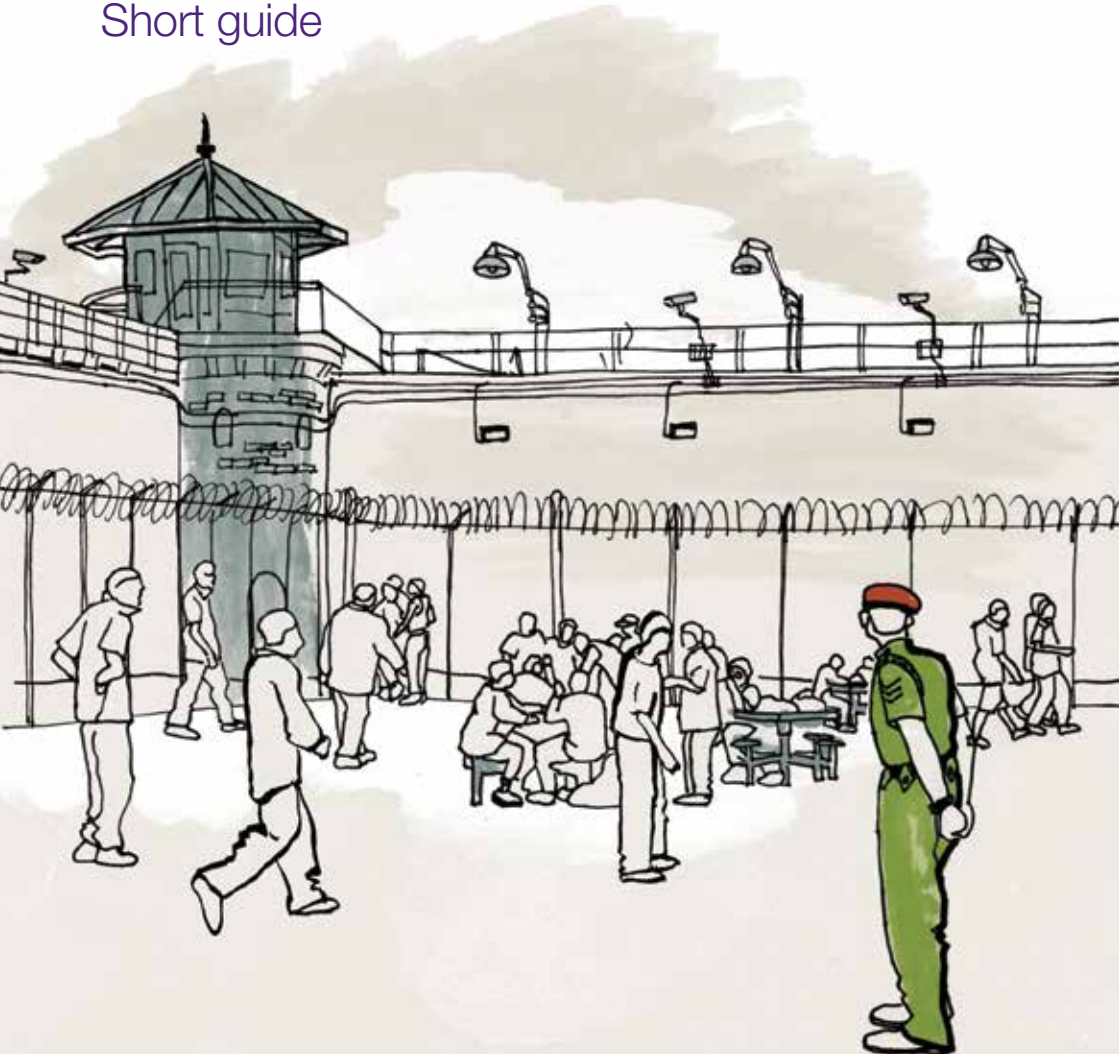


PROMOTING
THE NELSON
MANDELA
RULES



The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

Short guide



**Short guide to the revised United Nations Standard
Minimum Rules for the Treatment of Prisoners
(Nelson Mandela Rules)**

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The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

More than 10.2 million men, women and children are in prison globally, and around a third are awaiting trial.

The revised UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) were adopted unanimously in December 2015 by the UN General Assembly and set out the minimum standards for good prison management, including to ensure the rights of prisoners are respected.

The Nelson Mandela Rules are not entirely new, but an updated version of the 1955 Standard Minimum Rules for the Treatment of Prisoners (SMRs). The Rules were revised in eight substantive areas to reflect standards that have emerged in correctional science and human rights since 1955.

As the negotiations on the revised text were completed at an Inter-governmental Expert Group Meeting in Cape Town, South Africa, it was decided that they should be known as the 'Nelson Mandela Rules'. This is in honour of the late President of South Africa who spent 27 years in prison and advocated for the rights of prisoners.



The revision process

Why were the Rules revised?

UN member states recognised that the Standard Minimum Rules were outdated and did not reflect major developments in human rights and criminal justice since their adoption 60 years ago.

Who made the revisions?

In 2010, a UN General Assembly resolution mandated an Inter-governmental Expert Group to revise the Rules. Member states agreed on the process and revisions, and UN bodies, intergovernmental organisations, civil society and academics participated in the process.

The Expert Group first met in 2011 and decided on a so-called 'targeted revision', updating the most outdated areas and rules, but leaving the structure and many rules unchanged. Revised text was negotiated at three subsequent meetings.

The Nelson Mandela Rules have also been renumbered given the substantial changes.

The revision process has consolidated criminal justice and human rights standards in one document – protecting the rights of prisoners, and also providing reliable and up-to-date guidance for prison staff and administrations.

For more information on the revision process of the Standard Minimum Rules, download a joint NGO briefing at: www.penalreform.org/resource/joint-ngo-briefing-process-review-standard-minimum-rules/



Applying the Nelson Mandela Rules from admission to release

The 122 Rules cover all aspects of prison management and outline the agreed minimum standards for the treatment of prisoners – whether pre-trial or convicted.

Basic principles

Rules 1-5 provide the following basic principles:

- Prisoners must be treated with respect for their inherent dignity and value as human beings.
 - Torture or other ill-treatment is prohibited.
 - Prisoners should be treated according to their needs, without discrimination.
 - The purpose of prison is to protect society and reduce reoffending.
 - The safety of prisoners, staff, service providers and visitors at all times is paramount.
-

A **red star *** indicates that changes have been made in this area.

Admission to prison

➡ **Allocation*** [Rule 59]

The Rules require prisoners to be housed close to their home to facilitate social rehabilitation.

➡ **Registration*** [Rules 7, 8]

Information that should be collected and entered into the prisoner file now includes, for example, names and location of family, and any visible injuries or complaints about prior ill-treatment.

➡ **Information*** [Rules 54, 55]

When prisoners arrive, they must be given information about the prison regime, including prison rules and how to access legal advice – in a language and manner they understand.

⇒ Prisoners' property [Rules 7, 67]

The prison must place any property belonging to the prisoners (that they are not allowed to keep with them) in safe custody, alongside a signed inventory. Any property should be returned to them in good condition on their release.

⇒ Medical screening* [Rules 30, 34]

A healthcare professional must examine every prisoner as soon as possible after arrival. The Rules provide that this initial examination should not only assess healthcare needs and give treatment but also identify any psychological or other stress and any signs of ill-treatment, which should be documented and reported to the competent authority.

Classification and accommodating special needs

⇒ Categorisation [Rule 11]

Certain groups of prisoners must be housed separately as a means of protection and to facilitate adequate individual treatment. This applies to men and women, pre-trial and convicted prisoners, children and adults.

⇒ Classification [Rules 89, 93, 94]

An individual assessment is important to identify any risks prisoners may pose to themselves, to staff or to other prisoners, but also any risks they might be exposed to, specific needs they have and rehabilitation measures that should be taken. Classification systems should be flexible in order to support individualisation of treatment.

⇒ Special needs* [Rules 2, 5]

Prisons must make adjustments to accommodate prisoners with physical, mental or other disabilities in order to ensure access to services and programmes on an equitable basis. Measures to address specific needs must not be considered discriminatory.



Prison staff

➔ **Safety*** [Rule 1]

The safety of prison staff must be ensured at all times.

➔ **Employment** [Rules 74, 78]

Prison staff should be appointed on a full-time basis and should have civil service status with security of tenure, subject only to good conduct, efficiency and physical fitness. To support prison staff in their job, prisons should employ an adequate number of specialists, including psychiatrists, psychologists, social workers and teachers.



➔ **Remuneration** [Rule 74]

Salaries must be adequate to attract suitable prison staff and the employment benefits and working conditions must be favourable in view of the demanding nature of the work.

➔ **Recruitment** [Rules 74, 81]

As prison management is a difficult task, careful selection of prison staff is required because professional prisons depend on their integrity, humanity, professional capacity and personal suitability. Only female staff should supervise women prisoners.

➔ **Training*** [Rules 75, 76]

To enable them to professionally fulfil their duties, prison staff need continuous training opportunities. Such training should reflect evidence-based best practice, must be provided before and during their employment, and should include the use of force, working with certain categories of prisoners, and the concept of dynamic security. A dynamic security approach combines positive staff-prisoner relationships with fair treatment and purposeful activities for prisoners that contribute to their future reintegration into society.

➔ **Management** [Rules 79, 80]

The Rules describe the duties of prison directors and the qualifications they should hold.



Files and records

A prisoner file management system has always been required as a vital tool for the effective running of any prison. The revised Rules now recognise that the system may be electronic and also give further guidance on what files should include, who has access to them, and how data should be used.

⇒ **System*** [Rules 6, 10]

A standardised prisoner file management system must be in place. Whether an electronic database or paper-based system, a secure audit trail is critical for preventing unauthorised access to or modification of any files. Data should be analysed to identify occupancy rates and trends.

⇒ **Information*** [Rules 7-9, 26, 92]

Each file should include information on a whole range of issues affecting a prisoner, including their personal data, date of release and/or transfer, the status of their legal case, classification reports, disciplinary sanctions and complaints made. Individual medical files should also be kept, separately and confidentially, and be accessible to the prisoner.

Accommodating prisoners

⇒ **Hygiene** [Rules 15, 16, 18-21]

Every prison must have clean bathroom facilities in the interests of dignity and hygiene. Access to water, toilet items (including sanitary towels for women), adequate clothing and bedding must also be provided. [See also UN Bangkok Rules]

⇒ **Food and water*** [Rules 22, 35, 42, 43]

Prisoners must be provided with nutritious food of wholesome quality and also drinking water whenever they need it. Food and water cannot be restricted as a disciplinary sanction and must be provided without exception.

⇒ **Sleeping** [Rules 12-14, 42, 113]

If accommodation is cell based, only one prisoner should be housed in each cell, and where there are dormitories, careful selection procedures must be used to decide on who is housed together. Pre-trial detainees should be housed in single cells. Proper heating and ventilation, air, light and minimum floor space must be provided, without exception.

⇒ **Children*** [Rules 28, 29]

The decision on whether children are accommodated in prison with their parent should be based on the best interests of the child. Provision needs to be made for pre- and post-natal care, childcare facilities and healthcare services for children. Children housed in prison must never be treated as prisoners. [See also **UN Bangkok Rules**]





Discipline and sanctions

➡ **Information*** [Rules 54, 55]

The Rules recognise that understanding rights and obligations is key for day-to-day prison management. Promptly upon arrival, prisoners need to be given information about prison regulations, their rights and obligations, disciplinary sanctions and how to access legal advice (including legal aid). This information must be provided in an understandable language and format.

➡ **Searches*** [Rules 50-53, 60]

Procedures for searches must be laid down in law or regulations and any decision on whether to conduct a search should consider whether it is necessary and proportionate. Search procedures must respect the dignity and privacy of the prisoner, and not be used to harass or intimidate. Invasive body searches should be the last resort, and the findings of searches need to be recorded. Searches of visitors, at a minimum, must be subject to the same safeguards as searches of prisoners and take account of their status as non-prisoners.

➡ **Solitary confinement*** [Rules 43-46]

Given its devastating effect on physical and mental health, the Rules stipulate that solitary confinement should only be used in exceptional cases, as a last resort, for as short a time as possible, after authorisation by a competent authority, and subject to independent review. Indefinite and prolonged solitary confinement (of more than 15 days) is prohibited entirely. For some groups, eg. pregnant or breast-feeding women, any use of solitary confinement is prohibited.

The Rules define solitary confinement as confinement for more than 22 hours per day without meaningful human contact. Interpretation of 'meaningful human contact' should recognise the suffering that any person will experience if isolated from and deprived of contact with other human beings. [See also **UN Bangkok Rules and UN Havana Rules**]

⇒ **Disciplinary offences*** [Rules 36-43]

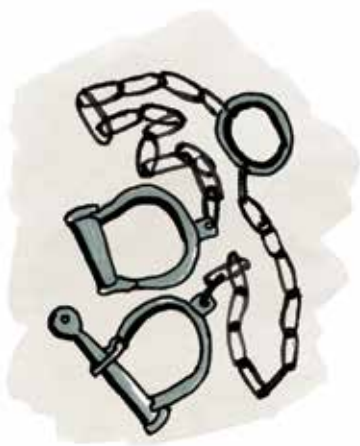
The Rules outline procedures and safeguards that should be in place to respond to allegations of a disciplinary offence. Laws or regulations must clearly define what constitutes a disciplinary offence, any sanction must be proportionate to the act, and prisoners must have the opportunity to defend themselves. The application of disciplinary sanctions must be recorded. The use of alternative dispute resolution mechanisms is encouraged to prevent disciplinary offences and resolve conflicts. When the interests of justice require, particularly in cases involving serious disciplinary charges, prisoners must be able to defend themselves in person, or through legal assistance.

⇒ **Use of restraints*** [Rules 43, 47-49]

Instruments of restraint that are inherently degrading or painful are prohibited. The use of any other instrument is subject to strict conditions: their use is only legitimate if no lesser form of controlling an actual risk is available and they must be removed as soon as possible. Restraints should be removed when a prisoner appears in court, and must never be used on women during labour, during childbirth or immediately after.

⇒ **Use of force** [Rule 82]

Except in cases of self-defence or attempted escape, staff should not use force on prisoners. Any use of force must not exceed what is strictly necessary, and should subsequently be reported. Only in exceptional circumstances should prison staff be armed. UN standards also require strict regulations on the use of force and that arbitrary or abuse of the use of force be punishable as a criminal offence. [See also **UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**]



Contact with the outside world

➡ **Family and friends** [Rules 43, 58-60, 68, 70]

Prisoners are allowed to receive visits and to contact their family and friends through other means such as by phone or letters. Visiting restrictions must not be used as a disciplinary measure, particularly for women prisoners and their children.

Prisoners have the right to inform friends or family about their imprisonment, transfer and of serious illness or injury. If a near relative or spouse/partner falls seriously ill or dies, the prisoner should be authorised to visit or attend the funeral. Conjugal visiting rights should apply without discrimination. [See also **UN Bangkok Rules**]

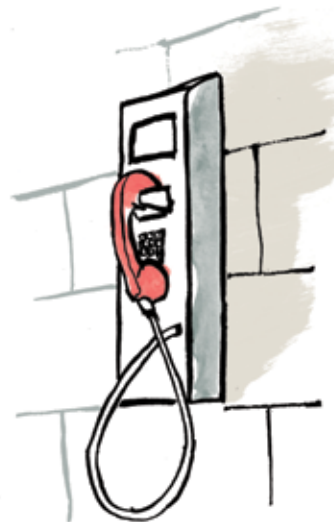
➡ **Legal representatives*** [Rules 41, 53, 61, 119, 120]

Prisoners must be given adequate opportunity, time and confidential facilities to meet with their lawyer. They should have access to effective legal aid, in accordance with international standards.

Prisoners are allowed to have access to and keep their legal documents, so they are able to effectively participate in legal proceedings. [See also **UN Principles and Guidelines on Legal Aid in Criminal Justice Systems**]

➡ **Embassies** [Rule 62]

Foreign nationals must have the opportunity to get in touch with their consular representatives. This Rule recognises their specific situation which can include an inability to communicate in the common language of the prison, lack of information and knowledge of the legal system, and difficulties in contacting family members.



Day-to-day activities

➡ **Rehabilitation/resocialisation programmes*** [Rules 4, 88, 89, 91-94, 96-108]

Prisons should offer education, vocational training, work, and any other assistance needed for the purpose of rehabilitation/resocialisation and reintegration. This reflects the primary purpose of imprisonment to protect society and reduce recidivism. To be successful such programmes should be individualised. Prisons should recognise the key role staff play in the rehabilitation of prisoners.

➡ **Work*** [Rules 40, 96-103]

Servitude, slavery or requiring prisoners to work for the personal or private benefit of any prison staff is prohibited. Any work should be useful for a prisoner's job prospects after release or be remunerated, and take place in safe and legal conditions. Prisoners must not be employed in a disciplinary capacity.

➡ **Meaningful activities** [Rules 4, 23, 64-66, 105]

Providing meaningful activities supports prison management as well as the mental health and rehabilitation of prisoners. Opportunities for sport should be provided and at least one hour per day of outdoor exercise permitted. A prison library must be available and prisoners should be allowed to practise their religion.



➔ **Education** [Rule 104]

As education plays an important role in preventing recidivism, learning opportunities should be provided to prisoners. Classes offered should be of the same level as the community education system and available to all prisoners. For illiterate or young prisoners, education is compulsory.

Physical and mental health

➔ **Access to healthcare*** [Rules 24-29, 31]

As the state bears responsibility for those it deprives of their liberty, healthcare must be provided in prison and offered at the same level of care as in the community. In line with good practice, prison healthcare should be organised in close cooperation with community health services, including to ensure continuity of care. The Rules elaborate on what prison healthcare services should consist of, including for any children housed in prison with their parent.

➔ **Role of healthcare staff*** [Rules 25, 30-34]

The role of healthcare professionals in prison must be clearly separate from that of the prison administration. The same ethical and professional standards apply to prison healthcare staff as those outside prison. Their role in prison is to evaluate, promote and treat the physical and mental health of their patients - prisoners. This includes treatment and care for infectious diseases, substance dependencies, mental health and dental care. Healthcare staff must not be involved in prison management issues, such as disciplinary measures, and their clinical decisions must not to be overruled or ignored by non-medical prison staff. Prison healthcare staff have a duty to report any signs of torture or other inhuman treatment.



⇒ Prisoners as patients* [Rules 26, 32]

When prisoners see a doctor they are patients just like they would be in the community. Patients must give their informed consent to any medical interventions and examinations, and their medical records are confidential. The protection of staff and other prisoners from infectious diseases, for example, can be achieved by only disclosing the information necessary so the required measures can be taken whilst still upholding medical confidentiality.

⇒ Advice on health* [Rule 35]

The competent public health body should regularly inspect and advise the prison director on a variety of issues impacting on the health and well-being of prisoners - as well as prison staff. This includes food, hygiene of the institution and of prisoners, sanitation, temperature, lighting and ventilation, and other conditions.

Inspections and investigations

⇒ Inspections* [Rules 83-85]

In recognition that inspections are an integral part of any professional and transparent prison system, the Rules require a two-fold system to be put in place that includes internal monitoring by the central prison administration as well as external, independent monitoring. The purpose of such monitoring is to ensure that prisons are managed in accordance with the laws and regulations, and for the protection of the rights of prisoners. The Rules list the authority inspectors should have and clarify the reporting and follow-up procedures.

⇒ Investigations* [Rules 57, 71]

Prisons must report any death in custody, disappearance, serious injury and if they have reasonable grounds to believe that torture or inhuman treatment may have occurred, irrespective of a formal complaint. Reporting should be to an independent authority that is mandated to conduct an investigation.



Prison management and staff must fully cooperate with such investigations and ensure that all evidence is preserved. Implicated persons must not have any involvement in the investigation.

Transfer and transport [Rules 26(2), 73]

Prisoners should be transported in adequate conditions, and should be exposed to public view as little as possible. If a prisoner is moved to another prison, their medical files should also be transferred.

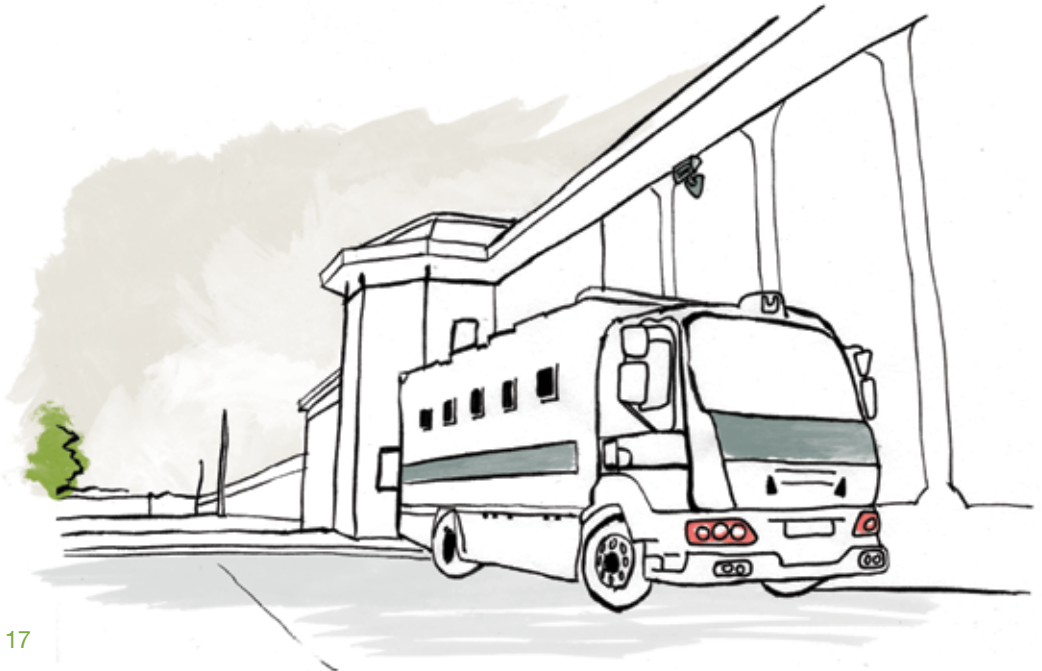
Release from prison

⇒ Property [Rule 67]

Any property or money taken from a prisoner on admission must be returned to them on release, and should have been kept in good condition. The prisoner should sign a receipt for property returned.

⇒ Reintegration [Rules 88, 90]

Opportunities to reintegrate prisoners into the community gradually, such as pre-release schemes or open prisons, should be used. Aftercare services should be provided.



It is important to remember that the Nelson Mandela Rules should be read alongside other UN standards which remain valid, including, but not limited to, the Basic Principles on the Use of Force and Firearms, the UN Bangkok Rules on women prisoners, the UN Beijing Rules on juvenile justice, the UN Tokyo Rules on non-custodial measures and the UN Code of Conduct for Law Enforcement Officials.

What now?

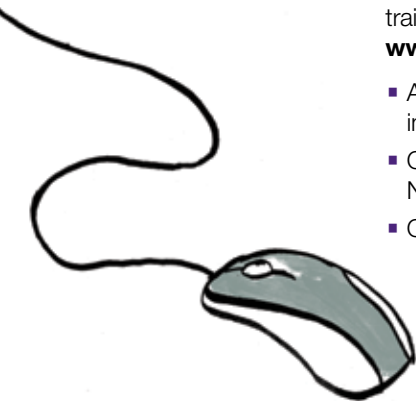
Revising prison standards is a complex task. The implementation of all 122 Rules in full will require time and resources, but with the right governance, training and a culture of respect for human rights, many of the Nelson Mandela Rules can be put into action without significant cost.

PRI works in very diverse regions and countries with different political and social realities and sensitivities. We are responsive to these different contexts, and adapt how we work accordingly. Our approach is gender and culturally sensitive.

We have 25 years' experience working in the field of criminal justice and penal reform at national, regional and international levels. Our independence and specialised expertise make us a valued partner for both governments and civil society organisations who are starting to work towards the implementation of the Nelson Mandela Rules.

PRI's work includes the provision of guidance and assistance to stakeholders involved in applying the Rules. This is through publications, seminars, training and events. Please visit our website at **www.penalreform.org** for:

- A copy of the Nelson Mandela Rules (available in multiple languages).
- Our new two-minute animation introducing the Nelson Mandela Rules.
- Other information and resources.



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