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## **International Commitments and the Rights of Women Prisoners: Challenges and Solutions**

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### **Abstract**

*This paper delves into the crucial role of global standards and commitments in upholding the rights and dignities of prisoners worldwide, with a specific focus on women prisoners. Beginning with an exploration of key international treaties such as the ICCPR and ICESR, it traces the evolution of standards through landmark documents like the Universal Declaration of Human Rights and subsequent UN directives. Focusing on specific instruments such as The Tokyo Rules, Bangkok Rules, and The Nelson Mandela Rules, the study analyzes their provisions aimed at protecting the rights of women prisoners and promoting their rehabilitation within correctional systems. Additionally, the paper highlights challenges in implementing these standards, particularly concerning women prisoners, including gender-specific vulnerabilities and discrimination. It underscores the importance of upholding human rights principles in correctional systems and calls for concerted efforts at national and international levels to ensure the effective implementation of global standards for the treatment of women prisoners, thereby promoting gender equality and justice for all.*

**Keywords:** Global Standards, Women Prisoners, Human Rights, Tokyo Rules, Bangkok Rules,

### **Introduction**

In addition to addressing the broader context of prisoner rights, it is essential to focus specifically on the treatment of women prisoners within correctional systems. Women prisoners face unique challenges and vulnerabilities that require specialized attention and protection. Recognizing this, global standards and commitments have increasingly emphasized the need to address gender-specific issues in the context of imprisonment.

Throughout history, women prisoners have often been marginalized within correctional systems, facing distinct forms of discrimination and neglect. Their experiences are shaped



by factors such as gender-based violence, inadequate healthcare, lack of access to education and vocational training, and the disproportionate impact of punitive measures on caregiving responsibilities. These challenges underscore the importance of integrating gender perspectives into the development and implementation of standards governing the treatment of prisoners.

By focusing on the rights and dignities of women prisoners, this paper contributes to a deeper understanding of the intersectionality of human rights within correctional settings. It highlights the importance of mainstreaming gender considerations in the formulation of policies and practices aimed at promoting rehabilitation and reintegration. Moreover, it emphasizes the imperative of addressing systemic barriers that perpetuate gender inequalities within correctional systems, including biases in sentencing, inadequate resources for gender-specific programming, and the absence of gender-sensitive healthcare services.

Ultimately, by centering the discussion on women prisoners, this paper seeks to amplify their voices and advocate for meaningful reforms that uphold their rights and dignity. Through a comprehensive examination of global standards and commitments, it underscores the need for concerted action to address gender disparities in prisoner treatment and promote gender equality within correctional systems worldwide.

### **Universal Declaration of Human Rights, 1948**

The Universal Declaration of Human Rights, adopted in 1948, is a seminal document reflecting a collective commitment to safeguard the fundamental rights and dignity of every individual. Its preamble reiterates belief in the inherent dignity and value of all human beings, emphasizing equality and the aspiration for social progress within a framework of freedom. The declaration's main articles enshrine essential principles such as the right to life, liberty, and security, as well as freedom from torture and discrimination. By embodying these principles, the declaration serves as a beacon guiding our efforts towards a more just, equitable, and compassionate global society, where individuals can live without fear or deprivation. As we continue to uphold the vision articulated in the declaration, we reaffirm our commitment to promoting understanding, tolerance, and respect for human rights and fundamental freedoms worldwide.



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## **United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules1990)**

The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) are the result of a global discussion and exchange of experiences initiated by the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders in Tokyo, pursuant to Economic and Social Council resolution 1986/10, section XI, of 21 May 1986. In that resolution, the Council requested the Secretary-General to study the question of alternatives to imprisonment with a view to the formulation of basic principles in that area.

On the recommendation of the Eighth Congress, the General Assembly, in its resolution 45/110 of 14 December 1990, adopted the United Nations Standard Minimum Rules for Non-custodial Measures and approved the recommendation of the Committee that the Rules should be known as "The Tokyo Rules", the main rules are;

Rule no. 1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

Rule no. 2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

Rule no. 7.1 If the possibility of social inquiry reports exists, the judicial authority may avail itself of a report prepared by a competent, authorized official or agency. The report should contain social information on the offender that is relevant to the person's pattern of offending and current offences. It should also contain information and recommendations that are relevant to the sentencing procedure. The report shall be factual, objective and unbiased, with any expression of opinion clearly identified.

Rule no. 8.1 The judicial authority, having at its disposal a range of non-custodial measures, should take into consideration in making its decision the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.



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Rule no. 8.2 Sentencing authorities may dispose of cases in the following ways:

- a) Verbal sanctions, such as admonition, reprimand and warning;
- b) Conditional discharge;
- c) Status penalties;
- d) Economic sanctions and monetary penalties, such as fines and day-fines;
- e) Confiscation or an expropriation order;
- f) Restitution to the victim or a compensation order;
- g) Suspended or deferred sentence;
- h) Probation and judicial supervision;
- i) A community service order;
- j) Referral to an attendance centre;
- k) House arrest;
- l) Any other mode of non-institutional treatment;
- m) Some combination of the measures listed above.

Rule no. 9.1 The competent authority shall have at its disposal a wide range of post-sentencing alternatives in order to avoid institutionalization and to assist offenders in their early reintegration into society.

Rule no. 9.2 Post-sentencing dispositions may include:

- a) Furlough and half-way houses
- b) Work or education release;
- c) Various forms of parole;
- d) Remission;
- e) Pardon.

Rule no. 15.1 There shall be no discrimination in the recruitment of staff on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status. The policy regarding staff recruitment should take into consideration national policies of affirmative action and reflect the diversity of the offenders to be supervised.

Rule no. 16.1 The objective of training shall be to make clear to staff their responsibilities with regard to rehabilitating the offender, ensuring the offender's rights and protecting society. Training should also give staff an understanding of the need to



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cooperate in and coordinate activities with the agencies concerned.

Rule no. 16.2 Before entering duty, staff shall be given training that includes instruction on the nature of noncustodial measures, the purposes of supervision and the various modalities of the application of noncustodial measures.

Rule no. 16.3 After entering duty, staff shall maintain and improve their knowledge and professional capacity by attending in-service training and refresher courses. Adequate facilities shall be made available for that purpose.

### **The United Nations Standard Minimum Rules for the Treatment of Prisoners (Bangkok Rules), 2010.**

The Standard Minimum Rules for the Treatment of Prisoners have been extended to ensure the protection and dignity of women prisoners, recognizing their unique needs and circumstances. These rules offer specific guidelines for the management and care of women within correctional systems, supplementing existing standards and directives.

Key provisions include:

1. Admission procedures tailored to the vulnerability of women and children, ensuring access to legal advice, information, and contact with relatives.
2. Allocation of women prisoners to facilities near their homes, considering caregiving responsibilities and individual preferences.
3. Provision of hygiene facilities and materials, including free sanitary towels and access to water for personal care.
4. Comprehensive health screening addressing reproductive health, history of sexual abuse, and other health needs, with gender-specific healthcare services provided.
5. Development of HIV/AIDS programs responsive to the needs of women, including prevention of mother-to-child transmission.
6. Specialized treatment programs for women substance abusers, taking into account prior victimization and cultural backgrounds.
7. Protection of dignity during personal searches, conducted by trained female staff.
8. Prohibition of punishment by close confinement or disciplinary segregation for pregnant women, breastfeeding mothers, and women with infants.
9. Encouragement and facilitation of women prisoners' contact with their families, including children.



10. Training of prison staff on gender sensitivity, discrimination, and mental health care needs among women prisoners.
11. Provision of age- and gender-specific programs and services for juvenile female prisoners.
12. Design and implementation of comprehensive pre- and post-release reintegration programs for women offenders, considering gender-specific needs.
13. Provision of advice, diet, and adequate facilities for pregnant or breastfeeding women prisoners, ensuring the best interests of children staying with their mothers in prison.

These rules underscore the importance of addressing gender-specific needs within correctional systems, aiming to promote the dignity, respect, and rehabilitation of women prisoners. Effective implementation of these rules is essential to uphold the rights and well-being of women in custody worldwide.

**The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules), 2015.**

The Standard Minimum Rules for the Treatment of Prisoners were first adopted in 1957, and in 2015 were revised and adopted as the Nelson Mandela Rules. The revision process was initiated in 2010 when it was recognized that while the Rules were a key standard for the treatment of prisoners globally and were widely used, there had been major developments in human rights and criminal justice since 1957.

The revised Standard Minimum Rules were adopted unanimously by the UN General Assembly (UN-Doc A/Res/70/175) on 17 December 2015. The revised Rules are now known as the ‘Nelson Mandela Rules’ to honour the legacy of the late President of South Africa, ‘who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and the promotion of a culture of peace’.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) have two parts. Part I deals with – Rules of General application and part II dealt with – Rules Applicable to Special Categories. Eight substantive areas were revised:





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### **1. Respect for prisoners' inherent dignity**

The principle of treatment with respect for the dignity and value as human beings and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment have been incorporated throughout the Rules, including as a basic principle in Rule 6 and by providing guidance on searches of prisoners for example.

### **2. Medical and health services**

The Rules clarify that healthcare of prisoners is a state responsibility, and should be of an equal standard to that available in the community and organised in close relationship to the general public health administration. There is detailed guidance on healthcare in prison and on the role of healthcare staff.

### **3. Disciplinary measures and sanctions**

Comprehensive changes in this area include updated guidance on the use of instruments of restraint, procedural safeguards in disciplinary procedures and clarification of prohibited disciplinary sanctions (eg restriction of drinking water). As an overarching principle, prison staff is encouraged to use conflict prevention mechanisms to prevent disciplinary offences and resolve conflicts. Limitations on the use of solitary confinement (which is also defined) are included for the first time in an international standard.

### **4. Investigations of deaths and torture in custody**

The updated provisions introduce the obligations of the prison in cases of any death, disappearance or serious injury. These include obligations on reporting, investigations and notifying family or friends. Prisoner file management requirements were also amended in recognition of their role in recording incidents and complaints.

### **5. Protection of vulnerable groups**

Revisions to provisions for prisoners with particular vulnerabilities were limited, but overall the Rules now clarify that prisons need to identify the individual needs of prisoners and that measures taking account of such needs must not be regarded as discriminatory. Some provisions were incorporated on children imprisoned with their parent and outdated terminology regarding prisoners with disabilities was changed.

### **6. Access to legal representation**

Provisions were updated and expanded to cover not only pre-trial detention and criminal proceedings, but requirements of legal counsel more comprehensively based on the 2012 UN Legal Aid Principles and Guidelines. The Rules also clarify that prisoners are allowed to keep in their possession documents relating to their legal proceedings.

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## **7. Complaints and independent inspection**

Provisions dealing with information for prisoners and access to complaints mechanisms have been updated, as well as protection against retaliation, intimidation or other negative consequences as a result of a complaint. The impact of external monitoring was acknowledged by introducing the requirement of a twofold system of regular inspections, internal as well as external by an independent body. The revised Rules specify the powers of inspectors and require written inspection reports and encourage their publication.

## **8. Training of staff**

Provisions on training were updated to clarify the necessity of training for staff prior to entry into service as well as ongoing in-service training, both of which should reflect contemporary evidence-based best practice. A list of training requirements includes security and safety, the concept of dynamic security, and the use of force and instruments of restraint, as well as management of violent offenders, with due consideration to preventive and defusing techniques.

The evolution of the Standard Minimum Rules for the Treatment of Prisoners, culminating in their revision and adoption as the Nelson Mandela Rules in 2015, reflects a commitment to upholding human rights principles in the management of correctional facilities worldwide. Initiated in recognition of significant developments in human rights and criminal justice since their initial adoption in 1957, the revision process aimed to modernize and enhance the rules to better address contemporary challenges and standards. The Nelson Mandela Rules encompass key revisions across eight substantive areas, including the respect for prisoners' inherent dignity, access to medical and health services, disciplinary measures, investigations of deaths and torture in custody, protection of vulnerable groups, access to legal representation, complaints and independent inspection mechanisms, and staff training.

By honoring the legacy of Nelson Mandela, who dedicated his life to the pursuit of global human rights and equality, the rules underscore the importance of treating prisoners with dignity and respect, while promoting transparency, accountability, and the safeguarding of their rights within correctional systems.





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## **The United Nations Commission on The Status of Women**

The United Nations Commission on the Status of Women (UNCSW) has played a pivotal role in advancing gender equality and women's empowerment since its establishment in 1946. With a commitment rooted in the principles of the United Nations Charter, the Commission has continually worked towards promoting the rights and status of women globally.

Throughout its 60-year history, the Commission has achieved numerous milestones. One of its significant contributions was ensuring that provisions for gender equality were included in the Universal Declaration of Human Rights. This landmark achievement laid a foundation for future advocacy and action in the realm of women's rights.

In 1979, after extensive preparatory work led by the Commission, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This groundbreaking treaty, which entered into force in 1981, has been ratified by a vast majority of countries worldwide, demonstrating a strong commitment to combating discrimination and promoting women's rights.

CEDAW has had a profound impact on legal and policy developments at the national level, inspiring constitutional reforms, the establishment of gender equality commissions, and the implementation of measures to enhance women's participation in various spheres of society.

Moreover, the Commission has been instrumental in promoting gender mainstreaming both nationally and within the United Nations system. This effort has led to the integration of gender perspectives across different sectors and the adoption of initiatives to address issues such as women, peace, and security.

As the Commission continues its work, it provides invaluable opportunities for dialogue, exchange of ideas, and collaboration. Through expert panels, roundtables, and interactive sessions, it facilitates the sharing of best practices and lessons learned, ensuring that progress towards gender equality remains guided by collective wisdom and shared aspirations.

The United Nations Commission on the Status of Women has left an indelible mark on the global landscape of gender equality. Its achievements, including the adoption of CEDAW



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and advocacy for gender mainstreaming, highlight its vital role in advancing the rights and status of women worldwide.

### **Implementation Problems and Suggestions**

Implementation of global standards for the treatment of prisoners is essential for upholding human rights and ensuring dignified living conditions within correctional facilities. However, numerous challenges hinder the effective implementation of these standards across different jurisdictions. From political barriers to resource constraints and cultural disparities, various factors contribute to the gap between policy and practice. Addressing these implementation problems requires a multi-faceted approach, encompassing political commitment, resource allocation, capacity building, and enhanced oversight. In this regard, several suggestions can be made to improve the implementation of global standards, ranging from strengthening political will and oversight mechanisms to promoting awareness and fostering international cooperation. By addressing these challenges and implementing suggested improvements, governments can work towards creating safer, more humane, and rehabilitative prison environments that respect the inherent dignity and rights of all individuals.

#### **Implementation Problems:**

Implementation problems present significant hurdles in translating policies or standards into practical action. These challenges often stem from a variety of factors such as lack of political will, resource constraints, weak enforcement mechanisms, cultural and socioeconomic disparities, and insufficient capacity building. These obstacles can impede the effective execution of initiatives across various sectors, including healthcare, education, and justice systems. Tackling implementation problems requires proactive measures and strategic interventions to address underlying issues and ensure that policies are effectively translated into tangible outcomes. Some problems are discussed below;

- **Lack of Political Will**

Many governments may lack the political will to prioritize the implementation of global standards for the treatment of prisoners due to competing priorities or concerns about public opinion.



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- **Resource Constraints**

Limited financial resources and infrastructure may hinder the effective implementation of standards, including providing adequate healthcare, staffing, and infrastructure within prison systems.

- **Weak Enforcement Mechanisms**

Inadequate enforcement mechanisms and oversight bodies may result in non-compliance with standards, as there are often no consequences for violations.

- **Cultural and Socioeconomic Factors**

Socio-cultural differences and economic disparities across regions may pose challenges in implementing uniform standards, as what works in one context may not be applicable or feasible in another.

- **Capacity Building**

Insufficient training and capacity-building programs for prison staff may lead to a lack of awareness or understanding of human rights principles and best practices.

### **Suggestions for Improvement**

Suggestions for improvement encompass a range of strategies aimed at overcoming implementation challenges and enhancing the effectiveness of policies and standards. These suggestions include fostering political commitment by integrating human rights principles into national laws and policies, strengthening oversight mechanisms to ensure compliance, prioritizing resource allocation to address specific needs, investing in capacity building programs for staff, raising awareness about human rights through education and advocacy, fostering international cooperation to share best practices, engaging communities and civil society organizations in policy design and implementation, and regularly reviewing and revising standards to adapt to evolving needs and challenges. Implementing these suggestions can facilitate the translation of policies into meaningful action, promoting better outcomes and upholding human rights principles. Some suggestion are discussed below;



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- **Political Commitment**

Governments should demonstrate strong political commitment to upholding human rights standards by integrating them into national laws and policies and allocating adequate resources for implementation.

- **Enhanced Oversight** Strengthening oversight mechanisms, such as independent monitoring bodies or ombudspersons, can help ensure compliance with standards and hold authorities accountable for violations.

- **Resource Allocation**

Prioritize resource allocation to address the specific needs of prison systems, including staffing, infrastructure, healthcare, and rehabilitation programs.

- **Capacity Building**

Invest in training programs for prison staff to enhance their understanding of human rights principles, conflict resolution techniques, and effective management practices.

- **Promoting Awareness**

Raise awareness among prison staff, inmates, and the public about the importance of human rights in prison settings through education, training, and advocacy campaigns.

- **International Cooperation**

Foster international cooperation and exchange of best practices to support countries in implementing and adapting global standards to their specific contexts.

- **Community Engagement**

Involve communities and civil society organizations in the design and implementation of prison policies and programs to ensure they reflect local needs and values.

- **Regular Review and Revision**

Periodically review and revise existing standards to incorporate emerging best practices, address gaps, and adapt to evolving challenges in the criminal justice system.



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## Conclusion

In conclusion, the empowerment of women prisoners through global standards and commitments is a critical endeavor in ensuring the protection of their rights and dignity within correctional systems worldwide. Despite the existence of comprehensive international treaties and instruments, numerous implementation challenges persist, including political obstacles, resource constraints, weak enforcement mechanisms, and cultural disparities. However, there are several avenues for improvement, ranging from fostering political commitment and enhancing oversight mechanisms to promoting awareness and fostering international cooperation. Addressing these implementation problems requires concerted efforts at both national and international levels, guided by principles of human rights, gender equality, and justice for all. By implementing suggested improvements such as prioritizing resource allocation, investing in capacity building, and engaging communities, governments can work towards creating safer, more humane, and rehabilitative prison environments that respect the inherent dignity and rights of all individuals, including women prisoners. Through these collective efforts, we can move closer to realizing the vision articulated in international treaties and declarations, ensuring that every individual, regardless of gender or status, is treated with respect, dignity, and fairness within correctional facilities. By upholding these principles, we uphold the fundamental values of humanity and contribute to building a more just and equitable society for all.



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