

# EPTA Annual Conference

Warsaw

23 September 2021

## Third Workshop: **Guidance and training on prison management and human rights - Office for Democratic Institutions and Human Rights**

Laura Jaffrey

ODIHR Adviser on Torture Prevention

# The Nelson Mandela Rules

The Nelson Mandela Rules (revised UN Standard Minimum Rules for the Treatment of Prisoners) are often regarded as the **primary source of standards** in relation to treatment of all persons in detention.

They contribute to:

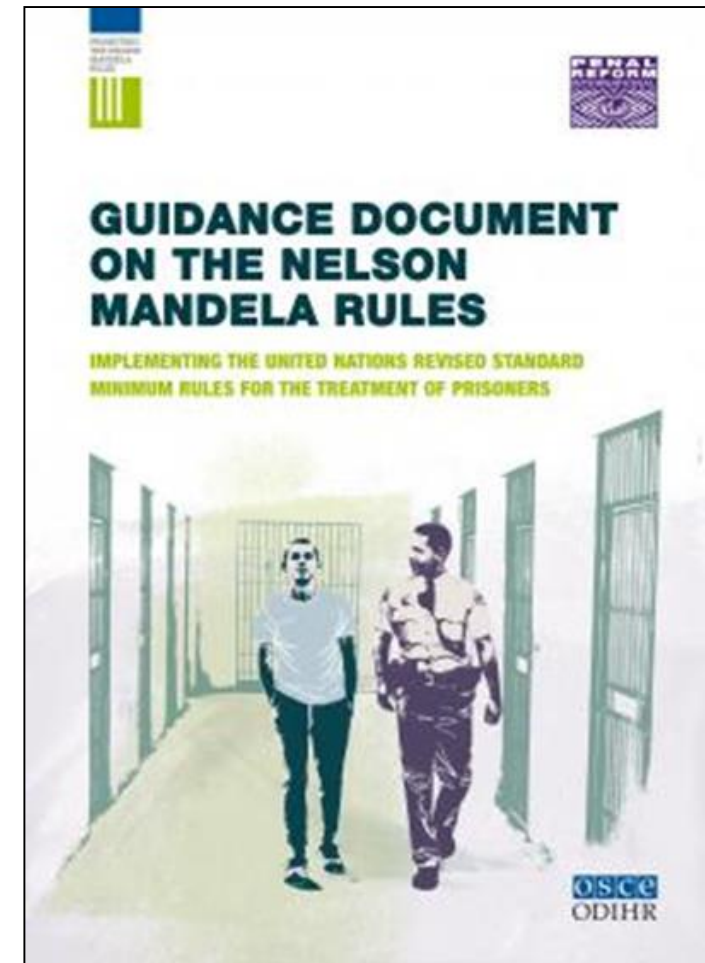
- Better respect for human rights and dignity of people in prison
- Safer environment for prison staff
- Achieving rehabilitation and reintegration of prisoners for the benefit of society as a whole

# ODIHR/PRI Guidance Document on the Nelson Mandela Rules – Implementing the United Nations Revised Standard Minimum Rules for the treatment of prisoners

## Developed based on:

- Research;
- Regional consultation with prison administrations, penitentiary staff and NGOs;
- Study visit to Kazakhstan;
- Peer-review meeting with international experts and Institutions;

**Publication:** English: August 2018, Georgian: December 2018,  
Russian: August 2019, Ukrainian: July 2021



# Guidance Document

- This guidance document seeks to provide **comprehensive and practical guidance** on the implementation of the revised Rules.
- Its **intended audience** is primarily prison staff, management, and other relevant practitioners in prisons
- It has been designed to help **understand and implement** the Mandela Rules in practice.
- Integrates a **gender perspective** in all aspects of prison management

## CONTENTS

<b>INTRODUCTION</b>	<b>02</b>
<b>ACRONYMS AND ABBREVIATIONS</b>	<b>04</b>
<b>1. PRISON MANAGEMENT</b>	<b>08</b>
1.1 Prisoner file management	10
1.2 Classification, risk and needs assessments	20
1.3 Allocation	25
1.4 Access to information	29
1.5 Requests and complaints	31
1.6 Transfers	38
1.7 Staff recruitment and training	41
1.8 Internal inspections	49
<b>2. SAFETY, SECURITY AND DIGNITY FOR ALL</b>	<b>52</b>
2.1 Searches of prisoners and cells	54
2.2 Search and entry procedures for visitors	65
2.3 Children in prison with their parent	67
2.4 Prisoners with disabilities	70
2.5 Dealing with the body of a deceased prisoner	73
2.6 Slavery	74
<b>3. INCIDENT PREVENTION AND RESPONSE</b>	<b>76</b>
3.1 Instruments of restraint	79
3.2 Use of force and arms	87
3.3 Investigations	91
<b>4. RESTRICTIONS, DISCIPLINE AND SANCTIONS</b>	<b>96</b>
4.1 Disciplinary sanctions and procedures	99
4.2 Solitary confinement	104
4.3 The role of health-care personnel	111
4.4 Alternative dispute resolution	112
<b>5. CONTACT WITH THE OUTSIDE WORLD</b>	<b>114</b>
5.1 Contact with family and friends	117
5.2 Access to legal advice, representation and legal aid	131
5.3 Notifications	137
<b>6. HEALTH-CARE</b>	<b>140</b>
6.1 Health-care provision	143
6.2 Advisory duties of health-care personnel	151
6.3 Emergency and specialized care	153
6.4 Documenting and reporting signs of torture	157
6.5 Ethical and professional standards	162
6.6 Medical files	168
<b>7. EXTERNAL MONITORING</b>	<b>168</b>
<b>INDEX</b>	<b>176</b>

# Guidance Document

## 1.4. ACCESS TO INFORMATION



### RELEVANT RULES: ACCESS TO INFORMATION

**Rule 54:** Upon admission, every prisoner shall be promptly provided with written information about:

- (a) The prison law and applicable prison regulations;
- (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;
- (c) His or her obligations, including applicable disciplinary sanctions; and
- (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.

### Rule 55:

1. The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.
2. If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.
3. The prison administration shall prominently display summaries of the information in common areas of the prison.



### WHY IS IT IMPORTANT?

- 116 As soon as possible after admission, all prisoners should be provided with information about the prison rules, regulations, procedures and other relevant information, including the process for making a complaint. Prisoners should be made aware of their rights and obligations from the outset, and they should also know what to expect from staff and management.
- 117 Prisoners are less likely to break prison rules and regulations if they are aware of the consequences of doing so and if they know their rights and how to exercise them. Providing information to prisoners at an early stage reminds them that they still have rights and reduces feelings of powerlessness, can lessen stress levels and reduce risk of suicide and self-harm among prisoners.
- 118 Prisoners need access to information in order to exercise their rights if they are treated unfairly. The knowledge that they can challenge unfair treatment can, in itself, lead to a more peaceable prison environment and aid the smooth running of the facility.



### PUTTING IT INTO PRACTICE

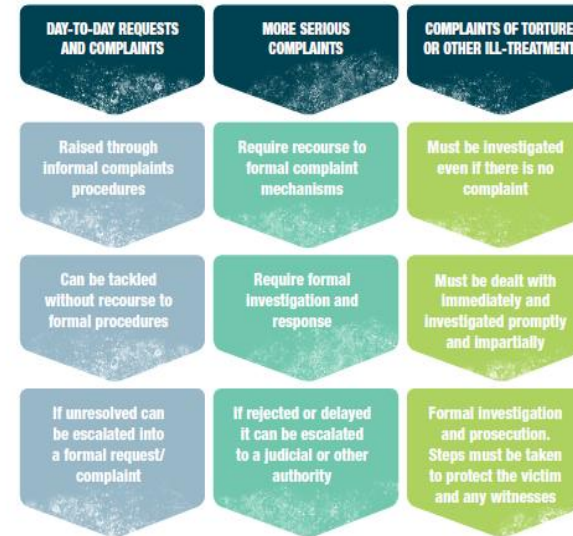
#### What information needs to be communicated?

- 119 Rule 54 details the information that every prisoner should receive upon being detained. The Rules are clear that relevant information must be provided to all newly arrived prisoners regardless of their legal status. Pre-trial prisoners must, therefore, receive the same level of information as convicted prisoners.
- 120 Rule 54 also states that prisoners must be briefed on the "prison law" and the "applicable prison regulations". This includes all regulations that in any way relate to the rights and duties of prisoners, including, for example, regulations on the use of force and restraint by prison staff.
- 121 The provision in Rule 54(d), that all prisoners should be briefed on matters to enable them to adapt themselves to life in prison, should be interpreted broadly to include, for example, educational and vocational training opportunities, access to medical services, visiting rights, information about religious services, meal times and other schedules and the use of library facilities and recreational spaces.

## 1. PRISON MANAGEMENT

- 157 Prisoners must be able to make requests and complaints to any or all of the individuals or bodies listed above, in any order. There should be no requirement to exhaust one avenue of request or complaint before accessing another. Clear information must be provided to prisoners on who they should address their requests and complaints to and how they can do so.

FIGURE 1: DIFFERENT TYPES OF REQUESTS AND COMPLAINTS AND RESULTING PROCEDURES



#### Day-to-day requests and complaints

- 158 Complaints refer to a wide range of issues of different severity. The majority of complaints will, most likely, relate to day-to-day matters and, while they may seem relatively minor to authorities, such matters are extremely important to prisoners themselves and can have a major impact on their daily lives. Complaints could include, for example, complaints about food, noise levels, problems with contacting families and lost or stolen property. Such issues are also likely to affect large numbers of prisoners and can often be dealt with quickly with few resource requirements. If dealt with effectively, the response to such complaints can significantly reduce levels of anger and stress within a prison facility.
- 159 The UN Special Rapporteur on torture has noted that day-to-day complaints can be addressed by empowering independent, dedicated persons to receive and handle minor

**PROMISING PRACTICE: TOOLKIT TO END THE SOLITARY CONFINEMENT OF CHILDREN [4.3]**

The ACLU has developed a toolkit that provides comprehensive resources to end the solitary confinement of children. The toolkit accompanies the ACLU report, *Alone and Afraid: Children Held in Confinement and Isolation in Juvenile Detention and Correctional Facilities*,<sup>261</sup> which gives a brief background on the problem of youth solitary confinement in juvenile facilities and solutions to it.

The toolkit includes information on engaging affected youth in discussions about solitary confinement, advocacy materials and model legislation to limit solitary confinement and other forms of isolation in juvenile detention facilities, as well as details of national and international standards on juvenile detention. The ACLU also provides guidance on alternatives to the solitary confinement of children.<sup>262</sup>

**Additional safeguards**

- 61 The right to seek independent review of a decision to impose solitary confinement applies independently of the grounds on which it was imposed.
- 62 Monitoring bodies must have unhindered access to segregation facilities and to prisoners held in them. This applies regardless of the grounds for which the isolation was imposed. Monitoring bodies should also have access to relevant documentation related to solitary confinement. The role of internal inspection and external monitoring bodies is addressed in **Chapter 1, paragraphs 221–232 and Chapter 7, paragraphs 01–24** of this guidance document respectively.
- 63 The use of solitary confinement needs to be carefully documented in individual prisoner files and its application monitored across institutions and within the overall prison administration. On this, the UN Special Rapporteur on torture has stated that:
- "All assessments and decisions taken with respect to the imposition of solitary confinement must be clearly documented and readily available to the detained persons and their legal counsel. This includes the identity and title of the authority imposing solitary confinement, the source of his or her legal attributes to impose it, a statement of underlying justification for its imposition, its duration, the reasons for which solitary confinement is determined to be appropriate in accordance with the detained person's mental and physical health, the reasons for which solitary confinement is determined to be proportional to the infraction, reports from regular review of the justification for solitary confinement, and medical assessments of the detained person's mental and physical health."<sup>263</sup>

**PROMISING PRACTICE: MULTIDISCIPLINARY TEAM WORK IN SEGREGATION UNITS [4.4]**

A review of seclusion and restraint practices in New Zealand<sup>264</sup> found that progression out of segregated environments is often supported by multidisciplinary team work and family involvement. There was a degree of multidisciplinary team work in most of the prisons visited, especially in reviewing the segregation of prisoners at risk. These reviews typically involved custodial staff, health and mental health staff, occupational therapists and representatives from the community mental health facility.

For example, at Auckland Men's prison, weekly meetings were held to discuss prisoners with complex needs, which included mental health, education and custodial staff, as well as representatives from a forensic psychiatry clinic. Similarly, all the women at the At Risk unit in Christchurch Women's prison were assessed daily by a multidisciplinary team that included nursing staff, senior custodial staff, unit staff and the prisoner herself. Segregation review hearings in Auckland South prison included the prisoner himself as well as a cultural representative, mental health practitioner and custodial staff.

<sup>261</sup> *Alone and Afraid: Children Held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities*, American Civil Liberties Union (ACLU), June 2014.

- 65 Disciplinary sanctions or restrictive measures must not include the prohibition of family contact.
- 66 All efforts should be made to enable those undergoing solitary confinement to participate in other aspects of prison life, including work, educational and recreational activities.

**CONTEXT: MEASURES TO ALLEVIATE THE IMPACT OF CONFINEMENT [4.5]**

Measures to alleviate the potential detrimental impact of confinement, as noted in Rule 38(2) might include, for example:

- Increased contact with the outside world;
- improved access to vocational, educational and recreational activities;
- Allowing isolated prisoners to exercise or participate in recreation activities together;
- Providing segregated prisoners who wish to work with the opportunity to do so, either inside their cell, or, where possible, at a designated area alongside others;
- Allowing prisoners in longer-term segregation to express themselves through art;
- Providing access to a gym; and
- Providing musical instruments and craft materials.

**Prevention and reintegration**

- 67 Prison authorities should aspire to prevent or eliminate the use of isolation by focusing on the root causes of incidents that lead to its use. When a prisoner has been held in solitary confinement, the emphasis, from the outset, must be on returning and reintegrating her or him with the general prisoner population.

# Next step: training curriculum on the Mandela Rules

- 4-day training curriculum for prison staff, developed with Penal Reform International (PRI) and Swedish Prison and Probation Service, in consultation with UNODC
- Includes trainer's guide + training methodology
- Group work and exercises included in each module

*Next step = pilot training in one OSCE country, followed by a ToT*

## Module 1: presentation of Mandela Rules

- Background and introduction to the NMR
- Other relevant standards
- NMR basic principles
- Thematic areas
- Particular groups of people in prison – vulnerable groups

## Module 2: prisoners and prison conditions

- Who is in prison
- Separation of categories
- Prison conditions and basic services

## Module 3: prison organization and administration

- Prisoners allocation and separation of categories
- Admission processes, classification, risks and needs assessments
- Prisoner transfers
- Prisoner file management
- Pre-trial detainees

## Module 4: safeguards

- Access to information
- Requests and complaints
- Contact with the outside world
- Inspections and monitoring



## Module 5: incident prevention and response

- Static and dynamic security
- Conflict resolution
- Searches
- Use of force and arms and instruments of restraint
- Investigations

## Module 6: restrictions, discipline and sanctions

- Disciplinary sanctions and procedures
- Solitary confinement

## Module 7: healthcare

- Health care in prisons
- Prisoners mental health

## Module 8: prisoner rehabilitation and preparation for release

- Prisoner activities, training, education and work
- Preparation for release and post-release support

- ODIHR/PRI Guidance document on the Nelson Mandela Rules:  
<https://www.osce.org/odihr/389912>

# COVID-19 in prison

The COVID-19 pandemic has had a significant impact on life in prison, affecting both inmates and staff

Concerning issues include:

- Risk of contamination (exacerbated by overcrowding and lack of protective equipment)
- Isolation of infected inmates or new arrivals (can amount to de facto solitary confinement)
- Restriction of contacts with the outside world

*The training curriculum also envisages discussions about COVID-19*

# THANK YOU

For any question related to ODIHR torture prevention work or any information you would like to share with us, feel free to contact me at:

**[Laura.Jaffrey@odihr.pl](mailto:Laura.Jaffrey@odihr.pl)**