

II. Measures to be taken by authorities concerning all places of deprivation of liberty, including detention facilities, immigration detention, closed refugee camps, psychiatric hospitals and other medical settings

8. It is axiomatic that the State is responsible for the healthcare of those whom it holds in custody and that it has a duty of care to its detention and health-care staff. The Nelson Mandela Rules make it clear that ‘... Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status’. ⁵

9. Given the heightened risk of contagion between those in custodial and other detention settings, the SPT urges all States to:

- 1) Conduct urgent assessments to identify those individual most at risk within the detained populations, and taking account of all particular vulnerable groups;
- 2) Reduce prison populations and other detention populations wherever possible by implementing schemes of early, provisional or temporary release for those detainees for whom it is safe to do so, taking full account of non-custodial measures indicated as provided for in the Tokyo Rules;
- 3) Place particular emphasis on places of detention where occupancy exceeds the official capacity, and where the official capacity is based on square metre-age per person which does not permit social distancing in accordance with the standard guidance given to the general population as a whole;
- 4) Review all cases of pre-trial detention in order to determine whether it is strictly necessary in the light of the prevailing public health emergency and to extend the use of bail for all but the most serious of cases;
- 5) Review the use of immigration detention and closed refugee camps with a view to reducing their populations to the lowest possible level;
- 6) Release from detention should be subject to screening in order to ensure that appropriate measures are put in place for those who are either positive or are particularly vulnerable to infection;
- 7) Ensure that any restrictions on existing regimes are minimised, proportionate to the nature of the health emergency, and in accordance with law;
- 8) Ensure that the existing complaints mechanisms remain functioning and effective;
- 9) Respect the minimum requirements for daily outdoor exercise, whilst also taking account of the measures necessary to tackle the current pandemic;
- 10) Ensure that sufficient facilities and supplies are provided (free of charge) to all who remain in detention in order to allow detainees the same level of personal hygiene as is to be followed by the population as a whole;
- 11) That where visiting regimes are restricted for health-related reasons, provide sufficient compensatory alternative methods for detainees to maintain contact with families and the outside world, for example, by telephone, internet/e mail, video communication and other appropriate electronic means. Such contacts should be both facilitated and encouraged, be frequent and free;

- 12) Enable family members or relatives to continue to provide food and other supplies for the detainees, in accordance with local practices and with due respect for necessary protective measures;
- 13) Accommodate those who are a greatest risk within the remaining detained populations in ways which reflect that enhanced risk, whilst fully respecting their rights within the detention setting;
- 14) Prevent the use of medical isolation taking the form of disciplinary solitary confinement; medical isolation must be on the basis of an independent medical evaluation, proportionate, limited in time and subject to procedural safeguards;
- 15) Provide medical care to detainees who are in need of it, outside of the detention facility, whenever possible;
- 16) Ensure that fundamental safeguards against ill-treatment (including the right of access to independent medical advice, to legal assistance and to ensure that third parties are notified of detention) remain available and operable, restrictions on access notwithstanding;
- 17) Ensure that all detainees and staff receive reliable, accurate and up to date information concerning all measures being taken, their duration, and the reasons for them;
- 18) Ensure that appropriate measures are taken to protect the health of detention and medical staff and that they are properly equipped and supported undertaking their duties;
- 19) Make available appropriate psychological support to all detainees and staff who are affected by these measures; and
- 20) Ensure that, if applicable, all the above considerations are taken into account as regards to patients who are involuntarily admitted to psychiatric hospitals.

⁵ *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, UN Doc A/RES/70/175 (17 December 2015), Rule 24(1).