
Forum: HRC

Issue: The issue of Prisoner treatment and rights

Student Officer: Sanad Khalaileh

Position: Head Chair

Introduction

The process of lawfully punishing criminals as consequence for their committed illegal activity is undisputedly an essential component of the criminal justice system, which compensates any potential harm inflicted towards civilization and its victims. The most common form of punishment directed towards criminals is 'imprisonment', which leads to prison sentence and a restriction of the criminal's liberties. Felony disenfranchisement and forced labor is a form of restricting criminal liberties because it does not allow for human rights such as the 'Right to Vote' and 'Freedom from Forced Labour'. It must be noted, however, that the prisoner still has human rights needed to survive which must be respected at all times during prison sentence. All these rights and privileges have been protected by the United Nations, who have recognized, on numerous occasions, the rights which prisoners are entitled to.

Despite the United Nation's persistent efforts, this issue is still extremely prevalent in modern-day society, with countless of prisoners subjected to poor humanitarian treatment and human right violations, such as extreme prisoner torture (known as 'enhanced interrogation techniques' in the United States). Such cruel punishment goes against internationally ratified UN resolutions such as the 'Mandela Rules'. The Mandela Rules are the UN's latest step in attempting to solve this issue. These rules have clarified a long list of rights which a prisoner is entitled to have, and which prisons are expected to follow (regardless of punishment methods). The Mandela Rules are an attempt made by the UN to protect these rights for example, item 15 of the Mandela rules states that all prison cells should be required to keep themselves clean and shall be provided with water and toilet articles (necessary for health and hygiene). Additionally, according to the Mandela rules, provided clothing shall in no manner be degrading or humiliating.

This has dramatically affected the overall wellbeing of prisoners; for example, according to a survey conducted by the US National Library of Medicine, a remarkable 42.8 percent of inmates in American federal prisons suffer from some form of a chronic mental disorder. On the contrary, according to the US Mental Illness Association, a comparatively miniscule 22.1 percent of Americans reported suffering from chronic mental disorder. Additionally, according to the bureau of Justice Statistics, three-fourths of newly released prisoners are re-arrested within five years. This can be attributed to the consequences of possessing a criminal record, which greatly limits the assistance of ex-prisoners integrate into human society. In most U.S states, it is even legal to deny job opportunities to labor workers who had previously been arrested but had not been convicted of any crime. Such figures highlight that treatment discrepancy between prisoners and regular civilians exist even after prison sentence has elapsed, urging that desperate solutions are to be made for the improvement of the issue of Prisoner treatment and rights.

Definition of Key Terms

Prisoner

A Prisoner is an individual who is penalized to serve prison, typically, as consequence for illegal activity.

Enhanced interrogation techniques

Enhanced interrogation techniques are an expression for the U.S government's infliction in serious torture to detainee's by major criminal agencies such as the Central Intelligence agency (CIA). Methods of torture include prescribed sleep deprivation to the point of hallucination. Often, the well-being of criminals is disregarded during the infliction of such punishments.

Human Rights

Human rights are a set of fundamental human privileges to which all humans are entitled to possessing. An outline has been put forward by the Universal Declaration of Human Rights which mentions the human rights entitled to all. Albeit, there are abstentions from 8 countries to these human rights. This term relates to the issue as the well-documented torture endured by prisoner's contradict any form of human right. For example, item 17 of the Mandela Rules protects the human right of 'right to adequate clothing', (recognized under article 25 of the

Universal Declaration of Human Rights) which states that although prisoners may be punished by being forbidden to wear preferred clothing, clothing must be provided by staff which is suitable for climate and of adequate quality to keep the prisoner in good health.

Mandela Rules

The Mandela Rules are a newly established and revised constituents of Standard Minimum Rules for the Treatment of Prisoners, comprising of 122 items which provide rules, regulations and key principles on the bare minimum treatment of prisoners, taking measures to resolve the issue of prisoner treatment and rights.

Background Information

Causes of Poor Prison Treatment

The main cause for the poor prisoner treatment is due to a lack of resources and/or unprofessional and abusive staff members. A lack of resources means that basic facilities such as food, water, clothing and sanitation are unprovided to the prisoner which could harm and put the overall wellbeing of prisoners in serious danger. In addition, unqualified or unprofessional staff often leads to the mismanagement of prisoners which may lead to a poor prisoner treatment. A good example of this is in North Korea, whereby due to intense labour punishment and inhumane food portions, 40% of all prisoners die from malnutrition. The healthcare resources within these prisons are also some of the worst in the world, and prisoners often survive in unsanitary environments, leading to the death of many prisoners due to unfortunately curable illnesses such as infections, tuberculosis, etc. The North Korean Government have stopped reporting prison casualties in 2014, due to their criminal procedure law, however it is estimated that 50% of prisoners die due to some form of illness.

Mental Health of Prisoners

The lack of mental health of prisoners has garnered attention and increased awareness in the media. Due to this, steps have been made by the UN to protect the mental wellbeing of prisoners. Particularly, the 34th Human Rights Council which urges the need to promulgate laws which ensure that services for those prisoners with mental health issues are accessible. Numerous scientific studies report a discrepancy between the mental health of

prisoners and regular citizens. An Australian study found that 80% of all prisoners suffer from psychiatric morbidity. This has been attributed to inadequate rehabilitation programs and inadequate prison treatment within prisons, which eventually leads to solitary confinement, which does little to treat their medical illnesses.

Treatment of the mentally disabled, juveniles and women

Social Context of Juveniles and Women Prisoners

Despite posing the least threat on society and generally being first time offenders, juveniles and women who are convicted of crime are the most vulnerable to having prisoner rights violated. This is due to the exploitation of authority and power by prison staff members onto these groups of people. It has been documented extensively that punishing these groups of people have only served to dramatically increase crime rates (from this group) because inappropriate recovery methods are being designated to such people (particularly for women, as will be explained in more detail).

Child Abuse in Prisons

Thousands of children are separated from their families, locked up in youth prisons, and even locked up in adult jails where the children may potentially face solitary confinement for a period of up to 22-24 hours. Such abusive practices can be detrimental to the cognitive development of a child as he/she makes a transition to adulthood. The Juvenile Law Centre have conducted research which supports the fact that children being locked up (especially in harsh conditions) causes more harm than good to the child and that children are better off staying with their communities and family. As a result, the Juvenile Justice system have encouraged governments to legislatively reform conditions for youth prisoners, prioritizing education as a form of making children better people.

Women in Prisons

Some of the most neglected women in our society are those imprisoned. Since the last decade, women's incarceration for crime has tripled due to an increase in drug-related convictions, but the criminal justice system has not noticeably redesigned their policies to meet women's needs, as most prison treatment projects focus predominantly on men. An American

study found that an average of 60% of crime convicted by women where drug abuse charges. The same study found that because little reforms are being made which benefit women suffering from drug abuse, they have a high tendency to commit parole violations. The study also found that women are more responsive to prison programs but have less opportunities to participate in them than males because female prisoners are poor (only 37% of female prisoners in the United States have jobs). This clearly indicates that prison programs should be implemented more extensively for women to be better people.

The United States are heavily involved in the issue of prisoner treatment and rights. Particularly for violating international law by using enhanced interrogation techniques to torture prisoners. At least 100 people have died from enhanced interrogation techniques. The CIA have publicly disclosed that individuals responsible for the September 2001 attacks were punished by waterboarding (interrogation technique in which the respiratory system is braced through cloth, and large quantities of water is poured over the face). In 2005, CIA destroyed graphic video evidence which had supported that enhanced interrogation had violated the ratified UN convention against torture.

Major Countries and Organizations Involved

Office of the United Nations High Commissioner for Human Rights

The Office of the United Nations High Commissioner for Human Rights is one of the six major organs of the United Nations established in 1993. The Office of the United Nations High Commissioner for Human Rights have adopted and proclaimed General Assembly resolution 45/111 which clarifies that all prisoners should be given respect due to their value as human beings. Their mission is to practically promote universal enjoyment of all human rights. The Office of the United Nations High Commissioner for Human Rights aims to achieve this goal by working with various levels of international government to protect human rights. Aside from the UN Nations financial contribution, voluntary contributions are made for the goal to be reached.

Council of Europe

The Council of Europe is an international organization which aims to uphold human rights within Europe. In 2018, the Council of Europe established a project called 'Enhancing the Protection of

Human Rights of Prisoners. Aiming to specifically assist local authorities in overcoming treatment deficiencies related to prisoners in Kosovo. This project is funded by the European Union and has 3 main outcomes: enhance professionalism within prison staff, ensuring better protection of rights for prisoners through criminal justice reforms, and improving overall provision of healthcare. Despite criminal justice and reform aiming to fix errors within the American criminal justice system,

Human Rights Watch

The Human Rights Watch is an international non-government organization which conducts frequent research on global human rights. The Human Rights Watch have established a project called the 'Human Rights Watch Prison Project' which aims to end the abusive treatment on prisoners by attempting to resolve this issue, by pressurizing governments to enforce prison treatment in compliance with international law and basic human rights standards. The Human Rights Watch aim to achieve this through conducting specialized prison research, participating in campaigns for the rights of prisoners, and involved other non-profit organizations.

United States

The United States are heavily involved in the issue of prisoner treatment and rights. Particularly for violating international law by using enhanced interrogation techniques to torture prisoners. At least 100 people have died from enhanced interrogation techniques. The CIA have publicly disclosed that individuals responsible for the September 2001 attacks were punished by waterboarding (interrogation technique in which the respiratory system is braced through cloth, and large quantities of water is poured over the face). In 2005, CIA destroyed graphic video evidence which had supported that enhanced interrogation had violated the ratified UN convention against torture.

China

According to a document released by the Embassy of the Peoples Republic of China in the Republic of Lithuania, China's murder rate was at one point the world's lowest average at 2 per 100 thousand yearly in 1993 and decreased to 0.6 per 100 thousand according to UNODC in 2018. This low rate of crime is partly due to the Chinese criminal reform placing a high priority in ensuring that convicted criminals do not re-commit crime through the appropriate treatment of prisoners, which ensures that convicted criminals are treated well and educated to abide by the law. Thus, China also has among the world's lowest rate of recidivism at 6-8%. Additionally, Chinese law legalizes fines

which can be directed to prison staff members in the case of poor treatment. Nevertheless, it must be noted that China have committed the world's most executions according to Amnesty International as of 2016.

Timeline of Events

Date	Description of Event
30 August 1955	First United Nations congress on crime prevention and criminal justice set principles regarding minimum prisoner treatment
1984	The United Nations General Assembly adopted the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
1987	The council of Europe developed a set of European Prison rules
9 December 1988	The 76 th General Assembly plenary meeting on the Protection of All Persons under Any Form of Detention or Imprisonment sets a body of principles in favour of detained and imprisoned individuals
21 July 1997	The 36 th Economic and Social planetary meeting proposes guidelines regarding prisoner conditions, particularly to combat prisoner overcrowding
20 December 2012	The United Nations adopt Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems
17 December 2015	The Mandela rules are made. Which contain a series of alterations from the 30 August 1955 principles regarding minimum prisoner treatment.

Previous Attempts to Solve the Issue

Setting Minimum Prisoner Treatment Principles

The Mandela Rules are an internationally ratified and newly established constituents of Standard Minimum Rules for the Treatment of Prisoners, comprising of 122 items which provide rules,

regulations and key principles on the bare minimum treatment of prisoners. These rules should theoretically not objectify prisoners within prison sites, however, as mentioned previously, it is doubtful that a single country have attained these minimum standards, because merely stating a list of principles to be followed is not a feasible solution to the issue. Particularly certain war-torn nations with a lack of adequate education may suffer by providing minimum rights to prisoners, because the prisoners may not attain the proper education within prison to learn their true lessons. Consequently, resulting in recidivism. Additionally, another flaw to this potential solution is that it is primarily focused on protecting those convicted, however, those who are unconvinced of crime are not protected by the Mandela rules, however, the issue of the treatment of unconvinced people is also part of this issue.

Open Prison

During the 1960s, Nordic countries started investigating if prison punishment helped reduce crime, but found no evidence to suggest so. Finland, which during that same time period had one of the highest rates of imprisonment within Europe, decided to remodel it's penal policy by introducing open prisons which aim to reintroduce prisoners into life, with little supervision. Three decades later, Finland had one of the lowest rates of imprisonment within Europe. Finland's criminal sanctions agency said that inmates who go through open prisons are 20 percent less likely to be arrested again. Open Prisons also cost almost a third less than traditional prisons, because the need for personnel and security systems are lowered.

Possible Solutions

Possible solutions to this issue may vary from the economic strength of countries. However, a possible solution to the issue of prisoner treatment and rights is to grant the prisoner with some authoritative control over their prison guardians. Possible protocols should be included within criminal justice systems which ensure that if a prisoner with concrete evidence, is not granted the internationally ratified Mandela Rules, prison sentences should be held for staff members. This will ensure that prison rights are respected, and the staff do not take advantage of their authority. Additionally, to prevent prisoners from being alienated within society, another solution with the aim of helping prisoners change their ways is to hire special staff members, such as therapists and teachers who are tasked specifically to reintegrate criminals into society and compose monthly reports assessing the wellbeing of the prisoners. Only in the case that permission has been granted by these staff members, are the prisoners allowed to re-integrate into society.

Additionally, another possible way of solving this issue is to find solutions relating to prison overcrowding. This is because an increase in prisoner capacity within prison cells, increases the overall cost and demand of staff members (such as education service employees) for the re-integration of prisoners into society. When the increased staff and cost demand isn't met within communities, the prisoners may suffer as a result, because a lack of prisoners who do not receive proper treatment care and rehabilitation tactics are more likely to commit future crimes. A possible solution is to take measures in reforming the criminal justice system by limiting the number of prisoners in prison to those who may benefit and to those who truly deserve that kind of punishment. For example, instead of imprisoning those who have been charged with drug abuse and mental disability into traditional prisons, (whereby punishing these convicts could create more mental trauma to the prisoners) it would be more beneficial to such individuals if they were placed into institutions in which the primary focus is to restore the individual's mental capacity.

Bibliography

Embassy of the People's Republic in China in the Republic of Lithuania. "Criminal Reform in China." *Criminal Reform in China*, www.chinaembassy.lt/eng/zt/zfbps/t125237.htm.

HUMAN RIGHTS WATCH PRISON. "ENDING THE ABUSIVE TREATMENT OF PRISONERS." *Human Rights Watch*, 24 Sept. 1999, www.hrw.org/legacy/advocacy/prisons/.

Lam, Katherine. "North Korean Prison Camps Stopped Reporting Deaths under Kim Jong Un, Ex-Prisoner Claims." *Fox News*, FOX News Network, 20 Nov. 2017, www.foxnews.com/world/north-korean-prison-camps-stopped-reporting-deaths-under-kim-jong-un-ex-prisoner-claims.

LII Staff. "Prisoners' Rights." *LII / Legal Information Institute*, Legal Information Institute, 20 June 2017, www.law.cornell.edu/wex/prisoners%27_rights.

Office of the United Nations High Commissioner for Human Rights. "HUMAN RIGHTS AND PRISONS." *Office of the United Nations High Commissioner for Human Rights*, 2005,

<https://www.ohchr.org/Documents/Publications/%20training11Add3en.pdf.%20Accessed%204%20Mar.%202019>.

PRI. "In Finland's 'Open Prisons,' Inmates Have the Keys." *Public Radio International*, PRI, 15 Apr. 2015, www.pri.org/stories/2015-04-15/finlands-open-prisons-inmates-have-keys.

UNESCO, "Protecting the Human Rights of Prisoners." 20 Dec. 2018 <http://en.unesco.org/courier/2018-4/protecting-human-rights-prisoners>.

United Nations Human Rights Office of the High Commissions. "Improving Prison Conditions and Prisoners' Treatment." *Gender Equality and Human Rights | OHCHR*, 26 Jan. 2015, <http://cambodia.ohchr.org/en/prison-reform/improving-prison-conditions-and-prisoners-treatment>.

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) . *A/RES/61/295 - F*, 17 Dec. 2015, <https://undocs.org/A/RES/70/175>.

Appendix or Appendices

- i. <https://www.apa.org/pi/ses/resources/indicator/2018/03/prisons-to-communities>
(From prisons to communities: Confronting re-entry challenges and social inequality)

This website provided insight on the struggle that ex-criminals face once being released from prison.

- ii. <https://www.hrw.org/legacy/advocacy/prisons/> (Human Rights Watch Projects)

This website gave information on the 'Human Rights Watch Project'

- iii. <http://theconversation.com/whats-hidden-behind-the-walls-of-americas-prisons-77282> (What's behind the Walls of American Prisons)

This website provided a previous attempted solution.