

Forum: Commission on Crime Prevention and Criminal Justice

Issue # 02: Measures to address human rights of prisoners

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Guiding Questions as you Read

How and why should prisoner's rights be protected?

How does this issue relate to the Black Lives Matter movement?

Introduction

Imprisonment has been around for about as long as human society has but not in the

same way it is today. Criminals were imprisoned in order to keep them detained while



their punishment was decided upon. These punishments could include death, beating, maiming, removal of a limb, among other things. Nowadays, in most countries, these punishments would be considered violations of prisoner rights which is why as society advanced, confinement/imprisonment became the main form of punishment. This began

with small jails but as the human population increased, so did jail populations which is why large scale prisons had to be created. Prisons started to become quite popular around the 19th century. However, the purpose of these was solely to confine inmates as well as punishing them through incredibly hard work and harsh living conditions. As we've begun to consider the rights of prisoners more, we've started to focus on criminal **rehabilitation** while still maintaining some degree of punishment.

Definition of Key Terms

Confinement/Imprisonment: The action of confining or state of being confined/ the state of being imprisoned; captivity.

Criminal Rehabilitation: The process of re-educating and retraining those who commit crime, typically involving psychological approaches and the overall reintegration of the individual into society.

Prisoner: A person legally held in prison as a result of the crimes they have committed or while waiting for trial.

Jurisdiction: The official power to make legal decisions and judgments in a specific area

Sentence: the punishment assigned to a defendant found guilty by a court, or fixed by law for a particular offense

As a verb - declare the punishment decided for an offender

Misdemeanor: Usually a petty offense, a less serious crime than a felony, punishable by less than a year of confinement.

Mistrial: An invalid trial, caused by fundamental error. When a mistrial is declared, the trial must start again from the selection of the jury.

Incarceration rate: the number of persons under the jurisdiction of local jails and state and federal correctional authorities per 100,000 residents

Current Situation

Maintaining the rights of people imprisoned is not a new topic. This is a very



controversial issue; many countries have completely different perspectives on the “right way” to take action after a person commits a crime. Some believe in the death penalty such as China, India, the United States, Indonesia, Pakistan, Bangladesh, Nigeria, Egypt, Saudi Arabia, Iran as well as Japan. Some countries such as Norway have maximum sentences

of up to 21 years.

Violations of the Rights of Incarcerated Persons; Wrongful Convictions

Statistics regarding wrongful convictions are complicated to measure due to the fact that many wrongful convictions are not overturned or reexamined, and many people stay in jail for a crime they did not commit. However there is evidence to examine from those that have been exonerated and have been able to return to society. Over half of wrongful convictions in the United States can be traced to false accusations or witnesses who lied in court (Equal Justice Initiative). A wrongful

conviction is not something to take lightly. The people who go through this situation have their liberty wrongfully taken from them, sometimes even their life. You can read about some of the individual cases [here](#).

Violations of the Rights of Incarcerated Persons; Prison Labour

Prison labour can be defined as work that is performed by incarcerated and detained people (FreedomUnited). It is important to note that not all prison labour is exploitative in nature. There is a fine line drawn between forced prison labour and free prison labour, but it is difficult to draw a clear separation between the two concepts. Countries where prisons tend to be harsh and punitive in nature, may be partaking in forced prison labour without authorities even being aware of it due to the already mentioned harsh living conditions for the prisoners.



The Prison-Industrial Complex can be defined by Merriam Webster as “the profit-driven relationship between the government, the private companies that build, manage, supply, and service prisons, and related groups (such as prison industry unions and lobbyists) regarded as the cause of increased incarceration rates especially of

poor people and minorities and often for nonviolent crimes." Basically outlining the idea that minorities and people of lower-income citizens are specifically targeted in order to imprison them for lesser crimes to profit off of their labour in prison.

Violations of the Rights of Incarcerated Persons; Rehabilitation

Prison focused on rehabilitation is seen mainly in countries such as Norway. The country of Norway is used as a prime example of rehabilitation and why it should be introduced in further nations around the world. Norway has one of the lowest recidivism (the tendency of a convicted criminal to reoffend) rates in the world. It has a rate of 20%, which is one of the lowest in the world. The United States however, has one of the highest recidivism rates, with 76.6% of prisoners being rearrested within the first 5 years of their release. *(Below, a standard Norwegian prison on the left and a standard prison in the U.S.A)*



Norway relies heavily on a concept named "restorative justice" which focuses on rehabilitating the prisoners rather than punishing them for their crimes. This means the prisoners are able to maintain their sense of "normalcy." They have windows, not bars, they cook their own meals and are slowly reintegrated into society by rehabilitating them. Inmates are able to read, play and record music and behave as normal people. The restriction of someone's freedom is enough for punishment for the country of

Norway. A useful quote from Business Insider states. " As Bastoy prisoner governor Arne Wilson, who is also a clinical psychologist, explained to The Guardian:

In closed prisons we keep them locked up for some years and then let them back out, not having had any real responsibility for working or cooking. In the law, being sent to prison has nothing to do with putting you in a terrible prison to make you suffer. The punishment is that you lose your freedom. If we treat people like animals when they are in prison they are likely to behave like animals. Here we pay attention to you as human beings.'"

Here's a [link](#) to a clip of a documentary called "Where to Invade Next" by Michael Moore. This helps to understand the Norwegian perspective on the trial on one of the worst cases of terrorism ever to occur in the country.

Violations of the Rights of Incarcerated Persons; Rates of Recidivism

This section will focus mainly on the statistics regarding recidivism rates in each country. These statistics are some of the most important in order to formulate arguments about the approach that the delegation has in regards to the treatment of prisoners.



As stated previously, the United States has a recidivism rate of around 76.6% while Norway has one of the lowest rates at 20%. France is at around 46-59%. The United Kingdom is at a rate of roughly 45%, Germany has a rate of 48%. Again, these are only some countries' rates, not all of them.

Major Parties Involved and Their Views

The United States of America

The U.S has the largest prison population in the entire globe with an estimated prison population of 2.12 million people in 2020. It also has the largest number of prisoners per 100,000 of the national population, as of June 2020 at 655/100,000. In the U.S, prisoners do not have full constitutional rights, of course, but they are protected by the eighth amendment's prohibition against cruel and unusual punishment as well as afforded a minimum standard of living. According to Cornell Law School, "For example, in *Brown v. Plata*, the Supreme Court upheld a court-mandated population limit to curb

overpopulation which violated the Eighth Amendment in California prisons... Prisoners retain some constitutional rights, such as due process in their right to administrative appeals and a right of access to the parole process.

China

China has the second largest prison population in the world with an estimated prison population of 1.7 million in 2020. In Chinese prisons, torture and abuse from guards run rampant. The latter is used in order to get information out of inmates as well as simply punishing them.

El Salvador

El Salvador has the second largest number of prisoners per 100,000 of the national population, as of June 2020 at 590/100,000. El Salvador is famous for its mistreatment of prisoners. According to Human Rights Watch, "After weeks of very few reported killings in El Salvador, 77 people were murdered between April 24 and 27, 2020. The president claimed he had "intelligence information" that the homicides were orchestrated by gang members inside prisons. The lockdown he subsequently ordered involves holding them in inhumane conditions that may amount to torture or cruel, inhuman, or degrading treatment or punishment." El Salvador also puts prisoners of rival gangs together on purpose which could increase the risk of riots and prisoner on prisoner violence inside the prison.

Russia

Russia's situation is similar to China. Though it has a much smaller prison population at 874,161, it is known for torturing and cruelly mistreating prisoners. One example of said mistreatment is clearly described by the BBC, "Yevgeny Makarov was handcuffed and held face down on a desk as more than a dozen prison officers took it in turns to beat him. They punched the soles of his feet first, then thrashed them with truncheons."



Belgium

Belgian prisons are frequently targeted by international organizations like the European Court of Human Rights for their inhumanity. This alleged inhumanity comes from the fact that these prisons are understaffed and overpopulated. The hygiene is also terrible as cells and bathrooms are rarely cleaned. Inmates killing each other also goes unnoticed for long periods of time due to the fact that one staff member may be responsible for over 40 prisoners.

UN Involvement

The Universal Declaration of Human Rights was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. This was the first document adopted by many countries around the world that had a set list of doctrines that declared the rights of humans. Many prisons around the world walk a fine line between punishment and violations of human rights.

1950	European Convention on Human Rights	Established some of the basic rights that should be guaranteed to prisoners
1990	UN general assembly adopts "Basic Principles for the Treatment of Prisoners"	Established most if not all of what is considered prisoner rights in the modern day
2005	Members of the United States Army and the CIA commit a series of human rights violations and war crimes against detainees in the Abu Ghraib prison in Iraq, including physical abuse, torture, murder, among others	Showed how even 1st world country organizations were capable of prisoner rights violations.
2010	The Halden Fengsel prison opens in Norway. It is widely recognized as the most humane prison in the world as it attempts to create a sense of community between the inmates and the staff as well as providing them with impeccable living conditions.	Demonstrated the positive impact institutions that protected prisoner rights could have on their communities
2020	Many prisons in India commit various prisoner rights violations regarding contact with family members and loved ones due to measures put in place to	Showed how easily the rights of prisoners could be thrown to the wayside in order to tackle some other issue

fight the pandemic

2020 El Salvador's President subject's prisoners to inhumane torture and lockdowns Exposed the lack of regard for the rights of prisoners within Central America and El Salvador specifically.

Past International Action

Basic Principles for the Treatment of Prisoners: Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990

This resolution is a little long but it basically laid out that prisoners should be treated respectfully, there should be no discrimination, religious needs and rights should be respected, all rights should be maintained except those that must be taken away in order to allow for incarceration, solitary confinement should be limited, rehabilitation should be prioritized, and rights to health services should be maintained.

European Convention on Human Rights (1950)

This convention was mainly focused on general human rights but it also tackled prisoner rights. Some of the most notable prisoner rights enshrined in this convention include protection against ill-treatment, protection against inhuman or degrading punishment, right to respect for family life; the right to freedom of expression; the right to practise their religion; the right of effective access to a lawyer or to a court, and the right to respect for correspondence

ASEAN Authorities Organize Workshop Aiming to Prevent Prisoner Rights Violations (2018)

The main participants in this workshop were ASEAN member state law enforcement and correction facility authorities. Said authorities agreed on the following: Prevention of

torture, cruel, inhuman and degrading treatment and punishment, from the process of identifying suspect, capture, investigation and detention must be avoided at any cause. Definition of torture, cruel, inhuman and degrading treatment and punishment in ASEAN is not yet uniform but UNCAT (United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) can be used as a guidance. Local contexts and culture need to be considered to combat torture. Comprehensive approach including the viewpoints of victims/detainee and law enforcement officials must be considered. Training for law enforcement and public education needed to be done by ASEAN to combat torture.

Possible Solutions

There are two main possible solutions being debated by many nations around the world today; further enforcement of punishment or a sharper focus on rehabilitation.

In terms of rehabilitation, there are many experts, for example Etienne Benson from the American Psychological Association, who believe that rehabilitation from a psychological perspective is the fairest way to treat someone who has committed a crime. The author writes that, "To help shift the focus from punishment to rehabilitation, psychologists are doing research on the causes of crime and the psychological effects of incarceration. In the 1970s, when major changes were being made to the U.S. prison system, psychologists had little hard data to contribute. But in the past 25 years, says Haney, they have generated a massive literature documenting the importance of child abuse, poverty, early exposure to substance abuse and other risk factors for criminal behavior. The findings suggest that individual-centered approaches to crime prevention need to be complemented by community-based approaches." An important psychological study to note is the [Stanford Prison Experiment](#) which highlights the effects of the harsh conditions of prisons on humans. Both the officers as well as the prisoners.



There is also however the opposing viewpoint. The “eye for an eye” mentality that people should have done to them as they do to others. The Guardian's Diane Taylor wrote an article about a former warden of a prison who is against the idea of rehabilitation. Sir Martin Narey said, “Stop fretting about rehabilitation. Politely discourage those who will urge you to believe that they have a six-week to six-month course which can undo the damage of a lifetime. The next time someone tells you they have a quick scheme which can transform lives – transform is the word of which you should be particularly suspicious – politely explain that life isn't that simple.” This begs ethica and morall questions about the victims of crimes such as murder, rape, identity theft. Will they and their families ever truly get “justice”? Is the definition of justice different from person to person?

Sustainable Development Goal (SDG)

This issue connects to two SDG's. These are SDG #3 and SDG #16. SDG #3 revolves around ensuring healthy lives and promoting well-being for all at all ages. SDG #16 revolves around promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. It connects to SDG #3 because prisoner rights involve protecting them from physical and mental abuse which will ensure they can carry out healthy lives as outlined by the SDG. It relates to SDG #16 because it involves keeping prisons as peaceful as possible and just. This is because a prison where inmates are subject to violations of their rights for no valid reason is an unjust and unaccountable institution.

Bibliography

(www.dw.com), Deutsche Welle. "Human Rights Violations Make Belgium Prison 'Hell':

DW: 01.08.2017." DW.COM,

www.dw.com/en/human-rights-violations-make-belgium-prison-hell/a-39926348.

A Different Justice: Why Anders Breivik Only Got 21 Years ...

www.theatlantic.com/international/archive/2012/08/a-different-justice-why-and-ers-breivik-only-got-21-years-for-killing-77-people/261532/.

"ASEAN Authorities Brush up on Anti-Torture Practices - ASEAN: ONE VISION ONE IDENTITY

ONE COMMUNITY." ASEAN, 17 Apr. 2020,

asean.org/asean-authorities-brush-anti-torture-practices/.

"Basic Principles for the Treatment of Prisoners." OHCHR,

www.ohchr.org/en/professionalinterest/pages/basicprinciplestreatmentofprisoners.aspx.

Benson, Etienne. "Rehabilitate or Punish?" *Monitor on Psychology*, American

Psychological Association, 2003, www.apa.org/monitor/julaug03/rehab.

"El Salvador: Inhumane Prison Lockdown Treatment." *Human Rights Watch*, 28 Oct. 2020,

www.hrw.org/news/2020/04/29/el-salvador-inhumane-prison-lockdown-treatment.

European Court of Human Rights. *Guide on the Case-Law of the European Convention on Human Rights*. 30 Apr. 2021,

www.echr.coe.int/Documents/Guide_Prisoners_rights_ENG.pdf.

"Evidence of Torture in Russia Prison." *BBC News*, BBC,

www.bbc.com/news/av/world-europe-44993571.

"History Of Imprisonment." *Crime Museum*, 6 July 2017,

www.crimemuseum.org/crime-library/famous-prisons-incarceration/history-of-imprisonment/.

"'It Was Torture': An Abu Ghraib Interrogator Acknowledges 'Horrible Mistakes'." *NPR*, NPR, 4 Apr. 2016,

www.npr.org/sections/parallels/2016/04/04/472964974/it-was-torture-an-abu-ghraib-interrogator-acknowledges-horrible-mistakes.

"Learning Court Vocabulary - Mock Trial." *Google Sites*,

sites.google.com/a/wcsga.net/mock-trial/learning-court-vocabulary.

164. *Prisoner Rehabilitation*,

www.unodc.org/dohadeclaration/en/topics/prisoner-rehabilitation.html.

"Prison Labor and Modern Slavery." *FreedomUnited.org*,

www.freedomunited.org/prison-labor-and-modern-slavery/.

"Prisoner Rehabilitation Does Not Work, Says Former Prisons Boss." *The Guardian*,
Guardian News and Media, 29 Oct. 2019,
www.theguardian.com/society/2019/oct/29/prisoner-rehabilitation-does-not-work-says-former-prisons-boss.

Published by Statista Research Department, and Jun 2. "Ranking: Most Prisoners per Capita by Country 2021." *Statista*, 2 June 2021,
www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/#:~:text=Prisoners%20in%20the%20United%20States&text=Not%20only%20is%20the%20U.S.,1.71%20million%20people%20that%20year.

Published by Statista Research Department, and Jun 2. "Ranking: Most Prisoners per Capita by Country 2021." *Statista*, 2 June 2021,
www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/.

World Population Review. Recidivism Rates By Country 2021,
worldpopulationreview.com/country-rankings/recidivism-rates-by-country.

"Wrongful Conviction and Imprisonment Cases." *People's Law Office*,
peopleslawoffice.com/issues-and-cases/wrongful-conviction/.

"'Your Only Right Is to Obey': Lawyer Describes Torture in China's Secret Jails." *The Guardian*, Guardian News and Media, 23 Jan. 2017,
www.theguardian.com/world/2017/jan/23/lawyer-torture-china-secret-jails-xie-yang.

Useful Links for Research

I. OHCHR - Basic Principles for the Treatment of Prisoners

<https://www.ohchr.org/en/professionalinterest/pages/basicprinciplestreatmentofprisoners.aspx#:~:text=All%20prisoners%20shall%20be%20treated,property%2C%20birth%20or%20other%20status.>

This is an excellent primary source to use during the debate. It was adopted by the General Assembly of the UN, making it a widely popular resolution that most countries *should* be on board with. TIP: Check to see if your country, it's allies/enemies are signatories. This could be helpful to call countries out during the debate. For example if country X is a signatory to the resolution, but has concerning statistics regarding crime and another delegation brings it up, that would be a great way to heat up the debate.