

Forum: Human Rights Council 2

Issue: Effective implementation of the Nelson Mandela Rules

Student Officer: Adrika Iyer

Position: Deputy President

Introduction

“It is said that no one truly knows a nation until one has been inside its jail. A nation should not be judged by how it treats its highest citizens, but its lowest ones,” as said by, Nelson Mandela. As a tribute to the late President of South Africa, the revision of the United Nations Standard Minimum Rules for the Treatment of Prisoners was named the ‘Nelson Mandela Rules’. As a means to the United Nations extending their scope of Nelson Mandela International Day to recognise the quality of treatment of prisoners and their value within our society. The key purpose of why the Nelson Mandela Rules were created was due to the alarming treatment and conditions in which prisoners in the 21st century were kept at, despite the previous adoption of the Standard Minimum Rules. It was identified that out of the estimated 11 million individuals imprisoned, that almost all of the prisoners making up this statistic has argued for insufficient treatment quality in a variety of fields. The Nelson Mandela Rules creation was an important step towards the betterment of prisoners treatment as it addressed a wider scope of issues and set a universally applicable standard to deal/treat such issues. For example, it has been recognisable in recent years that approximately 46% of detainees worldwide suffer from a form of mental illness/disorder, and until the 2015 revision, many countries didn’t have sufficient legislation or procedures in place to aid this large proportion of individuals.

On the 5th of December 2015, the General Assembly adopted and approved the titled “Nelson Mandela Rules” as a revision for the Standard Minimum Rules for the Treatment of Prisoners. The original Standard Minimum Rules for the Treatment of Prisoners was in 1955, since then there have been multiple revisions, with most recently working collaboratively with the United Nations Office on Drugs and Crime (UNODC). This series of rules that the United Nations has been regarded as a set of quality of standards that prisoners are to be held to. This scheme of rules included the areas of medical care, discrimination, religion, discipline, treatment by prison staff and quality of life. These Nelson Mandela Rules can be seen as divided into two distinct parts. Firstly, the Rules of General Application which detailed the principles of treating and managing prisoners, covering numerous topics in 85 rules as

a total. Secondly, the Rules of Applicable to Special Categories which details the individualization of prisoners, privilege system, and rehabilitation, which are detailed to 112 rules.

The Nelson Mandela Rules themselves are not legally binding rules of which a nation must stick by, yet they have become massively influential. As many nations have changed their own rules regarding prisoner treatment, there has been an adoption of many key principles, which has initialised the improvement of the quality of prisons. There are still aspects and ways in which effective implementation of Nelson Mandela Rules can aid in shaping prisons worldwide and instilling the core principle for prisoners to be on an equal level in regard to the maintenance of human rights. It is vital for us to implement the Nelson Mandela Rules universally so that all prisoners serving sentences are treated humanely and in ensuring they are provided the same standards of basic human rights to others in our society. By member states adopting such policies and changing legislations this can serve as mean to add clarity to the prison system and possibly decrease crime rates if all aspects of the rules are covered. Therefore it is vital for there to be effective solutions and means for the Nelson Mandela Rules to be implemented due to the significant benefits to our society, and improvement of prisoners lives.

Definition of Key Terms

Detainees

An individual that is held in police custody as a prisoner due to within this circumstance their political viewpoints and/or related activities. These forms of prisoners are thought to face the harshest treatment due to their opposing ideologies to the government.

Safeguards

A safeguard is seen as an enforcer of international law who take action and are sent to protect their given issue field. In terms of government punishment safeguards are put into action to ensure there is a fair and unbiased treatment of prisoners and enforcing universal standard human treatment.

Standard Minimum

The term 'Standard Minimum' is used as a way to describe the universally accepted minimum standards that prisoners should be treated with. This standard regards for quality of life, living conditions, medical access and nutrition a prisoner should be given.

Humane Treatment

Humane Treatment is classified as treating prisoners in a manner which would inflict the least amount of harm upon the individuals. As well this is characterized as the treating of prisoners that is not degrading or in such a way that treats them inhumanely.

Background Information

As a whole, the treatment of prisoners became largely concerning in the 20th Century, especially after the occurrence of conflicts and war at the time. In those years there has been direct correlation with prison overcrowding and mistreatment of prisoners, therefore linking to physical and mental health issues, for instance in Europe there was an excess of 2 million individuals in prison institutions. Prisoners had become subject to a mass number of human rights violations, they lacked the basic necessities needed to live in a humane standard. The World Health Organisation (WHO), has noted that due to overcrowding and poor nutrition/ health care access prisoners are from 11-81 times more likely to be transmitted with illness such as tuberculosis, HIV and AIDS. Therefore, the creation of the Standard Minimum Rules and subsequent Nelson Mandela Rules were vital in a humanitarian standpoint for prisoners to gain access and resolve issues of; medical care, food, sanitation, and rehabilitation.

Evolution to the Nelson Mandela Rules

As previously stated in the introduction, the Nelson Mandela Rules are a form of the revision to the previously adopted Standard Minimum Rules for the Treatment of Prisoners. In order to highlight the ways in which this new adoption can be implemented, highlighting how and how successfully the previous Standard Minimum Rules were taken by member states.

Standard Minimum Rules for the Treatment of Prisoners (SMR), 1955

In 1955, the first adoption of these Standard Minimum Rules for the Treatment of Prisoners was created at the Congress held in Geneva, Switzerland with the aid of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The organisation titled which aided in the production of these rules is now known as the United Nation Office on Drugs and Crime (UNODC) due to the name change of 2005. The establishment of the SMR was significant as it was the first known document to universally signify the minimum standards that prisoners should be treated with and as it was the creation of the 1st Congress meeting that was held. In the principles of the rules, they were set around the standard that "There shall be no discrimination on grounds of race, color, sex, language, religion, political or other opinions, national or social origin, property, birth or another status." In terms of legality, these rules had no legally binding nature, therefore there wasn't any obligation for the enforcement of such rules in all countries. Although at the time they did provide a very clear guideline on a worldwide scale for the shift of certain legislation, where aspects were undefined or unclear.

Structurally these rules were divided into the same two sections as the current Nelson Mandela Rules; Part 1 is the Rules of General Application and Part 2 being Rules applicable for different categories. The main issues which Part 1 discussed was accommodations standards, hygiene for prisoners, allocation of bedding/clothing, nutrition, physical exercise, medical service, types of punishments and discipline, outside world contact, books availability, concept of religion, procedures of emergency, quality/treatment of prison staff, inspections and removal of a prisoner. Within Part 2 there is a further reference to different categorial issues such as rehabilitation of prisoners, privileges, allocation of work, forms to education/recreational activities, relations with outsiders and regarding the prisoners awaiting the trial.

Revision Process

The revision process which led to the adoption of the Nelson Mandela Rules of 2015, had begun in December of 2010 through the adoption of the General Assembly's resolution (A/RES/65/230). Within the resolution, it was called for the establishment of an intergovernmental group of experts which had the purpose to exchange information on the best practices in correlation with new science for the revision of the 1955 Standard Minimum Rules. The UN referenced for specifically the Commission on Crime Prevention and Criminal Justice (CCPCJ) to work on the creation of this group, through collaboration with the United Nations affiliate organisation UNODC. This process was undertaken between 2011-2015. At this time there was four meetings held for the expert groups which had the sole purpose of textually revising the rules. They use the perspective to 'target revision' which considered the issues in the previous adoption which had been considered in most urgent revision. Afterward, within the review process, they made 'targeted changes' to bring in the aspect of the 21st century needs/requirements to the status of all member states.

Adoption of Nelson Mandela Rules, 2015

As of the creation of the new rule's adoption in (A/RES/70/175), it has been noted by many member states to make the relevant changes to their internal legislation on standards of prisoners. There has been noted seven main areas where the rules changed from 1955 to 2015. The most notable difference was the reference to the respect of prisoner's dignity; by the principle of treating them in a way which they are valued for human beings with incorporating the convention on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. In terms of medical services, there is clarification about the responsibility of the state to provide equal standards of healthcare available to the public, with added detail on the role of prison staff for healthcare. There was more reference to the obligation of staff to have increased

report and investigations in cases of death, disappearance or severe injuries. In reference to Part 2 of the Nelson Mandela Rules, there is increased clarifications on prisoners with disabilities and the restrictions of discrimination of such vulnerable groups. As a term of access to legal representation, there is a more comprehensive basis in accordance with the 2012 UN Legal Aid Principles and Guidelines. In terms of the prison staff, there are better mechanisms for dealing with inspections and complaints internally and further clarification on ways the staff is trained prior to being in service.

The Significance of Nelson Mandela Rules

The readoption of the Standard Minimum Rules for the Treatment of Prisoners was renamed and has become commonly known as the Nelson Mandela Rules in 2015, as previously mentioned. The purpose of naming it after the former South African President was to pay significant tribute to Nelson Mandela and his treatment within prisons..

Nelson Mandela's Prison Treatment

Nelson Mandela's experience in prison has been considered one of the most degrading and complete exemplifications of prison misconduct. As noted the UN Standard Minimum Rules were adopted in 1955, yet in 1964 when he began his sentencing he faced many issues that were deemed to be tackled in the rules. The purpose of his sentence, in our current time, is seen as invalid, as his purpose at the time was to end racism and the concept of skin colour based domination.

As a whole he had spent over 27 years in three South African prisons; Robben Island, Pollsmoor Prison, and Victor Verster Prison. He remained in Robben Island for approximately 18 years in squalid conditions of imprisonment; living in a damp concrete cell, having only a straw mat to sleep on and confined to only 8 feet by 7 feet of space. He had been subject at this time to varied forms of mental and physical harassment by white prisoner officers due to the colour of his skin and political views. His initial treatment had left him with permanent eyesight damage due to the restriction of wearing sunglasses while facing extreme sunlight forms.

In time at Pollsmoor Prison he was denied rightful release from prison multiple times due to his denial of cooperation to stop the African National Congress's actions in South Africa. This can be seen as a human rights violation as he was unfairly left in prison due to his fight for the end of racism and equality between races in his country. At this time he has experienced multiple medical issues due to his previous and current prison conditions, although did get sufficient treatment. In his final prison Victor Verster, he had to be treated and recover from tuberculosis

inflicted by damp cell conditions. Although as time progressed his treatment and privileges did get better, it still doesn't detract from the damage and human rights violations he had faced.

After the extenuating human rights violations, he had faced in his time at prison Nelson Mandela had been able to make the most significant impact to South Africa and internationally. Therefore these rules are seen as a rightful tribute to the necessary changes to prison reforms which would have aided this leader in the time he had served.

Major Countries and Organizations Involved

Jordan

As a country, Jordan has made significant attempts to implement of the Nelson Mandela Rules, by taking measures within the country on days such as Nelson Mandela Day of 2016. By working with the UNODC Office there has been a highlight changed in the attitude towards conditions of the correctional facilities in the country, exhibited in events they have held. So much so that the Jordanian Head of Correction Centres has reaffirmed Jordan's cooperation with implementing the internationally recognised standards of rules and regulations, specifically towards the treatment of prisoners. As a country they have addressed the factors which lead to the deterioration of prisons; overcrowding, lack of rehabilitation, inability to reintegrate in society and incorrect sentencing. As well Jordan has worked in mass efforts with the UNODC and sixty states to rehabilitate the function of facilities and conditions of prisoners. As part of their effort, they have started sending prison staff to their Correction and Rehabilitation Centers Training and Development Institute in Amman to develop their skills.

Uzbekistan

Uzbekistan has been leading in the progression of implementing the Nelson Mandela Rules. The country has held a roundtable discussion in July of 2017 at their General Prosecutor's Office in collaboration with UNODC's office, within this meeting they had gathered over 170 participants to discuss the scope and ways forward of the UN Minimum Standard Rules for the Treatment of Prisoners. This meeting was regarded as highly successful as participants aided in agreeing there should be work forward of preserving the dignity of prisoners and allowing for respect to be given to the prison staff. In regards to their internal implementation, the National Human Rights Office has committed to apply a penal reform, revisions to their current legislation to make them in accordance with the rules.

South Africa

South Africa as a country has attempted to take into action the Nelson Mandela Rules in the inspiration of the leader originating from their country, so much so that they had hosted the final meeting of Expert Group on the revision of the Standard Minimum Rules in Cape Town. They had become a vital part of the creation the “Group of Friends of the Nelson Mandela Rules” with UNODC to reflect their support to have like-minded member states to discuss the rules. The country plans to host future sessions regarding the prison reforms with the Commission on Crime Prevention and Criminal Justice, to facilitate more collaboration with the UN. Also, the current Justice and Correctional Services minister is an international advocate for the humane treatment of all prison inmates, launching the Nelson Mandela Rules and speaking at events like the Drakenstein Correctional Facility.

United Nations Office on Drugs and Crime (UNODC)

United Nations Office on Drugs and Crime (UNODC) was mentioned several times throughout the entirety of this research report, as an organisation they can be seen as the most impactful/vital in the evolution till the point of the Nelson Mandela Rules. As a whole UNODC’s purpose is to as an agency aid the UN in addressing issues in relation to illicit activities of trafficking, drugs abuse, criminal justice, crime prevention, terrorism, and corruption. In terms of the Nelson Mandela Rules, the UNODC was actively involved in the process of making the relevant changes to the previous version to the current result. As an organisation it has helped to coordinate an impactful change to the Standard Minimum Rules, by performing the UN-mandated task and connecting the intergovernmental groups. After the 2015 creation, the UNODC has created the “Group of Friends to the Nelson Mandela Rules” as a means to engage member states who were in support of the rules. This aided in member states further implementing and having extensive communications regarding prison reforms.

Penal Reform International

This independent non-governmental organisation was formed recently in 1989, it has the main purpose of promoting and implementing solutions to criminal justice issues. As an organisation, they promote in regards to prisoners that they should be sentenced in proportionate to crimes, have a fair treatment and be actioned towards rehabilitation in prison. In their line of work, they collaborate with many intergovernmental organisations to aid changes in legislation, implementing aspects of the Nelson Mandela Rules to improve overall standards for the prisoners and staff. They are seen by many member states and experts in the field to offer guidance in a non-biased form when in need to change prison policies or regulations. In regards to the Nelson Mandela Rules, the organisation played a key role to help re-assess and revise the terms from 2011 to 2015. Also, in regard to prisons, it advises and negotiated on the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders.

Timeline of Events

Date	Description of event
December 10th, 1948	The United Nations Declaration of Human Rights was established, with articles addressing the right of life and humane treatment to prisoners.
1955	In Geneva, Switzerland the 1st Congress Session was held by the Congress on Crime Prevention and Criminal Justice regarding the adoption of the first Standard Minimum Rules for the Treatment of Prisoners.
2005	United Nations Congress on the Prevention of Crime and the Treatment of Offenders, changes names to become the United Nations Office on Drugs and Crime.
December 21st, 2010	The United Nations calls upon CCPCJ to create a revision to the Standard Minimum Rules for the Treatment of Prisoners with the aid of intergovernmental groups.
December 5th 2015	The United Nations adopted the Nelson Mandela Rules as the readoption of the Standard Minimum Rules for the Treatment of Prisoners

Relevant UN Treaties and Events

- Universal Declaration of Human Rights, 10 December 1948 ([A/RES/3/217](#))
- United Nations Congress on Crime Prevention and Criminal Justice, 1955
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984 ([A/RES/40/128](#))
- Basic Principles for the Treatment of Prisoners, 14 December 1990 ([A/RES/45/111](#))
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, 6 October 2010 ([A/C.3/65/L.5](#))
- Twelfth United Nations Congress on Crime Prevention and Criminal Justice, 21 December 2010 ([A/RES/65/230](#))
- United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), 5 December 2015 ([A/RES/70/175](#))

Previous Attempts to solve the Issue

In terms of the Nelson Mandela Rules implementations, since the readopting of the rules has occurred recently in 2015, there have been smaller but still effective attempts to increase implementation

over the three-year period. One of the ways which the United Nations have conveyed the importance of this issue is through linking the rules to a notable individual Nelson Mandela. Through the occurrence of events like Nelson Mandela Day to commemorate his successes, this serves a way to raise public and members state awareness to reforming standards of prisons.

Firstly, the UNODC has established the concept of the “Group of Friends of the Nelson Mandela Rules,” which has had the purpose to engage a large network of member states in favor of the rules. This group was founded as a way to provide reliable open-ended communication between states, in a more informal manner to aid within their own countries and others with the application of the Nelson Mandela Rules. This group has allowed for there to be more possibilities for the range of discussion and groups that come together to discuss implementing the rules, such as expert consultants in the field and advisory from the prison reforming initiatives. As a solution to effective implementation the Group of Friends concept works to a certain extent, as this group only involves states which have the same mindset towards the Nelson Mandela Rules. Therefore, this make the form of communication and interaction between all nations regarding the Nelson Mandela Rules to be closed off to those who are possibly not on the same levels of engagement/ implementation.

In addition to this, the UNODC’s Regional Office in Central Asia holds annual forms of roundtable discussions regarding the successful implementation of the UN Minimum Standards for Prisoners. At these series of discussions, they draw attention to promoting humane conditions of those in prison, reinforce the need for quality medical care and caring about the work value of prison staff. This event has served as highly beneficial by assessing areas which need more care in accordance to the rules such as; the prison's conditions, access to rehabilitation and post-release services. Although this event served as an impactful event to the region, this is only effective to a certain extent as it was held to only a limited number of people in a small region in proportion the rest of the world.

Possible Solutions

In terms of the possible solution for the Nelson Mandela Rules to become more effectively implemented to a range of member states, there should be a sustained effort in ways which the UN and UNODC have engaged member states. Although in order to make a more impactful change, in a shorter span of time there should be a large range of creative solutions to implement such rules.

Firstly, it is possible to take inspiration from the UNODC’s concept of “Group of Friends” and annual South Asian meetings concept. In order for there to be consistent means of checking and identifying the progression of implementation, biannual meetings should help with countries of each continent. Within this group of countries, they could form a “Group of Friends” network, therefore, states

can have a stronger network of resources and support with their internal implementation of prison standards. At the said biannual meeting the purpose could be to devise ways to effectively make changes in specific areas of prisoner's treatment and each member states would produce a progress report which as well could act as an incentive for the countries to have standards in consistency to the UN Standard Minimum.

Another solution could be the creation of a United Nations affiliate regulatory body which has the sole purpose monitoring and securing data on each country's status in terms of prisons and accordance with the Nelson Mandela Rules. This body could serve as highly effective, as currently there is no singular body aiding only the issue of prison treatment and could gain needed information by collaboration with the UNODC. They would be able to have an organized collection of all member states status on implementation of the Nelson Mandela Rules and provide the necessary states with assistance/encouragement to take action. Also, they could aid the use of UN safeguards who would monitor the minimum standards of prisons and which prisoners are held in various states.

In regards to all of the solutions that have been suggested for the implementation of the Nelson Mandela Rules, the likelihood and efficiency of working in certain nations such as MEDC's and LEDC's may differ due to the evident differences between them. Therefore, it is vital that if it is decided to take inspiration from said solutions, the status of the nation and standards of prisons or reforms within the nation are looked at.

Bibliography

A/RES/70/175 - E, 8 Jan. 2016, www.undocs.org/A/RES/70/175.

Unchainedatlast.org, www.unchainedatlast.org/child-marriage-devastating-consequences/.

UNODC-Asian Milestones. 2018,

http://www.unodc.org/documents/centralasia//2018/Newsletter_Apr-Sep_UNODC_ROCA.pdf

bekbolat.kubeev. "United Nations Office on Drugs and Crime." *Implementation of the UN Minimum Standard Rules for the Treatment of Prisoners*, www.unodc.org/centralasia/en/news/implementation-of-the-un-minimum-standard-rules-for-the-treatment-of-prisoners.html.

carlos.gomezdelcampo. "United Nations Office on Drugs and Crime." *UNODC Calls for Humane Prison Conditions on Nelson Mandela International Day*, 18 July 2016, www.unodc.org/unodc/en/frontpage/2016/July/unodc-calls-for-humane-prison-conditions-on-nelson-mandela-international-day.html.

“Child Marriage.” *UNICEF DATA*, Mar. 2018,

www.data.unicef.org/topic/child-protection/child-marriage/.

Council of Europe. “Leading Human Rights Experts Call for Speedy Implementation of the Nelson Mandela Rules on Nelson Mandela International Day.” *Commissioner for Human Rights*, Council of Europe, 20 July 2016,

www.coe.int/en/web/commissioner/-/leading-human-rights-experts-call-for-speedy-implementation-of-the-nelson-mandela-rules-on-nelson-mandela-international-day?desktop=false.

Etenda, Busisiwe. “Nelson Mandela Rules for Prisoners Launched in Paarl.” *SABC News - Breaking News, Special Reports, World, Business, Sport Coverage of All South African Current Events. Africa's News Leader.*, SABC News - Breaking News, Special Reports, World, Business, Sport Coverage of All South African Current Events. Africa's News Leader., 24 July 2018,

www.sabcnews.com/sabcnews/launch-of-nelson-mandela-rules-for-prisoners-launched-in-paarl/.

“UN Nelson Mandela Rules (Revised SMR).” *Penal Reform International*,

www.penalreform.org/priorities/prison-conditions/standard-minimum-rules/.

Appendix or Appendices

I. <https://www.unodc.org> (United Nations Office on Drugs and Crime)

This website may be useful to research different countries or organisations actions towards implementing the Nelson Mandela Rules.

II. <http://www.un.org/en/documents/index.html> (United Nations Documents)

This website will allow you to look up the relevant treaties/documents related to the issue.

III. https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

(The Nelson Mandela Rules Document)

It is advised to look at this website which has a direct copy of the 2015 United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the Mandela Rules.

IV. <https://bestdelegate.com>

This website will be able to give you effective resources for your research process on countries etc. and when writing clauses.

