

## **Basic Principles for the Treatment of Prisoners and Standard Minimum Rules for the Treatment of Prisoners**

**Canada's commitments:** In 1975, Canada endorsed the SMRs and committed itself to full compliance and implementation.

**Adoption:** Adopted at the First United Nations (UN) Congress on the Prevention of Crime and the Treatment of Offenders in 1955.

**Entry into force:** SMRs are not legally binding

**Number of signatories and ratifications:** All UN Member States are encouraged to implement the SMRs in the administration of correctional institutions and to consider incorporating them in relevant legislation.

In this document:

- Summary information
- History
- Key provisions
- Canadian commitments and responsibilities
- International monitoring and implementation
- References

### **Summary information**

In 1955, the First UN Congress on the Prevention of Crime and the Treatment of Offenders adopted the [Standard Minimum Rules for the Treatment of Prisoners](#). Known as the SMRs, these non-binding rules provide principles of good practice in the treatment of prisoners and the management of penal institutions such as jails, detention centres and correctional facilities. The SMRs were among the first international instruments aimed at protecting the rights of those accused of committing criminal offences.

The SMRs do not constitute a legally binding instrument that States sign and ratify. As such, States are not legally bound to comply. Still, national and international courts and human rights organizations refer to the SMRs to provide guidance in interpreting norms and standards with regards to prison populations. And the Convention Against Torture, which is legally binding, includes provisions some of which affect treatment of prisoners.

### **History**

After the UN was created in 1945, crime prevention and standards of criminal justice were included in its policy-setting role. The General Assembly incorporated the work of the [International Penal and Penitentiary Commission](#) (1872-1950) into its own

operations and convened an ad hoc committee of experts to draft rules regarding the treatment of prisoners.

After being adopted by the UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955, the SMRs were approved by the UN Economic and Social Council through resolutions in 1957 and 1977. In 1971, [UN General Assembly Resolution 2858, Human Rights in the Administration of Justice](#), recommended that member States:

- implement the SMRs in the administration of correctional institutions; and
- consider incorporating them in relevant legislation.

In December 2010, the UN General Assembly recognized the need to modernize the SMRs, although it stipulated that any changes to the Rules should not result in lowering existing standards. The Assembly [requested](#) that the Commission on Crime Prevention and Criminal Justice establish an open-ended Intergovernmental Expert Group on the revision of the SMRs.

The Expert Group was tasked with reviewing recent advances in correctional science and best practices in order to make recommendations to the Commission regarding updating the SMRs. As of 2015, the Expert Group has met three times and identified nine areas of focus for their review:

- respect for prisoners' inherent dignity and value as human beings;
- medical and health services;
- disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet;
- investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment of prisoners;
- protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances;
- right of access to legal representation;
- complaints and independent inspection; and
- replacement of outdated terminology.

## **Key Provisions**

The SMRs set international standards for the treatment of prisoners. They are an important point of reference for defining what constitutes the humane treatment of those incarcerated in a prison setting. A fundamental aspect of the rules is that they are to be

applied impartially and without discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. At the same time, the SMRs mandate respect and accommodation for religious and cultural differences.

The Correctional Service of Canada (CSC) has identified three fundamental human rights principles upon which the SMRs are based:

A prisoner's sense of dignity and worth as a human being must be respected and maintained through the entire course of their imprisonment.

The suffering that results from the loss of liberty and freedom by the fact of incarceration is punishment enough.

The primary role of prisons is rehabilitation, not punishment.

The SMRs are divided into two parts. The 49 Rules in Part I cover the general management of institutions and inmate treatment. These Rules are applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to security certificates or corrective measures ordered by the judge.

Part II encompasses rules that are applicable to five special categories of detainees.

Section A addresses prisoners under sentence;

Section B addresses “insane and mentally abnormal prisoners”;

Section C addresses prisoners in remand—those under arrest or awaiting trial;

Section D addresses civil prisoners, such as those imprisoned for debt; and

Section E addresses persons arrested or detained without charge.

Some of the specific standards stipulated in the SMRs include the provision of:

- accommodations that are appropriately heated, ventilated and cleaned;
- nutritional food;
- appropriate bedding and clothing that is regularly laundered;
- regular exercise;
- books and other educational materials, and
- the same standard of medical services as is provided to the general public.

Prohibitions for prisoner treatment include:

- corporal punishment;
- solitary confinement; and
- other cruel, unusual, and/or degrading treatment.

Special requirements for women prisoners include:

- separate detention from male prisoner populations;
- accommodation for pregnancy, childbirth and child care.

Finally, since most prisoners will eventually return to the community, the SMRs address the right to be reasonably prepared for reintegration. This includes:

- opportunities to engage in meaningful work, programs and activities that have some relevance to life outside prison; and
- opportunities to remain in contact with friends and family.

While the standards outlined above are universal, States are allowed to accommodate various legal, social, economic, cultural and geographical conditions.

### **Canada's commitments and responsibilities**

In 1975, at the Fifth UN Congress on the Prevention of Crime and the Treatment of Offenders, Canada's Delegation officially endorsed the SMRs. This meant that Canada agreed to consider embodying the SMRs within both federal and provincial legislative frameworks.

In 1997, Max Yalden, former Chief Commissioner of the Canadian Human Rights Commission, chaired a Correctional Service Canada Working Group on Human Rights. The group's mandate was to review and make recommendations regarding CSC's compliance with international human rights laws. The Report of the Working Group was completed in December of that year, along with two guides setting out international and domestic human rights obligations with respect to prisoners and CSC employees. The Report concluded that "Canada is generally compliant with all the relevant international and domestic human rights norms, as are most other advanced democracies in terms of their legal and policy frameworks." However, it noted that the *Canadian Corrections and Conditional Release Act (CCRA)* does not invoke or even allude to international obligations and norms, such as the SMRs.

In 2013, Howard Sapers, the Correctional Investigator of Canada, identified some of the areas in which Canada does not comply with the SMRs.

Contrary to rule 9(1), which states that “it is not desirable to have two prisoners in a cell or room,” federal correctional practice allows for double- and even triple-bunking of inmates, the practice of placing two or three inmates in a cell designed for only one. More than 20% of Canada’s federal inmate population is double-bunked.

Contrary to rule 8(d) which stipulates that “[y]oung prisoners shall be kept separate from adults,” Canada permits some young offenders under the age of 18 to serve their prison sentence in adult institutions. This practice violates both the SMRs and the International Convention on the Rights of the Child.

Contrary to rule 11(a) which requires that all cells have “windows large enough to enable the prisoners to read or work by natural light,” some penitentiary cells do not meet this minimum standard.

Contrary to rules 22-26 which provide minimum standards for health care such that it is of the same standard provided to the general public, the quality and delivery of health care in Canadian penitentiaries often fails to meet professionally accepted practice or is not equivalent to community standards.

### **International monitoring and implementation**

Although the SMRs are not legally binding, various UN and other international bodies, as well as many non-governmental organizations, use them as a guide during inspections, and as a blueprint when giving advice to nations.

Additionally, the Convention Against Torture, which is legally binding, includes provisions some of which affect treatment of prisoners. Canada has made torture a crime under the Criminal Code (art. 269.1).

### **References**

[UN OHCHR, Standard Minimum Rules for the Treatment of Prisoners](#)

[UN Office of Drugs and Crime, International Penal and Penitentiary Commission](#)

[UN General Assembly Resolution 2858, Human Rights in the Administration of Justice](#)

[UN General Assembly A/65/230, requesting \(operative paragraph 10\) that the Commission on Crime Prevention and Criminal Justice establish an open-ended Intergovernmental Expert Group on the revision of the Standard Minimum Rules for the Treatment of Prisoners](#)

Working Group on Human Rights, Human Rights and Corrections: A Strategic Model, Ottawa: Correctional Service of Canada, 1997. [The report is no longer online at Correctional Service of Canada website.]

## **Related rules and international instruments**

[Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#) (1988)

[Universal Declaration of Human Rights](#)

[Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (1987)

[International Covenant on Civil and Political Rights](#) (1976)

[UN Rules for the Protection of Juveniles Deprived of their Liberty](#) (1990)

[UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders](#) (2010)