



Research Report

Cals Model United Nations 2017

“Creating pathways to new opportunities”



Forum: Human Rights Council

Issue: Protecting the compliance of human right laws in penitentiaries

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Introduction

The issue of the compliance of human right laws in penitentiaries is an issue that has been on the background for a long time, as not much about the issue has changed in a long time. This research report serves to introduce you to the details of this issue and to inform you why we must address this issue.

Penitentiaries often are very frail to human rights abuses, be it done by the people in charge of the penitentiary or by the inmates. People in charge of the penitentiary can often commit such crimes because often corruption in the infrastructure of the state or the penitentiary itself.

This could result in unnecessary deaths, unlawful violence and permanent damage to the victims, with the offenders often not charged for their crimes.

Definition of Key Terms

Penitentiary:

A place for imprisonment, reformatory discipline, or punishment. This can be a prison or jail, maintained by a national government, regional government or private company.

Human Rights:

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.¹

¹ <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

Torture:

Any act which severe physical or mental pain or suffering is intentionally inflicted on a person. This does not include inherent or incidental pain or suffering that come with lawful sanctions.²

Non-custodial measures:

Any decision made by a competent authority to submit a person suspected of, accused of or sentenced for an offence to certain conditions and obligations that do not include imprisonment.³

General Overview

Penitentiary institutions are often at risk for human right violations. Not only in LEDCs, but also in many MEDCs prison life is tough and riddled with many human rights violations. Countries such as the United States of America, Belgium, Honduras, Guatemala, El Salvador, Cameroon, Thailand are a couple of the many countries whose penitentiary institutions are a violation of human rights.

There are two ways of being imprisoned: false imprisonment and legal imprisonment. With illegal imprisonment a person is put to jail or alternative punishment of while they have not committed any crime, or if the punishment is extremely disproportionate.

With legal imprisonment there is a fair trial with a proportionate punishment. Ideally there are no people illegally imprisoned with this kind of imprisonment. However, even with fair trials there is still this risk.

The false imprisonment is a violation against human rights, specifically the right against of freedom of movement.

Secondly, once people are detained, they have certain human rights. These rights for prisoners are described in a handbook created by the Office of the United Nations Commissioner for Human Rights (OHCHR). The OHCHR described international human rights standards for prison officials. Following will be a list of the main rights described in this document. If any delegates feel the need for further exploration of the rights of prisoners, the handbook will be in the further reading section of this research report.

Right to Physical and Moral Integrity

- All persons without liberty will be treated with humanity and respect for inherent dignity of a human person, at all times.

² <https://www.law.cornell.edu/cfr/text/22/95.1>

³ <http://jabashadrack.blogspot.nl/2014/05/non-custodial-measures-tanzanian-context.html>

- No torture or cruel, inhuman or degrading treatment or punishment. Statements derived from torture are not valid. Widespread and systematic torture is a crime against humanity.
- No scientific or medical experimentation if detrimental to health.
- Law enforcement can only use force if necessary, and torture or excessive use of force cannot be justified by orders from a superior. Deaths in custody and disappearances shall be properly investigated.

Right to Adequate Standard of Living

- All persons deprived of their liberty shall have the right to adequate standards of food, drinking water, accommodation, clothing and bedding.

Health Rights of Prisoners

- Enjoyment of the highest attainable standard of physical mental health is a human right.

Making Prisons Safe Places

- Use of force to prevent escape should only be applied when less extreme means is insufficient to prevent the escape. Restraints may be used to prevent escape, but no longer than necessary.
- All cruel, inhumane or degrading punishments are completely prohibited, including corporal punishment, placing in a dark cell, close confinement or reduction of diet.

Making the Best Use of Prisons

- The main aim of prisons should be to encourage personal information and social rehabilitation.

Prisoners' Contact with the Outside World

- No one shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence.
- All prisoners shall have the right to communicate with the outside world, especially family and diplomatic representatives.⁴

Special Categories of Prisoners

- Non-discrimination
- Sexism
- Juveniles in detention

⁴ <http://www.ohchr.org/Documents/Publications/training11Add3en.pdf>

- Prisoners under sentence of death
 - o If countries have not abolished the death penalty, it shall only be for the very worst crimes
 - o It shall not be given to people below eighteen, pregnant women, new mothers or persons who have become insane
- Life and long-term prisoners
 - o The aim should be reformation and social rehabilitation
- Persons under Detention without Sentence
 - o Innocent until guilty
- Non-custodial measures
 - o Encouraged to use⁵

Now that the rights of the prisoners are known, it is time to see if they are breached.

A prime example of human rights violations in prisons is Guantanamo Bay. A prison with prisoners from the United States, often in detention without sentence for years, on Cuban ground. An estimated 116 inmates are still detained in Guantánamo Bay. These inmates have been subjected to “interrogation tactics” such as stress positions, sensory deprivation, prolonged isolation, extremely long interrogations, isolation by means of hooding, stripping, forcible shaving, sleep deprivation, and individual phobias to induce stress.⁶ However, the human right violations are not limited to Guantánamo only. Prisons in Florida, Texas and many other states have been accused of inhumane treatment of prisoners.^{7,8}

The breach of international human rights is not limited to the United States either, although it is a very prominent example. Even countries known for their tolerance and appreciation of rights of prisoners can cross the lines. Countries like Norway and the Netherlands have been known to commit human rights violations respective to penitentiary institutions.^{9,10} Australia has been criticized for its detainment of asylum seekers, and many prisons in Africa have a range of problems such as including pre-trial detention, overcrowding, resources and governance, women and children in prison, and rehabilitation.¹¹

In conclusion: there are many international laws and integrations that countries can base their treatment of prisoners on. The problem here is the enforcement of said international

⁵ <http://www.ohchr.org/Documents/Publications/training11Add3en.pdf>

⁶ <http://www.amnestyusa.org/our-work/issues/security-and-human-rights/guantanamo>

⁷ <https://www.theguardian.com/world/2014/apr/23/teas-prisons-international-human-rights-standard-violations>

⁸ <https://www.afsc.org/document/torture-us-prisons>

⁹ <http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154442.htm>

¹⁰ <https://www.theguardian.com/world/2016/apr/20/anders-behring-breviviks-human-rights-violated-in-prison-norway-court-rules>

¹¹ http://socialsciences.scielo.org/scielo.php?script=sci_arttext&pid=S1806-64452008000100002

law. What the Human Rights Council needs to ensure that all member states not only agree to these rules, but also enforce them.

Major Parties Involved

OHCHR:

The Office of the United Nations High Commissioner for Human Rights (OHCHR) represents the world's commitment to universal ideals of human dignity. As the principal United Nations office mandated to promote and protect human rights for all, OHCHR leads global human rights efforts speaks out objectively in the face of human rights violations worldwide. We provide a forum for identifying, highlighting and developing responses to today's human rights challenges, and act as the principal focal point of human rights research, education, public information, and advocacy activities in the United Nations system.

Amnesty International:

Amnesty International is a non-governmental organisation (NGO) that focusses on the protection of Human Rights. The stated objective of the organisation is "to conduct research and generate action to prevent and end grave abuses of human rights, and to demand justice for those whose rights have been violated. In the field of international human rights organisations, Amnesty has the second longest history, after the International Federation for Human Rights and broadest name recognition, and is believed by many to set standards for the movement as a whole.



Timeline of Events

1996, Venezuela - Human Rights Watch reports on prisoners, bruised and bleeding.¹²

2002, United States of America - The Guantanamo Bay detention camp is established by the Bush administration.

2003 - Soldiers from the United States Army torture prisoners in Al Ghraib, Iraq.

2016, Norway - A Norwegian court rules that Norway has violated the human rights of the right-wing extremist Anders Breivik.¹³

¹² <https://www.hrw.org/legacy/advocacy/prisons/venez-sm.htm>

¹³ <https://www.theguardian.com/world/2016/apr/20/anders-behring-breiviks-human-rights-violated-in-prison-norway-court-rules>

Previous attempts to solve the issue

Closing Guantanamo Bay:

Since taking office in 2008, the Obama administration has taken countless attempts to close the Guantanamo Bay detention camp. Sadly, as of November 2016 this hasn't happened, mainly because of the fact that the Republican party has a majority in the American congress and the senate.

The issue with the ratification of many treaties on the issue:

There have been many treaties on this issue, with many ways to actively solve this issue in them. However, these treaties haven't been taken in to action because many states are reluctant to ratifying them.

Possible Solutions

Closing Guantanamo Bay:

A big step in the solving of this issue could be closing Guantanamo Bay, as it is one of the most infamous icons of often false imprisonment. Actually realizing this will be hard, as the USA is very reluctant to do so.

Ratifying treaties on the issue:

As previously mentioned, there have been many treaties on this issue, that are rendered useless because many nations aren't willing to ratify them. If these treaties were to be ratified, more attempts could be made to solve the issue.

Useful Documents

Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prison Officials

<http://www.ohchr.org/Documents/Publications/training11Add3en.pdf>

For an example of human right violations in prison, look into the Al Ghraib prison

https://en.wikipedia.org/wiki/Abu_Ghraib_torture_and_prisoner_abuse