

UNHRC Topic 2: Human Rights of Prisoners

The Universal Declaration of Human Rights states that “all human beings are born free and equal in dignity and rights” and therefore are “entitled to all... rights and freedoms”¹. Yet prisoners worldwide are too often denied these basic rights. Penal institutions around the world contain an estimated total of 11 million people who are both pre-trial detainees or convicted criminals². From sentencing through their time in jail, prisoners can undergo treatment which violates their fundamental human rights, rights further guaranteed to all individuals in the International Covenant on Civil and Political Rights³ and United Nations Basic Principles for the Treatment of Prisoners⁴.

Violations of an individual’s human rights in the context of penal institutions begin from sentencing. Though the UN Standard Minimum Rules for the Treatment of Prisoners states that there should be no unjust sentencing which discriminates “on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,”⁵ the opposite reality is often true. Overdrawn legal processes and limited access to fair trial proceedings fall under this category of unjust sentencing. Beyond itself being a potential violation of human rights, unjust sentencing also contributes to the overcrowding of prisons worldwide, further facilitating human rights violations for prisoners impacted by these crowded conditions.

Overcrowding of prisons is the basis of almost every other human rights concern regarding prisoners. Over 115 countries violate the UN Standard Minimum Rules for the Treatment of Prisoners by exceeding their prisons’ capacities⁶. Overcrowding leads to the deterioration of prisoner’s physical and mental health and is often at the core of the disrespect and violence in penal facilities. When prison overcrowding is combined with lack of proper medical care, including inadequate medical supplies and health personnel, disease spreads at exponential rates that tower in comparison to those of the general adult population. Disease transmission is further promoted by lack of sterility within the prisons in the context of tattooing, sex and drug use. Rape is also not uncommon in many prisons, contributing to the spread of sexually transmitted diseases as well. Specifically, the spread of HIV/AIDS is between 6 to 50 times more common amongst prisoners than within free populations and is even higher for female prisoners. Exacerbating the seriousness of the issue is that such individuals rarely have access to HIV

¹ <http://www.un.org/en/universal-declaration-human-rights/>

² http://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_11th_edition_0.pdf

³ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁴ <https://www.ohchr.org/en/professionalinterest/pages/basicprinciplestreatmentofprisoners.aspx>

⁵ <https://www.ohchr.org/en/professionalinterest/pages/treatmentofprisoners.aspx>

⁶ http://www.prisonstudies.org/sites/default/files/resources/downloads/handbook_2nd_ed_eng_8.pdf

treatment⁷. Though the United Nations Principles of Medical Ethics states that the same quality healthcare received by the general population be provided to prisoners⁸, that is often not the case in many countries and their prisons.

Mental health is also a major concern in penal facilities. While some prisoners have pre-existing mental disorders, many prisoners develop mental illness or suffer worsened conditions in prison due not only to overcrowding, but to other regular factors commonplace even in less crowded prisons such as a depressing environment, lack of food and purposeful activities, and drug use and addiction. According to the World Health Organization, half of prisoners struggle with personality disorders and more than one million suffer from serious mental disorders⁹.

Further human rights concerns regarding prisoners include torture, religious freedom violations and inappropriate use of force. Though torture is illegal according to the United Nations Convention Against Torture,¹⁰ it is still prevalent through methods like waterboarding and solitary confinement in many prisons worldwide. Religious freedoms are often violated when prisoners do not have proper access to religious books or certain foods. Inappropriate use of force by prison guards, corruption in the prison system, violence amongst prisoners without effective oversight, poor living conditions, and disenfranchisement all contribute to the current violations of the human rights of prisoners worldwide.

As the Human Rights Committee, we have the responsibility of ensuring the protection of every individual's human rights from an international position. This is not and has not been simple with regards to prisoners. Their past crimes often serve as a reason against prioritizing handling this issue, and in some cases even against providing them with basic human rights altogether. The state of prisoners is further complicated in poorer countries that lack the resources necessary to fully address vital prison reforms, including properly functioning facilities. The concern of human rights violations against prisoners is broad and complex, as it includes unjust sentencing, overcrowded prisons, physical and mental health of prisoners, torture, religious freedom, force, corruption, violence, poor living conditions, and disenfranchisement. We will strive to address all of these elements in our coming sessions. With all of these aforementioned concerns in mind, please focus most of your research and discussion on the following.

First, address the human rights concerns regarding the sentencing of prisoners. Should there be requirements or changes in aspects of the sentencing process, such as discriminatory sentencing, lengthy legal procedures and access to fair trials? Should we ensure the protection of human rights during such a process? If so, how should we do so from an international standpoint?

⁷ http://www.euro.who.int/__data/assets/pdf_file/0009/99018/E90174.pdf?ua=1

⁸ <http://www.un.org/documents/ga/res/37/a37r194.htm>

⁹ Ibid.

¹⁰ <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

Next, examine the overcrowding of prisons. Should attempts to resolve this issue involve placing fewer people in jail or keeping fewer people there at once? Should more penal facilities be made, and if so, with what funds? Should there be more of a focus on rehabilitative justice in order to reduce recidivism, the re-committing of crimes by freed prisoners? If yes, what would these more novel types of sentences look like, and how could we regulate their development and implementation from the UNHRC?

Lastly, assess the physical and mental health of prisoners, and if in line with your country's position, determine the best way to ensure prisoners' physical and mental wellbeing. Does the solution rest in improved staff training, or in facilitating resources and supplies that would allow greater access to healthcare?

When discussing this topic, please consider what the role of the Human Rights Committee should be in upholding human rights in prison. Does such an enforcement infringe on state sovereignty? How can we respect state sovereignty while implementing effective and efficient resolutions? Also, consider whether solutions and recommendations should differ for less developed countries which have less developed prisons, and which may generally not have the same financial, educational and infrastructural resources as wealthier countries. To properly address this topic, we will need to consistently keep in mind what is realistic for all countries represented and unrepresented at this debate. A sustainable and effective plan will need to be realistic to implement and enforce as a committee.

As always, when doing your research, be mindful of the powers and limitations of the Human Rights Council. Represent your country's views in a way that is honest and respectful in order to allow for a serious and nuanced conversation. For more information, begin by pursuing the articles cited in this topic paper. If you have any questions or could use some guidance, feel free to contact me at smarder3@mail.yu.edu. I look forward to a respectful and riveting debate.

Best of luck,
Shoshana Marder
Chair, UNHRC
YUNMUN XXIX