U.S. Cases Citing
U.N. Standard Minimum Rules for the Treatment of Prisoners
(the Nelson Mandela Rules)

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Federal

Supreme Court

Estelle v. Gamble, 429 U.S. 97, 103 & n.8 (1976) ("The infliction of such unnecessary suffering is inconsistent with contemporary standards of decency[.]"). These standards are manifested by, among other sources, the Standard Minimum Rules (Rules 22-26). The case is specifically about deliberate indifference in not providing prisoners with adequate access to medical treatment.

Courts of Appeals

Villegas v. Metro. Gov't of Nashville, 709 F.3d 563, 572-73 (6th Cir. 2013) ("In its Standard Minimum Rules for the Treatment of Prisoners, the United Nations stated that restraints including handcuffs and leg irons should only be used '[a]s a precaution against escape,' '[o]n medical grounds by direction of the medical officer,' or 'if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property.' E.S.C. Res. 663 C (XXIV) (July 31, 1957), 2076 (LXII) (May 13, 1977), at Rule 33"). The court concludes that "the shackling of pregnant detainees while in labor offends contemporary standards of human decency such that the practice violates the Eighth Amendment's prohibition against the 'unnecessary and wanton infliction of pain'—i.e., it poses a substantial risk of serious harm." *Id.* at 574.

Carmichael v. United Techs. Corp., 835 F.2d 109, 113 (5th Cir. 1988) ("The treaties [sic] cited by Carmichael [including the Standard Minimum Rules at n.6] lend support to the conclusion that a consensus has been reached, at least among the countries that purport to uphold those treaties, that official torture violates the standards by which nations regulate their dealings with one another.").

Lareau v. Manson, 651 F.2d 96, 107 (2d Cir. 1981) ("As the Supreme Court stated in *[Bell v.] Wolfish*, the recommendations of these professional groups 'do not establish the constitutional minima,' but they 'may be instructive in certain cases.' 441 U.S. at 543 n. 27, 99 S.Ct. at 1876 n.

27. *Estelle v. Gamble*, 429 U.S. 97, 103 n. 8, 97 S.Ct. 285, 290 n. 8, 50 L.Ed.2d 251 (1976), cites the United Nations Standard Minimum Rules as one of many manifestations of 'contemporary standards of decency.' Here, the various guidelines illustrate the glaring disparity on even the most rudimentary square footage level between the conditions in the HCCC and the conditions widely thought by knowledgeable bodies to be essential").

Morgan v. LaVallee, 526 F.2d 221, 226 n.8 (2d Cir. 1975) ("Genuine health regulations, however, are properly the concern of prison authorities; hygienic clothing and bedding is a goal sought indeed by most minimum standards of prison administration that have been proposed. *See, e.g.*, United Nations Standard Minimum Rules for the Treatment of Prisoners, Rules 17, 18 and 19.").

District Courts

U.S. v. D.W., No. 13-CR-173, ____ F.Supp.3d ____, 2016 WL 4053173, at *104 (E.D.N.Y. July 28, 2016) (citing requirement of the Standard Minimum Rules that "[s]olitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review") (Rule 45).

Peoples v. Annucci, No. 11-CV-2694 (SAS), 2016 WL 1464613, at *4 (S.D.N.Y. Apr. 14, 2016) ("The global community also has recognized the threat that solitary confinement poses to the health of inmates—and taken decisive measures to curtail its use. In fact, in September, 2015, the United Nations General Assembly revised its Standard Minimum Rules for the Treatment of Prisoners to state that '[s]olitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review'") (Rule 45).

Karsjens v. Jesson, 6 F. Supp. 3d 958, 969 n.9 (D. Minn. 2014) ("The [Rule 706] experts note that the Standard Minimum Rules for the Treatment of Prisoners (SMR) of the United Nations, to which the United States is a signatory, state that women should be detained separate from men").

Thomas v. Baca, 514 F. Supp. 2d 1201, 1217-18 (C.D. Cal. 2007) ("International guidelines support this basic right [to sleep in a bed rather than on the floor]. *See, e.g., Roper v. Simmons*, 543 U.S. 551, 578, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005) (considering 'international opinion' in Eighth Amendment analysis); *Atkins v. Virginia*, 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed.2d 335 (2002) (same). For example, the United Nations Standard Minimum Rules for the Treatment of Prisoners, which contain guidelines regarding confinement conditions and set forth minimum acceptable prison conditions, provide that '[e]very 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.' *United Nations Standard Minimum Rules for Treatment of Prisoners*, E.S.C. Res.

663 C (XXIV), U.N. ESCOR, 24th Sess., Supp. No. 1, ¶ 19, U.N. Doc. E/3048 (1957) (amended 1977) (emphasis added)").

West v. Frank, 492 F. Supp. 2d 1040, 1045 (W.D. Wis. 2007) ("Even when security interests support limitations on a prisoner's reading materials, courts scrutinize those limitations carefully, particularly in this circuit. It is probable that prisoners have had greater success on censorship claims in this circuit than on any other First Amendment claim. … *See also* United Nations Congress on Prevention of Crime and Treatment of Offenders, Standard Minimum Rules for the Treatment of Prisoners (1955), cited in *Estelle v. Gamble*, 429 U.S. 97, 103 n. 8, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976), Rule 39 ('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 administration.')").

Kane v. Winn, 319 F. Supp. 2d 162 (D. Mass. 2004) ("The treaties mentioned above constitute both state practice and evidence of *opinio juris.* So do a number of nontreaty human rights instruments and United Nations General Assembly Resolutions, many of which the United States has approved," including the Standard Minimum Rules. *Id*. at 197. *See also id.* at 198 n. 52: "In this country, principles of the Standard Minimum Rules were incorporated into the 1962 Model Penal Code and the correctional standards developed in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals. The Standard Minimum Rules have directly influenced penal laws in states such as Connecticut, Illinois, Minnesota, Ohio, Pennsylvania, and South Carolina") (citations omitted)). This case was about access to medical treatment for a prisoner with Hepatitis C.

Williams v. Coughlin, 875 F. Supp. 1004, 1012-13 (W.D.N.Y. 1995) ("Courts may use, *inter alia,* correctional guidelines and standards from a variety of sources to inform themselves of contemporary standards relating to the operation of corrections facilities. *See, e.g., Rhodes v. Chapman,* 452 U.S. at 343, 348, nn. 7, 13, 101 S.Ct. at 2397, 2400, nn. 7, 13; *Estelle v. Gamble,* 429 U.S. at 103 n. 7, 97 S.Ct. at 290; *Lareau v. Manson,* 651 F.2d 96, 106–07 (2d Cir.1981). In this regard, I note that several such documents indicate that current standards require the provision of as many as three meals per day, and disapprove the use of food deprivation as a disciplinary measure. *See, e.g., . . . United Nations Standard Minimum Rules for the Treatment of Prisoners* (1955), Rule 20(1) ('[e]very prisoner shall be provided by the administration *at the usual hours* with food of nutritional value for health and strength ...' (emphasis added)). In view of the above, I have no hesitation in finding that the defendants' motions for summary judgment cannot be granted on the basis that the deprivation suffered by Williams was not sufficiently serious to be of constitutional dimension").

Lareau v. Manson, 507 F. Supp. 1177, 1192-93 (D. Conn. 1980), *aff'd in part, modified in part and remanded*, 651 F.2d 96 (2d Cir. 1981) ("There is no need to belabor the effects of

overcrowded conditions on inmates at the HCCC. As noted previously, inmates including those who have been convicted and sentenced are required to live in such close quarters that their physical and mental well-being is harmed. The 'evolving standards of decency' with which the overcrowding of inmates at the HCCC are incompatible include the Standard Minimum Rules for the Treatment of Prisoners, which have been adopted by the United Nations Economic and Social Council (the members of which include some nations whose standards of decency and human rights are far less stringent than our own) and thus form part of the body of international human rights principles establishing standards for decent and humane conduct by all nations. *See Estelle v. Gamble, supra*, 429 U.S. at 103-04 & n.8, 97 S.Ct. at 290-291 n.8 (citing the Standard Minimum Rules as evidence of 'contemporary standards of decency'). The defendants themselves have embraced these international standards. In 1974, the defendants adopted the Standard Minimum Rules as the preamble to the Administrative Directives of the Connecticut Department of Correction. This action was apparently taken pursuant to Commissioner Manson's statutory mandate to promulgate 'rules for administrative practices ... in accordance with recognized correctional standards.' Conn. Gen. Stat. s 18-81"). There is additional extensive discussion of the Standard Minimum Rules at nn. 9, 18, and 19.

U.S. ex rel. Wolfish v. Levi, 439 F. Supp. 114, 154 (S.D.N.Y. 1977), *aff'd in part, rev'd in part sub nom. Wolfish v. Levi*, 573 F.2d 118 (2d Cir. 1978), *rev'd sub nom. Bell v. Wolfish*, 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979) ("There is wide acceptance of the U.N. Standard stating: 'An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.' U.N. Standard Minimum Rules for the Treatment of Prisoners, Rule 88(1). Whether or not the Federal Bureau can manage to attain that standard, endorsed by many nations much less wealthy, it cannot justify compelled dress in a costume understandably experienced as humiliating in addition to its qualities of physical discomfort"). *See also id*. at 159 (citing Rule 53 [limiting access of male staff to living quarters of female prisoners]).

Jones v. Wittenberg, 440 F. Supp. 60, 149 (N.D. Ohio 1977) ("Two hours of recreation per week fall far short of standards proposed by correction experts themselves. For example…the Standard Minimum Rules for the Treatment of Prisoners promulgated by the 4th United Nations Congress on Prevention of Crime and the Treatment of Offenders provide that 'every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.'" (Rule 21(1)).

State

Bott v. DeLand, 922 P.2d 732, 740 (Utah 1996), *abrogated on other grounds by Spackman ex rel. Spackman v. Bd. of Educ. of Box Elder Cty. Sch. Dist*., 16 P.3d 533 (Utah 2000). (Both the Oregon and Utah constitutions contain a prohibition against treatment of prisoners with "unnecessary rigor." "This standard was pioneered by the Oregon Supreme Court under the unnecessary rigor clause of the Oregon Constitution, article I, section 13 [in *Sterling v. Cupp,*

infra]. The court, noting that the heart of the unnecessary rigor provision was its ability to embody evolving touchstones of humanity, based this standard upon internationally accepted standards of humane treatment as articulated in the Universal Declaration of Human Rights, the International Covenant of [sic] Civil and Political Rights, and the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955"). The Utah court accepted the Oregon court's definition and applied it to the case at bar.

Crain v. Bordenkircher, 342 S.E.2d 422, 446 (W. Va. 1986) ("There is no federal or state constitutional standard that determines the precise minimum dimensions for prison cell size. There are, however, other standards established not out of constitutional considerations, but out of humanitarian and decency considerations, that recommend between fifty and eighty square feet per inmate"). The court then cites, among other sources, the Standard Minimum Rules, Rule 9(1) ("each prisoner shall occupy by night a cell or room by himself"), in n. 16.

Sterling v. Cupp, 625 P.2d 123, 131 n. 21 (Or. 1981) ("The Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955 and approved by the Economic and Social Council in 1957 (Resolution 663C (XXIV)) provide for the separation of male and female prisoners (Rule 8(a)) and for minimizing conditions which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.' (Rule 60(1).)"). The court, applying Oregon's state constitutional prohibition against "unnecessary rigor" in the treatment of prisoners, held that pat-down searches of male prisoners' sexually intimate areas by female staff are generally unconstitutional.

Avant v. Clifford, 341 A.2d 629, 637-38 (N.J. 1975) ("The United Nations Standard Minimum Rules for the Treatment of Prisoners (1974) suggests in Rule 35 that: '(1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution; (2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.'"). The case involved due process requirements in prison disciplinary proceedings.

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