

Human Rights Committee

Research Reports

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Forum: Human Rights Committee

Issue: Safeguarding the human rights of incarcerated individuals

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Introduction

The history of incarcerated individuals and their human rights is a broad, complex issue, reflecting larger societal attitudes towards crime, punishment, and human dignity. Ancient civilizations such as Egypt, Greece, and Rome all used prisons as holding facilities for those awaiting trial and punishment. A shift in ideology occurred during the Enlightenment, when philosophers advocated for the humane treatment of prisoners and that punishment should serve as an act of discipline instead of vengeance. This led to the eventual reformation of prison systems, emphasizing rehabilitation over harsh punishment. The 20th century further developed this new structure with the adoption of the Universal Declaration of Human Rights (UDHR). This established that all individuals, including prisoners, are entitled to fundamental rights and freedoms. However, despite these legal advancements, the recognition of prisoner rights has varied widely across many countries and continues to face significant obstacles.

Definition of Key Terms

Incarceration

The act of putting or keeping someone in prison or in a place used as a prison.

Safeguarding

Protect from harm or damage with an appropriate measure.

Overcrowding

Refers to the excessive population of prisons, leading to inadequate space and resources for inmates.

Non-Custodial Measures

Refers to alternatives to imprisonment that allow offenders to serve their sentences or undergo rehabilitation while remaining in the community.

Solitary Confinement

The practice of isolating prisoners for extended periods, which can lead to severe psychological harm.

Rehabilitation

Programs and services aimed at reforming and reintegrating prisoners into society.

Prisoner Rights

The fundamental liberties and protections granted to prisoners who are confined in prison facilities include access to adequate healthcare, nutrition, shelter, safety, and freedom from cruel, inhumane, or degrading treatment.

Excessive Sentences

Disproportionately long or life sentences without the possibility of parole, often for non-violent offenses.

Parole

The temporary or permanent release of a prisoner before the expiry of a sentence, on the promise of good behavior.

Forced Labor

Mandatory work imposed on prisoners under exploitative conditions, violating their labor rights.

Sanitation and Hygiene

Access to clean water, proper sanitation, and hygiene facilities.

Nelson Mandela Rules

An obligation, adopted by the UN, to treat all prisoners with respect for their inherent dignity and value as human beings and to prohibit torture and other forms of ill-treatment.

Major Countries and Organizations Involved

United States of America (USA)

The United States has one of the highest incarceration rates in the world, with multiple significant human rights violations like overcrowding, racial and ethnic discrimination,

inadequate mental health care, and extensive use of solitary confinement. According to the Federal Bureau of Prisons in the United States, 58.9% of inmates are white, while 38.8% are black. However, in 2022, black people were admitted at four times the rate of white people on average. On top of this, American prisons have been criticized for privatization and profit-driven motives, which can lead to cost-cutting measures that compromise inmate welfare.

China

China has a very secluded prison system with major concerns about the treatment of political prisoners and the use of arbitrary detention, forcefully changing political values, beliefs, attitudes, or types of behavior through labor camps, and reports of torture and forced labor. The lack of transparency and access for international monitors makes it difficult to assess conditions accurately, but reports suggest severe human rights abuses.

Russia

Russia's penal system is notorious for its harsh conditions, including overcrowding, inadequate medical care, and reports of torture and abuse by prison staff. The treatment of political prisoners and the use of penal colonies that operate under very strict regimes are particular areas of concern.

Israel

Israel faces international scrutiny for its treatment of Palestinian prisoners. With significant use of administrative detention specifically towards Palestinians, conditions in Israeli prisons include torture and ill-treatment, overcrowding, and the murder of Palestinian children.

Egypt

According to Human Rights Watch, "Prison authorities routinely deprive inmates of access to education, adequate health care, and visits by families and lawyers. Independent UN experts warned in 2019 that thousands of prisoners in Egypt are at risk." Egypt has widely been criticized for human rights abuses, often under harsh conditions and without fair trials, which has drawn significant international condemnation.

South Africa

Post-apartheid South Africa has made efforts to reform its prison system, but it still struggles with overcrowding, high rates of HIV/AIDS among inmates, and violence. The government is working to improve conditions, but resource constraints and high crime rates pose ongoing challenges.

United Nations

Office of the High Commissioner for Human Rights (OHCHR): This office promotes and protects the human rights of prisoners globally through advocacy, monitoring, and reporting on prison conditions and treatment of inmates.

United Nations Office on Drugs and Crime (UNODC): Works on prison reform and the implementation of the Nelson Mandela Rules, which set the minimum standards for the treatment of prisoners.

United Nations Human Rights Council (UNHRC): Conducts reviews and issues reports on the state of human rights in prisons worldwide, providing recommendations and oversight.

International Committee of the Red Cross (ICRC)

Monitors prison conditions globally, provides humanitarian assistance, and advocates for the humane treatment of prisoners, especially in conflict zones and during crises.

Amnesty International

Conducts research and campaigns globally for the rights of prisoners, documenting abuses, and pressuring governments to improve prison conditions and uphold human rights standards.

Human Rights Watch

Investigates and reports on human rights abuses in prisons around the world, advocating for reforms and holding governments accountable for violations.

World Health Organization (WHO)

Investigates and reports on human rights abuses in prisons around the world, advocating for reforms and holding governments accountable for violations.

International Centre for Prison Studies (ICPS)

Provides research and information on prison conditions and penal reform worldwide, supporting evidence-based policy-making and reforms.

American Civil Liberties Union (ACLU)

Focuses on prison reform in the United States, addressing issues such as solitary confinement, prison conditions, racial disparities, and the rights of incarcerated individuals through litigation and advocacy.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Monitors and reports on prison conditions in Council of Europe member states, advocating for compliance with human rights standards and the prevention of torture and ill-treatment.

Timeline of Events

Date	Description of Event
December 10, 1948	Universal Declaration of Human Rights (UDHR) - The UDHR is adopted by the United Nations General Assembly, establishing fundamental human rights that apply to all individuals, including those who are incarcerated. Articles 5 and 9 specifically address freedom from torture and arbitrary detention.
August 30, 1955	United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) - These rules set out the minimum standards for the treatment of prisoners, addressing issues such as accommodation, hygiene, medical services, discipline, and the prohibition of torture and other forms of ill-treatment.
December 10, 1984	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - Adopted by the UN General Assembly, CAT provides a comprehensive framework to prevent and combat torture and ill-treatment in all settings, including prisons.
November 26, 1987	Establishment of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) - The CPT is established under the Council of Europe to

	monitor prison conditions and treatment of detainees in member states, ensuring compliance with human rights standards.
December 14, 1990	United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) - These rules provide specific guidelines for the treatment of juveniles in detention, emphasizing the need for rehabilitation and reintegration into society.
July 1, 2002	International Criminal Court (ICC) - The ICC is established to prosecute individuals for genocide, crimes against humanity, and war crimes. It includes provisions to protect the rights of detainees and ensure fair treatment in detention facilities under its jurisdiction.
December 17, 2015	Revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) - The original 1955 rules are revised to address modern challenges in prison management and human rights, strengthening protections against torture, ill-treatment, and ensuring better access to healthcare and legal assistance.
July 18, 2019	Mandela Rules Implementation - The UN marks the progress in the implementation of the Mandela Rules, assessing their impact on prison reforms globally and encouraging further efforts to improve conditions and respect for the rights of incarcerated individuals.
2020 - 2023	COVID-19 Pandemic and Prison Conditions - The pandemic highlights the vulnerability of prison populations to infectious diseases, leading to increased advocacy for better healthcare, early release of non-violent offenders, and improved hygiene and social distancing measures in prisons.

Relevant UN Treaties and Events

Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on December 10, 1948. It is a milestone document in the history of human rights that is still referenced to this day, setting out for the first time fundamental human rights to be universally protected. The UDHR applies to all individuals, including prisoners, and includes several articles relevant to the rights of incarcerated individuals:

- Article 1: States that all human beings are born free and equal in dignity and rights.

- Article 3: Asserts the right to life, liberty, and security of person.
- Article 5: Prohibits torture and cruel, inhuman, or degrading treatment or punishment.
- Article 9: No one shall be subjected to arbitrary arrest, detention, or exile.
- Article 10: Entitles everyone to a fair and public hearing by an independent and impartial tribunal in the determination of their rights and obligations and of any criminal charge against them.
- Article 11: Presumes that every individual charged with a penal offense has the right to be presumed innocent until proven guilty according to law in a public trial with all the necessary guarantees for their defense.

International Covenant of Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the United Nations General Assembly on December 16, 1966, and entered into force on March 23, 1976. The ICCPR provides specific protections for the rights of prisoners, ensuring that they are treated humanely and fairly:

- Article 7: Prohibits torture or cruel, inhuman, or degrading treatment or punishment.
- Article 9: Guarantees the right to liberty and security of person, prohibiting arbitrary arrest or detention and ensuring the right to be informed promptly of the charges against them and to a prompt judicial review.
- Article 10: Emphasizes that all persons deprived of their liberty shall be treated with humanity and respect for their inherent dignity. It contains clauses concerning to the segregation of juvenile offenders and their treatment, appropriate to their age and legal status.
- Article 14: Ensures the right to a fair trial, including the presumption of innocence until proven guilty, the right to be tried without undue delay, and the right to legal counsel.

The ICCPR is a binding treaty, meaning that countries that have ratified it are legally obligated to uphold it.

Convention Against Torture (CAT)

The Convention Against Torture (CAT) was adopted by the United Nations General Assembly on December 10, 1984, and entered into force on June 26, 1987. The CAT strengthens the global legal framework against torture and inhumane treatment, directly impacting the treatment of prisoners:

- Article 1: Defines torture and clarifies that it includes any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted for purposes such as obtaining information, punishment, or intimidation.
- Article 2: Obligates state parties to take effective measures to prevent acts of torture in any territory under their jurisdiction.
- Article 3: Prohibits the expulsion or return of a person to another state where there are substantial grounds for believing they would be in danger of being subjected to torture.
- Article 16: Extends the prohibition of cruel, inhuman, or degrading treatment or punishment to all persons, including those who are incarcerated.

Previous Attempts to Solve the Issue

Geneva Convention (12 August, 1949)

The Third Geneva Convention sets out international humanitarian law concerning the treatment of prisoners of war during armed conflict. It mandates that prisoners of war must be treated humanely and prohibits torture, cruel treatment, and outrages upon personal dignity. The Convention also establishes minimum standards for their treatment, including provisions on accommodation, food, clothing, and medical care. It remains a cornerstone of international law governing the protection of prisoners during wartime, ensuring their rights and dignity are respected even in the midst of conflict, and its standards have expanded into other forms of legislation and charters to reflect the treatment of all incarcerated individuals.

United Nations General Assembly Resolution 45/111 (28 March, 1991)

"Basic Principles for the Treatment of Prisoners" Adopted on December 14, 1990, this resolution establishes fundamental principles to ensure that prisoners are treated with respect for their inherent dignity and value as human beings

United Nations Human Rights Committee Resolution 40/20 (22 March, 2019)

Calls for states to uphold the rights of detainees, including the right to humane treatment, access to healthcare, and protection from torture and abuse. The resolution stresses the importance of implementing international standards, such as the Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), and calls for increased transparency, accountability, and oversight in prisons. It also encourages cooperation with civil society and international organizations to ensure the effective implementation of these principles.

Possible Solutions

Oversight and Monitoring

This solution would include regular inspections and independent inspections of prisons by national human rights institutions, independent inspectors, and civil society organizations to ensure compliance with human rights standards. It would also require prisons to publish annual reports on conditions of detention, treatment, and progress in implementing human rights standards.

Healthcare and Rehabilitation

This would ensure prisoners have access to adequate healthcare services, including mental health care, substance abuse treatment, and HIV/AIDS prevention and treatment. Prisons would also need to provide education, vocational training, and rehabilitation programs to prepare prisoners for reintegration into society.

Prevention of Torture and Abuse

Human rights institutions would send representatives to provide training for prison staff on human rights standards, including the prohibition of torture, cruel, inhuman, or degrading treatment or punishment. Member states would also need to implement zero-tolerance

policies for torture and abuse, with clear disciplinary measures and accountability mechanisms for perpetrators.

Promotion of Non-Custodial Measures

This would promote the use of non-custodial measures, such as community service, probation, and restorative justice, particularly for non-violent offenders and vulnerable groups. Approximately 31% of prisoners worldwide are estimated to be incarcerated for non-violent crimes (World Prison Brief). This would reduce major overcrowding, and healthcare/hygiene issues significantly.

Capacity Building

Member states would provide technical assistance and capacity-building support to each other to strengthen their prison systems and enhance compliance with human rights standards.

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