

# *Probation, Parole and Penitentiary Law*

## *class 4*

### *Prisoners' rights*



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# ***Introduction***

Do inmates have rights? If so, what are they?

***All persons imprisoned shall be treated at all times with humanity and with respect for the inherent dignity of the human person***

- A person's rights while imprisoned vary slightly depending on where they are incarcerated and at what stage of the criminal process their case may be.
- Inmates at the pre-trial stage (those who are in jail awaiting trial) have the right to be housed in humane facilities and cannot be "punished" or treated as guilty while they await trial.
- All other inmates generally have all the other rights - which will be described below.

***THE BASIC LAW DEFINING THE LEGAL STATUS OF PRISONER IS THE RIGHT TO HUMANE TREATMENT BY THE PRISON PERSONEL***

- This law is based on the correct assumption that we cannot expect lawful behaviour in the future from the inmate - if during his isolation, his right as a person with human dignity has not been respected.

# *Prisoners' rights*

According to the art. 102. of the Executive Penal Code all prisoners shall have:

- the right to standard of living adequate for the health, well-being of themselves and their families, including food, clothing, housing and medical care and hygiene
- the right to keep in touch with their families
- the right to practice their religion of choice/ freedom of religion
- the right to employment and the fair distribution of income, including social security and disability benefits
- the right to education and self-education, including being creative, and, with the consent of the director of the penitentiary institution, the right to produce and sell their art
- the right to take part in cultural activities, education and sport activities/events, to listen radio, to watch television, to read books and the press;
- the right to communication with attorneys/ probation officers and representatives (according to the art. 42 of the Executive Penal Code)
- the right to read opinions made by prison administration as a basis for deciding in their cases
- the right to make a request or submit a complaint, without censorship to the central prison administration, the judicial authority or other proper authorities through approved channels.
- the right to communication with investigative authorities, with court and other institutions as Polish Ombudsman

# ***The right to standard of living adequate for the health, well-being of themselves and their families, including food, clothing, housing and medical care and hygiene***

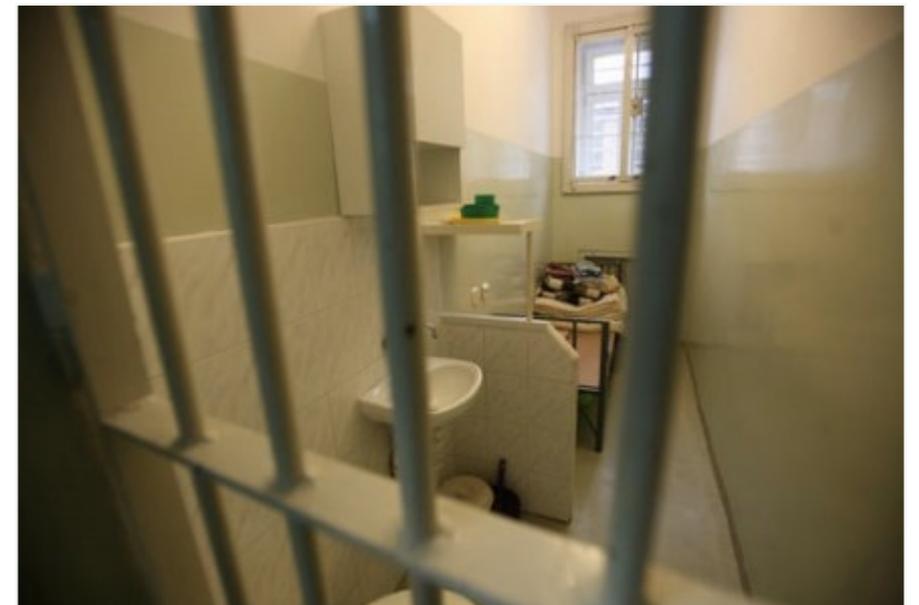
- [As it was said in previous presentation](#) - space for one prisoner should be at least 3 square meters (art. 110 § 2 of the Executive Penal Code).
- However, in certain circumstances, the Executive Penal Code allows putting a prisoner in a smaller cell, as long as there is not less than 2 square meters per prisoner (art. 110 § 2a of the Executive Penal Code).
- Polish prisons serve regular diet, diets for juveniles under 18 years of old, therapeutic diets (bland, diabetic, individual-adjusted), extra meals for prisoners working in arduous conditions, and meals adjusted to religious and cultural requirements.
- Each meal is complemented with a beverage - water, tea, or cereal coffee.
- The meals should have adequate nutrition and correspond with prisoner's age, employment and, if possible, their religious or cultural requirements.
- The energy value of meals should not be lower than 2600 calories or 2800 calories in the case of detained juveniles.
- Prisoners have a right to get a meal three times a day, including at least one hot meal. The prison director determines mealtimes. The interval between the meals should not be longer than six hours.

# *Examples of prison meals in Poland*



# *The right to standard of living adequate for the health, well-being of themselves and their families, including food, clothing, housing and medical care and hygiene*

- The penitentiary administration provides meals, cleaning products, water and books. It may also provide clothing if the inmate does not have adequate ones.
- Inmates can have their own underwear and footwear (in closed-type units with the permission of the director of the prison)
- Inmates have access to a water source in the cell. Washbasins are sometimes situated outside of the room. Toilets are situated within the cell in some establishments.
- Under the European Prison Rules, prisoners should be enabled to take a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week, or more frequently if it's necessary.
- Men have the right to shower once a week. They can shower twice a week if they do manual work. In practice, they do not always have such possibility.
- Women have the right to shower twice a week.
- The regulation of the Ministry of Justice provides a shower time of 10 minutes.



# *The right to keep in touch with their families*

- All inmates have the right to receive visits, except for those placed in solitary confinement for serious misconduct.
- The length of a visit is 60 minutes (art. 105a of the Executive Penal Code)

Open-type prison has no limitations as to the number of visits (art. 92 of the Executive Penal Code)

Semi open-type prisons allow 3 visits per month (art. 91 of the Executive Penal Code)

Closed-type prison allow 2 visits per month (art. 90 of the Executive Penal Code).

Prisoners who are under 21 years old, are entitled to one additional visit per month.

- Prisoners awaiting trial (in pre-trial detention) have very limited access to visits.
- Visits must be authorized by a judge and they take place in a cabin, through a plexi-glass.
- Visits are restricted to two times one-hour per month for “N” status prisoners
- “N” status prisoners also have to speak with their relatives through a telephone. Conversations are listened to by guards.
- Persons authorised to visit are family members and friends. An authorisation from the director is needed for visitors who are not relatives
- Children can be present during visits, with special requirements provided.
- Visitors can bring food parcels of no more than 5 kg

# *The right to keep in touch with their families*

- For those who can't afford the costs of correspondence, the prison administration can provide enough to send letters (paragraph 18, chapter 5 of the regulations of the Ministry of Justice)
- Correspondence is subject to censorship.

Open-type prison -correspondence is never censored

Semi open-type prisons censorship can sometimes be carried out

Closed-type prison correspondence is systematically censored



- Correspondence can be received in a sealed envelope.
- Correspondence with the Ombudsman/ attorneys cannot be censored.
- The receipt of parcels is allowed, but there are some restrictions.
- Phone calls are authorised.
- Untried prisoners must request an authorization from a judge or a prosecutor in order to make phone calls. Restrictions can last several months in some cases. Once they are authorized, remand prisoners are granted one 5-minutes call per day
- Telephones are placed in the corridors.
- The right to make phone calls can be revoked as a disciplinary sanction.

# *Interesting fact*



- ▶ In Poland, Prison Service does not provide mobile phones to inmates.
- ▶ But after the pandemic, prisoners have the opportunity to call their families more often.
- ▶ Sometimes families, friends or close relatives try to throw mobile phones, drugs or alcohol over a wall into a prison.

# *The right to practice religion of choice / freedom of religion*

- Inmates have the right to freedom of worship
- They can participate with other prisoners in religious events.
- There are some rules:
  1. Cultural mediators are not paid by the penitentiary administration.
  2. Religious activities are organized exclusively on a voluntary basis.
  3. Only the most represented religions receive visits from chaplains.  
These visits are at the initiative of the prisoners
- Dedicated places for worship are available in all facilities.
- Each prison defines the hours to access the chapel as well as the days and hours of the mass.
- The religion which is the most represented in detention is the Catholicism.
- Certain inmates are grouped according to their religion in some facilities.

# ***The right to employment and the fair distribution of income, including social security and disability benefits***

- As it was said in previous presentation inmates receive a salary for work in some cases.
- They can also be employed for unpaid work. This latter employment is legal up to 90 hours per month for 'a good cause' to the benefit of a delimited list of authorities or public companies- on behalf of the prison (help cleaning, cooking, meal distribution) or the government, local authorities, local charities and educational organisations if this is done in a civic dimension (no more than 90 hours per month).
- Working inmates paid contribute towards social security, retirement, unemployment.
- A behaviour of the inmate while serving a penalty, including the work may be one of the reasons for granting parole.
- Salary is calculated depends on the type of work.
- Salary received by inmates is below the national minimum salary.
- Professional activities can take place inside and outside prisons. The daily work cannot exceed eight hours a day.

# *The right to employment and the fair distribution of income, including social security and disability benefits*

- The penitentiary administration provides support for destitute inmates.
- According to the article 114 of the Executive Penal Code, prisoners who do not work and do not have any financial resources may receive an allowance from the director of the unit (up to 1/10 minimum wage for employees)
- According to the article 113 of the Executive Penal Code, prisoners must transfer their money to the deposit or on a selected bank account.
- At the request of the prisoner, some funds can be transferred by an outside person.
- The prisoners can use these credentials to make purchases in prison.
- The remaining balance is given to the prisoner upon release or when they have an exit permit (if they are temporally released. )



# ***The right to education and self-education, including being creative, the right to produce and sell their art***

- All people who serve their sentences in prisons and custodies have a right for education, and they are allowed to learn.
- [According to the article 102 of the Executive Penal Code](#), prisoners have the possibility of attending a school. All grade levels are offered from elementary school to university.
- Convicts may acquire knowledge and raise their qualifications at various levels and in various fields.
- Education is provided in the first place to convicts who do not have any profession, or to those who will not be able to work in their acquired profession after leaving prison, because they will be still under-aged (not 21 yet) - [art. 130 § 3 Executive Penal Code](#)
- Convicts who do not have sufficient financial means are provided with free handbooks and training aids - [art. 130 § 4 Executive Penal Code](#)
- [According to the article 131 of the Executive Penal Code](#), prisoners have also the possibility to attend classes outside the prison.
- With the permission of the director of the penitentiary institution, prisoners can also produce and sell their own art
- Prisoners are also helped to develop a positive sense of self and a sense of responsibility for their own lives and towards others.

# *The right to take part in cultural activities, education and sport activities/ events, to listen radio, to watch television, to read books and the press*

- Prisoners can take part in cultural and educational activities
- They have also opportunities to read newspapers, magazines, and books.
- According to the Executive Penal Code, prisoners should be provided with various activities, referring to work, education and socio-cultural activities, and family bonding activities.
- The prisoners may be also punished with disciplinary punishment of a refusal to participate in any cultural, educational or sport event (for up to 3 months)
- Every prison, in their internal regulations, determines the time allowed for cultural and sport activities



# *The right to take part in cultural activities, education and sport activities/events, to listen radio, to watch television, to read books and the press*

- Some prison rehabilitation programs are cultural in nature and have become known as “rehabilitation through culture and art.”
- They aim to provide access to cultural resources and to motivate talented inmates to experiment with various forms of artistic expression—in the literary, musical, or visual arts.
- Inmates can present their artistic creations in a public forum - rehabilitation through theater and public performances has proven to be quite successful. This form of art therapy involves both professional actors and the offenders themselves, who often write the scripts
- Each penitentiary unit in Poland is equipped with a library. Depending upon the prison size, the libraries typically contain about several thousand volumes. The books are usually a gift from liquidated public libraries



# *The right to take part in cultural activities, education and sport activities/ events, to listen radio, to watch television, to read books and the press*

- In most units, there are recreation rooms for sports activities, and a large part of them has independent sports fields.
- Prisoners prefer sports such as football, basketball and martial arts (mainly boxing). Prisoners also have the opportunity to participate in Nordic walking classes, running (they arise a runner's clubs) and canoeing (in the Czarne Prison).
- Gym classes are also of great interest, although the lack of qualified trainers should be considered as a weakness.
- Participation of the convict in sports requires obtaining both administrative and medical consent. Consent usually covers the possibility of a prisoner participating in sports activities no more than twice a week for two hours (or additionally on non-working days)



# *The right to communication with attorneys/ probation officers and representatives*

Polish law guarantees every person who is detained the right to be assisted by a lawyer

1. However, prisoners have access to a legal aid system on the same ground as people who are outside the prison.
2. Communication between prisoner and their lawyers/ attorneys is confidential and cannot be controlled by the Prison Service. This applies both to telephones and letters.
3. Prisoners are allowed to keep in their possession copies of documents related to their case - Art. 110a § 1 of the Executive Penal Code
4. Prisoners who need free legal aid - need to prove that they are unable to bear the costs of legal representation without prejudice to themselves or to their families.

# *The right to communication with attorneys/ probation officers and representatives*

1. The detainee has the right to inform a person of his/her choice about the detention.
2. According to the article 211§ 2 of the Executive Penal Code, arrested persons have the right to inform family or another person about the place of their stay, without delay after settling them in the prison facility. This right is fully respected in practice.
3. An accused person has the right to prepare defence with his/her lawyer before the trial

Polish law provides the possibility to challenge the lawfulness of detention and request compensation in a case of unlawful detention by submitting complaint.

Everyone is entitled to compensation for intangible as well as tangible harm that he or she has suffered because of the unlawful actions of any person.

The court examines the legitimacy, legality and correctness of detention (Article 246 of the Code of Criminal Procedure).

***The right to make a request or submit a complaint, without censorship to the central prison administration, the judicial authority or other proper authorities through approved channels***

***Prisoners have the right to submit complaint, especially to human rights organizations, courts, the Ombudsman and the other institutions.***

- The prisoners complain mainly about the way they are treated by prison officers, healthcare , and living conditions.
- The CPT noted, following a visit in 2017, that there were any complaints of allegation of physical ill-treatment by staff and just a few complaints about verbal abuse.
- What also appears in prisoner complaints quite often, is that prison authorities often refuse visits by unrelated persons.

# ***The right to communication with investigative authorities, with court and other institutions as Polish Ombudsman***

## *Penitentiary judge*

- Supervision over legitimacy and accurateness of carrying out the prison sentence or remand (pre-trial detention) is being conducted by the penitentiary judge by visiting prisons and convicts in custody and other places where prisoners are detained.
- The judge has full access to those places at any time, without any restrictions, including revision of documents and possibility of demanding an explanation if deemed necessary. The judge also has the right to interview the prisoners, in the absence of third parties, examine their complaints, and request or waiver any decision of prison director by announcing it illegitimate.

## *Ombudsman*

- Also, a very important role in Polish legal system is entrusted to the Ombudsman. This person has the authority to examine any case at any time, without notice, and demand documents and explanations concerning files of any case.

## *Other institutions*

- Other organs taking part in oversight of the penitentiary system include the Supreme Audit Office and various non-governmental organizations.

# ***Prisoners' rights in international law***

***Prisoners' rights in international law are found in a number of international documents***

1. Third Geneva Convention
2. International Covenant on Civil and Political Rights
3. UN Standard Minimum Rules for the Treatment of Prisoners
4. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
5. Convention on the Rights of Persons with Disabilities

# *Prisoners' rights in International law*



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# *Relevant Legal Documents*

International Covenant on Civil and Political Rights, 1966
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
The 1949 Geneva Conventions and the two Protocols Additional of 1977
Statute of the International Criminal Court, 1998
Universal Declaration of Human Rights, 1948
Standard Minimum Rules for the Treatment of Prisoners, 1955
Basic Principles for the Treatment of Prisoners, 1990
Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988
Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians,
The Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1982
Code of Conduct for Law Enforcement Officials, 1979 Declaration on the Protection of All Persons from Enforced Disappearance, 1992
Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, 1989
European Convention on Human Rights, 1950
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987

# ***Right against cruel or inhuman treatment or punishment under international law***

Universal Declaration of Human Rights & International Covenant on Civil and Political Rights

[Universal Declaration of Human Rights in Article 5 provides that:](#)

- \* No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

[More so, under Article 7 of the International Covenant on Civil and Political Rights provides that:](#)

- \* No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and, in particular “no one shall be subjected without his free consent to medical or scientific experimentation”

[Article 10\(1\) of the International Covenant on Civil and Political Rights:](#)

- \* All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
- \* The Universal Declaration of Human Right uses the phrase “No one” - a general phrase without making exclusion to some categories of people.
- \* International Covenant on Civil and Political Rights also uses a general phrase with no exclusion of some categories of people.

# ***Right against cruel or inhuman treatment or punishment under international law***

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment & European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

[The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Article 16 \(1\) provides that:](#)

- \* Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent of a public official or other person acting in an official capacity
- \* This document states that each member State shall undertake to prevent any acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1

[Moreover, under Article 1 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment:](#)

- \* The Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment.
- \* The European Convention provides for the setting up of an international committee empowered to visit all places where persons are deprived of their liberty by a public authority. The committee, composed of independent experts, may make recommendations and suggest improvements in order to strengthen, if necessary, the protection of persons visited from torture and from inhuman or degrading treatment or punishment.

# *Right against cruel or inhuman treatment or punishment under international law*

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*All persons deprived of their liberty have the right to be treated with humanity and respect for their dignity. This is a fundamental and universal rule which must be guaranteed at all times and independently of States' available material resources.*

*Every detained or imprisoned person has the right not be subjected to discrimination.*

*Except in exceptional circumstances, suspects shall be separated from convicted prisoners; unconvicted detainees have the right to be presumed innocent until proved guilty and therefore also have the right to more favourable treatment than convicted prisoners.*

# *Contacts with the Outside World*

## Standard Minimum Rules

- \* [Rule 37 of the Standard Minimum Rules](#) provides that “prisoners shall be allowed under necessary supervision to communicate with their family and friends at regular intervals, by correspondence and by receiving visits.”
- \* [According to the rule 38 \(1\) and \(2\) of the Standard Minimum Rules](#) 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”, or “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”
- \* [Rule 92 of the Standard Minimum Rules](#) states that 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
- \* Contacts between a lawyer and his clients are privileged and confidential and this basic rule also continues to apply when the clients are deprived of their liberty. [Rule 93 of the Standard Minimum Rules](#)

# *Contacts with the Outside World*

## Body of Principles

The same issue we can also find in Principle 18 of the Body of Principles:

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.
  2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.
  3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.
- \* [Principle 15 of the Body of Principles](#) provides that “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days”.
  - \* [Further, Principle 16\(1\) of the Body of Principles stipulates that](#) “Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody”
  - \* [According to Principle 16\(4\) such notification](#) “shall be made or permitted to be made without delay”, although “the competent authority may ... delay a notification for a reasonable period where exceptional needs of the investigation are required”

# *Contacts with the Outside World*

## European Convention on Human Rights

- \* Article 8(1) of the European Convention provides that “everyone has the right to respect for his private and family life, his home and his correspondence”, paragraph 2 allows for the following restrictions on the exercise of this right: “There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

# *Right to work and wages*

## Standard Minimum Rules

### Rule 89 of the Standard Minimum Rules

- \* 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.

### For further details as to the work of convicted persons, we have to take a closer look at rules 71-76 of the Standard Minimum Rules.

- \* But in general prison labour must not be of an afflictive nature (Rule 71 (1)) and prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer (Rule 71 (2)) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day (Rule 71(3)).
- \* In addition, the international laws exclude any performance of hard labour emanating from a sentence or punishment imposed by a competent court or any work or service obtained from any person as a consequence of a sentence by a court of law

# *Right to work and wages*

## Universal Declaration of Human Rights

### Article 23 of the Universal Declaration of Human Rights states that:

- Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- Everyone, without any discrimination, has the right to equal pay for equal work.
- Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

### Article 24 provides further that:

- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

# *Accommodation*

- While the general human rights conventions contain no details of the requirements with regard to the accommodation of detainees and prisoners, Rules 9-14 of the Standard Minimum Rules for the Treatment of Prisoners regulate, in particular, sleeping, working and sanitary conditions.

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*In general, the accommodation of detainees and prisoners must be such as to respect their dignity, security and good health, with adequate sleeping, living, working and sanitary conditions.*

# Accommodation

## Standard Minimum Rules

- \* Thus, Rule 9(1) provides that “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”
- \* Rule 9(2) All prison accommodation of persons deprived of their liberty, including in particular the 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” (Rule 10).
- \* Rule 11(a) “the windows shall be large enough to enable the prisoners to read or work by natural light, and shall allow the entrance of fresh air whether or not there is artificial ventilation”
- \* Rule 11(b) “Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight”
- \* Lastly, “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” (Rule 12)

# ***Personal hygiene, food, health and medical services***

The main principles regarding the personal hygiene, food, health and medical services of persons deprived of their liberty are also contained in the Standard Minimum Rules for the Treatment of Prisoners

- \* **Personal hygiene:** “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” (Rule 15).
- \* **Clothing: Rule 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” **Rule 17(2)** “All clothing shall be clean and kept in proper condition”. **Rule 17(3)** “Whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other modest clothes”.
- \* **Bedding: Rule 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”.

# *Personal hygiene, food, health and medical services*

The main principles regarding the personal hygiene, food, health and medical services of persons deprived of their liberty are contained in the United Nations Standard Minimum Rules for the Treatment of Prisoners

- \* **Food:** 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”; Rule 20(2) “drinking water shall be available to every prisoner whenever he needs it”.
- \* **Health and medical services:** Rule 22(1): there shall be “at least one qualified medical officer who should have some knowledge of psychiatry” at every place of detention. And the medical services “should be organized in close relationship to the general health administration of the community or nation” (Rule 22(1)); “sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals”, and where hospital facilities exist in the institution concerned, they shall have the equipment and supplies “proper for the medical care and treatment of sick prisoners and ... a staff of suitable trained officers” (Rule 22(2)); every prisoner shall also have at his or her disposal “the services of a qualified dental officer” (Rule 22(3)).

# *Personal hygiene, food, health and medical services*

The main principles regarding the personal hygiene, food, health and medical services of persons deprived of their liberty are contained in the United Nations Standard Minimum Rules for the Treatment of Prisoners

- \* **Women:** In institutions for women there shall “be special accommodation for all necessary pre-natal and post-natal care and treatment (Rule 23(1)).
- \* **Next,** “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 24);
- \* The medical officer shall also “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” (Rule 25(1));
- \* The medical officer shall further “regularly inspect and advise the director” upon such issues as the quality of the food, the hygiene and cleanliness of the institution and prisoners, the sanitation, clothing and bedding etc. (Rule 26)

# *Personal hygiene, food, health and medical services*

*Every person deprived of his or her liberty has the right and the duty to keep clean and the right to be warm and in good health. To this end, he or she shall be provided with the necessary hygienic equipment, clothing, bedding, adequate food and medical and dental services.*

*Every person deprived of his or her liberty has the right to a cell of adequate size and to enjoy daylight.*

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*When dealing with detainees or prisoners staging protests or hunger-strikes, the authorities must take care not to adopt an inflexible, punitive approach but should instead explore avenues of dialogue and be guided by a sense of humanity.*

*A person in police custody shall be allowed to be examined by a physician of his or her own choice. Medical examinations shall be conducted in private unless the doctor requests otherwise, and the result of the medical examinations shall be recorded by the doctor and made available to the detainee and his or her lawyer.*

# *Religion*

- \* Rule 6(1) of the Standard Minimum Rules for the Treatment of Prisoners, Principle 2 of the Basic Principles for the Treatment of Prisoners and Principle 5(1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment prohibit discrimination on the basis of religion.
- \* Principle 3 of the Basic Principles adds, furthermore, that it is “desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require”.
- \* Rules 41 and 42 of the Standard Minimum Rules contain the following more detailed regulations in this respect.
- \* In the first place, “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” (Rule 41(1)).
- \* A qualified representative so appointed or approved “shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times” (Rule 41(2)).

# Religion

- \* Furthermore, “access to a qualified representative of any religion shall not be refused to any prisoner”, but “if any prisoner object to a visit of any religious representative, his attitude shall be fully respected” (Rule 41(3)).
- \* Lastly, “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” (Rule 42)).

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*Every person deprived of his or her freedom has the right not to be discriminated against on the basis of religion. To the extent possible, the religious convictions and cultural precepts of the detainees and prisoners shall be respected, including the holding of regular services and the organization of pastoral visits.*

# *Separation of categories*

- \* [Rule 8 of the Standard Minimum Rules for the Treatment of Prisoners](#) provides that “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.”
- \* This means, in particular, that “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” ([Rule 8\(a\)](#))
- \* [According to article 37\(c\) of the Convention on the Rights of the Child](#) “every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so”. The best interest of the individual child may thus justify a departure from the basic rule that it shall be separated from adults.

# *Separation of categories*

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*In general, children/minors who are deprived of their liberty shall be separated from adults, unless such separation is not in their best interest; they shall be brought to justice promptly.*

*To the extent possible men and women shall be held in separate institutions*

# *Right to make complaints*

- \* The existence of efficient complaints procedures and the consistent and vigorous investigation and prosecution of grievances of persons deprived of their liberty have a strong dissuasive effect on the incidence of all forms of torture and cruel, inhuman or degrading treatment and punishment.
- \* Persons deprived of their liberty have a right to an effective remedy for alleged violations of their human rights, including, in particular, the right to freedom from torture and other forms of ill-treatment, and access to effective complaints procedures which should result in prompt, serious and objective investigations of the complaints by the authorities.
- \* Proven torture or other forms of ill-treatment must be adequately punished and appropriate compensation granted to the victim
- \* Every prisoner on admission shall be provided with written information on rules and on complaints and disciplinary procedures in a language which he or she understands. If necessary, these regulations should be explained orally.

# *Right to make complaints*

- \* [Article 7 of the International Covenant on Civil and Political Rights](#) “the right to lodge complaints against maltreatment must be recognized in the domestic law”
- \* [Article 2\(3\) of the International Covenant on Civil and Political Rights](#) states that “complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective”.
- \* The Committee against Torture has emphasized the importance of introducing “an effective and reliable complaint system that will allow the victims of torture and other forms of cruel, inhuman or degrading treatment or punishment to file complaints”.
- \* [Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) requires that: Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.

# *Right to make complaints*

- \* The right to challenge conditions of imprisonment or treatment while in detention is also contained in the [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#):
- 1. *A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.*
- 2. *In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.*
- 3. *Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.*
- 4. *Every request or complaint shall be promptly dealt with and replied to without undue delay.*

# *Right to make complaints*

\* In addition, [rule 36 of the Standard Minimum Rules](#) provides:

1. Every prisoner shall have the opportunity each weekday 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.

# Summary

- \* Under Articles 1 and 2 of the Universal Declaration of Human Rights all human beings are equal in dignity, rights and are entitled to all rights and freedoms contained in the instrument without distinction of any kind, such as religion, race, sex, colour, language, political or other opinion, other status among others.
  - ▶ So prisoners have the right to enjoy the same human rights as persons at liberty, subject only to those restrictions that are consequence of the imprisonment.
- \* Detainees and prisoners have the right to contact their families or friends without delay upon arrest or detention. They have a right to maintain contact with families and friends through visits and correspondence at regular intervals.
  - ▶ Any interference with this right must not be arbitrary (International Covenant on Civil and Political Rights) and must be based on law, imposed for legitimate purposes, and necessary in a democratic society for such purposes (European Convention on Human Rights).
- \* Prisoners have a right to be regularly visited by, and consult and communicate with, their lawyers through correspondence that shall be transmitted without delay and preserving the full confidentiality of the lawyer-client relationship. During visits by their lawyers, detainees and prisoners shall be able to confer within sight but not within the hearing of law enforcement officials
- \* Every prisoner shall have the right to make a complaint regarding his or her treatment and, unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family

# ***Task to complete***

Regarding this class answer a question below briefly (in a few words):

- Q1: Which one of prisoners rights do you consider as the most important? Why?