

# The Mandela Rules: New Standards for the Human Rights of Prisoners

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**To cite this article:**

Li Hailing. The Mandela Rules: New Standards for the Human Rights of Prisoners. *Advances in Sciences and Humanities*.

Vol. 4, No. 6, 2018, pp. 77-84. doi: 10.11648/j.ash.20180406.13

**Received:** December 2, 2018; **Accepted:** December 21, 2018; **Published:** January 18, 2019

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**Abstract:** The Standard Minimum Rules for the Treatment of Prisoners were adopted in 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Though they are not of legally binding nature, they have remained an important reference for criminal legislation and judicial reform in various countries in the past fifty years. Fifty years later, on October 7, 2015, the new Standard Minimum Rules for the Treatment of Prisoners, known as the Mandela Rules, were officially introduced, which revised the old Rules from nine aspects. The aim of the study is to provide accurate reference for countries to improve their domestic laws with reference to the changes in prisoners' human rights standards reflected in the revised contents of the Standard Minimum Rules for the Treatment of Prisoners after fifty years. The method adopted in the study is the text analysis method and historical research method. The study analyzes their historical progress by comparing the content and different historical backgrounds of the two texts. Thus, it can be concluded that the revision of human rights standards in the new Standard Minimum Rules for the Treatment of Prisoners known as the Mandela Rules has been summarized into four aspects: the emphasis and protection of the basic human rights of prisoners, the new changes in the prisoners' rights protection mechanism, the major changes in the status of prison medical personnel, and the prudent use of disciplinary sanctions against prisoners. All countries should pay attention to the changes in these four aspects and make reforms and improvements keeping pace with the Times in accordance with their own national conditions when revising their domestic laws.

**Keywords:** Mandela Rules, Human Rights of Prisoners, Protection Mechanism, Medical Treatment, Disciplinary Sanctions

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## 1. Introduction

In 1955, the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders was held in Geneva, Switzerland. During the congress, the Standard Minimum Rules for the Treatment of Prisoners (SMRs) were adopted, which were the most important international legal text on the protection of the prisoners' rights [1]. They were respectively approved by the United Nations Economic and Social Council (ECOSOC) by its resolutions 633C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977 [2]. The Rules have remained an important reference for criminal legislation and judicial reform in various countries in the past fifty years. Since the adoption of the Standard Minimum Rules for the Treatment of Prisoners, the international community has consistently taken them as the guiding document for the construction of criminal justice

and penalty system.

However, more than fifty years later, although the United Nations has introduced and updated many standards and norms relevant to the treatment of prisoners, such as the Basic Principles for the Treatment of Prisoners [3], the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) [4], and the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [5], etc., but the Standard Minimum Rules for the Treatment of Prisoners have not gotten updated and revised.

From March 2 to 5, 2015, the Fourth Intergovernmental Meeting of Experts on the Standard Minimum Rules for the Treatment of Prisoners was held in Cape Town, South Africa. On May 22, 2015, the United Nations Commission on Crime

Prevention and Criminal Justice (CCPCJ) adopted the revised Rules in Vienna. On October 7, 2015, the new Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules [6], were officially introduced. The new Rules are named after former South African President Nelson Mandela in order to honor the contribution of former South African President Nelson Rolihlahla Mandela to upholding human rights, equality, democracy and justice. Former South African President Nelson Mandela spent 27 years in prison before the end of the apartheid regime in South Africa. The cell in which he lived was small and closed, and he usually worked in a quarry and suffered from the disease and vision loss for a long term. After being released from prison, Mandela acted as President of South Africa and became a leader who vigorously defended human rights and justice around the world. It is proper and appropriate for the United Nations to name the new Standard Minimum Rules for the Treatment of Prisoners after his name. The General Assembly also decided to extend the scope of Nelson Mandela International Day (also referred to as Mandela Prisoners' Rights Day ) which was commemorated on July 18 each year in order to promote humane conditions of imprisonment, to raise awareness about prisoners being a continuous part of society, to value the work of prison staff as a social service of particular importance, and to invite Member States, regional organizations and organizations of the United Nations system to celebrate this occasion in an appropriate manner.

There are 95 rules in the old Rules and 112 rules in the new Rules. The framework and content of the whole Rules are based on respecting the basic human rights of prisoners. All the rules are set centering on how to regulate prison management activities, protect the basic rights and interests of prisoners and build a productive supervision system. The revisions focused on nine aspects: the inherent dignity enjoyed by prisoners as human beings, medical and health services, protection of vulnerable groups, discipline and sanctions, prison death and torture investigations, contact with the outside world, prisoner complaints and independent inspections, revisions of certain terms, and training of prison staff [7]. There have been articles on the basic information of the revision of Mandela Rules [8], we here mainly introduce the contents of the revisions or additions to the basic human rights of prisoners.

## 2. Emphasis and Protection of the Basic Human Rights of Prisoners

The Mandela Rules inherited the basic framework of the Standard Minimum Rules for the Treatment of Prisoners of 1955 and the spirit of protecting the basic rights of prisoners, embodied the spirits of international laws [9-11] on the treatment of prisoners that has been issued successively since 1955, incorporated the spirit of the documents such as the Basic Principles for the Treatment of Prisoners, the Tokyo Rules, the Principles of Medical Ethics, Manual on the

Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [12], the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty [13], and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders [14], reaffirmed the respect and protection of the basic human rights, and emphasized the fundamental importance of human rights in everyday criminal justice work and crime prevention.

The new Rules clearly express to respect the dignity and value inherent in prisoners as human beings at the beginning, which in fact incorporate the content of Article 1 of the Basic Principles for the Treatment of Prisoners, that is "respect the dignity and value inherent in all prisoners as human beings". It is worth noting in particular that the Mandela Rules take into account the possible differences in prisoner's self-perceived gender and his or her actual gender, and respect this difference. "Respect the prisoner's self-perceived gender" (Rule 6 of the Mandela Rules) was added to the prisoner's identity information input by the prison authority when the prisoner was admitted to the prison, which reflects the respect and tolerance of the Mandela Rules for self-perception of human gender. In fact, with the development of modern society and the respect and liberation of personality, more and more people can understand the differences in gender cognition and no longer regard them as mental problems. This special minority group faces many difficulties in social life. Although such prisoners are in the minority, Mandela still takes into account the interests of such minority group, which must be said to be a huge and forward-looking change.

First, the Mandela Rules extended prisoners' social relationships from family relationships to their relatives and friends. For example, prisoners should be informed of important information inside the prison, and the prisoner's imprisonment, serious illness, death and other important matters must be notified to their families. According to Rules 68 and 69 of the Mandela Rules, the prison authority should inform the prisoner's family or emergency contact or other persons who are important to the prisoner of the important information in the prison. In addition, in the previous provisions on prisoner's willingness to leave prison to deal with major changes in personnel relations, such as visiting a close relative with serious ill, or attending the funeral of a close relative, the prison authority should permit it as far as possible without affecting management and safety. In this regard, although the current rules still limit the matters to serious illness and death where circumstances permit, they extend personnel relationships from close relatives to persons who are of great importance to them, and consider that the prison authority shall have the obligation to notify the prisoners immediately when their close relatives or any other important persons are seriously ill or dead.

Second, the Mandela Rules stipulate the new content that prisons should allocate prisoners to prisons as close to their homes as possible. In many cases, the State is unable to allocate prisoners to prisons close to their families, which has

naturally had a negative impact on maintaining a good social relation between prisoners and their families. According to the European Prison Rules, the State's compelling force in the execution of imprisonment must be limited to the absolute necessity of deprivation or restriction of freedom, and no further physical, mental or social deprivation may be imposed. To this end, prisons should allocate prisoners to prisons as close to their homes as possible, so that their families could communicate with them without being subject to economic conditions and time [15]. The Mandela Rules incorporate this view. In order to facilitate the rehabilitation and socialization of prisoners, Rule 59 of the Mandela Rules provides that "prisoners should be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation."

Third, the Mandela Rules add the provision of health care for prisoners as a State responsibility. For the protection of prisoners' right to health and medical care, Rule 24 of the Mandela Rules clearly states that it is the responsibility of the State to provide health care for prisoners. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) [16] proposed in 1997 that "the medical services provided to prisoners meet the required standards and are comparable to those provided by the external social health care system." (European Commission, 1997:26/58) The Mandela Rules approved this view that prisoners should enjoy the same standards of health care as other community residents, including the medical care for HIV/AIDS, tuberculosis, other infectious diseases and drug addiction dependence. Prisoners should enjoy the same standards of health care as those available in the community, should be able to obtain the necessary health care services for free of charge and should not be discriminated because of their legal status. In addition, the Mandela Rules prohibit medical or scientific experiments that harm to the health of prisoners. Prison doctors should promptly report to the relevant medical, administrative and legal authorities when discovering any sign of suspected maltreatment and torture on prisoners.

Fourth, the Mandela Rules provide a clear guidance to prison searches. The search should respect the dignity and privacy inherent in the person being searched, and should follow the principles of proportionality, legitimacy and necessity. For the purpose of accountability, the search should leave a record containing such information as the reasons for the search, the identity of the searchers, and the search results, etc.. The prison authority shall not use the search to harass, intimidate or carry out unnecessary violations of the prisoner's privacy. Intrusive searches are very common in practice, but there is no provision in the official text, and the implementation of intrusive searches is determined unilaterally by the prison authority. Rule 60 of the Mandela Rules provides the guidance for intrusive searches for the first time, including stripping searches and body cavity examinations, and intrusive searches are only conducted when absolutely necessary. The implementation of an intrusive search should be conducted privately by the

trained staff with the same gender as the prisoner. Body cavity searches should be carried out only by qualified health care professionals and not by health care personnel primarily responsible for the care of the prisoners, or at least by the staff trained in the medical profession in accordance with hygiene, health and safety standards.

### **3. New Changes in the Implementation Mechanism of Prisoners' Rights Protection**

Taking into account the needs of modern prison management and the protection of prisoners' human rights, the Mandela Rules, based on the old Rules and relevant human rights protection documents, absorbed useful experience in prisoners' management and human rights protection in various regions, and further improved the protection mechanism of prisoners' rights, which is mainly reflected in the changes in the prison supervision system, prisoner complaints system and the investigation procedure for abnormal death in prison [17].

First, changes in the prison supervision system. Compared with the original provision that "the experienced and qualified inspectors sent by the competent authority should inspect the prison on a regular basis", the internal and external twofold regular inspection system stipulated in the Mandela Rules can better meet the needs of supervision, which is reflected in Rules 83, 84 and 85 of the Mandela Rules. Thereinto, internal supervision includes administrative inspections conducted by the central prison administration or other institutions [18]; External supervision is conducted by a body independent of the prison administration. In both cases, the objective of the inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, that the prison management centers on reform and correction services, and that the legitimate rights of prisoners are protected, which incorporates the relevant views and practices of the Optional Protocol to the UN Convention Against Torture (OPCAT) [19].

In fact, the independent prison inspection, as a supervision and inspection system, is not the first of the Mandela Rules, and comes from the detention inspection system advocated in the Optional Protocol to the UN Convention Against Torture in 2002. That is to say, State organs organized public representatives to conduct regular or irregular independent inspections to detention places, and the inspectors can confirm that the detainees have been treated humanely, that the detention meets the legal conditions and procedures, and that the legal rights of detainees are effectively protected through inspecting the conditions of the detention places, checking the detention records and conducting separate interviews with the detainees.

Since the adoption of the Optional Protocol to the UN Convention Against Torture in 2002, 83 countries have so far signed the Optional Protocol, 64 of which have actually implemented their national protection mechanisms. There are

certain differences in the supervision mechanisms of different countries, but they are basically the same. The independent inspection system of the Mandela Rules has in fact absorbed the useful experience of these countries. For example, it provides that inspectors can access all information on the numbers of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention. Inspectors can freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview; Inspectors can conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits; Inspectors can make recommendations to the prison administration and other competent authorities.

In addition, the international community has achieved good results from independent external inspections of prisons by outsiders. The Mandela Rules have absorbed the useful experience of foreigners visiting prisons [20]. It stipulates that the external inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass health-care professionals, and shall include female representatives for gender balance. Every inspection shall be followed by a written report to be submitted to the competent authority. This inspection report shall be made public if it can be, excluding any personal data on prisoners unless they have given their explicit consent. Rule 85 of the Mandela Rules considers that due consideration shall be given by the prison authority to making the report of external inspections publicly available, which is more in line with the actual needs of the work. The prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection.

Second, changes in the prisoner's complaints system. With regard to the right of complaints of prisoners, Rule 36 of the old Rules in 1955 provides that every prisoner shall have the opportunity each week day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her; The prisoner shall have the opportunity to make requests or complaints to the inspector of prisons during his or her inspection; Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels; Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Rule 56 of the Mandela Rules was amended on this basis. Compared with that there is an opportunity to conduct internal complaints during the working days stipulated in the original provision, the current provision takes into account the need for the protection of prisoners' rights during non-working days and holidays. Every prisoner shall have the opportunity each day to make requests or complaints to the relevant personnel in the prison management. The

prisoner shall have the opportunity to make requests or complaints to the inspector of prisons during his or her inspection. The Mandela Rules emphasize the confidentiality of the communication between prisoners and inspectors, and they state that prisoners shall have the opportunity to talk to the inspector freely and in full confidentiality, without the prison director or other staff members being present. In addition, written requests and complaints made by prisoners shall no longer be subject to format requirements. There is no censorship to its substance and no requirement for its format. Regardless of the manner in which prisoners file complaints, the security and confidentiality of the complaint is the first priority.

While further protecting the right of complaints of prisoners, the Mandela Rules also gave prisoners the right of relief of the complaints. Prisoners' requests or complaints shall be promptly dealt with and replied to without delay. If the requests or complaints are rejected or unduly delayed, the complainant shall be entitled to submit them to the competent judicial authority or other competent authorities. The rights of complaints and claims of prisoners shall extend to their legal adviser. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so. The prison authority and the supervisory party are obliged to ensure the safety of the requests and complaints made by prisoners and other persons, keep the complainant's complaint confidential, and shall not expose the prisoner or other persons to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.

In case of prisoners' complaints involving allegations of torture or other cruel, inhuman or degrading treatment or punishment, such complaints shall result in a prompt and impartial investigation conducted by an independent national authority.

Third, changes in the investigation procedure for abnormal death in prison. Rule 71 of the Mandela Rules clearly specifies the reporting system for major events of prisoners in prison for the first time. The prison director shall immediately report any custodial death, disappearance or serious injury of the detainee and be responsible for conducting prompt, impartial and effective investigations into the circumstances and causes of such cases.

In the event of a prison incident, such as death, disappearance or serious injury in prison, even if an internal investigation is initiated, the prison director shall report to the department and institution independent of the prison administration without delay, the competent authority shall immediately, impartially and effectively investigate the background and causes of such incident. Based on reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has been conducted in prison, irrespective of whether a formal complaint has been received, the prison authority is still obliged to report to the aforementioned independent competent authority and should take steps immediately to

ensure that all potentially implicated persons have no involvement in the investigation and no contact with the witnesses, the victim or the victim's family.

#### **4. Major Changes in the Status and Role of Prison Medical Personnel**

The status and role of prison medical personnel are reflected in the old Rules of 1955 and the Principles of Medical Ethics of 1982.

The old Rules mainly stipulated the work of medical personnel in the medical part. The tasks of medical personnel include the admission of prisoners to medical examinations and the provision of daily medical services. The purpose of the medical examination is to find out whether the prisoner has physical or mental illness and take all necessary measures; to segregate prisoners suspected of having infectious diseases; to note if there are physical or mental deficiencies which might hamper training, and to determine the physical ability of each prisoner for work. The medical personnel shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed. The medical personnel shall report to the prison director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment. In addition, medical personnel shall also have the right to make recommendations to the prison director on the daily living conditions of prisoners, such as the conditions of accommodation and food, but the old Rules did not indicate the effectiveness of these recommendations and the unacceptable follow-up measures.

Article 5 of the Universal Declaration of Human Rights adopted by the UN General Assembly on December 10, 1948 stipulates that "No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment." Although the Declaration is not legally binding, its provisions on torture have opened a new chapter in the international community's fight against torture. In order to change the contents of the Declaration into legally binding provisions, the international community has successively negotiated, signed and ratified a series of specialized international conventions or documents. These conventions or documents include the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1982, (hereinafter referred to as "the Principles of Medical Ethics", a total of six principles), are dedicated to the medical ethics of the prison medical personnel, mainly emphasizing the status of medical personnel and the obligation not to participate in torture. Principle 1 stipulates that the prison medical personnel have a duty to provide prisoners with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to

those who are not imprisoned or detained. Principle 2 prohibits medical personnel from becoming participants in torture in prisons, whether active or passive. Principle 3 believes that it is a contravention of medical ethics for medical personnel to be involved in any professional relationship with prisoners or detainees, the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

As mentioned above, there is no doubt that medical personnel are considered as defenders and protectors of prisoners' right to health, and it is also clear enough that medical personnel are not allowed to participate in torture actively or passively. However, Rule 30 of the Mandela Rules makes a clearer provision on the status and role of medical personnel on the basis of existing rules, which are as follows.

The relationship between medical personnel and prisoners is applicable to the general doctor-patient relationship, that is, it should meet the ethical and professional standards of patients in the general medical personnel treatment community. Medical personnel are not only defenders of prisoners' right to health, but also participants in prison health management, and are also executors of the obligation of prevention and control of torture. Medical personnel are not only unable to actively or passively engage in acts that may constitute torture, but they should pay more attention to the prevention and control of torture that prisoners may suffer from prisons, and play an active role in preventing torture in prisons.

As for the medical examination of prisoners upon admission, the Mandela Rules emphasizes that medical personnel should pay special attention to ascertaining any maltreatment that a prisoner may have received before he was sent to prison. If, in the course of examining a prisoner upon admission or providing medical care to the prisoner thereafter, health-care professionals become aware of any sign of torture or other cruel, inhuman or degrading treatment or punishment, they shall document and report such cases to the competent medical, administrative or judicial authority. This is different from the situation reported and recommendations reported to the prison director stipulated in the old Rules, which is more conducive to giving full play to the important role of medical personnel in protecting the rights and interests of prisoners and preventing torture in prisons.

Medical Ethics Standards of 1982 stipulate that it is a contravention of medical ethics for medical personnel to participate in any procedure for restraining a prisoner or detainee. Rule 46 of the Mandela Rules makes the detailed provisions for this, which stipulate that health-care personnel shall not play any role in the imposition of disciplinary sanctions or other restrictive measures. They shall, however, pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners. Medical personnel shall report to the prison director, without

delay, any adverse effect of disciplinary sanctions or other restrictive measures on the physical or mental health of prisoners and shall advise the prison director if they consider it necessary to terminate or alter them for physical or mental health reasons.

The medical activities carried out by physicians in accordance with ethical and professional standards, and the clinical decisions made by medical personnel shall not be denied or ignored by non-medical personnel in prisons.

## 5. Prudent Use of Disciplinary Sanctions Against Prisoners

In the field of discipline, Mandela emphasized that prisons should prudently use disciplinary sanctions. The following five types of punishment, in particular, shall be prohibited: indefinite solitary confinement, prolonged solitary confinement, placement of a prisoner in a dark or constantly lit cell, corporal punishment or the reduction of a prisoner's diet and drinking water, as well as collective punishment. Instruments of restraint shall never be applied as a sanction for disciplinary offences. In addition, disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The prison authority can only restrict prisoners from contacting their families for a limited time period as strictly required for the maintenance of security and order.

The explicit provision of solitary confinement is one of the important contributions of the Mandela Rules. Rule 44 stipulates that solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact, and prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days. This is the first time that solitary confinement and its use restrictions have been clearly defined in the official text. The Mandela Rules prohibit solitary confinement for sentence imposed on prisoners, which prohibits solitary confinement as an independent criminal sanction determined by a judge at the time of sentence, such as Ramsey Joseph, defendant of the Bombing Case in New York World Trade Center, was sentenced to 240 years of solitary confinement [21].

Prior to this, solitary confinement shall refer to a custody manner that segregates the prisoner in a small cell and cuts him off from contact with the outside world. As for the duration of solitary confinement, the shortest period is only a few days, usually ranging from three months to about one year, and the longest can reach several decades. In the United States, prisoners held in solitary confinement are segregated for more than 20 hours a day, for nearly 23 hours; In Japan, prisoners on death penalty held in solitary confinement are solely imprisoned in the death cell for nearly 24 hours each day for totaling 365 days a year; In Singapore, prisoners held in solitary confinement are kept in a solitary cell of about 3 square meters, ... are prohibited from going out of the cell to breathe fresh air or exercise.

Although solitary confinement does not deprive prisoners of their right to life, the physical conditions of the cells are very bad, the prisoners' conduct is strictly controlled, and the prisoners' contact with the outside world is almost completely cut off. In this case, the intensity of physical and psychological punishment for the prisoners in solitary confinement is self-evident. In this regard, Rule 45 of the Mandela Rules regulates that solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority.

For vulnerable groups in prisons, such as women and children, the Mandela Rules continue to apply to other United Nations standards and norms in the field of crime prevention and criminal justice, and incorporate the spirits of Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and Rule 22 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders. It is prohibited to use solitary confinement and similar measures in cases involving women and children. In addition, Rule 45 of the Mandela Rules stipulates that the imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.

Rules 47 and 48 of the Mandela Rules stipulate that the instruments of restraint in prisons shall not use chains, irons and other instruments of restraint which are inherently degrading or painful. Other instruments of restraint shall only be used when authorized by law and under the following circumstances that prevent prisoners from escaping when they are transferred, or other methods of control are ineffective in order to prevent a prisoner from injuring himself or herself or others or from damaging property. In the latter circumstance, the prison director shall immediately notify the physician or other qualified health-care professionals and report to the higher administrative authority. In addition, the use of instruments of restraint should comply with the rationality, necessity, proportionality and time limit.

Finally, Rule 41 of the Mandela Rules stipulates that prisoners shall have an opportunity to defend their disciplinary sanctions imposed against them and seek judicial review. It stipulates that the investigation of disciplinary offence committed by prisoners in prison shall be conducted by the competent authority, and prisoners shall be informed of the nature of the accusations against them, and shall be given adequate the time to prepare their defense. Prisoners shall be allowed to defend themselves in person, or through a lawyer who provides legal aid, and advocate judicial review on the sanctions imposed on them. If the disciplinary acts are suspected of crime, their rights shall be guaranteed in accordance with the human rights standards of criminal proceedings.

## 6. Conclusions

Mandela once remarked that "It is said that no one truly

knows a nation until one has been inside its jails. As a criterion for judging a nation, the nation should not be judged by how it treats its highest citizens, but its lowest ones.” Compared with the relatively vague guidance provided in previous documents relevant to the imprisonment of human rights, the Mandela Rules provide more accurate, informative, concrete and operable guidance. Most importantly, it believes that human rights theory should be the key to constructing a penalty system, reflecting a fundamental change in the attitude of human society towards the role of imprisonment. The Standard Minimum Rules for the Treatment of Prisoners adopted in 1955 has been difficult to apply to the changes of the Times. The standards of the world human rights have been improved. What’s more important is that people’s perceptions of the treatment of prisoners have changed dramatically. Prisoners shall not be able to enjoy the tremendous development achievements of human civilization if the people still keep to the ideas of 53 years ago, which is certainly unfair. The revision of the treatment of prisoners made by the Mandela Rules is the result of prisoners’ human rights protection keeping pace with the Times. It will inevitably have a huge impact on the establishment of human rights standards for prisoners in various countries and the actual improvement of the human rights situations of prisoners.

## Funding

This paper is a staged achievement of the key project of 2014 National Social Science Fund “Research on the Implementation Mechanism of Judicial Disclosure” (Project No. 14 AFX013) and the major project of the Supreme People’s Procuratorate Applied Law Research Base “Research on the Basic Principles of Prison Affairs Disclosure” (Project No. 2017 JCZD01).

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