

The Transfer of Offenders Act (TOA) does not explicitly require the offender's consent, but it is argued that the requirement is implicit insofar as the provisions of the Act are triggered by the offender's application for transfer.

b) No aggravation of sentence

Where the sentence is continued, adapted or converted by the receiving state, in no case shall it result in aggravation of the sentence as imposed by the foreign jurisdiction.

This principle is adhered to as a matter of policy: it is not explicitly articulated in either the TOA or treaties.

c) Equality of treatment with inmates in Canada

Once offenders are transferred to Canada, they are subject to the same custodial regime (including conditional release privileges) as offenders who were sentenced in Canada. This principle is contained in the Act.

d) Adherence to international criminal justice standards

In the conduct of its domestic correctional system and in entering into treaty relations with other states, Canada is bound by a variety of international obligations to maintain standards with respect to criminal justice matters. This includes adherence to such protocols as the UN Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and the Standard Minimum Rules for Prisoners.

e) Respect for sovereignty

In general terms, the principle of sovereignty is defined as the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation or interference. In the context at issue, it is more narrowly stated as the prohibition against the receiving state reviewing the conviction or sentence after transfer to the receiving state. In some treaties, this prohibition can extend as far as denying any exercise of clemency, in addition to prohibiting review by appellate procedures.

These principles form a coherent and complementary package for the program of the transfer of offenders between Canada and other countries.