

REVIEW OF *STANDARD GUIDELINES FOR CORRECTIONS IN AUSTRALIA*

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PREPARED FOR AND ON BEHALF OF PRISONERS' LEGAL SERVICE

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This submission was researched and written by senior University of Queensland (UQ) law students **Joshua Keenan** and **Rebecca Bellamy**, under the academic supervision of **PhD Candidate Jessica Ritchie**. The research was conducted for and on behalf of the Prisoners' Legal Service, a specialist community legal centre providing free legal services for prisoners in Queensland. The research was conducted to assist PLS to respond to an invitation by Queensland Corrective Services to provide input into a 2017 review of the Standard Guidelines for Corrections in Australia. Student researchers undertook this task on a *pro bono* basis, without any academic credit or reward, as part of their contribution to service as future members of the legal profession.



Prisoners' Legal Service Inc. exists to promote justice, human rights, equity and rule of law in society and in the administration of prisons and punishment. As such we welcome the opportunity to respond to the Queensland Corrective Services, Department of Justice and Attorney-General 2017 review of the *Standard Guidelines for Corrections in Australia 2012*.

The *Mandela Rules* (formerly *Standard Minimum Rules*) as well as the *Standard Guidelines for Corrections in Australia* (*Standard Guidelines*) are in themselves not legally binding. While updating the *Standard Guidelines* is a positive step we would like to acknowledge that the current guidelines are not being complied with, and as such consideration needs to be made to looking at introducing ways of enforcing such guidelines in a more meaningful way.

Accompanying this submission is a detailed comparison table (Annexure A) that accurately summarises the differences between the *Standard Guidelines* and the *Mandela Rules*. This submission is to be read in conjunction with the comparison table which highlights key differences between the two guiding frameworks.

I CUSTODY

A *Remand Prisoners*

While the Standard Guidelines stipulate a number of privileges for unconvicted prisoners (relative to convicted prisoners) that parallel those set out in the Mandela Rules, there are some conceptual issues with the drafting of the provisions of the Standard Guidelines. For example, rule 1.10 of the Standard Guidelines provides that 'treatment of remand prisoners should not be less favourable than that of sentenced prisoners'. The wording of this provision is unusual, in that it tends to suggest that the standard of treatment to be afforded to unconvicted prisoners is to be determined by reference to the standards of treatment afforded to convicted prisoners. Unconvicted prisoners are to be presumed innocent¹ (as much is noted in the Standard Guidelines at rule 1.9) and so it seems unusual that their treatment would be benchmarked to those who have been found guilty of the crimes with which they were charged.

The Mandela Rules also go further than the Standard Guidelines by providing, inter alia, that unconvicted prisoners should be allowed, where possible, to procure food of their choice at their own expense² and treatment by their own doctor or dentist.³ The Standard

¹ *Environmental Protection Authority v Caltex Refining Co Pty Ltd* (1993) 178 CLR 477, 501.

² Mandela Rules, Rule 114.

Guidelines should go to greater length to place as little restriction as is practicable on remand prisoners, given their presumptive innocence. It seems unusual that the Standard Guidelines mandate that treatment of remand prisoners should not be ‘less favourable’ than that of convicted prisoners, rather than stipulating that remand prisoners, where and if possible, should be afforded greater privileges.

Recommendation 1: Change the wording to allow remand prisoners to have greater rights which are not subject to how convicted prisoners are treated.

B Reception and Administration of all Prisoners

The research shows that prisoners have significant health issues which include high rates of mental health problems, communicable diseases, alcohol misuse, smoking, and illicit drug use. The current Standard Guidelines do not provide sufficient detail as to the minimum standards of treatment to be made for the mental and physical health of prisoners. Prisoners have a right to medical care,⁴ timely medical attention,⁵ and to preventive health⁶ as per the Mandela Rules. Further, those that are ATSI or older have higher needs than the general prison population. The prison setting provides an opportunity to address these physical and mental health needs.⁷ ‘More than one third [of prisoners] have been exposed to hepatitis C and transmission of blood-borne viruses (hepatitis B, hepatitis C and HIV) during incarceration in Australia.’⁸ In addition, prisoners when released are at high rates of morbidity and mortality once service intervention is stopped.⁹ The majority of released prisoners will return to custody and will usually re-offend within a short period of time. Some key contributors to these include social disadvantage, drug misuse and mental and physical health.¹⁰

³ Mandela Rules, Rule 118.

⁴ Mandela Rules, Rules 24-35.

⁵ Mandela Rules, Rules 24-35.

⁶ Mandela Rules, Rules 24-35.

⁷ Stuart A Kinner, Luke Steitberg, Tony Butler, and Michael Levy, ‘Prisoner and Ex-Prisoner Health: Improving Access to Primary Care’ (2012) 41(7) *Australian Family Physician* 535.

⁸ Stuart A Kinner, Luke Steitberg, Tony Butler, and Michael Levy, ‘Prisoner and Ex-Prisoner Health: Improving Access to Primary Care’ (2012) 41(7) *Australian Family Physician* 535, 535.

⁹ Stuart A Kinner, Nicholas Lennox, Gail M Williams, Megan Carroll, Brendan Quinn, Frances M Boyle, and Rosa Alati, ‘Randomised Controlled Trial of a Service Brokerage Intervention for Ex-Prisoners in Australia’ (2013) 36(1) *Contemporary Clinical Trials* 198.

¹⁰ Stuart A Kinner, ‘The Post-Release Experience of Prisoners in Queensland’ (2006) School of Population Health, The University of Queensland.

Recommendation 2: Provide additional physical and mental health services for prisoners by mandating minimum service requirements for short and long-term prisoners, including substance abuse treatment.

Recommendation 3: More engagement in prisoner aftercare services to provide services accessed in prison and to reduce rates of morbidity and mortality of prisoners post-release [as also discussed in some detail in Standard Guidelines Rules 3.15-3.19].

C Restraints

While both the Mandela Rules and the Standard Guidelines prohibit the use of instruments of restraint for the purpose of punishment, provision is made in both documents for the use of restraints in circumstances of necessity. The Standard Guidelines are arguably more expansive in their drafting than the Mandela Rules, given their stipulation that restraints should be of the ‘least restrictive type appropriate’ and ‘applied for the minimum time necessary to control the prisoner’, while the Mandela Rules only require that the use of such instruments be ‘authorised by law’.

Nonetheless, the recent revelations of the use of restraints in the Don Dale Youth Detention Centre tend to suggest that, while the Standard Guidelines are admirably drafted in their scope, the implementation of these rules is at best inconsistent and, at worst, non-existent in some facilities. The use of restraint chairs in circumstances where other less restrictive means of restraint or behavioural management could have been employed is of particular concern. Furthermore, the use of tear gas in Don Dale raises concerns given the express stipulation in the Standard Guidelines that chemical agents are to only be used where ‘strictly necessary’. Indeed, reports surrounding the Don Dale controversy tend to suggest that prison officials are overly quick to revert to disproportionate means of restraint and subjugation.¹¹

Recommendation 4: Enforceable rule about the treatment of prisoners in regards to use of restraints.

¹¹ Jane Bardon, ‘Don Dale Officer Behind Camera Says Tear-Gassing Should Not Have Happened’, *ABC News* (online), 26 April 2017 <<http://www.abc.net.au/news/2017-04-26/don-dale-officer-breaks-silence-on-tear-gassing-of-teens/8469758>>.

D *Classification of Prisoners and Cultural Considerations*

Under the Standard Guidelines, the sole consideration in the classification and placement of prisoners is that of safety,¹² with classifications made on the basis of an ‘objective assessment of risk’.¹³ The Mandela Rules, conversely, emphasise a far more rehabilitative focus on the classification and placement of prisoners. While safety is obviously a primary concern in classifying prisoners, in order to ensure that risk of violence and clashes between prisoners (as well as prisoners and officials) are ameliorated, the Standard Guidelines may benefit from a greater focus on the rehabilitative reasons for placement of prisoners. Indeed, the language of the Mandela Rules is focussed on the separation of prisoners who may exert ‘a bad influence’ on others and the division of prisoners into classes that ‘facilitate their treatment with a view to their social rehabilitation’.

Rule 4 of the Mandela Rules states that the purposes of a sentence of imprisonment are the protection of society against crime and the reduction of recidivism. To this end, the Standard Guidelines should seek to emphasise a process of prisoner classification that specifically looks to maximising the chances of each prisoner being rehabilitated such that they can lead a productive life after their release. This may include classifying and placing prisoners in such a way that they are able to interact with other prisoners that may share similar backgrounds. This may be particularly desirable for ATSI prisoners from remote communities: placing ATSI prisoners together in the same facilities can ensure that these prisoners maintain a connection with their cultural practices, so that they can maximise their chances of reintegrating into their communities post-release.

Recommendation 5: Incorporation and further focus on rehabilitation programs for short and long-term prisoners.

E *Strip Searches*

The wording of the Standard Guidelines provisions on strip searches are quite vague. Rule 1.56 of the Standard Guidelines stipulates that strip searches ‘should only be carried out as a means of detecting or retrieving concealed contraband.’ However, it is not made clear whether such searches are subject to a requirement of a ‘reasonable suspicion’ or ‘necessity’, or similar. Indeed, routine strip searches of all prisoners would arguably not offend the

¹² Standard Guidelines, Rule 1.39.

¹³ Standard Guidelines, Rule 1.40.

current Standard Guidelines, so long as such routine searches were justified on the basis of ‘detection of contraband’. In this sense, greater limitation should be put on the circumstances in which strip searches can be conducted, given their inherently invasive and humiliating nature. The Mandela Rules, by virtue of rule 52(1), limit the use of intrusive searches to situations in which such searches are ‘absolutely necessary’. The Standard Guidelines would benefit from the introduction of a similar standard of necessity, or a prerequisite of ‘reasonable suspicion’ that a prisoner is concealing contraband (e.g. where a prisoner’s cell contains contraband items and there is a reasonable suspicion that the prisoner is also carrying such items on their person), so that searches are not conducted arbitrarily or capriciously.

Furthermore, the Mandela Rules require that strip searches be conducted, where possible, by health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff that are appropriately trained by a medical professional with respect to hygiene, health and safety. The Standard Guidelines do not set out an equivalent requirement relating to the qualifications or training of the individual conducting the searches. This should be amended, to ensure that invasive procedures of this sort are conducted in a way that minimises medical risk and are minimally invasive.

Recommendation 6: Provide further guidelines as to limiting the use of strip searches and how searches are to be conducted. The incorporation/use of technology could be used as an alternative.

Recommendation 7: Particular consideration must be given to the impact of strip searches on women prisoners in recognition of the fact that women prisoners are likely to have a history of trauma, including sexual assault.¹⁴

II CARE AND WELLBEING

A Accommodation

Under rule 12.1 of the Mandela Rules, individual cells should each only be occupied by a single prisoner overnight. While the Mandela Rules provide a carve-out for this in cases of *temporary* overcrowding, it is emphasised in rule 12.1 that the number of prisoners to a cell in such temporary cases should be greater than two. The Standard Guidelines make no such

¹⁴ Ruth Barson, ‘Australian Prisons Need to Improve to Measure Up to the UN’s Mandela Rules’, *The Sydney Morning Herald* (online), 29 October 2015 <<http://www.smh.com.au/comment/head-20151029-gkljqv.html>>.

provision. Indeed, there seems to be nothing in the Standard Guidelines that would prevent two-man cells as a permanent arrangement. In this sense, the Standard Guidelines fall afoul of the Mandela Rules.

The Standard Guidelines, like the Mandela Rules, stipulate that precautions should be taken to appropriately assess the suitability of prisoners to live in dormitory accommodations. Where it is economically unviable to provide single occupancy accommodation to prisoners, dormitory accommodations, with appropriately selected prisoners, are compliant with the Mandela Rules and should be preferred to arrangements that place two prisoners in the same cell overnight.

While anecdotal, there are multiple reports of overcrowding in many prisons in Australia.¹⁵ Overcrowding places prisoners and staff at risk, further there are a number of health concerns as a result – which are as a result of lack of access to air and light, potential poor sanitary arrangements can increase concerns about transmittable diseases such as HIV, tuberculosis and hepatitis infection.¹⁶ Further it can interrupt access to prevention and treatment programs for prisoners.

Recommendation 8: While economically and operational limited, where possible place prisoners in individual cells.

III REHABILITATION

The majority of prisoners will reoffend and their reoffending is often linked to drug and alcohol usage. While the Standard Guidelines outline the need for programmes and education for prisoners, based on best practice,¹⁷ it is known that there are not enough placements for

¹⁵ Dominic Cansdale, 'Prison Overcrowding Leading To Increasing Tensions Between Inmates, Says Former Guard', *ABC News* (online), 12 August 2016 <<http://www.abc.net.au/news/2016-08-12/former-guard-raises-concerns-about-overcrowding-in-prisons/7720426>>; Sebastian Neuweiler, 'Greenough Regional Prison Overcrowding Forces Inmates to Sleep on Mattresses on Floor', *ABC News* (online), 12 April 2017 <<http://www.abc.net.au/news/2017-04-12/inmates-sleeping-on-mattresses-on-ground-of-overcrowded-jail/8439758>>; Joanna Woodburn, 'NSW Prison Expansions to Deal With Overcrowding Could 'Create New Problems'', *ABC News* (online), 18 January 2017 <<http://www.abc.net.au/news/2017-01-18/prison-overcrowding-rapid-build-plans-risk-heightening-tension/8192072>>; ABC News, 'South Australia Prison Overcrowding Worries As Holding Cells Undergo Renovations', *ABC News* (Online), 20 February 2017 <<http://www.abc.net.au/news/2017-02-20/sa-prison-overcrowding-worries-ahead-of-renovations/8285174>>; Lily Mayers, 'Overcrowded Jails Costing NSW \$200,00 a day, Auditor-General Finds', *ABC News* (online), 26 November 2016 <<http://www.abc.net.au/news/2016-11-26/nsw-prison-capacity-blown-out-auditor-general-warns/8060214>>; Sean Rubinsztein-Dunlop, 'Australia's Prison System Overcrowded to Bursting Point With More Than 33,000 People in Jail', *ABC News* (online), 3 July 2014 <<http://www.abc.net.au/news/2014-07-02/austrian-prison-overcrowding-female-populations-growing/5567610>>.

¹⁶ Leonard S Rubenstein et al, 'HIV, Prisoners, and Human Rights' (2016) 388(10050) *The Lancet* 1202.

¹⁷ Standard Guidelines, Rules 3.6-3.14.

prisoners and this is partially as a result of the ever increasing prison population. As further empirical research has been conducted as to what works – in particular, therapeutic communities and opioid maintenance treatments have been particularly effective in reducing recidivism and drug use post-release, respectively.¹⁸

Recommendation 9: Given the increasing rates of Indigenous prison rates (even after the Royal Commission into Aboriginal Deaths in Custody) further attention needs to be paid to rehabilitation programs for Indigenous offenders.

IV SYSTEMS MANAGEMENT

A *Complaint and Grievance Processes*

The Standard Guidelines are relatively minimalist with respect to details around grievance processes. The Standard Guidelines stipulate that prisoners should be allowed to make complaints to ‘an authority external to the prison’ for independent assessment, but do not define or limit who or what these authorities are. Conversely, the Mandela Rules expressly provide that complaints can be rendered to the central prison administration, judicial authorities, or ‘other competent authorities’. Greater delineation of complaint and appeal mechanisms should arguably be made in the Standard Guidelines. That said, recourse would likely be had by prisoners in certain circumstances to administrative review under the normal bounds of administrative law, outside of any grievance process specifically established for prisoner complaints.

Recommendation 10: Additional detail and guidance needs to be provided about the complaint and grievance processes. The individual and/or organisation responsible for oversight need to be independent of corrective services.

B *Training*

The Standard Guidelines provide very little guidance as to what sort of minimum training should be provided to prison personnel. Rule 5.3 states that ‘the workforce should be appropriately trained... for the tasks they are required to perform,’ and Rule 5.5 provides

¹⁸ A systematic review of prison based drug and/or alcohol interventions found that therapeutic communities are highly effective in reducing recidivism post-release. Opioid maintenance treatment is highly effective in reducing the risk of drug use post-release. There is some evidence that aftercare post-release enhances treatment effects for both types of interventions. (Publication under-review).

‘those in the workforce who are responsible for the supervision of prisoners and security should receive updated training on a regular basis in key functions and competencies’.¹⁹ In comparison, the Mandela Rules provisions provide for the following, in relation to employment of personnel: *All personnel to be appointed on a full-time basis with security of tenure, subject to good conduct, efficiency and physical fitness; Salaries should be adequate to retain suitable men and women; and Employment benefits and conditions to be favourable given the exacting nature of the work.* Further, in relation to the training of those personnel, the Mandela Rules state that: *Training should be provided in accordance with contemporary evidence-based best practice in penal sciences; Only candidates who successfully pass theoretical and practical tests shall be allowed to enter the prison service; and Continuous provision of in service training courses to maintain and improve the knowledge and professional capacity.*

Further that training, at a minimum, on:

- *relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;*
- *the rights and duties of prison staff, in exercising their functions, including, respecting the human dignity of all prisoners, the prohibition of certain conduct (torture and other cruel, inhuman or degrading treatment or punishment);*
- *security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders with due consideration of preventive and defusing techniques, such as negotiation and mediation;*
- *first aid, the psychological needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.*

While the absence of minimum training requirements in the Standard Guidelines does not necessarily mean that these types of training are not addressed (by, for example, site-specific correctional facility induction programs or state government training programs, such as the QCS Custodial Entry program) inclusion of minimum training standards should be included in the Standard Guidelines to ensure all staff are trained at a level which is consistent across

¹⁹ Standard Guidelines, Rule 5.3 and 5.5.

States and to the standard relative to the importance of their role in rehabilitating inmates. At the very least, incorporating provisions relating to minimum training requirements would assist with making clear the requirements of each individual program, and at best, would help to improve conflict management strategies and treatment of prisoners in accordance with their inherent value and dignity as human beings.

Recommendation 11: Additional detail as to minimum training requirements for staff to remove potential uncertainty as to requirements and clearly identify to the public requirements for staff.

V MANAGEMENT OF HIGH RISK INMATES

A *Classification and Management of High Risk Inmates*

The Rules which relate to the management of high risk inmates in the Standard Guidelines are found in Part 6, Rules 6.1-6.5. Also relating to this are Rules 1.39-1.40 which stipulate how security classifications are to be assigned to prisoners. Rule 1.39 states that ‘the Administering Department should provide a well-structured and transparent system of classification and placement of prisoners’²⁰ which, according to Rule 1.40, ‘should be based on an objective assessment of risk and a risk management strategy that takes into consideration the nature of their crime, risk to the community, risk of escape and their behaviour in custody’.²¹ This, in Queensland, is supplemented by ss 12 and 13 of the *Corrective Services Act 2006* (Qld),²² which legislate for classification upon admission as maximum, high or low when assessed against the criteria provided in the Standard Guidelines. Further s 13, also provides for a compulsory review of security classification for prisoner’s who have either a maximum or high security classification every 6 or 12 months respectively.²³ The requirement of having reviews is not given a time-limit by the Standard Guidelines, which more broadly state that ‘classification and placement of prisoners should be regularly reviewed,’²⁴ without providing a definition for what can be considered ‘regularly’. This is also similar to the minimum requirements of the Mandela Rules. The Mandela Rules provide that any form of segregation or isolation from the general prison community, whether for discipline or security, shall ‘always be subject to authorisation by

²⁰ Standard Guidelines, Rule 1.39.

²¹ Standard Guidelines, Rule 1.40.

²² *Corrective Services Act 2006* (Qld) ss 12-13.

²³ *Ibid* s 13.

²⁴ Standard Guidelines, Rule 3.5.

law or by the regulation of the competent administrative authority,'²⁵ including 'any policies and procedures governing the use and review of, admission to and release from any form of involuntary separation'.²⁶ As per rule 1 of the Mandela Rules state that all prisoners are to be treated with respect, dignity, and not subject to degrading treatment which is the consequence of using segregation and isolation.

While, the Mandela Rules and the Standard Guidelines have a similar intention, which is to provide guidelines and accompanying principles, rather than a set of absolute standards or laws, around which the respective country or State should develop relevant legislation, providing a numerical minimum, in accordance with State legislation, as to how regularly reviews of classification should be carried out would provide more meaningful and permanent protection to prisoners than Standard Guidelines do in its current form and would not impinge on legislation as it currently stands. The minimum could be calculated by reference to existing State legislation, so that any existing structures in place could be utilised, thus posing no likely increase to administration costs, but would prevent this minimum from being subject to legislative repeal.

In relation to management, the Standard Guidelines provide that 'an Administering Department may need to establish a designated area(s) that accommodates prisoners who present an ongoing, extreme risk to public safety and/or the good order and security of the prison'.²⁷ However, while the Standard Guidelines provide for the establishment of such an area, there is very little explicit requirement as to the minimum requirements, or, what restrictions may be permitted under the Standard Guidelines, outside of that it 'should be no more than necessary to maintain safety and security'.²⁸ The Standard Guidelines focus heavily on management from a security perspective. In contrast, the Mandela Rules, while not providing strict criteria for management, do focus on the security of the prison but also focus on management of high-risk prisoners with the goal of facilitating social rehabilitation.²⁹ In this way, the Mandela Rules are more prisoner, rather than prison, centric.

Recommendation 12: Provide a specified time-limit for the classification and placement of prisoners, to be regularly reviewed.

²⁵ Mandela Rules, Rule 37.

²⁶ Mandela Rules, Rule 37(d).

²⁷ Standard Guidelines, Rule 6.1.

²⁸ Standard Guidelines, Rule 6.4.

²⁹ Mandela Rules, Rule 93.

Recommendation 13: There needs to be further detail and guidelines under which prisoners can be subject to segregation or isolation, specific guidance needs to be given as to the maximum time to be kept in solitary confinement.

Segregation and isolation is of particular concern as it can cause serious harm to a prisoner. Isolated confinement can adversely affect the overall mental health of a prisoner and undermine their cognitive and emotional well-being and impair subsequent social functioning.³⁰ Research has shown that prisoners suffer a range of adverse symptoms including but not limited to ‘appetite and sleep disturbances, anxiety, panic, rage, loss of control, paranoia, hallucinations, self-mutilations, suicidal ideation and behaviour, hypersensitivity and cognitive dysfunction.’³¹ As a consequence, these effects will only place more stress on the resources of the prison system.

1 *Female Prisoners*

The Standard Guidelines state that ‘the management and classification of female prisoners should reflect their generally lower security needs’.³² In practice, in Queensland, classification tools, such as the Offender Risk/Needs Inventory (‘ORNI’), which are used on prisoners who are being imprisoned for longer than 12 months, do not differentiate between male and female prisoners. The tool is used to ‘assign a level of community risk based on criminogenic factors which best practice methods have identified as general predictors of re-offending’.³³ This looks at factors to determine risk such as, education level, employment history, reliance upon government assistance, and accommodation history. However, the development of these types of classification tools have majorly been influenced by an assessment of studies carried out on white men in prisons in North America.³⁴ The use of this tool has been criticised by the Anti-Discrimination Commission Queensland as failing to differentiate between male and female prisoners, particularly, given the difference in types of offences usually committed by male and female prisoners, and thus a recognition that the criminogenic factors would likely differ between males and females. This has been criticised

³⁰ Craig Haney, Joanna Weill, Shirin Bakhsay, and Tiffancy Lockett, ‘Examining Jail Isolation: What We Don’t Know Can Be Profoundly Harmful’ (2016) 96(1) *The Prison Journal* 126.

³¹ Craig Haney, Joanna Weill, Shirin Bakhsay, and Tiffancy Lockett, ‘Examining Jail Isolation: What We Don’t Know Can Be Profoundly Harmful’ (2016) 96(1) *The Prison Journal* 126, 141,

³² Standard Guidelines, Rule 1.43.

³³ Anti-Discrimination Commission Queensland, ACDQ: 6.2 Prisoner management, <https://www.adcq.qld.gov.au/human-rights/women-in-prison-report/women-in-prison-contents/corrective/prisoner-management#Note90>

³⁴ Kelley Blanchette, ‘Revisiting Effective Classification Strategies For Women Offenders in Canada’ (2004) 14(2) *Feminism and Psychology* 231.

as leading to the over-classification of Indigenous and non-Indigenous women, as it converts disadvantage into risk. While the Standard Guidelines already stipulate that management and classification should differ between males and females, there should be inclusion of a provision which recognises that this is done with the purpose of recognising that factors which lead to criminal behaviour differ between males and females.

Recommendation 14: As a result of the increasing number of women in prison, special consideration needs to be made for their needs through the development of and further research into the specific needs of female prisoners and incorporate these differences into the Standard Guidelines.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: Change the wording to allow remand prisoners to have greater rights which are not subject to how convicted prisoners are treated.

Recommendation 2: Provide additional physical and mental health services for prisoners by mandating minimum service requirements for short and long-term prisoners, including substance abuse treatment.

Recommendation 3: More engagement in prisoner aftercare services to provide services accessed in prison and to reduce rates of morbidity and mortality of prisoners post-release.

Recommendation 4: Enforceable rule about the treatment of prisoners in regards to use of restraints.

Recommendation 5: Incorporation and further focus on rehabilitation programs for short and long-term prisoners.

Recommendation 6: Provide further guidelines as to limiting the use of strip searches and how searches are to be conducted. The incorporation/use of technology could be used as an alternative.

Recommendation 7: Particular consideration must be given to the impact of strip searches on women prisoners in recognition of the fact that women prisoners are likely to have a history of trauma, including sexual assault.

Recommendation 8: While economically and operational limited, where possible place prisoners in individual cells.

Recommendation 9: Given the increasing rates of Indigenous prison rates (even after the Royal Commission into Aboriginal Deaths in Custody) further attention needs to be paid to rehabilitation programs for Indigenous offenders.

Recommendation 10: Additional detail and guidance needs to be provided about the complaint and grievance processes. The individual and/or organisation responsible for oversight need to be independent of corrective services.

Recommendation 11: Additional detail as to minimum training requirements for staff to remove potential uncertainty as to requirements and clearly identify to the public requirements for staff.

Recommendation 12: Provide a specified time-limit for the classification and placement of prisoners, to be regularly reviewed.

Recommendation 13: There needs to be further detail and guidelines under which prisoners can be subject to segregation or isolation, specific guidance needs to be given as to the maximum time to be kept in solitary confinement.

Recommendation 14: As a result of the increasing number of women in prison, special consideration needs to be made for their needs through the development of and further research into the specific needs of female prisoners and incorporate these differences into the Standard Guidelines.

**Comparison table of *Standard Guidelines for Corrections in Australia 2012 (SR)* and
*UN Standard Minimum Rules for the Treatment of Prisoners “Mandela Rules” (MR)***

Standard Guideline	Mandela Rules	Comments
1. Custody		
<i>Reception and Administration of all Prisoners</i>		
Rule 1.1	Rule 7	
No person may be admitted into prison as a prisoner without a valid commitment order. The details of the order should be entered onto a permanent record as soon as practicable. The information that is recorded should include: (i) the reasons and authority for commitment; (ii) the date of admission; and (iii) details of the identity of the person, including country of birth and any other information considered relevant.	No person shall be received in a prison without a valid commitment order. The following information shall be entered in the prisoner file management system upon admission of every prisoner: (a) Precise information enabling determination of his or her unique identity, respecting his or her self-perceived gender; (b) The reasons for his or her commitment and the responsible authority, in addition to the date, time and place of arrest; (c) The day and hour of his or her admission and release as well as of any transfer; (d) Any visible injuries and complaints about prior ill-treatment; (e) An inventory of his or her personal property; (f) The names of his or her family members, including, where applicable, his or her children, the children’s ages, location and custody or guardianship status; (g) Emergency contact details and information on the prisoner’s next of kin.	SG mandates less information than the MR do – no requirement that information regarding visible injuries and complaints about prior ill-treatment be recorded, for example
Rule 1.2	Rule 68	
All prisoners should be provided with an effective means to inform their families, other relevant approved persons of their imprisonment as soon as practicable after their admission to a prison or upon transfer between prisons.	Every prisoner shall have the right, and shall be given the ability and means, to inform immediately his or her family, or any other person designated as a contact person, about his or her imprisonment, about his or her transfer to another institution and	Substantially the same

Standard Guideline	Mandela Rules	Comments
	about any serious illness or injury. The sharing of prisoners' personal information shall be subject to domestic legislation.	
Rule 1.3	Rule 30	
All prisoners should be screened upon admission to enable the prison management to make an initial health and psychological assessment in order to identify and provide appropriate intervention for any pressing medical (including drug, alcohol or mental health) and welfare concerns. Prisoners should be provided with appropriate opportunities to make arrangements for the welfare of their children, next of kin or other dependents as soon as practicable after admission.	A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to: (a) Identifying health-care needs and taking all necessary measures for treatment; (b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission; (c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment; (d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period; (e) Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.	MR set out greater detail than the SG with respect to the collection of medical information and medical examination immediately post-admission
Rule 1.4	Rule 54	
All prisoners should be inducted into the prison by undergoing a formal reception process as soon as practicable after receipt that provides key summary information necessary to the prisoner	Upon admission, every prisoner shall be promptly provided with written information about: (a) The prison law and applicable prison regulations;	MR gives greater detail as to the information that is to be provided to prisoners than the SG, but in substance the two provisions are largely the same

Standard Guideline	Mandela Rules	Comments
understanding the prison regime and the requirements placed on prisoners.	(b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints; (c) His or her obligations, including applicable disciplinary sanctions; and (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.	
Rule 1.5	Rule 55(2)	
If a prisoner is illiterate, information should be conveyed verbally. Such information should be presented in a linguistic and culturally relevant form, using interpreters where necessary.	Body cavity searches shall be conducted only by qualified health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety	Provisions substantially the same
Rule 1.6	-	
A further or extended period for assessment and orientation should also be provided where practicable, using interpreters where necessary in order to maximise prisoners' understanding of information, and to aid better assessment.		No explicit equivalent provision in the MR although the SG provision seems to capture the spirit of the MR, which is that care should be taken to ensure that prisoners understand prison regulations, their rights, obligations, etc
Rule 1.7	Rule 67, some similarity to rule 103(2)	
Prisoner property which is to be retained at the prison, either in the prisoner's personal possession or in prison storage should be recorded, stored, transferred and controlled in an effective manner and in a way that respects the entitlement of the prisoner to such property. Instructions should be received from the prisoner regarding property that is not to be retained at the prison for appropriate disposal.	Rule 67 1. All money, valuables, clothing and other effects belonging to a prisoner which he or she is not allowed to retain under the prison regulations shall on his or her admission to the prison be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition. 2. On the release of the prisoner, all such articles and money shall be returned to him or her except in so far as he or she has been authorized to spend	The drafting of the MR and SG differs – SG makes reference to respecting the property of prisoners, but does not go into as much detail as the MR as to how this is to be achieved

Standard Guideline	Mandela Rules	Comments
	<p>money or send any such property out of the prison, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him or her.</p> <p>3. Any money or effects received for a prisoner from outside shall be treated in the same way.</p> <p>4. If a prisoner brings in any drugs or medicine, the physician or other qualified health-care professionals shall decide what use shall be made of them.</p> <p>Rule 103 (2) Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.</p>	
<i>Unconvicted (Remand Prisoners)</i>		
Rule 1.8	Rules 67, 103(3)	
<p>On the release of a prisoner, all prisoner property and any accumulated unspent money should be returned.</p>	<p>Rule 67</p> <p>1. All money, valuables, clothing and other effects belonging to a prisoner which he or she is not allowed to retain under the prison regulations shall on his or her admission to the prison be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.</p> <p>2. On the release of the prisoner, all such articles and money shall be returned to him or her except in so far as he or she has been authorized to spend money or send any such property out of the prison, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him or her.</p>	<p>MR specifies that the system should provide for a ‘savings fund’ mechanism. The equivalent SG provision does not specifically provide for this, but notes that any money earned in prison that is not spent by the prisoner should be returned to them on their release</p>

Standard Guideline	Mandela Rules	Comments
	<p>3. Any money or effects received for a prisoner from outside shall be treated in the same way.</p> <p>4. If a prisoner brings in any drugs or medicine, the physician or other qualified health-care professionals shall decide what use shall be made of them.</p> <p>Rule 103</p> <p>(3) The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her release.</p>	
Rule 1.9	Rule 111(2)	
Remand prisoners are to be presumed to be innocent until found guilty and should be treated without restriction other than those necessary for prison organisation and the security of the prison and the prisoner.	Unconvicted prisoners are presumed to be innocent and shall be treated as such.	Substantial similarity between MR and SG
Rule 1.10		
The treatment of remand prisoners should not be less favourable than that of sentenced prisoners.		The SG seem to stipulate a reversed position to that of the MR – the SG stipulate that remand prisoners are to be treated no less favourably than convicted prisoners, however the MR sets minimum standards that suggest more favourable treatment for remand prisoners (owing perhaps to the presumption of innocence)
Rule 1.11	Rule 112(1)	
Where practicable, remand prisoners should not be put in contact with convicted prisoners against their will.	Untried prisoners shall be kept separate from convicted prisoners.	Substantially the same
Rule 1.12	Rule 115	
Remand prisoners may be given the opportunity to wear their own suitable clothing. If prison clothing is issued, it should be of a type of clothing that is	An untried prisoner shall be allowed to wear his or her own clothing if it is clean and suitable. If he or she wears prison dress, it shall be different from	Very similar, although SG does not necessarily stipulate that in the event that remand prisoners are forced to wear uniforms, these uniforms must be

Standard Guideline	Mandela Rules	Comments
worn in the community and should not be designed to humiliate the prisoner.	that supplied to convicted prisoners.	different to those worn by convicted prisoners
Rule 1.13	Rule 116	
Where work is available, remand prisoners should be offered the opportunity to work, but should not be required to work.	An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he or she chooses to work, he or she shall be paid for it.	Substantially the same
Rule 1.14	Rule 116	
Those who choose to work should be paid as other prisoners. If education, vocational training or other approved activities are available, remand prisoners should be encouraged to avail themselves of these opportunities.	An untried prisoner shall always be offered the opportunity to work, but shall not be required to work. If he or she chooses to work, he or she shall be paid for it.	Rule 116 of MR specifies that untried prisoners are to be paid, SG specifies in a separate provision that they are to be paid in the same way as other prisoners
Rule 1.15	Rule 117	
Remand prisoners should be allowed to procure at their own expense or at the expense of a third party, such books, newspapers, writing material and other means of occupation as are compatible with the security and good order of the prison.	An untried prisoner shall be allowed to procure at his or her own expense or at the expense of a third party such books, newspapers, writing material and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.	Substantially the same
Rule 1.16	-	
Remand prisoners who are not also serving a sentence of imprisonment should, where practicable, have increased visitor access at the discretion of the prison manager, though denial or reduction in visits should not be used as punishment for breaches of prison discipline.		No equivalent provision in MR
Rule 1.17	Rule 120	
Remand prisoners and all prisoners who have legal matters pending, whether they are on remand or sentenced to a term of imprisonment, should: (i) be able to meet and have telephone conversations with their lawyers, consistent with	1. The entitlements and modalities governing the access of an untried prisoner to his or her legal adviser or legal aid provider for the purpose of his or her defence shall be governed by the same principles as outlined in rule 61.	The SG set out provisions for legal representation of remand prisoners together with those of convicted prisoners, with MR stipulating in greater detail the specific provisions that related to remand prisoners, not remand AND convicted. Note: MR

Standard Guideline	Mandela Rules	Comments
security requirements; and (ii) have access to legal library resources, including where practicable supervised access to electronic media for the purpose of viewing electronic legal documentation.	2. An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser or legal aid provider.	set out more entitlements for remand prisoners than the SG, including the ability of remand prisoners to be visited by their own doctors or dentists for treatment, where possible and the ability of remand prisoners to purchase outside food rather than eating prison food, if they choose
<i>Accurate Administration of Sentences</i>		
Rule 1.18	-	
Prison systems should ensure that sentences imposed by the Courts are enforced in accordance with relevant legislation.		
Rule 1.19	Rule 6	
Comprehensive and accurate records of prisoners' warrants, sentences imposed by the Courts, transfers, discharges, bails and fines are to be maintained in accordance with relevant legislation.	There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.	Some similarity to the requirement under the MR that a standardized file management system be in place – SG stipulates that comprehensive and accurate records of prisoners are kept
Rule 1.20		
Prisoners are to be released on the date that the valid commitment order expires, or in accordance with other legislation providing for early release, or extended supervision or detention.		
Rule 1.21	Rule 3	
People are sent to prison as punishment not for punishment. Prison systems should ensure that prisoners are not further punished for their crimes over and above the sentence imposed by the Court	Imprisonment and other measures that result in cutting off persons from the outside world are afflictive by the very fact of taking from these persons the right of self-determination by depriving them of their liberty. Therefore the prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such	MR is phrased perhaps more poetically, but the crux of the provisions in the MR and SG is the same

Standard Guideline	Mandela Rules	Comments
	a situation	
<i>Effective Complaint and Grievance Resolution Processes</i>		
Rule 1.22	Rules 54(b), 56(3)	
Prisoners should be informed of the procedures for making complaints at the prison and through external grievance resolution authorities.	<p>Rule 54(b) Upon admission, every prisoner shall be promptly provided with written information about:</p> <p>(b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;</p> <p>Rule 56(3) Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.</p>	MR sets out complaint mechanisms in greater detail, but SG seems much the same in its effect
Rule 1.23	Rules 56(1), 57(1)	
Requests and complaints by prisoners are to be able to be made at any time and shall be handled promptly and effectively by the prison. A review system should be implemented to ensure all complaints are addressed.	<p>Rule 56 (1) Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.</p> <p>Rule 57 (1) Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.</p>	Differing wording but similar effect between SG and MR
Rule 1.24	Rules 54(1), 56	
Prisoner complaints or grievances that are not resolved by the prison may be submitted by the prisoner to an authority external to the prison for an independent assessment and determination.	<p>Rule 54 Upon admission, every prisoner shall be promptly provided with written information about:</p> <p>(a) The prison law and applicable prison</p>	SG stipulates that prisoners should be able to make complaints to ‘an authority external to the prison’ for independent assessment and determination, without defining or limiting what these authorities

Standard Guideline	Mandela Rules	Comments
<p>Prisoners should be informed about these external resolution processes in the prisoner's own language where practicable, and provided with the means for making complaints to an external authority in a confidential manner.</p>	<p>regulations Rule 56</p> <ol style="list-style-type: none"> 1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her. 2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present. 3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power. 4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. 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 	<p>are. MR similarly stipulates that prisoners should be able to make complaints to the central prison administration, or judicial or other competent authorities. The MR stipulates a blanket requirement, as part of its provisions relating to complaint mechanisms, that information about complaint processes be rendered in the prisoner's own language, while this is provided for specifically in Rule 1.24 of the SG rather than as a general provision</p>
<i>Safe Environment and the Effective Management of Risk</i>		
Rule 1.25	-	
<p>Prisons should identify, minimise and manage risk.</p>		<p>References to management of various risks are made throughout the MR, but the SG defines the obligation to identify, minimise and manage risk in very general terms</p>

Standard Guideline	Mandela Rules	Comments
Rule 1.26	-	
Prisons should implement systems by which the general location of all prisoners is known at all times.		No equivalent provision in MR
Rule 1.27	-	
Prison should provide for the personal safety of staff, visitors, and prisoners by ensuring a prison environment that protects the physical, psychological and emotional wellbeing of individuals.		SG provision is a very general provision that captures the broad spirit of MR – which is the establishment of a prison environment that protects the physical, psychological and emotional wellbeing of individuals
Rule 1.28	-	
Prisons should develop and implement a prisoner safety regime which: (i) prevents bullying, identifies and effectively manages perpetrators; (ii) provides an immediate and effective incident response; (iii) identifies prisoners who present a risk to prison staff or other prisoners; and (iv) places prisoners in situations which minimises the opportunity for them to be harmed, or for them to harm others.		No equivalent provision in MR, but SG captures spirit of MR
Rule 1.29	-	
Prisons should have in place a current emergency management plan.		No equivalent provision in MR, but SG captures spirit of MR
Rule 1.30	Rule 36	
Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and a well ordered prison.	Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.	Substantially the same
Rule 1.31	-	
All necessary measures should be taken to ensure that no prisoner injuries or unnatural deaths occur.		SG provision does not exactly mirror any of the provisions of the MR, but the MR makes mention of the safety of prisoners throughout the document,

Standard Guideline	Mandela Rules	Comments
		including in the preamble and Rule 1
Rule 1.32	Rule 71(1)	
There should be an independent and timely audit process of the facts, circumstances and work practices surrounding any incident where any person is seriously injured or dies. The findings of such a process should be reported to the relevant authority.	Notwithstanding the initiation of an internal investigation, the prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases. The prison administration shall fully cooperate with that authority and ensure that all evidence is preserved.	MR provision is more detailed but ultimately has the same substantive effect as the SG provision
Rule 1.33	Rule 71(1)	
In the case of a prisoner death, an independent investigation should be conducted.	Notwithstanding the initiation of an internal investigation, the prison director shall report, without delay, any custodial death, disappearance or serious injury to a judicial or other competent authority that is independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases. The prison administration shall fully cooperate with that authority and ensure that all evidence is preserved.	MR provision is more detailed but ultimately has the same substantive effect as the SG provision
Rule 1.34	Rules 2(2), 30(c)	
Prisons should provide a management system that meets the different and particular needs of all prisoners including those at risk of self-harm or those vulnerable to being harmed by other prisoners.	Rule 2 (2) In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as	Rule 2(2) of the MR mandates that prison administrations take into account the individual needs of all prisoners, particularly those in the ‘most vulnerable categories’. Rule 30(c) of the MR mandates that physicians or other qualified health professionals are to examine all prisoners, which includes the identification of the risk of self-harm and the undertaking of all appropriate

Standard Guideline	Mandela Rules	Comments
	discriminatory. Rule 30 A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to: (c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;	individualized measures or treatment. Essentially, Rule 1.34 of the SG seems to capture both of these provisions of the MR
<i>Victim Safety and Support</i>		
Rule 1.35	-	
Any prisoner contact with victims should be strictly controlled and subject to the approval of the victim. Care should be taken by the prison management to avoid victims being subjected to overt or covert threats or any unwanted contact.		MR makes no reference to contact between the prisoner and victims
Rule 1.36	-	
Victims may register with the Administering Department to obtain key sentence and release information regarding prisoners who have offended against them.		MR makes no reference to contact between the prisoner and victims
Rule 1.37	-	
The Administering Department will provide information and access to rights for which they are legislatively entitled.		MR makes no reference to contact between the prisoner and victims
Rule 1.38	-	
Victims who are registered with the Administering Department should be notified if a prisoner is		MR makes no reference to contact between the prisoner and victims

Standard Guideline	Mandela Rules	Comments
being approved for transfer to another jurisdiction. If the victim is not eligible to register, the Administering Department should provide information on victim services in the receiving jurisdiction.		
<i>Classification and Placement</i>		
Rule 1.39	Rule 93	
The Administering Department should provide a well-structured and transparent system of classification and placement of prisoners which has as its central aim; the safety of prisoners, staff and the community, while ensuring placement of prisoners at their lowest level of security appropriate for their circumstances to ensure maximum opportunities for rehabilitation.	1. The purposes of classification shall be: (a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence; (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation. 2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners	MR sets out the purposes of classification of prisoners as being to separate prisoners who may be a bad influence from other prisoners and to divide prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation. This differs somewhat from the phrasing of the ‘equivalent’ SG provision, which sets out safety as the sole concern, albeit noting that prisoners should be placed at the lowest level of security appropriate for their circumstances
Rule 1.40	Rule 94	
The security classification of prisoners should be based on an objective assessment of risk and a risk management strategy that takes into consideration the nature of their crime, risk to the community, risk of escape and their behaviour in custody.	As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.	MR does not really have a wholly equivalent provision – Rule 94 refers to a ‘programme of treatment’ rather than making reference to factoring in the risks posed by the prisoner etc. in order to make an assessment
Rule 1.41	Rule 59	
The placement and assignment of prisoners to prisons should also include the principle of enabling prisoners to reside as closely as possible to their family, significant others, or community of interest.	Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.	Substantially the same
Rule 1.42	Rule 94	
Prisoners should be appropriately managed according to their individual needs in regard to: health, any disability; cultural or linguistic issues.	As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of	MR, by virtue of Rule 94, has some conceptual overlap with Rule 1.42 of the SG – MR recommends that the personality of a prisoner be

Standard Guideline	Mandela Rules	Comments
	treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.	studied as soon as possible after admission in order to determine the appropriate 'programme of treatment'
Rule 1.43	Preamble, Rule 28	
The management and classification of female prisoners should reflect their generally lower security needs, but their higher needs for health and welfare services, and for contact with their children.	Rule 28 In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.	Reference is made to the differing needs of women in the preamble of the MR, as well as in Rule 28, which deals with special accommodations for prenatal and postnatal care and treatment
Rule 1.44	Rule 11(a), 81(2)	
Males and females shall in principle be segregated, although they may participate together in organised activities, as part of an established programme.	Rule 11 The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate Rule 81 (2) No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member.	MR stipulates, similar to SG, that male and female prisoners are to be kept separate. MR does not provide that incarcerated men and women should not jointly participate in certain activities, but does not seem to prohibit it either
Rule 1.45	-	
Special care should be taken with any prisoners under 18 years of age that are not kept in a separate juvenile custodial system. These prisoners should be carefully assessed to determine appropriate placement.		MR does not address the treatment of juvenile offenders in adult prisons

Standard Guideline	Mandela Rules	Comments
<p>Rule 1.46</p> <p>Special care should be taken with any prisoners under 18 years of age that are not kept in a separate juvenile custodial system. These prisoners should be carefully placed to ensure their safety and should be provided with programmes and services appropriate to assessed criminogenic and welfare needs and with regard to their age and circumstances.</p>	-	MR does not address the treatment of juvenile offenders in adult prisons
<p>Rule 1.47</p> <p>Information regarding the classification and placement system should be communicated to prisoners in a way they can understand, ensuring that culturally and linguistically diverse (CALD) prisoners and prisoners for whom English is not their first language are appropriately informed.</p>	<p>Rules 54, 55</p> <p>Rule 54 Upon admission, every prisoner shall be promptly provided with written information about: (a) The prison law and applicable prison regulations; (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints; (c) His or her obligations, including applicable disciplinary sanctions; and (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.</p> <p>Rule 55 1. The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.</p>	MR sets out a broad requirement that prisoners be informed of all relevant regulations, their rights, obligations and ‘all other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison’ and that this information be conveyed in the prisoner’s own language. Rule 1.47 of the SG is just a more specific application of this requirement to communication of prisoner classifications
<p>Rule 1.48</p>	-	
<p>For prisoners on guardianship orders, information regarding the classification and placement system</p>		No equivalent provision in MR

Standard Guideline	Mandela Rules	Comments
should be communicated to the relevant substitute decision maker.		
<i>Security, Management and Good Order</i>		
Rule 1.49	Preamble, rule 1	
Consistent with the security and good order of the prison, interaction between staff and prisoners should promote dignity and respect.	All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.	This provision of the SG captures the broad ethos of the MR, which is the promotion of dignity and respect (in this case in the context of interactions between prisoners and prison staff)
Rule 1.50	Rule 54	
The behaviour required of prisoners should be made clear and be available on reception in a format that is reflective of the prisoner needs.	Upon admission, every prisoner shall be promptly provided with written information about: (a) The prison law and applicable prison regulations; (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints; (c) His or her obligations, including applicable disciplinary sanctions; and (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.	Rule 54 of MR notes that prisoners are to be informed of prison regulations, which would capture the ‘behaviour required of prisoners’, as provided for in Rule 1.50 of the SG
Rule 1.51	Rule 95	
Good industry and conduct by prisoners may be rewarded by a privilege incentive scheme that is equitable and available to all prisoners.	Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every prison, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment.	While the wording differs, Rule 95 of the MR has substantially the same effect as Rule 1.51 of the SG – both provide for the establishment of a system of privileges to incentivise good behaviour

Standard Guideline	Mandela Rules	Comments
Rule 1.52	Rule 47(2)(a)	
Effective security systems and procedures should be established to prevent escapes, so that within the prison perimeter, prisoners' safety and freedom of movement may be optimised, consistent with the need for security and good order.	2. Other instruments of restraint shall only be used when authorized by law and in the following circumstances: (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;	MR do not include a provision that broadly deals with security systems to prevent escape, however Rule 47(2)(a) that, in the case of prisoner transfers, restraints may be used as a precaution to prevent escape
Rule 1.53	-	
Effective systems should be established to ensure the appropriate gathering, recording management and dissemination of intelligence information.		No equivalent provision in MR
Rule 1.54	-	
Effective systems should be established to detect and confiscate weapons, drugs and other contraband that have been introduced, manufactured, carried or secreted by prisoners, visitors or others.		No equivalent provision in MR
Rule 1.55	Rule 52	
Searches, including strip searches, should be conducted by staff members of the same gender, wherever practicable. Searching should be carried out ensuring the dignity and privacy of the person being searched, as far as practicable.	1. Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner. 2. Body cavity searches shall be conducted only by qualified health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety.	MR and SG provisions differ somewhat in wording but have substantially the same effect

Standard Guideline	Mandela Rules	Comments
Rule 1.56	Rule 52(1)	
Strip searches should only be carried out as a means of detecting or retrieving concealed contraband.	1. Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner.	MR provides that strip searches should only be undertaken when 'absolutely necessary', while the SG provides that they 'should only be carried out as a means of detecting or retrieving concealed contraband'. The provisions are thus largely the same
<i>Liaison with Police and other Relevant External Agencies</i>		
Rule 1.57	-	
Procedures should be established to ensure that the Police are promptly notified in the event of an assault or other crime that may constitute an indictable offence.		No equivalent provision in MR
Rule 1.58	-	
Procedures should be established to ensure that the Police are promptly notified in the event of a prisoner escape.		No equivalent provision in MR
Rule 1.59	-	
Procedures should be established to enable the exchange of information with the Police and other relevant external agencies with respect to any person introducing or attempting to introduce drugs, weapons or other contraband into a prison, or any other criminal activity.		No equivalent provision in MR
<i>Use of Force</i>		
Rule 1.60	Rule 82(1)	
Force should be only used as a last resort for the minimum period where other means have proved unsuccessful and where not to act would threaten safety, security or the good order of the prison.	Prison staff shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the	MR provision stipulates that prison staff shall not use force except in 'self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations'. SG provision has similar effect, prohibiting force except as a 'last resort... where other means have proved unsuccessful'

Standard Guideline	Mandela Rules	Comments
	prison director.	
Rule 1.61	Rule 82(1)	
A prison officer may, where necessary and in accordance with relevant legislative authority, use reasonable force to compel a prisoner to obey a lawful order given by the prison officer. Where such force is used, the prison officer should report the fact to the manager of the prison and provide the prisoner with the option of a medical examination.	Prison staff shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the prison director.	MR provision stipulates that prison staff shall not use force except in 'self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations'. SG provision has similar effect, prohibiting force except as a 'last resort... where other means have proved unsuccessful'
Rule 1.62	Rule 76(1)(c)	
Prison Officers should be given training to enable them to restrain aggressive prisoners. Such training should be ongoing and emphasise techniques that allow aggressive prisoners to be restrained with minimum force.	Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;	MR provides that prison personnel be trained in 'security and safety... [including] the use of force and instruments of restraint', while SG requires that prison officers 'should be given training to enable them to restrain aggressive prisoners'
<i>Weapons and Restraints</i>		
Rule 1.63	Rule 82(3)	
Staff responsible for the carriage and discharge of firearms should receive accredited firearms training and be required to participate and be assessed as competent at least annually.	Except in special circumstances, prison staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, prison staff should in no circumstances be provided with arms unless they have been trained in their use.	MR requires that prison staff should not be provided with arms unless trained in their use, while the SG mandates that prison staff dealing with firearms, specifically, must be trained in their use
Rule 1.64	Rule 82(3)	
Except in special circumstances, firearms should never be carried by staff coming into direct contact with prisoners.	Except in special circumstances, prison staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, prison staff should in no circumstances be provided with arms unless they have been trained in their use.	MR requires that, except in special circumstances, prison staff coming into contact with prisoners should not be armed. SG prohibits the carrying of firearms, except in special circumstances, by prison staff coming into direct contact with prisoners

Standard Guideline	Mandela Rules	Comments
Rule 1.65	-	
All weapons and instruments of restraint should be approved by the Administering Department. Prison Officers should only be issued with weapons and instruments of restraint that they have been assessed as competent to use.		No equivalent provision in MR
Rule 1.66	-	
All weapons, including firearms and instruments of restraint should be stored, carried, handled and used in a safe and lawful manner.		No equivalent provision in MR
Rule 1.67	Rule 43(2)	
Instruments of restraint should never be used as punishment.	Instruments of restraint shall never be applied as a sanction for disciplinary offences.	Substantially the same
Rule 1.68	Rule 47(2)	
Any instruments of restraint are to be used in a timely, appropriate and legal manner for the minimum time necessary. Instruments of restraint should be: (i) used only where the restraint of a prisoner is strictly necessary to maintain the security of the prisoner or prevent injury to any person; (ii) of the least restrictive type appropriate; (iii) applied for the minimum time necessary to control the prisoner; and (iv) removed during medical tests and procedures, provided this meets security and management requirements.	Other instruments of restraint shall only be used when authorized by law and in the following circumstances: (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority; (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.	There are some differences in the level of detail provided by the MR and SG, but the provisions are substantially similar in their effect, although the SG mandates that the restraints employed should be the 'least restrictive type appropriate', while the MR is silent on this
Rule 1.69	-	
Chemical agents should only be used where it is strictly necessary to maintain the security of the prison or to prevent injury to any person.		No equivalent provision in MR. MR makes no reference to chemical agents, although arguably a chemical agent, insofar as it has a disabling effect, could perhaps be considered an 'instrument of restraint' and could therefore fall under the ambit

Standard Guideline	Mandela Rules	Comments
		of rule 47(2)
<i>Hearing and Adjudication of Prison Offences</i>		
Rule 1.70	Rules 39, 54(c)	
<p>Prisons should deal with the discipline of prisoners openly, expeditiously and fairly within a disciplinary code established under legislation. Any prison offences created under legislation should be made available to all prisoners and all punishments should be made known to prisoners.</p>	<p>Rule 39</p> <p>1. No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.</p> <p>2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.</p> <p>3. Before imposing disciplinary sanctions, prison administrations shall consider whether and how a prisoner’s mental illness or developmental disability may have contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge. Prison administrations shall not sanction any conduct of a prisoner that is considered to be the direct result of his or her mental illness or intellectual disability.</p> <p>Rule 54</p> <p>Upon admission, every prisoner shall be promptly provided with written information about:</p> <p>(c) His or her obligations, including applicable disciplinary sanctions</p>	<p>The SG provision broadly sets out the nature of discipline under the guidelines, similarly to Rule 39(1) of the MR. The requirement that the disciplinary regime be explained to prisoners mandated under the MR, per rule 54(c) is reflected in this provision of the SG</p>
Rule 1.71	Rule 41(2)	
<p>Prisoners should be notified in writing of any charges relating to an alleged breach of prison discipline at the first available opportunity.</p>	<p>Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.</p>	<p>Substantially the same effect</p>

Standard Guideline	Mandela Rules	Comments
<p>Rule 1.72</p> <p>No prisoner shall be tried unless informed of the alleged offence and given a proper opportunity of presenting a defence.</p>	<p>Rule 41(3)</p> <p>Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.</p>	<p>Substantially the same effect</p>
<p>Rule 1.73</p> <p>Where necessary a prisoner should be allowed to use an interpreter when making a defence. Indigenous prisoners should be allowed to obtain culturally relevant advice and assistance to present a defence.</p>	<p>Rule 41(3)</p> <p>Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.</p>	<p>Substantially the same effect</p>
<p>Rule 1.74</p> <p>Adjudication processes should be fair and should incorporate principles of natural justice and procedural fairness.</p>	<p>Rule 39(1)</p> <p>No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.</p>	<p>MR mandates that prisoner shall not be sanctioned except in accordance with the terms of the relevant law or regulation and the principles of fairness and due process. SG provides that adjudication processes should be fair and should incorporate principles of natural justice and procedural fairness. These provisions therefore have a broadly similar effect</p>
<p>Rule 1.75</p> <p>Where punishment may entail extra sentence, there should be a judicial hearing with right to legal representation for the prisoner.</p>	<p>Rule 41(5)</p> <p>In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.</p>	<p>MR provides that, where a disciplinary breach is prosecuted as a crime, the prisoner shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser. The SG provides that where punishment may entail extra sentence (i.e. where breach is prosecuted as a crime) there should be a judicial hearing with a right to legal representation</p>

Standard Guideline	Mandela Rules	Comments
<i>Punishment of Prisoners</i>		
Rule 1.76	Rule 43(1)(e)	
Collective punishment should not be used.	1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: (e) Collective punishment.	Substantially the same
Rule 1.77	Rule 40(1)	
No prisoner may be employed in any disciplinary or supervisory capacity over other prisoners.	No prisoner shall be employed, in the service of the prison, in any disciplinary capacity.	Substantially the same
Rule 1.78	Rule 39(1)	
A prisoner should not be punished except in accordance with the terms of such law, regulation or rule relating to prisoners' behaviour. Punishments should be appropriate to the offence.	No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.	Substantially the same
Rule 1.79	-	
A prisoner who is under punishment should be provided with information concerning the duration and nature of the punishment, as well as any appeal rights.		No equivalent provision in MR
Rule 1.80	Rule 43(1)	
Prolonged solitary confinement, corporal punishment, punishment by placement in a dark cell, reduction of diet, sensory deprivation and all cruel, inhumane or degrading punishments should not be used.	1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: (a) Indefinite solitary confinement; (b) Prolonged solitary confinement; (c) Placement of a prisoner in a dark or constantly lit cell; (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;	Substantially the same

Standard Guideline	Mandela Rules	Comments
	(e) Collective punishment.	
Rule 1.81	Rule 46(1)	
Every prisoner who is placed in segregation should be visited daily by a member of the prison management or approved delegate, and as frequently as practicable (preferably daily) by a representative of the medical officer. The medical officer or their representative should advise the officer in charge of the prison if they consider the termination or alteration of the segregation is necessary on grounds of physical or mental health.	Health-care personnel shall not have 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 or prison staff.	SG goes further than MR – MR only requires that health care officials visit involuntarily separated prisoners daily – SG requires this as well as daily visits by a member of prison management or approved delegate
<i>Segregation of Prisoners for Management or Administrative Reasons</i> (Also see under Psychological Services and Managing Prisoner Stress for when segregation may be used to prevent self-harm)		
Rule 1.82	Rules 36, 45(1)	
Prisoners placed in segregation for the security and good order of the prison are to be managed under the least restrictive conditions consistent with the reasons for their placement.	<p>Rule 36 Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.</p> <p>Rule 45 1. 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. It shall not be imposed by virtue of a prisoner’s sentence.</p>	MR requires that solitary confinement only be used in exceptional cases as a last resort and for the shortest time possible. The MR does not make reference specifically to the fact that solitary confinement should be as unrestrictive as is possible, although rule 36 sets out a blanket requirement that discipline shall be maintained with no more restriction than is necessary. SG mandates that where segregation is used it should be under the least restrictive conditions possible
Rule 1.83	Rules 8(e), 39(2)	
A record should be made of the reason(s) for the segregation and the regime under which access to facilities and privileges is determined.	<p>Rule 8 The following information shall be entered in the prisoner file management system in the course of imprisonment, where applicable: (e) Information on the imposition of disciplinary sanctions;</p> <p>Rule 39</p>	MR mandates that records be kept of disciplinary sanctions and so has much the same effect as rule 1.83 of the SG

Standard Guideline	Mandela Rules	Comments
	2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.	
Rule 1.84	-	
The prisoner should be informed verbally and in writing of the reason(s) for the segregation and the period of the segregation placement as well as any appeal rights.		MR does not, unlike SG, stipulate that information relating to segregation be related to the prisoner, although this would possibly be captured under rule 41(2) of the MR in any case
Rule 1.85	Rule 46(1)	
Every prisoner who is placed in segregation for management or administrative reasons should be visited daily by a member of the prison management, or approved delegate, and as frequently as practicable (preferably daily) by a representative of the medical officer. The medical officer or their representative should advise the officer in charge of the prison if they consider the termination or alteration of the segregation is necessary on grounds of physical or mental health.	Health-care personnel shall not have 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 or prison staff.	SG goes further than MR – MR only requires that health care officials visit involuntarily separated prisoners daily – SG requires this as well as daily visits by a member of prison management or approved delegate
<i>Transport of Prisoners Duty of Care Principles</i>		
Rule 1.86	-	
The transport of persons in custody should only take place when necessary.		No equivalent provision in MR
Rule 1.87	Rule 73(2)	
The transport of persons in custody should be conducted in a safe and humane manner, taking into account the dignity of the person transported.	The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.	Substantially the same
Rule 1.88	Rule 2(2)	
The transport of persons in custody should be determined based on consideration of the	In order for the principle of non-discrimination to be put into practice, prison administrations shall	No express provision for consideration of needs of prisoners in the context of transport decisions in

Standard Guideline	Mandela Rules	Comments
prisoner's individual or special needs, including the means of transport.	take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.	the MR, although rule 2(2), which requires broad consideration of individual needs of prisoners, has a blanket effect
Rule 1.89	-	
All persons involved in the transport should be satisfied that the person in custody being transported has been assessed as suitably fit for undertaking transport by the means used.		No equivalent provision in MR
Rule 1.90	-	
All relevant information should be provided to: (i) the persons conducting the transport to ensure the safe and humane transport of the person, and (ii) the receiving agency.		No equivalent provision in MR
Rule 1.91	-	
The transport of persons in custody should involve them being held in the vehicle for only as long as is necessary.		No equivalent provision in MR
Rule 1.92	Rule 47(2)(a)	
Transport involving the use of mechanical restraints should be in accordance with relevant policy and the security rating of the prisoner, and only occur where required to manage appropriate risks.	2. Other instruments of restraint shall only be used when authorized by law and in the following circumstances: (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;	MR concedes that restraints may be used as a precautionary measure during transfers – SG provides that restraints may be used 'only where required to manage appropriate risks', so seemingly the two provisions have the same effect
Rule 1.93	-	
Persons in custody should be monitored at regular intervals during transport to ensure their safety and well-being.		No equivalent provision in MR
Rule 1.94	-	
Persons in custody should during transport have		No equivalent provision in MR

Standard Guideline	Mandela Rules	Comments
access to food and water, adequate enough to provide for their health and well-being.		
Rule 1.95	-	
Persons in custody should have access to required medication during transport		No equivalent provision in MR
Rule 1.96	-	
The transport of persons in custody should provide breaks at regular intervals.		No equivalent provision in MR
Rule 1.97	-	
Vehicles used for the transport of persons in custody over long distances should provide an increased level of amenities commensurate with the additional time being held in the vehicle.		No equivalent provision in MR
Rule 1.98	-	
Authorities conducting transport of persons in custody should have in place appropriate plans for the management of emergencies, break downs and other relevant situations.		No equivalent provision in MR
Rule 1.99	-	
The persons conducting the transport should be able to provide relevant first aid and 24 manage situations in accordance with the relevant plans in cases of emergencies.		No equivalent provision in MR
Vehicle Standards		
Rule 1.100	-	
All vehicles used for the transport of persons in custody should: (i) Provide for the safety, comfort and security of the person being transported. (ii) Meet the relevant state design standards and the Australian Design Standards. (iii) Where possible consider the use of natural light and privacy from outside views. (iv) Provide for sufficient space so that where		No equivalent provision in MR

Standard Guideline	Mandela Rules	Comments
possible the movement of personal property is done in conjunction with the movement of the person in custody.		
Rule 1.101	-	
<p>All vehicles used for the transport of persons in custody should be fitted with:</p> <p>(i) Seat belts except where under state law an authority can apply for an exemption.</p> <p>(ii) Forward or rear facing seats for persons in custody undergoing transport.</p> <p>(iii) Appropriate communication systems to facilitate the communication between the persons conducting the transport and the persons in custody being transported.</p> <p>(iv) Effective climate control for those areas of the vehicle where persons in custody are located.</p> <p>(v) Where possible, an appropriate power system for the maintenance of all electrical systems including air conditioning and monitoring systems.</p> <p>(vi) Relevant equipment for dealing with emergency situations and breakdowns.</p>		No equivalent provision in MR

Standard Guideline	Mandela Rules	Comments
2. Care and Wellbeing		
<i>Accommodation</i>		
Rule 2.1	Rule 17	
All parts of a prison used by prisoners shall be properly maintained and kept clean at all times.	All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.	Substantially the same
Rule 2.2	-	
Each prisoner should be provided with suitable living accommodation.		No equivalent provision in MR
Rule 2.3	Rule 13	
Cells or rooms that are designed for single or multiple occupancy, should be consistent with the standards relating to size, light, ventilation, etc., as set out in the Standard Guidelines for Prison Facilities in Australia and New Zealand (1990) or as later modified.	All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.	Substantially the same
Rule 2.4	Rule 12(1)	
Accommodation should be provided to respond effectively to the actual needs and risk status of a prisoner. In some cases, single cell accommodation may be provided, in other cases multiple or dormitory accommodation may be more appropriate.	Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.	MR provides that in all situations where possible, prisoners should not share a cell with other inmates. SG seems to allow for these situations, in contravention of the provisions of the MR
Rule 2.5	Rule 12(2)	
Where prisoners are accommodated in multiple occupancy cells or rooms, the prisoners are to be carefully assessed and selected as being suitable to associate with one another in those conditions. Particular care should be taken to avoid prisoners being subjected to intimidation or bullying.	Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison.	MR specifies that in dormitory accommodations, prisoners in the dormitory are to be 'carefully selected' as being suitable to associate with one another in those conditions

Standard Guideline	Mandela Rules	Comments
Rule 2.6	-	
Where practicable, Indigenous prisoners should be provided with the opportunity to be accommodated in family, community or language groups to provide a supporting environment.		No equivalent provision in MR
<i>Clothing and Bedding</i>		
Rule 2.7	Rule 19	
When a prisoner is not allowed to wear personal clothing, the prisoner should be provided with clothing suitable for the climate and adequate to keep them in good health. Such clothing shall in no manner be degrading or humiliating. This may include clothing for general use, work or recreation.	<p>1. Every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.</p> <p>2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.</p> <p>3. In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.</p>	Substantially the same
Rule 2.8	Rule 19(3)	
Prisoners who are removed from the prison to attend court shall be permitted to wear appropriate personal (non-prison) clothing. Consideration should also be given to prisoners being able to wear their own clothing if they are granted permission to leave the prison. However, prisoners who are required to undertake work outside the prison under the supervision of an officer, may be required to wear prison-issue clothing.	In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.	The MR provides that prisoners may be allowed to wear their own clothing when removed outside the prison for an authorised purpose. The SG provides for the same and goes further to explicitly stipulate that prisoners should be allowed to wear clothing of their choice when appearing in court, with the MR making no equivalent stipulation

Standard Guideline	Mandela Rules	Comments
Rule 2.9	Rule 20	
If prisoners are allowed to supplement prison issue clothing with personal clothing, arrangements should be made to ensure that they are able to keep it clean and fit for use.	If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the prison to ensure that it shall be clean and fit for use.	Substantially the same
Rule 2.10	Rule 19(2)	
All clothing should be clean and kept in proper condition.	All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.	Substantially the same
Rule 2.11	Rule 19(3)	
Prisoners engaged in paid employment outside the prison should, where practical be able to wear clothing supplied by the employer.	In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.	Insofar as employment outside the prison is an 'authorised purpose', per rule 19(3), arguably the wearing of the uniform of their outside employer would amount to the wearing of 'inconspicuous clothing' and so the MR seemingly mirrors the effect of SG in this sense
Rule 2.12	Rule 21	
Every prisoner should be provided with a separate bed and sufficient bedding. This bedding including mattress should be clean when issued, kept in good order, and changed often enough to ensure its cleanliness.	Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.	Substantially the same
<i>Smoke Free Zones</i>		
Rule 2.13	-	
As far as practicable, prisons should provide and promote a smoke free environment.		No equivalent provision in MR
<i>Food and Water</i>		
Rule 2.14	Rule 22	
Every prisoner should be provided with	1. Every prisoner shall be provided by the prison	Substantially the same

Standard Guideline	Mandela Rules	Comments
continuous access to clean drinking water and with nutritional food adequate for health and well being, at the usual hours prepared in accordance with the relevant health standards.	administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. 2. Drinking water shall be available to every prisoner whenever he or she needs it.	
Rule 2.15	-	
Special dietary food should be provided where it is established such food is necessary for medical reasons, on account of a prisoner's religious beliefs, because the prisoner is a vegetarian, or where the prisoner has other reasonable, special needs.		No equivalent provision in MR, although rule 2(1) of the MR prohibits discrimination on religious grounds so arguably refusing or failing to cater for religious dietary needs would be in contravention of this
<i>Religious and Spiritual Needs</i>		
Rule 2.16	Rules 2(1), 66	
Prisoners should have the right to practise a religion of their choice and, if consistent with prison security and good prison management, join with other persons in practising that religion and possess such articles as are necessary for the practice of that religion.	Rule 2 1. The present rules shall be applied impartially. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts of prisoners shall be respected. Rule 66 So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination.	MR, like SG, mandates that religious beliefs of prisoners be respected. The SG provides that prisoners are to be allowed to 'possess such articles as are necessary for the practice of that religion', while the MR provides that prisoners should be allowed to possess books of religious observance and instruction. The two documents are substantially the same in their effect on this matter
Rule 2.17	-	
Indigenous prisoners should be allowed access, where possible, to elders who are recognised as elders or leaders of their community to address the		No equivalent provision in MR

Standard Guideline	Mandela Rules	Comments
emotional and spiritual needs of Indigenous prisoners.		
Rule 2.18	Rule 65(1)	
If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion should be able to be appointed or approved.	If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.	Substantially the same
Rule 2.19		
A qualified representative appointed or approved as above should be allowed to hold regular services and to pay pastoral visits in private to prisoners of the appropriate religion at the proper time, subject to the security and good order of the prison.		No equivalent provision in MR
Rule 2.20		
Spiritual beliefs and needs of Indigenous prisoners should be taken into account when managing the welfare of these groups of prisoners during times of individual, family or community crisis.		No equivalent provision in MR
<i>Celebratory Meals</i>		
Rule 2.21		
Where appropriate and practical, prisoners should have the opportunity to participate in religious and cultural events or celebrations.		No direct equivalent provision in MR but similar to the spirit of most of Rule 65
<i>Psychological Services and Managing Prisoners' Stress</i>		
Rule 2.22	Rule 25	
Prisoners who are identified as being at risk of self-harm should be placed under a management regime appropriate to their individual needs that is designed to ensure their well-being.	1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with	Rule 25/31 provides that each prison shall have a health-care service which provides for both physical/mental needs, however, does not require an individual management regime for each person.

Standard Guideline	Mandela Rules	Comments
	<p>health issues that hamper their rehabilitation.</p> <p>2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.</p>	
Rule 2.23	Rules 36/37(d), 45	
<p>Prisoners placed under a special management regime should not be denied access to privileges or entitlements other than those necessarily removed for their own protection, and such removal should be for the minimum time necessary. Prisoners should only be segregated as a last resort in order to prevent self-harm or suicide and should be closely monitored.</p>	<p>Rule 36 Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.</p> <p>Rule 37 The following shall always be subject to authorization by law or by the regulation of the competent administrative authority: (a) Conduct constituting a disciplinary offence; (b) The types and duration of sanctions that may be imposed; (c) The authority competent to impose such sanctions; (d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.</p> <p>Rule 45 1. Solitary confinement shall be used only in exceptional cases as a last resort, for as short a</p>	<p>Not direct equivalent but similar to Rule 36/37(d) – no more restriction than is necessary to ensure safe custody</p> <p>Rule 45 – solitary confinement of mentally ill/physically disabled prisoners</p> <p>Rule 45 prohibits the use of solitary confinement in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.</p>

Standard Guideline	Mandela Rules	Comments
	<p>time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.</p> <p>2. 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. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice,²⁸ continues to apply.</p>	
Rule 2.24	Rule 25 – health service	
<p>Prisoners should have access to a professional counselling service provided by appropriately qualified persons and available at least during normal working days. Prisoners placed at work camps or remote locations where such services are not always available should be advised of the fact before transfer.</p>	<p>1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.</p> <p>2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.</p>	<p>No direct mention of availability of counselling or need to inform if no such service available at transfer location.</p>
Rule 2.25		
<p>Consideration may be given to the use of family or identified community members for the support of Indigenous and CALD prisoners to manage self-harm and other psychological issues or episodes.</p>		<p>No direct equivalent</p> <p>2.25 allows for the use of family/community members for the support of Indigenous and CALD prisoners to manage their mental health/stress.</p>

Standard Guideline	Mandela Rules	Comments
<i>Earned Gratuities and Approved Purchases</i>		
Rule 2.26	Rule 67	
Prisoner monies are to be recorded, stored, transferred and controlled in an effective manner.	<p>1. All money, valuables, clothing and other effects belonging to a prisoner which he or she is not allowed to retain under the prison regulations shall on his or her admission to the prison be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.</p> <p>2. On the release of the prisoner, all such articles and money shall be returned to him or her except in so far as he or she has been authorized to spend money or send any such property out of the prison, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him or her.</p> <p>3. Any money or effects received for a prisoner from outside shall be treated in the same way.</p> <p>4. If a prisoner brings in any drugs or medicine, the physician or other qualified health-care professionals shall decide what use shall be made of them.</p>	Substantially the same in effect
Rule 2.27	Rule 103(2)	
The prison should provide a means for prisoners to purchase approved items such as: approved foods, drinks, postage stamps and hobby items.	Under the system, prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.	Substantially the same – Mandela rules provide for allowing prisoners to do so – SG provide for requiring a ‘means’ to purchase.
Rule 2.28	Rule 103(3)	
The prison may also provide that a part of the earnings may be retained by the administration so as to constitute a savings fund to be handed over to the prisoner on his/her release.	The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her	Substantially the same

Standard Guideline	Mandela Rules	Comments
	release.	
<i>Drugs and Other Illicit Substances</i>		
Rule 2.29		
Prison systems should have a comprehensive and integrated drug strategy that seeks to prevent the supply of drugs into prison, reduce the demand for drugs and minimise the harm arising from drug use in prisons through education, treatment and enforcement.		No equivalent Plenty of provisions of treatment of drug dependence but no equivalent about having a program to prevent supply/demand of drugs within prisons.
Rule 2.30		
Systems that are used to test prisoners for the presence of drugs and other illicit substances should be used in ways that comply with appropriate relevant standards to ensure the integrity of the testing procedure and the results.		No equivalent This is more of a 'prison management' provision which are particularly provided for in the Mandela Rules.
<i>Health Services</i>		
Rule 2.31	Rule 24	
Every prisoner is to have access to evidence-based health services provided by a competent, registered health professional who will provide a standard of health services comparable to that of the general community. Notwithstanding the limitations of the local-community health service, prisoners are to have 24-hour access to health services. This service may be on an on-call or stand by basis.	1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status. 2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.	Prison health services must be 24 hours in SG (unlike in community).
Rule 2.32	Rule 27	
Every prisoner is to have access to the services of specialist medical practitioners and services	1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who	Substantially the same

Standard Guideline	Mandela Rules	Comments
<p>relevant to their needs. Referral to such services should take account of community standards of health care.</p>	<p>require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.</p> <p>2. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.</p>	
<p>Rule 2.33</p>	<p>Rule 30</p>	
<p>Every prisoner is to be medically examined by a suitably qualified health professional within 24 hours after being received into prison, and thereafter as necessary.</p>	<p>A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:</p> <p>(a) Identifying health-care needs and taking all necessary measures for treatment;</p> <p>(b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;</p> <p>(c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;</p> <p>(d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;</p> <p>(e) Determining the fitness of prisoners to work, to</p>	<p>Substantially the same – though MR ‘as soon as possible’ – SG ‘within 24 hours’.</p>

Standard Guideline	Mandela Rules	Comments
	exercise and to participate in other activities, as appropriate.	
Rule 2.34	Rule 30(d)	
Where a prisoner is found to have an infectious disease, the prisoner should be managed by health services so as to minimise the possibility of contamination of the prison environment and, where clinically appropriate, before the prisoner is permitted to mix with other persons and enter the normal prison routine.	A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to: (d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period	Substantially the same.
Rule 2.35		
Prisoners who are isolated for health reasons shall be afforded all rights and privileges that are accorded to other prisoners, where practicable and so long as such rights and privileges do not jeopardise the health of others.		No direct equivalent
Rule 2.36	Rule 24,25,27	
All prisoners who have a medical complaint shall be seen by a health professional at intervals appropriate to the diagnosis and prognosis in each case, according to good medical practice.	Rule 24 1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status. 2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well	No direct equivalent but substantially the same in effect.

Standard Guideline	Mandela Rules	Comments
	<p>as for drug dependence.</p> <p>Rule 25</p> <p>1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.</p> <p>2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.</p> <p>Rule 27</p> <p>1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.</p> <p>2. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.</p>	
Rule 2.37	Rule 33	
Health professionals should advise the officer in charge of the prison whenever it is considered that a prisoner's physical or mental health has been, or will be, injuriously affected by continued imprisonment or by any condition of imprisonment, including where a prisoner is being	The physician shall report to the prison director whenever he or she 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.	Substantially the same – requires reporting to the prison director whenever physician considers that physical/mental health has/will be affected by continued imprisonment. SG also requires a report being placed on prisoner's medical file.

Standard Guideline	Mandela Rules	Comments
held in separate confinement. The officer in charge of the prison should immediately make a written report of such advice available to the appropriate senior officer with a view to effecting an immediate decision upon the advice that has been given. A copy of the health professional's report should be placed on the prisoner's medical file.		
Rule 2.38	Rule 118 (only for untried prisoners)	
Prisoners should be able to receive treatment from private health professionals, provided they can meet the costs and there are reasonable clinical grounds for granting the application and that the request falls within the relevant statutory requirements.	An untried prisoner shall be allowed to be visited and treated by his or her own doctor or dentist if there are reasonable grounds for the application and he or she is able to pay any expenses incurred.	SG provides this for all prisoners, provided they can meet the cost and there are reasonable clinical grounds – MR only provides for this for untried prisoners.
Rule 2.39	Rule 32(2)	
Prisoners are not to be the subject of unreasonable medical or scientific research that may be injurious to their health. Reasonable research is defined as where informed consent is given by the prisoner and where approval has been given by a properly constituted health research ethics committee, such as according to National Health Medical Research Council Standards.	<p>1. The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:</p> <p>(a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of disease on the basis of clinical grounds only;</p> <p>(b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;</p> <p>(c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;</p> <p>(d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific</p>	Substantially the same – but explicit requirements on the ethical/approval of the research being carried out.

Standard Guideline	Mandela Rules	Comments
	<p>experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.</p> <p>2. Without prejudice to paragraph 1 (d) of this rule, prisoners may be allowed, upon their free and informed consent and in accordance with applicable law, to participate in clinical trials and other health research accessible in the community if these are expected to produce a direct and significant benefit to their health, and to donate cells, body tissues or organs to a relative.</p>	
Rule 2.40		
Where a prisoner is under medical treatment upon being received into prison, that prisoner should be permitted to maintain contact, on the approval of the prison health service, with the medical service that was treating the prisoner previously.		<p>No equivalent</p> <p>2.40 allows for continued treatment, where that treatment was being received prior to entering prison, by the medical service that was treating the prisoner previously.</p>
Rule 2.41	Rule 109(1/2)	
Prisoners who are diagnosed with a severe psychiatric illness should be managed by an appropriate tertiary or specialist health care facility.	<p>1. Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible. 2. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.</p>	Substantially the same.
Rule 2.42	Rule 109(3)	
Prisoners who are diagnosed with mental illness or an intellectual disability should be provided with	3. The health-care service shall provide for the psychiatric treatment of all other prisoners who are	MR: 'psychiatric treatment of all... prisoners who

Standard Guideline	Mandela Rules	Comments
appropriate management and support services.	in need of such treatment.	are in need of such treatment'. SG: 'provided with appropriate management and support services'.
Rule 2.43		
Persons should not be remanded to prison custody solely for psychiatric or intellectual disability assessment.		No equivalent 'Persons should not be remanded to prison custody solely for psychiatric or intellectual disability assessment'.
Rule 2.44	Rule 110	
Where a prisoner enters or is released from prison and is under medical or psychiatric treatment, where appropriate, the prison health service should make arrangements with an appropriate agency for the continuation of such treatment after release.	It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare	Substantially the same
Rule 2.45	Rule 28	
Pre-natal and post-natal treatment and accommodation should be made available to female prisoners, where practicable.	In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.	Substantially the same
Rule 2.46	Rule 28	
Arrangements are to be made for prisoners to give birth in a hospital outside the prison. If a child is born in prison, this fact should not be recorded on the birth certificate.	In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.	Substantially the same, MG 'where practical'.

Standard Guideline	Mandela Rules	Comments
Rule 2.47	Rule 32(c)	.
The confidentiality of medical information shall be maintained to preserve each prisoner's individual entitlement to privacy. However, medical information may be provided on a 'need to know' basis: <ul style="list-style-type: none"> with the consent of the prisoner; or in the interest of the prisoner's welfare; or where to maintain confidentiality may jeopardise the safety of others or the good order and security of the prison. 	1. The relationship between the physician or other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular (c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;	MR: 'except where real and imminent threat' SG: 'need to know basis – with consent or in interest of prisoner's welfare or safety of others' MR has a higher threshold for breaking confidentiality
<i>Notification of Death, Serious Illness or Transfer</i>		
Rule 2.48	Rule 69	
Upon death, serious illness or injury of a prisoner, or a prisoner's removal to an institution for the treatment of mental illness, the manager should, as soon as practicable, arrange for the information to be conveyed to the person designated as the next of kin or contact person.	In the event of a prisoner's death, the prison director shall at once inform the prisoner's next of kin or emergency contact. Individuals designated by a prisoner to receive his or her health information shall be notified by the director of the prisoner's serious illness, injury or transfer to a health institution. The explicit request of a prisoner not to have his or her spouse or nearest relative notified in the event of illness or injury shall be respected.	MR also includes 'the explicit request of a prisoner not to have his or her spouse or nearest relative notified in the event of illness or injury shall be respected'
Rule 2.49		
All prisoner deaths are to be notified to the Coroner immediately.		No direct equivalent
Rule 2.50		
In the case of an Indigenous prisoner, the Aboriginal Legal Service and any Aboriginal spiritual advisers are also to be advised.		No direct equivalent
Rule 2.51	Rule 70	
A prisoner shall be informed as soon as practicable of the death or serious illness or injury of a near	The prison administration shall inform a prisoner at once of the serious illness or death of a near	Substantially the same

Standard Guideline	Mandela Rules	Comments
relative. In the case of a life-threatening illness where death may be imminent, consideration should be given to authorising the prisoner, wherever practicable and subject to security, to visit the bedside either under escort or alone. Similarly, consideration should be given to authorising a prisoner to attend the funeral of a near relative, wherever practicable and subject to security.	relative or any significant other. Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill, or to attend the funeral of a near relative or significant other.	
<i>Physical Sport and Recreation</i>		
Rule 2.52		
Where practicable and weather permitting, prisoners should be allowed access to open air for at least one hour every day.		No direct equivalent
Rule 2.53	Rule 105	
Wherever possible, prisoners should be allowed access to a range of sports, recreational and cultural activities.	Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.	MR are much more general on recreation than SG
Rule 2.54	Rule 64	
Prisoners should have access to a library, adequately stocked with both recreational and information resources, which is operated according to standard library practice. Prisoners should be encouraged to make full use of the library.	Every prison shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.	Substantially the same
Rule 2.55		
Prisoners should have access to computers for legitimate study purposes - however, internet access should be strictly controlled.		No direct equivalent Allows for access to computers for study purposes but with internet use strictly controlled
<i>Personal Hygiene</i>		
Rule 2.56	Rule 18	
Prisoners should be encouraged to keep themselves clean and should be provided with	1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with	Substantially the same

Standard Guideline	Mandela Rules	Comments
ablution facilities that are adequate to meet their health and cleanliness needs.	water and with such toilet articles as are necessary for health and cleanliness. 2. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly.	
Rule 2.57	Rule 18	
Prisoners should be provided with toiletries or the means to purchase toiletries.	1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness. 2. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly.	Substantially the same
<i>Children Residing in Prison</i>		
Rules 2.58-2.62	Rule 29	
2.58 If the Administering Department provides for children and infants to reside with their primary care giver in prison, comprehensive and well structured policies and programmes should be developed where the interests of the children are paramount. 2.59 Assessment processes for determining the placement of a child in a custodial environment should include appropriate input from the relevant external agencies. 2.60 Children and infants should be allowed to reside with their primary care giver in prison only after the Administering Department is satisfied that it is in the best interest of the child/ren to do	1. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for: (a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent; (b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists. 2. Children in prison with a parent shall never be treated as prisoners.	The Rules of Children in prison are somewhat similar, they both focus on the best interests of the child concerned – with the SG providing that this must be decided by the Administering Department (after deciding that that a custodial sentence rather than home detention or some other alternative is the only option for the primary care giver). SG provide that accommodation should be, where possible, domestic rather than custodial whereas MR focuses more on the accessibility of childcare and that children shall never be treated as prisoners.

Standard Guideline	Mandela Rules	Comments
<p>so and there is no mechanism for the primary care giver to complete her/his sentence in the community (for example via home detention).</p> <p>2.61 The accommodation for primary care givers and their children should, wherever possible be domestic rather than custodial.</p> <p>2.62 While prisoners are responsible for the care of their children living in the prison, the Administering Department should take reasonable steps to ensure a safe environment for children.</p>		
<i>Interstate and International Transfer of Prisoners</i>		
Rule 2.63		
<p>Where there are transfer arrangements in place between the Administering Department and other jurisdictions, prisoners should be provided with information and the means to apply for transfer.</p>		No direct equivalent
<i>Special or Complex Needs of Offenders Prisoners with a Disability</i>		
Rules 2.64-2.65		
<p>2.64 Prisoners with a disability should have access to prison services and programmes, and the opportunity to participate equally in prison life as far as possible.</p> <p>2.65 Prisoners with a disability should be accommodated in a safe, secure environment which provides them with assistance to adjust to the prison environment, and with programmes, which address their individual needs and their offending behaviours where possible.</p>		<p>No direct equivalent</p> <p>No specific provisions in MR like those in SG which deal with assistance to adjusting to the prison environment for people with disability.</p>

Standard Guideline	Mandela Rules	Comments
3. Rehabilitation		
<i>Case Management and Throughcare</i>		
Rules 3.1-3.4	Rule 87/88/90	
<p>3.1 Each Administering Department should administer a system of individual case management of prisoners that enables the assessment, planning, development, coordination, monitoring and evaluation of options and services to meet the individual needs and risks of persons as they move between community corrections and prisons.</p> <p>3.2 Where possible, case management systems should be consistent across all sections of the Administering Department, so that a relatively seamless approach to the management of people occurs across community corrections and prisons in conjunction with court recommendations and orders.</p> <p>3.3 Appropriate case management records should be established and maintained. 3.4 All sentenced prisoners other than those serving a very short term, should have a sentence plan (or case plan) developed as soon as practical after receipt into custody. The prisoner should be encouraged to actively participate in the development of their individual plan.</p> <p>3.5 Case plans, including classification and placement plans of prisoners, should be regularly reviewed allowing for the prisoner as well as staff to provide updated information and should contain measurable and achievable short term and long term goals.</p>	<p>Rule 87 Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.</p> <p>Rule 88 1. The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.</p> <p>2. There should be in connection with every prison social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his or her family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.</p> <p>Rule 90 The duty of society does not end with a prisoner's release. There should, therefore, be governmental</p>	<p>The MR contain underlying guiding principles to show the spirit in which prisons should be administrated and the purposes at which they should aim – Rule 87 covers that a pre-release regime, or something similar, should be designed prior to the prisoner's release back into the community – the MR stipulate that this should not be arranged by the police. Rule 88 states that the treatment of prisons should not emphasize their exclusion from the community, but their continuing part in it.</p> <p>Rule 90 – relates to an ongoing duty after the prisoner's release – there should be available governmental or private agencies to provide ongoing aftercare after release.</p> <p>The SGs are more specific in the Australian context and focuses more on administrative problems, more so than the individual prison. The SG requirements include, case management records being established and maintained, an individual case plan for each prisoner moving between community/prisons, a consistent approach to aftercare between all prisons. However, in saying that 3.5 requires that each plan contain measurable and achievable short term and long term goals.</p>

Standard Guideline	Mandela Rules	Comments
	or private agencies capable of lending the released prisoner efficient aftercare directed towards the lessening of prejudice against him or her and towards his or her social rehabilitation	
<i>Rehabilitation Programmes and Education</i>		
Rule 3.6	Rule 104	
Prisoners should be provided with access to programmes and services, including education, vocational training (and employment), that enable them to develop appropriate skills and abilities to support reduced re-offending when they return to the community.	1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration. 2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.	MR: Shall be integrated with the country so they may continue after release.
Rule 3.7		
Prisoners should be actively encouraged through appropriate programmes and staff interactions to accept full responsibility for the consequences of their offending behaviour.		No equivalent
Rule 3.8		
Prisoners who are approved to be full time students should be remunerated equivalently to prisoners who are employed in full-time work.		No equivalent MR provides for fair remuneration for work but doesn't mention for study.
Rule 3.9	Rule 104	
A high priority should be accorded to programmes addressing literacy and numeracy. Relevant prisoners should be encouraged to engage in such programmes but should not be compelled.	1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it	MR – education of illiterate and young prisoners should be compulsory. SG – should not be compelled (but high priority).

Standard Guideline	Mandela Rules	Comments
	by the prison administration. 2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.	
Rule 3.10		
Programmes and services provided to address criminogenic needs should be based on best practice and have solid evidence as to their efficacy.		No equivalent
Rule 3.11		
All programmes should be periodically evaluated in relation to the achievement of their objectives and the views and experiences of prisoners.		No equivalent
Rule 3.12		
Where an Administering Department makes use of community resources for the assessment, treatment, counselling, education and training of prisoners, the Department should regularly assess and monitor the service provided by such agencies to ensure that the quality is adequate and consistent.		No equivalent
Rule 3.13		
The involvement of the community in assisting the prison workforce in the development and maintenance of programmes should be encouraged.		No equivalent
Rule 3.14		
Programmes and services provided to prisoners, especially women, Indigenous prisoners and prisoners from culturally and linguistically diverse backgrounds, should be established following close consultation with the appropriate community		

Standard Guideline	Mandela Rules	Comments
groups and experts.		
<i>Pre-release Programmes</i>		
Rules 3.15-3.19	Rule 106-108.	
<p>3.15 Prisoners, particularly longer-term prisoners should be provided with programmes and services that will assist them make a successful transition from custody to community life.</p> <p>3.16 Such programmes and services should address such matters as housing, employment and community support and should be developed in conjunction with community corrections where appropriate.</p> <p>3.17 Where appropriate, pre-release programmes should include work release, day leave, weekend leave, education and family leave and where possible provide prisoners with opportunities to engage in sustained paid employment.</p> <p>3.18 After care services should assist former prisoners to address their practical needs relating to resettling in the community. Prisoners should be provided with suitable clothes on their release and have sufficient funds or means to reach their destination and to sustain themselves in the immediate period following release.</p> <p>3.19 After-care programme staff should have access to prisoners during their sentence.</p>	<p>Rule 106 Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.</p> <p>Rule 107 From the beginning of a prisoner’s sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner’s rehabilitation and the best interests of his or her family.</p> <p>Rule 108 1. Services and agencies, governmental or otherwise, which assist released prisoners in re-establishing themselves in society shall ensure, so far as is possible and necessary, that released prisoners are provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season and have sufficient means to reach their destination and maintain themselves in the period immediately following their release. 2. The approved representatives of such agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence. 3. It is desirable that the activities of such agencies</p>	<p>Rule 108 is substantially the same as 3.18/3.19 in regards to addressing the practical needs of the prisoner on release.</p> <p>Rule 107 relates to ensuring that prisoners are encouraged to maintain and create relationships with persons or agencies outside the prison in order to ensure their best interests on release (more of spirit provision).</p> <p>The SGs are, again, more practical in addressing specific needs, such as housing, employment and community support and also mandate for certain types of leave to assist with a ‘slow-release’ into the community.</p>

Standard Guideline	Mandela Rules	Comments
	shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.	
<i>Community Contact including Visits</i>		
Rule 3.20	Rule 63 Rule 117 (untried prisoners)	
Prisoners shall be able to access news of the outside world daily, and keep themselves informed through a variety of media approved by the prison management.	Rule 63 Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the prison administration. Rule 117 An untried prisoner shall be allowed to procure at his or her own expense or at the expense of a third party such books, newspapers, writing material and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.	Rule 63 – prisoners shall be kept informed of important items of news – MR is substantially similar.
Rule 3.21	Rule 58(1)	
Contact between prisoners and the community should be encouraged in recognition of the important role families have in assisting the reintegration of prisoners back to the community upon release and the advantages to be gained from reducing the isolation of prisons and prisoners from the community.		Substantially the same – SG also focuses on achieving the benefits.
Rule 3.22	Rule 58(1)(a) and (b)	
Prisoners should be encouraged and where practicable, assisted to develop and maintain their family ties and relationships through visits to the prisoner by family and friends and community	1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals: (a) By corresponding in writing and using, where	MR – writing and visits SG – visits, telephone and letters

Standard Guideline	Mandela Rules	Comments
leaders, and through the controlled use of telephones and letters.	available, telecommunication, electronic, digital and other means; and (b) By receiving visits.	
Rule 3.23		
Where possible, prisoners should be permitted a minimum of one visit each week. Where practicable, further visits may be permitted.		No direct equivalent SG mandates minimum, if possible.
Rule 3.24		
Unconvicted prisoners should be permitted increased visits where practicable and where to do so does not unfairly restrict the visits of other prisoners.		No direct equivalent SG mandates permitted visit for unconvicted prisoners
Rule 3.25		
Effective systems should be implemented to control access to the prison, including the identification of all persons entering the prison.		No direct equivalent SG mandates for controlled access – ID of all persons.
Rule 3.26	Rule 60(2)	
Visitors should be treated with respect and visiting facilities should be provided that are conducive to prisoners receiving visitors in as dignified a manner as is consistent with the security and good order of the prison.	Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rules 50 to 52. Body cavity searches should be avoided and should not be applied to children.	Substantially the same
Rule 3.27		
Where possible, proper planning and booking arrangements should be established to minimise visitors waiting to commence a visit and to enable the length of visits to be extended, subject to not disadvantaging other prisoners and visitors.		No direct equivalent SG – more practical guideline.
Rule 3.28		
Unless there is a breach of security, rules or protocols directly associated with a visit, all prisoners should be permitted to have direct		No direct equivalent MR do not provide more detail than simply allowing visits/if conjugal visits are allowed then

Standard Guideline	Mandela Rules	Comments
contact with their visitors.		guidelines around this.
Rule 3.29		
The arrangements for visits should take into consideration different family structures particularly in relation to Indigenous or other culturally and linguistically diverse prisoners.		No direct equivalent 3.29 – unique to Australia
Rule 3.30		
Prisoners should not be denied access and/or visits with their children, unless the access is not in the best interests of the child/ren.		No direct equivalent
Rule 3.31		
Where possible, prisons should provide for visitors to take refreshments in the company of prisoners and for suitable play facilities, equipment and toys to be made available for visiting children.		No direct equivalent SG are much wider and provide more detail than MR
Rule 3.32	Similar to Rule 60	
The searching of visitors should only be implemented as part of a strategy to deter and detect contraband entering the prison. Searching should never be used as a punishment	1. Admission of visitors to the prison facility is contingent upon the visitor's consent to being searched. The visitor may withdraw his or her consent at any time, in which case the prison administration may refuse access. 2. Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rules 50 to 52. Body cavity searches should be avoided and should not be applied to children.	Rule 60 provides protections for searches/body cavity searches.
Rule 3.33		
The strip-searching of visitors should be conducted by a person of the same gender and with due regard to protecting the dignity of the person being searched.		No direct equivalent No requirement in MR to be of same gender when searching visitors

Standard Guideline	Mandela Rules	Comments
Rule 3.34	Rule 60(2)	
The searching of children under the age of 16 should only be undertaken with the consent of the child's parent or guardian and in the presence of an adult nominated by the child or the child's parent or guardian	Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rules 50 to 52. Body cavity searches should be avoided and should not be applied to children.	No direct equivalent – however, Rule 60(2) bans body cavity searches for children.
Rule 3.35	Rule 62	
Prisoners who are foreign nationals, refugees or stateless persons should be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the country to which they belong, or the national or international authority whose task it is to protect them.	1. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong. 2. Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.	Substantially the same

Standard Guideline	Mandela Rules	Comments
4. Reparation		
Rule 4.1		
Industry within prisons should be consistent with the National Code of Practice on Prison Industries and National Competition Policy.		No direct equivalent Australia-specific provision
Rule 4.2	Rule 96	
Prisoners should have access to a range of productive employment and facilities which provide them with the opportunity to utilise their time in prison in a constructive and beneficial manner. Prison labour should not be of an afflictive nature.	1. Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals. 2. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.	Substantially the same
Rule 4.3	Rule 103(1)	
Prisoners should be remunerated for their work according to a preset scale that recognises different levels of skill and effort.	1. There shall be a system of equitable remuneration of the work of prisoners.	Fairly similar – ‘system of equitable remuneration’
Rule 4.4	Rule 96(2)/Rule 102	
All sentenced prisoners should be expected to work, subject to their physical and mental capacity, but the maximum number of hours of work for prisoners should be prescribed in legislation or rules.	Rule 96 2. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day. Rule 102 1. The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workers. 2. The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners.	Substantially the same.

Standard Guideline	Mandela Rules	Comments
Rule 4.5	Rule 101(1)	
Occupational health and safety standards should be rigorously enforced in all prison work.	1. The precautions laid down to protect the safety and health of free workers shall be equally observed in prisons.	Substantially the same
Rule 4.6	Rule 101(2)	
Provision should be made to indemnify prisoners against industrial injury, including industrial disease.	2. Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workers.	Substantially the same
Rule 4.7		
Part of the revenue generated from prison industries should be channelled back into prison infrastructure and programmes for prisoners in order to offset the costs of imprisonment to the community.		No direct equivalent More of a 'systems management' provision – not in the scope of the MR
Rule 4.8		
Wherever possible, prisoners should be employed to undertake as much of the cooking, cleaning, gardening and routine maintenance as is consistent with reducing the costs of imprisonment to the community.		As above No direct equivalent
Rule 4.9		
The prisoner work force should be provided with a 'Code of Conduct' that prescribes a set of guiding principles and duty of care obligations which assist them in determining acceptable workplace conduct.		No direct equivalent
<i>The Development of Work Skills</i>		
Rule 4.10	Rule 99	
Work should provide opportunities for prisoners to acquire skills that are in demand in the employment market so they have real employment opportunities upon release.	1. The organization and methods of work in prisons shall resemble as closely as possible those of similar work outside of prisons, so as to prepare prisoners for the conditions of normal occupational	Substantially the same – prisoners must be employed in work which gives them transferable skills (gist of both SG and MR)

Standard Guideline	Mandela Rules	Comments
	life. 2. The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the prison.	
Rule 4.11		
Prison employment should offer opportunities to achieve national competency accreditation.		No direct equivalent Australia-specific provision
Rule 4.12		
Work opportunities should be free of gender stereo-typing and be designed to reflect the needs of different minority groups within the prisoner population.		No direct equivalent
Rule 4.13	Rule 102(2)	
Provision should be made for prisoners to be released from work to attend approved programmes and education.	(2). The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners.	MR rules not a strict provision but must have 'sufficient time for education and other activities'
<i>Work that Contributes to the General Good of the Community</i>		
Rule 4.14		
Wherever possible, prisoners should be employed in work that provides a specific benefit to the community.		No direct equivalent
Rule 4.15		
Where such work is undertaken in the community, only prisoners assessed by the Administering Department as posing minimal risk to the community should be allowed to participate. The management and supervision of prisoners performing such community work should be commensurate with the complexity of the tasks to be undertaken and the number of prisoners requiring supervision.		No direct equivalent

Standard Guideline	Mandela Rules	Comments
5. Systems Management Systems, policies, and procedures should be evidence-based; transparent; equitably and fairly applied, taking into account the principles of procedural fairness; and communicated to those who will be affected by them. Effective version control should be applied.		
Rule 5.1		
A professional staff workforce should be supported by comprehensive and well-maintained information, resource and support systems.		MR focuses a lot more on training/personnel. No direct equivalent
Rule 5.2	Rule 74	
The workforce should adhere to the highest standards of professional competence, integrity, honesty and accountability in the performance of their assigned duties.	<p>1. The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of prisons depends.</p> <p>2. The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.</p> <p>3. To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.</p>	MR focuses on workforce with integrity, humanity, professional capacity and personal suitability – reiterates that proper prison administration relies on good personnel.
Rule 5.3	Rule 75/76	
The workforce should be appropriately trained, authorised and receive security clearance for the tasks they are required to perform.	<p>Rule 75</p> <p>1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a</p>	Mandela Rules are MUCH more comprehensive on the amount of training which should be provided. Requires that training be tailor to general and specific duties and must be done so in

Standard Guideline	Mandela Rules	Comments
	<p>professional manner.</p> <p>2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.</p> <p>3. The prison administration shall ensure the continuous provision of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.</p> <p>Rule 76</p> <p>1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on:</p> <p>(a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;</p> <p>(b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;</p> <p>(c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and</p>	<p>accordance with contemporary evidence-based best practice in penal sciences. Must pass a theoretical and practical test – also should include training on:</p> <ul style="list-style-type: none"> - National legislation, regulations and policies; - Rights and duties of prison staff in the exercise of their functions – respecting human dignity of all prisoners and prohibition of certain conduct (e.g. torture) - Security and safety – concept of dynamic security, the use of force and instruments of restraint, management of violent offenders with due consideration of preventive and defusing techniques such as negotiation and mediation; - First aid – psychosocial needs of prisoners and corresponding dynamics in prison settings, social care and assistance, early detection of mental health issues.

Standard Guideline	Mandela Rules	Comments
	mediation; (d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues. 2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.	
Rule 5.4	Rule 80	
The composition of the workforce should provide a gender and ethnicity mix that reflects the prison population where practicable.	1. The prison director, his or her deputy, and the majority of other prison staff shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them. 2. Whenever necessary, the services of a competent interpreter shall be used.	Relates to language spoken by staff must be that of majority language in prison MR also has very interesting provision for women prisoners and their staff including control of keys, supervision of male staff members etc. No real provision in MR for ethnicity mix.
Rule 5.5		
Those in the workforce who are engaged for the purpose of providing services within a recognised profession, should possess a relevant qualification from a recognised tertiary institution. Where necessary, this includes membership or registration with a relevant professional body, association or board.		No direct equivalent
Rule 5.6	Rule 75(2)	
Those in the workforce who are responsible for the supervision of prisoners and security should receive updated training on a regular basis in key functions and competencies.	Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests	Substantially the same in effect

Standard Guideline	Mandela Rules	Comments
	at the end of such training shall be allowed to enter the prison service.	
Rule 5.7		
The workforce should either be in possession of or have direct access to safety equipment or materials relevant to the risks associated with the duties they are undertaking. In the case of those who work in contact with prisoners, they should either wear or have direct access to infectious diseases emergency materials.		No real direct equivalent
Rule 5.8		
Industry-standard fire prevention measures should be in place.		No direct equivalent
<i>Community Involvement</i>		
Rule 5.9		
The effectiveness of the correctional system is improved through openness and transparency of operations. Community stakeholders should be directly involved in the delivery of correctional services and be encouraged to visit prisons.		No direct equivalent MR don't really look at this sort of stuff – probably as it is too different depending on country
Rule 5.10		
Inquiries from the community should be dealt with promptly and courteously while respecting the entitlement of prisoners to privacy.		No direct equivalent
Rule 5.11		
Information about prisoners may only be released with approval of the Administering Department and in accordance with legislation.		No direct equivalent
Rule 5.12	Rule 88(1)	
The local community should be aware of the role and function of adjacent prisons and volunteer groups should be encouraged to participate in	he treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should	Emphasize continuing role within community MR is more of a 'spirit' than practical provision.

Standard Guideline	Mandela Rules	Comments
service delivery and engagement with the prison, where appropriate.	therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.	
Rule 5.13	Rule 86-89	
Community and volunteer groups participation in programme delivery and pre-release planning for prisoners should be structured and co-ordinated to emphasise to prisoners their continuing role in the community, as well as supporting their engagement with the community.	<p>Rule 86 The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under preliminary observation 1 of these rules.</p> <p>Rule 87 Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.</p> <p>Rule 88 1. The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners. 2. There should be in connection with every prison social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his or her family and with valuable social agencies. Steps should be taken to</p>	Guiding principles (focus on a pre-release regime) Not as specific in MR.

Standard Guideline	Mandela Rules	Comments
	<p>safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.</p> <p>Rule 89</p> <ol style="list-style-type: none"> 1. The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups. It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group. 2. These prisons do not need to provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open prisons, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to the rehabilitation of carefully selected prisoners. 3. It is desirable that the number of prisoners in closed prisons should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such prisons should not exceed 500. In open prisons the population should be as small as possible. 4. On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided. 	
Rule 5.14	Rule 75/76	
Community and volunteer groups or individuals who visit the prison regularly should be provided with a comprehensive orientation and security awareness induction prior to involvement with	<p>Rule 75</p> <ol style="list-style-type: none"> 1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a 	Training provisions of general personnel apply to EVERYONE – can infer that this would include training for community and volunteer visits

Standard Guideline	Mandela Rules	Comments
<p>prisoners.</p>	<p>professional manner.</p> <p>2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.</p> <p>3. The prison administration shall ensure the continuous provision of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.</p> <p>Rule 76</p> <p>1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on:</p> <p>(a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;</p> <p>(b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;</p> <p>(c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and</p>	

Standard Guideline	Mandela Rules	Comments
	mediation; (d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues. 2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.	
<i>Records Management and Documentation</i>		
Rule 5.15	Rule 6	
Official records should be comprehensively and accurately maintained and securely archived.	There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.	Must have a system, must be secure common to both MR and SG.
Rule 5.16	Rule 6	
Current official records should be maintained concerning each prisoner under the jurisdiction of an Administering Department.	There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.	
Rule 5.17		
Records of prisoners under the custody or supervision of a contracted service provider remain the property of the Administering Department.		No direct equivalent

Standard Guideline	Mandela Rules	Comments
Rule 5.18	Rule 6	
Prisoner records should be maintained in a secure location that is not accessible by prisoners or other persons not authorised to access them.	There shall be a standardized prisoner file management system in every place where persons are imprisoned. Such a system may be an electronic database of records or a registration book with numbered and signed pages. Procedures shall be in place to ensure a secure audit trail and to prevent unauthorized access to or modification of any information contained in the system.	Similar
Rule 5.19		
The Administering Department should develop agreements with other relevant agencies concerning the exchange of offending history and other information relevant to the management of prisoners under its custody or supervision.		No direct equivalent Australia specific
Legislation		
Rule 5.20	Rule 76(a)	
The workforce should be trained and assessed regarding their understanding of any legislative powers and authority they may exercise.	1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on: (a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;	Substantially similar
Rule 5.21	Guiding principles – Rule 86-90	
The Administering Department should, in a manner consistent with the relevant legislation, establish a set of clear guidelines or instructions for the delivery of its services.	Rule 86 The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under preliminary observation 1 of these rules. Rule 87	MR provided for what principles should be used – SG just say have to have a guideline.

Standard Guideline	Mandela Rules	Comments
	<p>Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same prison or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.</p> <p>Rule 88</p> <p>1. The treatment of prisoners should emphasize not their exclusion from the community but their continuing part in it. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.</p> <p>2. There should be in connection with every prison social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his or her family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.</p> <p>Rule 89</p> <p>1. The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups. It is therefore desirable that such groups should be distributed in separate prisons suitable for the treatment of each group.</p>	

Standard Guideline	Mandela Rules	Comments
	<p>2. These prisons do not need to provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open prisons, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to the rehabilitation of carefully selected prisoners.</p> <p>3. It is desirable that the number of prisoners in closed prisons should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such prisons should not exceed 500. In open prisons the population should be as small as possible.</p> <p>4. On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.</p> <p>Rule 90 The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient aftercare directed towards the lessening of prejudice against him or her and towards his or her social rehabilitation</p>	
Rule 5.22		
Guidelines and instructions issued by the Administering Department should be readily available to the workforce.		No direct equivalent
Rule 5.23		
With the exception of matters that may prejudice the security and good order of a prison, guidelines and instructions issued by the Administering Department should be made readily available to		No direct equivalent

Standard Guideline	Mandela Rules	Comments
prisoners and the public.		
<i>Performance Management/Inspection</i>		
Rule 5.24	Rule 83-85	
<p>There should be a regular inspection of prisons and prison services by appropriate persons. Their tasks shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of correctional services.</p>	<p>Rule 83</p> <p>1. There shall be a twofold system for regular inspections of prisons and penal services:</p> <p>(a) Internal or administrative inspections conducted by the central prison administration;</p> <p>(b) External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.</p> <p>2. 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, with a view to bringing about the objectives of penal and corrections services, and that the rights of prisoners are protected.</p> <p>Rule 84</p> <p>1. Inspectors shall have the authority:</p> <p>(a) To 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;</p> <p>(b) To freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;</p> <p>(c) To conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits;</p> <p>(d) To make recommendations to the prison</p>	<p>MR provides a lot more detail on what is required as a part of the inspections – states a two-fold approach, provides certain powers to inspectors, requires a written report after each inspection.</p>

Standard Guideline	Mandela Rules	Comments
	<p>administration and other competent authorities.</p> <p>2. External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass health-care professionals. Due regard shall be given to balanced gender representation.</p> <p>Rule 85</p> <p>1. Every inspection shall be followed by a written report to be submitted to the competent authority. Due consideration shall be given to making the reports of external inspections publicly available, excluding any personal data on prisoners unless they have given their explicit consent.</p> <p>2. 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.</p>	
Rule 5.25		
<p>There will be a commitment to continuous improvement in practices and the quality of services provided. To this end, each Administering Department will develop and implement quality assurance processes designed to measure performance against established standards and principles.</p>		<p>No direct equivalent.</p>

Standard Guideline	Mandela Rules	Comments
6. Management of High Risk Inmates There are occasions where the risk profiles of particular persons in custody require additional components for their effective management. Consequently an appropriate management regime should be developed and implemented to ensure the ongoing management and good order of the prison is preserved. In order to effectively manage this cohort, consideration should be given to the following:		
Rule 6.1	Rule 93	
An Administering Department may need to establish a designated area(s) that accommodates prisoners who present an ongoing, extreme risk to public safety and /or the good order and security of the prison.	1. The purposes of classification shall be: (a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence; (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation. 2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners.	MR – stipulates purposes of classification of prisoners being: <ul style="list-style-type: none"> - To separate from others these prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence; - To divide the prisoners into classes in order to facilitate their treatment with a view to social rehabilitation - So far as possible, separate prisons or separate sections of a prison shall be used for treatment of different classes of prisoners. Rule 36: ‘discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and well ordered community life’. The rules associated with classification of prisoners differ, mostly in terms of their ‘perspective and scope’. MR don’t focus too much on who is classified as high-risk, more so that there should be a system in place to regulate/separate different ‘levels’ of

Standard Guideline	Mandela Rules	Comments
		<p>prisoners.</p> <p>Many provisions on the use of solitary confinement</p> <p>The provisions in Rule 93 more closely relate to Rule 1.82 – 1.85 of the SG, rather than the chapter 6 provisions.</p> <p>Rule 36 is fairly similar to 6.1</p>
Rule 6.2	Rule 39	
<p>Where such an area is designated an appropriate management regime should be instituted that ensures transparent, accountable and effective management of prisoners accommodated in such areas.</p>	<p>1. No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.</p> <p>2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.</p> <p>3. Before imposing disciplinary sanctions, prison administrations shall consider whether and how a prisoner’s mental illness or developmental disability may have contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge. Prison administrations shall not sanction any conduct of a prisoner that is considered to be the direct result of his or her mental illness or intellectual disability.</p>	<p>No prisoner shall be sanctioned except in accordance with the terms of law/regulation as in Rule 37.</p> <p>So MR does not set criteria for how to discipline/sanction but says there must be an overreaching law/regulation relating to it.</p>
Rule 6.3		
Assessment and placement criteria for admission	Rule 37	No criteria – more on an ‘individual basis’ in MR.

Standard Guideline	Mandela Rules	Comments
and discharge from such areas should be clearly stated. Decision making with respect to the placement, management and discharge of prisoners from such areas should be assigned to an appropriately delegated officer.	The following shall always be subject to authorization by law or by the regulation of the competent administrative authority: (a) Conduct constituting a disciplinary offence; (b) The types and duration of sanctions that may be imposed; (c) The authority competent to impose such sanctions; (d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.	However, Rule 37 states that any involuntary separation from general prison population (i.e. solitary, isolation, segregation, special care units or restricted housing) should be subject to law or regulation of the competent administrative authority.
Rule 6.4		
Restrictions placed on high risk prisoners should be no more than are necessary to maintain safety and security based on an individual assessment of the prisoners risk(s).		Rule 43 – restrictions may not amount to torture or other cruel, inhuman or degrading treatment or punishment.
Rule 6.5	Rule 73	
Where a high (institutional) risk prisoner requires movement outside a secure environment such movement should be subject to an approved risk based operational plan.	1. When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form. 2. The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited. 3. The transport of prisoners shall be carried out at the expense of the prison administration and equal	Rule 73 is the provision which relates to transport/removal of prisoners in MR – this provision states that movement of prisoners must be done in a way which preserves the basic dignity of the prisoner. (3) stipulates that transport must be carried out at the expense of prison administration and equal conditions shall apply to all prisoners.

Standard Guideline	Mandela Rules	Comments
	conditions shall apply to all of them.	