

Human Rights Council

Establishing common standards for the treatment of prisoners, especially political prisoners



Forum	Human Rights Council
Issue:	Establishing common standards for the treatment of prisoners, especially political prisoners
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Introduction

Prison conditions should not be an additional punishment. A prison sentence holds a person accountable for their actions and protects society. It takes away someone's liberty as a consequence to their actions. However, in reality prisons often do not meet basic living standards and are treated inhumanely by prison staff. Some of the main issues prisoners face are overcrowding, general prison conditions and prison violence. (Penal Reform International)

Political prisoners are often not distinguished from other types of prisoners due to lacking legal definition. However, scholars have proposed a criteria by which political prisoners can be differentiated from other prisoners: political prisoners are involved in a group struggle against the ruling elite whereas criminals are involved in an activity of self-interest, in addition to the fact that often political prisoners are penalized by legal systems and imprisoned by political regimes not due to breaking the law but for their thoughts and ideas fundamentally challenging existing powers. Legal definitions are hindered by individuals only becoming political prisoners after being captured, formally being considered dissidents, revolutionaries, social reformers or radical thinkers. Political trial is also deemed unnecessary to imprison a political prisoner, as there are numerous examples of this. The nature of the behavior that leads to political imprisonment is indefinable as authorities have often justified internment as protecting state security without clear clarification of the challenge the behavior of the prisoners imposes, or the individual is imprisoned due to the suspicion of activity deemed questionable by ruling elites. Finally government denial also plays a role as political prisoners are often held under conditions of secrecy in which cruel and inhumane methods of punishment and internment proceed without protective oversight or intervention. (Britannica)



Definition of Key Terms

Political Prisoners

Someone that is put in prison for expressing disapproval of their own government, or associated with an organization, race or social group that is unauthorized by that government. (Cambridge Dictionary)

Nelson Mandela Rules

The Nelson Mandela Rules emphasize that the provision of healthcare for prisoners is a State responsibility and that healthcare professionals and prisoners are governed by equal, ethical and professional standards as those to patients in the community. (United Nations)

Overcrowding

Excessive amount of people in a space that is comfortable, safe or permissible.

Healthcare

An organized provision of medical care to individuals or a community to maintain or restore physical, mental or emotional well-being by trained and licensed professionals.

General Overview

Current common standard

The Standard Minimum Rule for the Treatment of Prisoners was first created in 1957. Later revised as the Nelson Mandela rules in 2015. These rules are a primary source of standards for states and are a framework used by monitoring and inspection mechanisms in assessing the treatment of prisoners. The Nelson Mandela Rules consist of 122 rules covering all aspects of prison management and agreed upon minimum standards for the treatment of prisoners. However, this does not mean that these rules resolve all prisoner issues. (Penal Reform International)

Overcrowding



Rule 12.1 of the Nelson Mandela Rules states that “each prisoner shall occupy by night a cell or room by himself or herself” with the exception of “for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule.” (UNODC) However, prisons in over 118 countries exceed their maximum occupancy rate. In some cases prisoners spend up to 23-24 hours of the day in overcrowded cells, to the extent that prisoners sleep in shifts, on top of each other, sharing beds or tie themselves to window bars so that they can sleep while standing. (Penal Reform International) It is not just a matter of living space but also privacy, violence, high rates of death in custody, lack of health provision, low rehabilitative opportunities and poor sanitary conditions, putting a strain on prisoners, prison capacity and staff. Possible solutions are increasing a prison’s capacity by building more prisons or enlarging existing ones, or reducing the number of prison inmates through penal reforms, amnesties or early release programmes. However this often goes hand in hand as when increasing a prison’s capacity, the prison population tends to rise together. (European Parliament)

General prison conditions

In 2013, two studies were carried out by the European Prison Observatory to review prison conditions in Europe and prison management. Both studies revealed that the European Prison Rules are not widely respected. Hygiene standards are often breached as it is not always a guarantee that the access to showers, hot water, privacy in sanitary facilities or toiletries needed for washing oneself are provided. Healthcare services are often inadequate due to a lack of practitioners resulting in long delays in accessing urgent medical services leading to frequent recourse of untrained staff for nursing aid. Vocational training is frequently ineffectual as work opportunities are limited and often far from being useful for reintegration purposes, work that is provided is not always paid and when it is the salary levels tend to be much lower than in the outside world. (European Parliament)

Prison violence

United States government statistics show that the rate of physical assault for male inmates is more than 18 times higher than the equivalent rate for males in the general population, for female inmates this rate is more than 27 times higher. Prison violence often goes unnoticed as it is done discreetly and unreported. The phrase “snitches get stitches” has a more literal meaning in prison, due to the deprivation of liberty, meaning that the victim who reports the violence can not escape reprisal of the perpetrator. A study indicated that 25% of respondents did not report their assault due to believing it would not make a difference, and 20% did not report an assault because they



feared retaliation. Another study found a six-month male prevalence rate of 205 per 1000 for prisoner-on-prisoner physical violence (around 20%) and 246 per 1000 for staff-on-inmate physical violence (around 25%). For females this rate was the same for prisoner-on-prisoner but only 8% for staff-on-inmate. Other forms of violence regard prisoner-on-staff, sexual violence in prisons, torture and ill treatment as well as mental abuse. (United Action for Better Health)

COVID-19 conditions

3,931 people have died in prison due to COVID-19 in 47 countries, and over 532,100 people have been tested positive in 122 countries. Due to COVID-19-related arrests prisons are even more overcrowded, increasing the chances of spreading. Many prison systems have also failed to implement COVID-19 preventive measures. Increasing cases are overloading an already existing shortage of medical staff and resources. Human rights have been violated due to individuals or groups being placed in solitary confinement, as a form of quarantine, for months. The way in which prisons are handling COVID-19 conditions (restrictive measures, fear of infection and lack of action and provision) has led to increases of protests and violence from prisoners. Responsive force from authorities has then led to deaths and injuries. Prison staff themselves account for 88% of COVID-19 cases, in addition to being overworked and constantly changing conditions. On the other hand 109 countries adopted measures to release prisoners as a response to the pandemic. 475,000 prisoners were released from 53 prisons from March to July 2020. 6% of the global prison population has benefitted from COVID-19 release measures. 27 European countries reduced their prison population in the early months of 2020, however populations have been increasing. (Penal Reform International)

Case for political prisoners

In the Nelson Mandela Rules, rules for political prisoners are not specified. Only in Rule 2.1: “There shall be no discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status.” Nor are they mentioned in other major international humanitarian agreements. Most relevant to the Universal Declaration of Human Rights by the United Nation General Assembly in 1948. Article 5 states: “no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.” However, as political prisoners are often held in secrecy torture can go unnoticed. Article 6 states: “everyone has the right to recognition everywhere as a person before the law.” However, Political prisoners are often charged by false accusations or no charges at all, therefore denied this right. Article 9 states: “no one shall be subjected to arbitrary arrest, detention or exile.” However, many countries recognize



offenses of treason and sedition, but the line between political crimes and voicing an opinion, contrary to the ruling elite, is often vague. Article 18 states: “freedom of thought, conscience and religion.” However, political prisoners often challenge the status quo, therefore there remains a vague line between freedom of expression and state concern of national security. Another example of a major international agreement is the Conference on Security and and Co-operation in Europe, referred to as the Helsinki Accords, signed in 1975 by 35 countries stating that participating states “will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction to race, sex, language or religion.” Contradictory some of the major signatories have been charged by human rights organizations for holding political prisoners, on account of having a different ideology. (Britannica)

Major Parties Involved

Belgium

Belgium’s prison system is accused of overcrowding and violence. In 1997, a prison with the maximum capacity of 6,900 places confined 8,200 inmates. The European Committee for the Prevention of Torture declared, during its visitation in 1997, that prisoner-on-prisoner violence and intimidation in the prisons of Mons, Lantin, and Saint-Gilles was a problem. In the Mons prison living conditions were also deemed “absolutely miserable” and considered inhuman and degrading treatment of the held inmates. (Human Rights Watch)

Cuba

Reports show that Prison conditions in Cuba are harsh and life threatening. Officials assaulted prisoners, prisoners are overcrowded and facilities, sanitation and medical care are deficient. The government did not publish any official statistics on its prisoners but Spanish-based NGO Cuban Prisoners Defenders claim that there are more that 90,000 prisoners, with another 37,000 in other forms of custody like labour camps, house arrest or conditional parole. Reportedly prison and detention cells lack adequate water, sanitation, light, ventilation and temperature control. The government provides some food and other basic supplies but most prisoners are dependent on their family. Prison cells are also overcrowded and lack health care, resulting in outbreaks of COVID-19, dengue fever, tuberculosis, hepatitis and cholera. Political prisoners also report that fellow



inmates, acting on orders, from or with authorization, of prison authorities to threaten, beat, intimidate and harass them. (U.S.Department of State)

Vietnam

A report by the 88 Project for Free Speech in Vietnam issues incidents of torture and other inhuman treatment of prisoners detained under national security circumstances by the Vietnamese government, like political prisoners. Examples of these incidents are prolonged isolated pre-trial detention, denial of legal representation and unfair trials, denial of adequate medical treatment, harsh physical and administrative conditions in prison, denials of family visits/punitive transfers, infliction of physical and psychological pain as well as solitary confinement. (The 88 Project)

Iran

According to Amnesty International report 'Health taken hostage: Cruel denial of medical care in Iran's prisons', Iran's authorities are mededeling with the lives of prisoners of conscience and other political prisoner by denying them medical care, putting them at grave risk of death, permanent disability or other irreversible damage to their health. The report further details 18 cases of prisoners who have been denied medical care in some form and are suffering permanent damage to their health. (Amnesty International)

Myanmar

Amnesty International has been reporting torture and ill-treatment of political prisoners and ethnic minorities in Myanmar for over 12 years. Practices by the Military Intelligence personnel, prison guards and police, when interrogating political detainees, have been enforced as part of a country-insurgency activit, using torture as a means of extracting information. However Myanmar's military authorities, State Peace and Development Council (SPDC), denies that torture occurred in Myanmar, stating that it is against domestic law. (Amnesty International)

Timeline of Key Events

Prisons have been a part of almost every major ancient civilization. Formerly prisons were often as a temporary confinement before being sentenced to death or life of slavery. Prisons only later on developed into correctional facilities, implementing the concept of rehabilitation and reform



of prisoners. Holding convicted or suspected criminals, as well as political prisoners, enemies of the state and prisoners of war. Only recently there have been actions taken on improving prison conditions. (Prison timeline)

Date	Description of event
600 BC	Existens of the oldest known prison “Carcere Mamertino” in Ancient Rome
1166	Construction of the first prison with a new legal system that used the concept of a jury
1215	New legal system in England that no man could be imprisoned without trial
1777	Publication of influential books by Englishman John Howard that proposed prison reforms
1779	Enforcement of the Penitentiary Act including the concept of “rehabilitation” to UK prisons
1815	First time government started paying wages of jailers and inspected conditions in prisons in the UK
1829	Eastern State Penitentiary in Philadelphia USA, introduced solitary confinement to rehabilitate prisoners
1877	Enforcement of the Prison Act in UK to changing British prison operations
1890	Concern of the US prison legal systems, enforcing mandatory solitary confinement, due to great amounts of insane, suicidal and catatonic prisoners
1948	UK Criminal Justice Act creating a model for all modern prisons
1991	The Criminal Justice Act introduced the concept of “probation service” for prisoners with a sentence longer than 12 months
1993	Modern UK Prison Service was formed
2002	President George W. Bush formed the Guantanamo Bay detention camp to hold war suspects from war in Afghanistan, Iraq and 9/11



UN involvement, Relevant Resolutions, Treaties and Events

- Standard Minimum Rules for the Treatment of Prisoners, 31 July 1957
- United Nations Office on Drugs and Crime (UNODC) became the custodian of the Standard Minimum Rules, 2011
- Commission on Crime Prevention and Criminal Justice (CCPCJ) revised the Standard Minimum Rules, March 2015
- United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), 17 December 2015 (A/RES/70/175)

(United Nations)

Previous Attempts to solve the Issue

Several Mechanisms have been introduced in Europe and worldwide to monitor detention conditions in prisons such as closed facilities, including psychiatric hospitals and immigration centers. These mechanisms prevent torture and ill treatment of detainees. The Council of Europe's Convention for the Prevention of Torture (CPT) and Inhuman or Degrading Treatment of Punishment in 1987 created a monitoring mechanism to oversee law enforcement, collecting allegations of violence and abuses and factual conditions of prisons and other detention institutions, verifying that it meets the CPT standards. In addition regular inspections of prisons by government agencies and independent bodies are mandatory by the European Prison Rules.

The European Prison Rules ensure that no one is to be deprived of liberty, and only as a last resort when in accordance with a procedure prescribed by law. The rules regard: admission, allocations and accommodation, hygiene, clothing and bedding, nutrition, legal advice, contact with the outside world, prison regime, work, exercise and recreation, education, freedom of thought, conscience and religion and many more details.

CPT standards provide some guidelines specifically addressed to overcrowding by setting a minimum amount of space that each prison inmate must be afforded in a cell. This being 6m² of living space and sanitary facility for a single-occupancy cell to 4m² per prisoner plus fully partitioned sanitary facility for a multiple-occupancy cell. Additionally the walls of the cell must be at least 2m from each other, and the ceiling at least 2.5m from the floor. Desirable standards are 10m² for a two



prisoner cell, 14m² for a three person cell, etc. The CPT general standards, based on visits and annual reports, include guidelines for within prisons and when a person is initially detained by the police. The standards are meant to reduce inter-prison violence, ill-treatment in high security facilities, ensure access to natural light and fresh air, specification for solitary confinement and its effects on a person's health, healthcare equal to outside citizens as well as preventative medicine and measures for transmittable diseases. (European Parliament)

Possible Solutions

- Forming a legal definition for political prisoners
- Constitutionalizing the Nelson Mandela Rules in all countries
- Outlining a balance between increasing a prison's capacity and the number of prison inmates to avoid overcrowding
- Creating funds to supply prisons with necessary healthcare to improve hygiene standards, medical care and rehabilitation centers
- Clearly outlining when forceful measures can be applied and when not
- Providing safe holdings and precautions measures for inmates that report their assault
- Enact exceptions, alternatives or regulations for political prisoners
- Creating sanctions for countries that do not persist with international humanitarian agreements

Bibliography

Bureau of Democracy, Human Rights, and Labor. "2020 Country Reports on Human Rights Practices: Cuba." U.S. Department of State, 30 Mar. 2021, www.state.gov/reports/2020-country-reports-on-human-rights-practices/cuba/.



“Human Rights Watch: Prison Conditions in Europe and Central Asia.” Human Rights Watch | Prison Conditions in Europe and Central Asia, www.hrw.org/legacy/advocacy/prisons/europe.htm.

“Iran Is Putting POLITICAL Prisoners' Lives at Risk by Denying Them Medical Care.” Amnesty International, 2 Dec. 2016, www.amnesty.nl/actueel/iran-is-putting-political-prisoners-lives-at-risk-by-denying-them-medical-care.

Kayleedolen. “Report: Vietnam's INHUMANE Treatments in Prison.” The 88 Project, Kayleedolen <https://the88project.org/Wp-Content/Uploads/2019/01/88project.png>, 25 Mar. 2021, the88project.org/torture-report/.

“Key Messages, Facts and Figures.” Penal Reform International, 27 July 2021, www.penalreform.org/global-prison-trends-2021/key-messages-facts-and-figures/.

Modvig, Jens. “Violence, Sexual Abuse and Torture in Prisons.” United Action for Better Health, www.euro.who.int/__data/assets/pdf_file/0010/249193/Prisons-and-Health,-4-Violence,-sexual-abuse-and-torture-in-prisons.pdf.

“Myanmar the Institution of Torture.” Amnesty International, Dec. 2000.

“Nelson Mandela International Day, July 18, for Freedom, Justice and Democracy.” United Nations, United Nations, www.un.org/en/events/mandeladay/mandela_rules.shtml.

“The Nelson Mandela Rules: Protecting the Rights of Persons Deprived of Liberty.” United Nations, United Nations, www.un.org/en/un-chronicle/nelson-mandela-rules-protecting-rights-persons-deprived-liberty.

Penal Reform International, and Thailand Institute of Justice. “Global Prison Trends 2021.” Penal Reform International, cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf.

“Political Prisoner.” Cambridge Dictionary, dictionary.cambridge.org/dictionary/english/political-prisoner.

“Political Prisoner.” Encyclopædia Britannica, Encyclopædia Britannica, Inc., www.britannica.com/topic/political-prisoner.



“Political Prisoner.” Encyclopædia Britannica, Encyclopædia Britannica, Inc., www.britannica.com/topic/political-prisoner.

“Political Prisoner.” Encyclopædia Britannica, Encyclopædia Britannica, Inc., www.britannica.com/topic/political-prisoner.

“Prison Conditions: Key Facts.” Penal Reform International, 20 May 2021, www.penalreform.org/issues/prison-conditions/key-facts/.

“Prison Overcrowding.” Penal Reform International, 20 May 2021, www.penalreform.org/issues/prison-conditions/key-facts/overcrowding/.

“Prison Timeline - History.” Prison Timeline - Timeline of Prsion History, www.prisonhistory.net/prison-history/prison-timeline/.

Raffaelli , Rosa. “Prison Conditions in the Member States: Selected European Standards and Best Practices.” European Parliament , [www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI\(2017\)583113_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/583113/IPOL_BRI(2017)583113_EN.pdf).

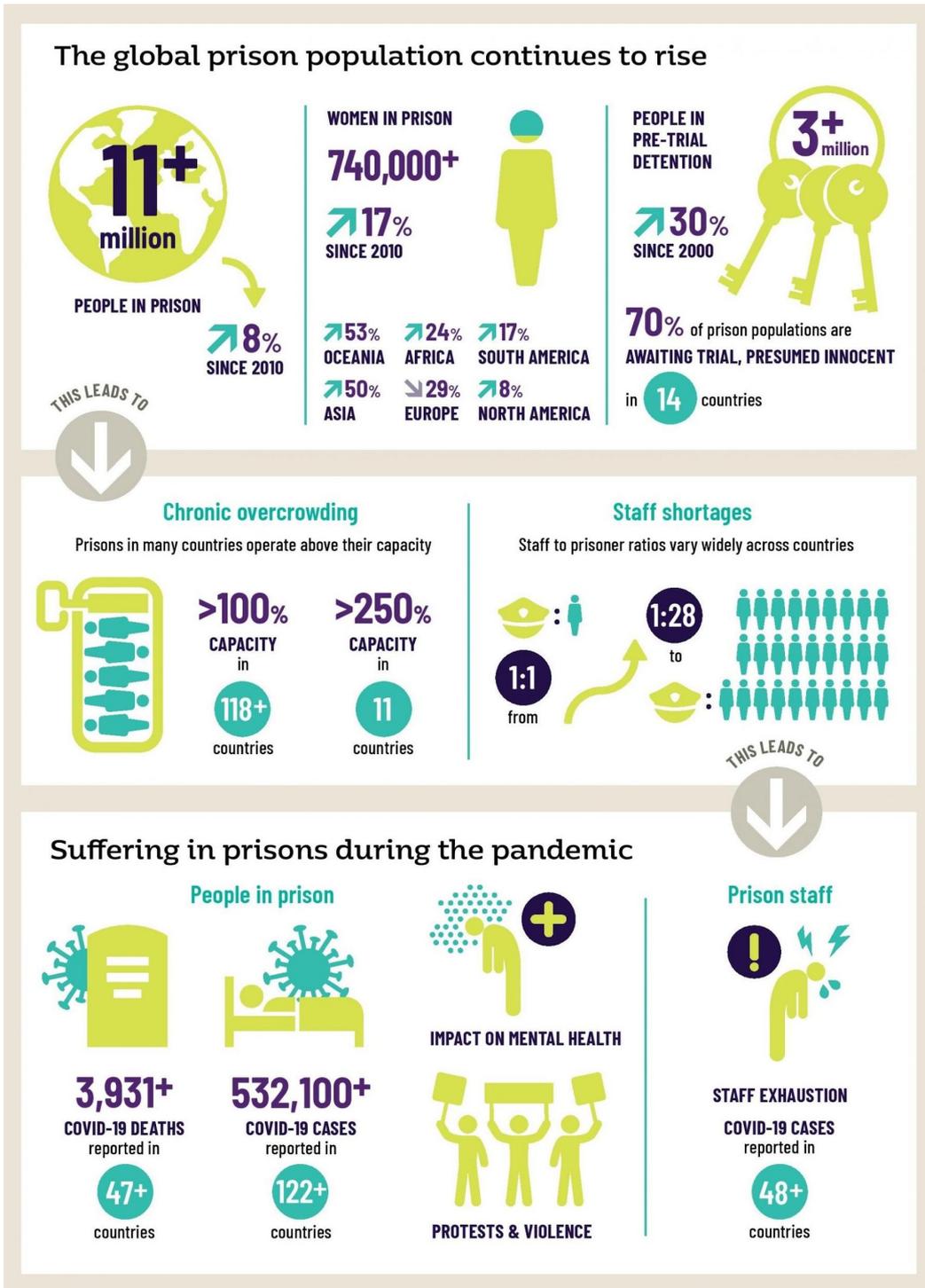
“UN Nelson Mandela Rules.” Penal Reform International, 17 July 2020, www.penalreform.org/issues/prison-conditions/standard-minimum-rules/.

United Nations Office on Drugs and Crime. “The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules.” UNODC, www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

Appendix

I.





(Penal Reforms International)

