of prisoners, (3) living conditions, (4) prisoners' clothing, and (5) the rules concerning physical education and sports. The doctor reports to the prison director who must act on the doctor's findings unless he does not concur, in which case he must submit them along with his own report to higher authorities.⁴⁴

43. *Gore v. United States*, 357 U.S. 386, 393 (1958).

44. *S.M.R.*, *supra* note 3, Rule 26.

Political Action

The sixth Demand was for the right to be politically active. The *Rules* do not deal specifically with this issue. However, it is a "guiding principle" of the *Rules* that "the treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it."⁴⁵ *Sub silentio*, therefore, the *Rules* extend the correctional process to civic, and thus, political activity, for purposes of enhancing a prisoner's resocialization.⁴⁶

Religious Freedom

Demand #7 simply states: "Allow true religious freedom." One would suspect that this demand arises, at least in part, from the difficulties the establishment—any establishment—has in accepting and dealing with an unusual religion or sect, in this case that of the Black Muslims. The *Rules* deal very specifically with such questions as access to representatives of one's religion, regular services, pastoral visits and freedom of having no religion. For example, Rule 41 (3) provides:

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.

Although the *Rules* do not deal with such specifics as unusual religious observances, *e.g.*, a different sabbath or special diet, Rule 42 provides:

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.

Contact with the Outside World

Another aspect of maintaining a prisoner's sense of being part of the community is the nature and quality of his contact with the outside world. Once again, the *Rules* and the Demands are substantially alike.

An important bridge between the outside world and the

45. *Id.* Rule 61.

46. *See generally id.* Rules 57-61.

prison is formed by books and periodicals. In Demand #8, the inmates postulated:

End all censorship of newspapers, magazines and other publications from publishers, unless it is determined by qualified authority, which includes the ombudsman, that the literature presents a clear and present danger to the safety and security of the institution.

Rule 90 takes this position precisely:

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.

Although this Rule has been placed in the section dealing with prisoners awaiting trial, there is no reason to limit its application to pretrial detainees. However, Rule 39, in the section of *Rules* of general applicability, is more limiting:

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.

This is the first of the very few instances where the prisoners' demands reflect a more liberal standard than the *Rules* provide.

The most important contact with the outside world is, of course, personal contact. Thus, Demand #9 provided that inmates be allowed "at their own expense to communicate with anyone they please," and Demand #23 called for the "end [of] approved lists for correspondents and visitors." Demand #24 was for the removal of "visitation screens as soon as possible." The applicable provision in the *Rules* is Rule 37, which provides:

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.

Rule 37 limits correspondence and visits to "family and reputable friends." The determination of reputability is presumably left to the authorities. Hence, on the issue of freedom to correspond and receive visitors, the Attica prisoners again, as in the area of receipt of publications, seemed to have asked for freer contact with the outside world than the *Rules* would appear to allow.

Treatment

The institution of "realistic, effective rehabilitation programs for all inmates according to their offense and personal needs" was the inmates' tenth Demand. Demand #22 requested, in particular, the necessary legislation and appropriations for expanded work release programs. The theme of rehabilitation through treatment resounds throughout the *Rules*, both explicitly and implicitly.⁴⁷ Rule 59 is the most concise statement of this theme:

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.

In addition, the *Rules* prescribe the kind of work to which prisoners should be assigned. Among other requirements, the *Rules* mandate that the work provided be such as will maintain and increase the prisoners "ability to earn an honest living after release,"⁴⁸ that vocational training be provided⁴⁹ and that, as much as possible, the prisoners be "able to choose the type of work they wish to perform."⁵⁰ These provisions lend support, albeit inferentially, to the demand concerning work release programs.

During the discussions of the *Standard Minimum Rules* at the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1970, extension of the *Rules* to work release programs and similar non-institutional treatment modes was recommended to the Economic and Social Council for inclusion in the contemplated redraft of the *Minimum Rules*.⁵¹

Education

The eleventh Demand was for the "modernization" of the "inmate education system, including the establishment of a [Spanish-language] library." Rule 77 reads, in part:

47. See *id.* Rules 58, 59, 61, 65 & 66(1).

48. *Id.* Rule 71(4).

49. *Id.* Rule 71(5).

50. *Id.* Rule 71(6).

51. *The Standard Minimum Rules for the Treatment of Prisoners in the Light of Recent Developments in the Correctional Field* iv, 2-5, Report of Section III, Severin-Carlos Versele, Rapporteur, Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Kyoto, Japan, 17-26 August 1970).

(1) provision shall be made for the further education of all prisoners capable of profiting thereby. . . .

(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.

In addition, Rule 40 provides:

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.

Making "full use" of a library would seem to imply that at least some of the books be in the language of substantial numbers of prisoners. The need to deal with languages other than that of the majority is dealt with in, for example, Rule 51 which provides for the use of interpreters where necessary.

Legal Assistance

Demand #13 was for "adequate legal assistance" Rule 93 provides for the availability of legal assistance, although in the context of prisoners awaiting trial.

For the purposes of his defense, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal advisor with a view to his defense

While the drafters of the *Rules* clearly did not contemplate the elaborate post conviction remedies that have developed during the past decade in American jurisprudence, it might be said in their defense, that had they anticipated it, they would probably have included provisions for assistance of counsel in actions seeking post-conviction relief.

Recreation

The fourteenth Demand is to "[r]educe cell time, increase recreation time and provide better recreational facilities" Throughout, the *Rules* set a high priority on the physical and mental well-being of prisoners. On this specific topic, they provide:

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.

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21. (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, [sic] installations and equipment should be provided.

Medical Treatment

Demand #12, reflecting the needs of inmates who were narcotics addicts, asked for "an effective treatment program for all prisoners requesting such treatment." Demand #16 called for "adequate medical treatment for every inmate" and Spanish speaking doctors or interpreters. Demand #27 was to "[p]ermit access to outside dentists and doctors at the inmates own expense within the institution where possible and consistent with scheduling problems, medical diagnosis and health needs." The *Rules* place great importance on the need for medical services and the role of prison medical personnel in both providing medical service and performing inspections.⁵² Rule 22(1) requires that every institution have available the services of at least one "qualified" medical officer. Rule 24 provides, in part:

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. . . .

Rule 51(2) provides for the use of interpreters "wherever necessary" and this would apply for medical personnel as well. The only provision in the *Rules* for prisoner treatment by outside doctors or dentists is found in Rule 91, which applies only to prisoners awaiting trial. It provides:

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.

No reason is given why this provision does not also apply to prisoners under sentence.

Minority Personnel

Institution of "a program for the recruitment and employment of a significant number of black and Spanish-speaking officers" was the prisoners' seventeenth Demand. As envisioned by

^{52.} See, e.g., the discussion concerning the doctor's obligation to inspect the institution under Rule 26, text at *supra* note 44.

the *Rules*, prison staff should be professional, capable and fully trained in a variety of areas. Except for Rule 51, no reference is made to language differences and in no Rule is nationality or racial difference mentioned. The *Rules* simply do not contemplate different nationalities or races within one country, or at least they do not contemplate this to be an aspect of prison life which must be dealt with. Nevertheless, the general intent of the *Rules* is evident in Rule 51, which reads as follows:

- (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.

Inmate Funds

Two Demands concern inmate funds. Demand #19 asks for an investigation of "the alleged expropriation of inmate funds and the use of profits from the metal and other shops." In relation to requested minimum wage payments for prisoners' work, Demand #4 calls for "[e]very effort . . . to make the records of payments available to inmates." Two provisions in the *Rules* apply to these Demands.

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. . . .

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

76. (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.

Resentencing and Parole

The inmates made a series of demands concerning the administrative resentencing of inmates returning for parole violation,⁵³ the prompt and fair holding of Menechino hearings,⁵⁴ and the ending of charges of parole violation for moving traffic violations or driving without a license.⁵⁵ There are no direct or paral-

53. Demands, *supra* note 37, at #20.

54. *Id.* at #21. Menechino v. Warden, 27 N.Y.2d 376, 267 N.E.2d 238, 318 N.Y.S.2d 449 (1971).

55. Demands, *supra* note 37, at #26.

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lel provisions in the *Rules*, it being customary for most foreign legal systems to properly regulate such matters through their codes of criminal procedure.

Discipline

Demand #25 was for a "30-day maximum for segregation arising out of any one offense." Although the *Rules* do not deal with such specificity with the question of segregation, Rules 27-32 present a standard for discipline of "firmness, but with no more restriction than is necessary for safe custody and well-ordered community life."⁵⁶ "Segregation" can mean different things in different institutions and contexts, and therefore, the general proscription of Rule 31 would be applicable, particularly if "segregation" refers to the practice of caging a prisoner in a dark cell. Rule 31 outlaws such practices as follows:

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

Implementation

The final one of the roster of Demands "accepted" by the Commissioner of Corrections, Demand #28, concerns inspections by members of the observer committee to monitor the implementation of the Demands. It provides that if they are not satisfied with the implementation of the accepted demands, they are to bring the matter to the attention of the Commissioner of Correctional Services. It can be assumed that should the Committee have been dissatisfied with the Commissioner's determination, it would have brought the matter to the attention of the public. Thus, even as to method of implementation, the *Rules* and the Demands are in accord. For, as recognized, by a Working Paper of the United Nations Secretariat for the Kyoto Congress, the effectiveness of the *United Nations Standard Minimum Rules* largely depends upon "the extent to which they are publicized, propagated and understood by everyone likely to be concerned with or interested in the subject matter."⁵⁷

56. *S.M.R.*, *supra* note 3, at Rule 27.

57. *The Standard Minimum Rules for the Treatment of Prisoners in the Light of Recent Developments in the Correctional Field* 36, Secretariat Working Paper for the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Kyoto, Japan, 17-26 August 1970).

Conclusion

This comparison between the *Rules* and the Demands has been somewhat mechanical because it was not our purpose to comment on the propriety of either the Demands or the *Rules*. Our attitudes with respect to the policies embodied in the *Rules*⁵⁸ and our views on humanitarian correctional policies⁵⁹ have been dealt with extensively elsewhere. In this brief study, it has been solely our purpose to demonstrate the remarkable fact that almost every one of the Demands of the rebelling Attica inmates has a corollary in the *United Nations Standard Minimum Rules for the Treatment of Prisoners*. Hence, the prisoners demanded their putative rights as world citizens.

Furthermore, the basic elements of both the *Minimum Rules* and the Demands are accepted within the American corrections profession. The *Manual of Correctional Standards*, issued by the American Correction Association which represents American professional opinion on the subject has identical or parallel standards to both the Demands and the *Rules*.⁶⁰ Indeed, the "Correctional Standards" have been considerably influenced by the *United Nations Rules*.

Up to this point in history, both the *United Nations Standard Minimum Rules* and the Correctional Standards of the American Correctional Association have rested in obscurity just as the entire area of prisoners' rights and correction reform has lain dormant. But all evidence now points to an awakened interest in and possible reform of American correctional processes and standards. In his thirteen point program on corrections, the President of the United States committed himself to correctional reform.⁶¹ And for the first time in history, a Chief Justice of the United States has fully committed himself to correctional due process.⁶² Nearly all American law schools have initiated educational and action programs for correctional law reform.⁶³

58. See *supra* note †.

59. See, e.g., Mueller & Besharov, *Bifurcation: The Two Phase System of Criminal Procedure in the United States*, 15 WAYNE L. REV. 613, 631-34 (1969); Mueller, *Human Rights and the Treatment of Offenders*, 10 CAN. J. OF CORR. 352 (1968); Mueller, *Punishment, Corrections and the Law*, 45 NEB. L. REV. 58 (1966).

60. AMERICAN CORRECTION ASS'N, *MANUAL OF CORRECTIONAL STANDARDS* (3d ed. 1966), See especially pt. IV.

61. N.Y. Times, Nov. 14, 1969, at 1, col. 5.

62. N.Y. Times, Aug. 12, 1969, at 1, col. 4.

63. Proceedings of The Ass'n of American Law Schools, pt. 1, § 1, at 140 (1971).

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Prisoners' rights litigation is pending in courts across the country. The traditional "hands-off" doctrine has at last been abandoned or at least curtailed in this area.⁶⁴ In doing so, courts have ruled favorably on such topics covered by the Attica demands as medical care,⁶⁵ discipline,⁶⁶ work and wages,⁶⁷ access to books,⁶⁸ and freedom of religion.⁶⁹

Since we as a nation are clearly on the way toward recognizing and elaborating prisoners' rights as legally enforceable, we should accept and adopt the *United Nations Standard Minimum Rules* as a code of rights which already enjoys world recognition. Such a general acceptance of the *Rules* would be preferable to the route of unpredictable and expensive court litigation, point by point, standard by standard.

No one should deceive himself into thinking that the millennium of correctional justice will have arrived with successful prisoners' rights litigation. Even legislation will not be fully successful unless it is accompanied by public understanding and support. True reform can occur only if the hearts and minds are changed as well as the law.

64. Compare *Johnson v. Avery*, 252 F. Supp. 783 (M.D. Tenn. 1966), *rev'd* 382 F.2d 353 (6th Cir. 1967), *rev'd*, 393 U.S. 483 (1969); *Sostre v. Rockefeller*, 312 F. Supp. 863 (S.D.N.Y. 1970), *modified sub nom.* *Sostre v. McGinnis*, 442 F.2d 178 (2d Cir. 1971); *Rouse v. Cameron*, 373 F.2d 451 (D.C. Cir. 1966), *with Nolan v. Scafati*, 306 F. Supp. 1 (D.Mass. 1969); *Banning v. Looney*, 213 F.2d 771 (10th Cir. 1954), *cert. denied*, 348 U.S. 859 (1954). See generally PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: CORRECTIONS 82, 84 (1967); Barkin, *The Emergence of Correctional Law and the Awareness of the Rights of the Convicted*, 45 NEB. L. REV. 669 (1966); Friend, *Judicial Intervention in Prison Administration*, 9 WM. & MARY L. REV. 178 (1967); Note, *Constitutional Rights of Convicts: The Developing Law*, 110 U. PA. L. REV. 985 (1962); Note, *Beyond the Ken of the Courts: A Critique of Judicial Refusal to Review the Complaints of Prisoners*, 72 YALE L.J. 506 (1963).

65. E.g., *Edwards v. Duncan*, 355 F.2d 993, 994 (4th Cir. 1966); *Redding v. Pate*, 220 F. Supp. 124 (N.D. Ill. 1963).

66. See, e.g., *Jordan v. Fitzharris*, 257 F. Supp. 674 (N.D. Cal. 1966); *United States v. Jones*, 207 F.2d 785 (5th Cir. 1953); cf., *Talley v. Stephens*, 247 F. Supp. 683 (D. Ark. 1965). See also, Jacob, *Prison Discipline and Inmates Rights*, 5 HARV. CIV. RIGHTS-CIV. LIB. L. REV. 227 (1970).

67. See, e.g., *Talley v. Stephens*, 247 F. Supp. at 667.

68. See, e.g., *United States ex rel. Wakely v. Pennsylvania*, 247 F. Supp. 7 (E.D. Pa. 1965); cf., *Johnson v. Avery*, 252 F. Supp. 783 (M.D. Tenn. 1966). *Contra*, *Hatfield v. Bailieux*, 290 F.2d 632 (9th Cir. 1961).

69. *Long v. Parker*, 390 F.2d 816 (3d Cir. 1968); *Sostre v. Rockefeller*, 312 F. Supp. 863 (S.D.N.Y. 1970), *modified sub nom.* *Sostre v. McGinnis*, 442 F.2d 178 (2d Cir. 1971); *Fulwood v. Clemmer*, 206 F. Supp. 370 (D.D.C. 1962).

Argentina⁷⁰ and Pennsylvania⁷¹ have already taken the steps of embodying the *Minimum Rules* into positive law. A bill recently introduced in the House would enact the principles of the *Standard Minimum Rules* into domestic legislation.⁷² Until the time other jurisdictions adopt the *Rules* or comparable codes of prisoners' rights, we should hope that the courts will look to the *Rules* as a guide. In that regard, we urge that the *United Nations Standard Minimum Rules* command persuasive effect in prisoners' rights litigation. We urge that the American judiciary, the executive, the legislatures and the American people employ the *Minimum Rules* as a yardstick and a goal with which to measure and reform our correctional process.

We cannot conclude without noting that much of the impetus for correctional law reform has come from the consumers of our corrections policy, the inmates of our prisons. Some of this impetus has come through litigation and court process. But it cannot be denied that a substantial amount of the current impetus for change has come from prison "disturbances" such as the one at Attica. And we acknowledge and respect the fact that the inmates who put their demands before the authorities, under the pressure of time and circumstance, demanded the same minimum standards which the world's correctional policy makers have agreed upon after years of study and deliberation. In fact, where the prisoners demanded more than the policy makers and theoreticians had granted them—especially the area of contact with the outside world—it may well be theory that needs adjustment to the demands coming from experience. We can in no way condone violence and useless lawlessness that may have occurred in some of the prison disturbances. On the other hand, we feel obliged to state that any correctional law policy must comport at least with the *United Nations Standard Minimum Rules* which are accepted by all mankind. It is that which the prisoners demand.

70. See, e.g., Garcia Basalo, J.C. *Obstacles to the Implementation of the Standard Minimum Rules in Latin America*, 26 I. REV. CRIM POL. 17, 18 (1968), in which the present Deputy Director of the Federal Penitentiary System of Argentina outlines the steps taken in that country to put the *Rules* into effect and the progress to the same end that has been made in Brazil, Chile, Columbia, Mexico, Paraguay and Venezuela.

71. N.Y. Times, Oct. 5, 1971, at 45, cols. 6-8.

72. See H.R. 11605, 92d Cong., 1st Sess. (1971). The bill, introduced by Congressman Charles Rangel, has been referred to the Committee on the Judiciary.