

- Committee:** The Human Rights Council (HRC)
- Issue:** Setting a framework to establish international compliance with the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)
- Student Officer:** Aisha Elleithy (Human Rights Council Chair)

I. Introduction

The Nelson Mandela Rules, while named after the late South African President, are completely isolated from his policies as South Africa's President. The rules also known as the Standard Minimum Rules for the Treatment of Prisoners (SMR), were adopted by the United Nations General Assembly in 2015. These rules set the standard that prisons all around the world should be abiding by. The rules cover all aspects of a detainee's life in prison, including the conduct in which prison staff are to interact with detainees.

II. Focused Overview of the Issue

1. History

Before 1955, there were no widely recognized standards on the treatment of prisoners. The Standard Minimum Rules for the Treatment of Prisoners were adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955¹, in Geneva. Two years later, a first resolution was passed by the United Nations Economic and Social Council approving the Rules², and the second was approved in 1977³. These rules became universally acknowledged as the standards for the treatment of prisoners. While not being legally binding, the rules serve as the guidelines which governments should implement in their prisons, and revolutionised the way that many prisons around the world conducted procedure with their detainees.

2. Revisions

In 2011, the United Nations General Assembly decided to revisit the Rules, in accordance with the advancements in international law and correctional science since 1955.⁴ The revision process was done by the intergovernmental Expert Group established by the General Assembly, internationally recognized organizations, and relevant United Nation

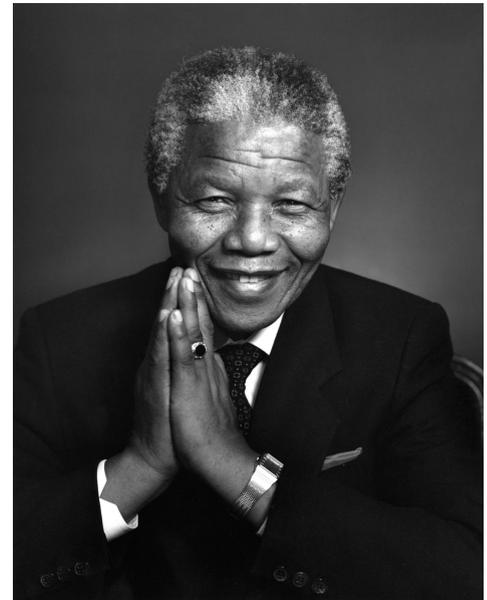


Figure 1:
A photograph of the late South African President
taken in 1990 taken by photographer Yousuf
Karsh

¹ "UN Nelson Mandela Rules (Revised SMR)." *Penal Reform International*, www.penalreform.org/priorities/prison-conditions/standard-minimum-rules/.

² "UN Standard Minimum Rules for the Treatment of Prisoners (SMR)." *Penal Reform International*, www.penalreform.org/resource/standard-minimum-rules-treatment-prisoners-smr/.

³ United Nations. "Standard Minimum Rules for the Treatment of Prisoners." *Refworld*, www.refworld.org/docid/3ae6b36e8

⁴ "Keywords." *United Nations*, United Nations, www.un.org/en/events/mandeladay/rules.shtml

bodies.⁵ The revision process took nearly four years, with the meetings occurring four times over that period.⁶ The negotiations centered around nine themes: the respect of prisoners' right to dignity, medical and health services, disciplinary action and punishment, the role of medical staff, investigation of all deaths in custody and any allegations against torture, protection and special needs of vulnerable groups, right of access to legal representation, complaints, training of staff to implement the SMR. The nine themes were the focus points of all the revisions since there was much to be changed and altered from the original rules. The theme with the original rules focused on setting a primary guideline for the treatment of prisoners, but sadly didn't get the chance to delve into the specifics as the policy makers were adamant about setting a good foundation build upon. Also, the original rules had been already established about 50 years earlier, and many things had changed. Since the last negotiations took place in South Africa, and the Chair of the Expert Group is South African, it was decided that the new rules would be called the Nelson Mandela Rules to honor the late South African President, after he spent 27 years in jail and was an advocate himself for the rights of prisoners.⁷

3. Nelson Mandela Rules

The new and improved rules named after the late South African President Nelson Mandela not only protect the rights of the prisoners but also set guidelines for governments to implement in their local prisons, and for prison staff to abide by whilst dealing with any detainees. The new revised rules focus on the different types of discrimination that different groups of people—minorities in general—would face in prison, which weren't previously highlighted in the first version of rules. For example rule 2 states that “The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected.”⁸ The Rules also emphasize on the importance of prisons safety keeping, and regularly collecting data on their prisoners, which is evident in Rule 6 of the Nelson Mandela Rules. A new addition to the rules is Rule 24 that claims that “The provision of health care for prisoners is a State responsibility. 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.”⁹ Which then makes it every country's responsibility to finance and ensure that all detainees get health care. The newly added Rule 43 forbids “(a) Indefinite solitary confinement; (b) Prolonged solitary confinement; (c) Placement of a prisoner in a dark or constantly lit cell; (d) Corporal punishment or the reduction of a prisoner's diet or drinking water; (e) Collective punishment.” The new rules also cater to people with disabilities, for example; on the Information to and Complaints of Prisoners, each prisoner should have the right to know their rights as a prisoner, the rules of conduct of the prison, and “all other matters necessary to

⁵ “Keywords.” *United Nations*, United Nations, www.un.org/en/events/mandeladay/rules.shtml

⁶ Ibid.

⁷ Ibid.

⁸ Assembly, General. “United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules*).” *Penal Reform International*, 29 Sept. 2015, www.penalreform.org/wp-content/uploads/1957/06/PRI-Marked-version-of-Nelson-Mandela-Rules-3rd-Cmmtte-e-Resolution.pdf.

⁹ Ibid.

enable the prisoner to adapt himself or herself to the life of the prison.” While for normal people the rules would be distributed in the widely spoken language, the rules take into account illiterate people as the staff would have to convey the rules orally and people with sensory disabilities “should be provided with information in a manner appropriate to their needs.” These various examples of rules highlight the importance of inclusivity in the modern world that we live in now, since they include provisions to offer the rights of many minority and underrepresented groups that would otherwise be left with disadvantages and with their rights robbed of them.

III. Involved Countries and Organizations

1. South Africa

South Africa is one of the key players in this situation since the chair of the Expert Group is South African. The South African government is always making strides to honour the legacy of Nelson Mandela and his advocacy for the rights of prisoners on the international front, but the fact remains that they don’t honour his legacy enough back home. As a result of the extremely high crime rates that South Africa faces, there is a massive issue of overcrowding in prisons. One CNN report claims that there are “two or three men to a single bunk [and] lockdown for 23 out of 24 hours,” which is a far cry from the standard set by the Mandela Rules. This violates rules 12-14, 42 and 113 of the revised SMRs which state that “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 oor space must be provided, without exception”¹⁰ Also, due to public pressure in 1997, a law that admitted easy parole to prisoners was amended making the prison situation even more difficult to get out, which exacerbated the issue.¹¹

2. Egypt

Since the bombing of two churches during Palm Sunday in April 2017¹², Egypt has been under emergency law, citizens have been abducted and have disappeared into the labyrinth of the Egyptian Prison System. In September 2017, the Egyptian Government even blocked the Human Rights Watch’s official website for writing an exposé on the torture and horrors that prisoners have to face in Egyptian prisons. The Egyptian Foreign Ministry Spokesman Ahmed Abu Zeid claims



Figure 2:
One of the photos obtained by Al Jazeera News which showcases the living spaces that prisoners live in at Tora Prison

¹⁰ “Short Guide to the Nelson Mandela Rules (Revised Standard Minimum Rules).” *Penal Reform International*, www.penalreform.org/resource/short-guide-to-the-nelson-mandela-rules/.

¹¹ Ellis, Stephen, and Amanda Diessel. “Reform and Stasis: Transformation in South African Prisons.” *The Centre for the Study of Violence and Reconciliation*, www.csvr.org.za/docs/correctional/reform.pdf.

¹² Karimi, Faith. “ISIS Claims Responsibility for Egypt Church Bombings.” CNN, Cable News Network, 10 Apr. 2017, edition.cnn.com/2017/04/09/middleeast/egypt-church-explosion/index.html.

that “The report ... is a new episode in a series of deliberate defamation by such organization, whose politicized agenda and biases are well known and reflect the interests of the entities and countries sponsoring it,” in reference to the Human Rights Watch (HRW).¹³ Which goes to show the extent of how dangerous the civil and human rights situation in the country is like.

One of the most infamous prisons in Egypt called “Tora Prison” is known for torturing and degrading their prisoners (see Figure 2¹⁴). In an article written by The Sun, one foreign survivor of this prison recalls how during his 54 day detention there, "You're locked in your cell, and in Tora Prison there were 70 or 80 people in the cell."¹⁵ Which even worse than the situation in South Africa and also violates rules 12-14, 42 and 113 of the revised SMRs.

The Human Rights Watch, which is now ironically blocked in Egypt by the Egyptian government, published a 63 page report detailing the human rights horrors that are taking place in Egypt. Since, sadly we were unable to access the report, an article from “The Guardian” highlights all the most important points. “President al-Sisi has effectively given police and national security officers a green light to use torture whenever they please,” said Joe Stork, HRW’s deputy Middle East director. “Impunity for the systematic use of torture has left citizens with no hope of justice.”¹⁶ The article also highlights the various torture methods that the prison guards conduct on the prisoners, including a “torture assembly line” which includes, beatings, electric shocks, stress positions and sometimes rape by security forces. Torture is not only forbidden by international law and is one of the basic principles of the SMRs prohibiting any form of torture but also prohibited by the Egyptian constitution itself. Which then raises the fundamental issue of why the guards are left unaccountable for their atrocities.

3. Penal Reform International (PRI)

Penal Reform International is an internationally accredited organization that advocates for the rights of prisoners, and seeks to see a change in the way prisons all around the world function and treat their detainees. The organization was founded in 1989 in London by a group of human rights activists that saw the need for a change in the world.¹⁷ Throughout the revision process of the Nelson Mandela Rules, PRI was one of the most involved organizations, attending all the drafting meetings of the SMR, making sure that the revision process was in favor of the rights of the prisoners. The organization also coordinated with other NGOs that were involved in the revision process.

IV. Key Vocabulary

¹³ Ibid.

¹⁴ Griffiths, Josie. “What Prison in Egypt Is REALLY like by a Brit Who's Been There.” *The Sun*, The Sun, 28 Dec. 2017, www.thesun.co.uk/news/5218692/what-prison-egypt-really-like-brit/

¹⁵ Griffiths, Josie. “What Prison in Egypt Is REALLY like by a Brit Who's Been There.” *The Sun*, The Sun, 28 Dec. 2017, www.thesun.co.uk/news/5218692/what-prison-egypt-really-like-brit/

¹⁶ Egypt's Security Forces Are Enforcing 'torture Assembly Line'

Karen McVeigh -

<https://www.theguardian.com/global-development/2017/sep/06/egypt-security-forces-enforcing-torture-assembly-human-rights-watch-al-sisi>

¹⁷ “Our History.” *Penal Reform International*, www.penalreform.org/about-us/our-history/page/2/

Parole: a conditional release of a prisoner serving an indeterminate or unexpired sentence¹⁸

V. ¹⁹Important Events & Chronology

Date (Day/Month/Year)	Event
13/9/1955	The Standard Minimum Rules for Prisoners were adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva.
31/7/1957 13/5/1977	The Rules are approved by the Economic and Social Councils in resolutions on these two dates.
2010	2010 General Assembly mandates an intergovernmental Expert Group to revise the rules.
2011	The first meeting of the Expert Group.
3/2015	The fourth and final meeting of the Expert Group.
17/12/2015	The adoption of the Revised Standard Minimum Rules for Prisoners (the Nelson Mandela Rules) by the General Assembly.

VI. Past Resolutions and Treaties

- [30/9/1955: Standard Minimum Rules on the Treatment of Prisoners:](#)

The first universally acknowledged resolution to be passed in the United Nations that set guidelines for not only the treatment of prisoners, but also on how to run the prison facilities as smoothly as possible.

- [17/12/2015: The Nelson Mandela Rules \(The Standard Minimum Rules on the Treatment of Prisoners\):](#)

The final version of the revised SMR on the Treatment of Prisoners, which was adopted by the General Assembly on the 17th of December 2015. This revised version of the original rules takes into consideration people who are minority groups that could face discrimination in prison, and also focuses more on the prison staff interaction with prisoners and on their duties towards the prisoners.

¹⁸ "Parole." *Merriam-Webster*, Merriam-Webster, www.merriam-webster.com/dictionary/parole .

¹⁹ Citations included in footnotes 3,5 and 8

VII. Failed Solution Attempts

While the rules provide all the provisions for prisoners to lead a reasonable life in prison, the issue is with the compliance of all the nations. All the solution attempts have been merely discussing what the rights of prisoners should be, not how to make sure nations **abide** with them. This issue is the one we will be discussing.

VIII. Guiding Questions

- Is your country supportive of the Nelson Mandela Rules?
- Is your country willing to fund healthcare for their prisoners, as the Rules indicate?
- Does my country violate the rights of prisoners?
- What would be the first step in achieving international compliance?
- How do we maintain international compliance in the long term?
- How do we ensure that no nation violates the rules?

IX. Possible Solutions

- Delegates could suggest setting up an annual meeting in which nations would discuss their progress and to ensure maintaining their compliance.
- Delegates could ask large organizations such as Penal Reform International and Amnesty International with their assistance in monitoring nations.
- The delegates could propose a covenant that could be ratified by all nations, that would be legally binding and which would make the nations required to abide by the rules.

X. Useful Links

- “The Revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) Short Guide.” *Promising The Nelson Mandela Rules*
www.penalreform.org/wp-content/uploads/2016/01/PRI_Nelson_Mandela_Rules_Short_Guide_WEB.pdf

This is a short summary and simplification of the Nelson Mandela Rules.

- “The Nelson Mandela Rules: an Animated Introduction.” *Penal Reform International*,
www.penalreform.org/resource/the-nelson-mandela-rules-an-animated-introduction/

This is an animated video that shows the history behind the rules.

- “Podcast: Introduction to the 'Mandela Rules' with Andrea Huber.” *Penal Reform International*, 2015,
www.penalreform.org/resource/podcast-introduction-to-the-mandela-rules-with-andrea/.

This is a podcast discussing the rules, and all the changes that were implemented. It is done by Penal Reform International so delegates can see a different perspective on the issue.

XI. Works Cited

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