

Committee: SPECPOL 1

Topic: The question of rights for prisoners

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Summary

The question of rights for prisoners is a topic of contention internationally. There are many different government ideologies around how prisoners should be treated. There is the side of human rights, arguing that they should be offered the chance to reform and that they should have their rights respected. However, there are also those who argue for retribution, and that they should be made to do hard labour and suffer poor conditions for their crimes in society. There are different weights to both arguments, and there is a spectrum between reformation and retribution which every nation is between, and many have started to argue that there should be more international legislation and agreements to ensure that prisoners globally can enjoy at least some basic human rights.

Definition of Key Terms

Retribution – Punishment administered in return for a wrong committed

Reformation – The act of reforming or the state of being reformed; in context the idea that prisoners should be reshaped to be able to re-enter society and be reintegrated as civilians

Prison occupancy levels – A measurement used to compare the number of prisoners a country holds compared to the amount they have the facilities to hold. A number above 100 means that they are holding more prisoners than they have the capacity to hold.

Solitary confinement – The confinement of a prisoner in isolation from all other prisoners, especially as an additional punishment or for the safety of the prisoner.

Prisoner abuse – The mistreatment of persons while they are under arrest or incarcerated.

Background Information

The idea of incarceration originated from the 1st century BC in civilisations like Mesopotamia and Egypt. These were typically underground dungeons for those who were set to be executed through the death penalty or those awaiting enslavement. However, around this time these prisons can be contrasted with Greek prisons where prisoners were held in the poorly isolated buildings where they could often be visited by their friends and family.

A more renowned and modern example was the formation of Houses of Correction established in Europe for the rehabilitation of minor offenders and vagrants and they emphasized strict discipline and hard labour. The modern prison developed in the late 18th century in part as a reaction to the conditions of the local jails of the time. Since then, prisons have become a staple all around the world as the main method of handling prisoners and incarcerating those charged with crimes.

There are many different views on how prisons should be used, many of which are for different reasons. As such, they have different conditions in them. In much of the typical “Western world”, prisons receive lots of investment and are made for the expressed purpose of reintegrating criminals onto society. They ensure there are different prisons for children and ensure every prisoner can receive medical attention and a reasonable amount of food. While they have different prisons for different types of prisoners, they typically reserve the harshest prisons for those who refuse to comply with normal prison life. However, many other places have much harsher conditions, which could stem from the government imposing their will, from religious beliefs that prisoners’ rights shouldn’t be respected or from a lack of funding. For example, a place like El Salvador has very poor conditions due to a major crackdown from the government on drug dealers, and as such had to fit many prisoners in cramped prisons and therefore has harsh conditions to keep prisoners in line. However, other places like the Republic of Congo have poor conditions because they don’t have the money to finance food for prisoners, or for medical care for prisoners.

When considering the conditions of prisons globally, it is worth considering the state of a country for non-prisoners. For example, if a country can’t provide clean water or medical care to its

citizens for free, then they may find it hard to justify providing it for free to prisoners. This could create issues for those who believe that funding should be provided elsewhere. However, it is also true that in these places, crime is a lot more common, with many turning to crime as they cannot find stable occupation. Therefore, there is also a case that to relieve pressure on prisons and lower prison occupancy levels, relief schemes should be set up to lower crime.

Major Countries and Organizations Involved

Republic of Congo

The Republic of Congo has the worst prisoner occupancy level in the world, with some of their prisons exceeding 600% occupancy levels. The place has become infamous for horrible prisoner treatment and has been criticised internationally for their prisoner abuse. They do not section out their prisoners in separate facilities on age or gender, leading to many cases of sexual abuse committed by prisoners and prison staff, and minor abuse due to minors being mixed in with adults. Prisoners from 2021 only got 1 meal a day due to budgetary restrictions, leading to malnourishment among prisoners and their families whom they have become dependent on for their food supplies.

Unites States of America

They provide a unique solution of privatised prisons, which have their own unique problems. These prisons are privately run and often have the goal of profit in mind. These prisons sometimes cut corners and this can result often in prisoner's rights being neglected. However, they have signed up to many international agreements and accords guaranteeing certain prisoners' rights.

Norway

Norway is considered somewhat of an anomaly internationally, having a prison system which is frequently ranked the most effective in the world. However, their prison system relies on rehabilitation methods instead of harsh treatment. It provides many luxuries to their prisoners

and their prison system uses the principle of “restorative justice”, which means it takes major focus on reintegrating criminals into society by making sure not to cut off the criminals’ connections to society.

Timeline of Events

Date	Description
600 BC	Oldest known prison can be traced to the Roman Empire, where they had the prison called “Carcere Mamertimo” which directly translates to “maritime prison”
2 nd Century BC	Some of the earliest signs of prisons found in Mesopotamia and Egypt through records
200 AD	Oldest prison outside of the Roman Empire found in the Israeli town of Tiberias
1166 AD	King Henry II commissioned the supposed first creation of a “prison”. Earlier examples of prisons were discovered later on.
1215 AD	The Magna Carta was signed by King John, which gave important rights to people, such as not being able to be incarcerated without reason and without trial.
1556 AD	The opening of Bridewell prison, the first House of Correction which housed the growing number of homeless at the time.
1717 AD	The idea of transportation introduced, which aimed to reduce prisoner numbers by transporting convicts to America.
1779 AD	The Penitentiary Act introduced the concept of rehabilitation to UK prisons.
1815 AD	For the first time ever, the UK government paid the wages of jailers and inspected the conditions of prisons.

1829 AD	Eastern State Penitentiary in Philadelphia started enforcing solitary confinement to rehabilitate its prisoners.
1835 AD	Prison Inspectors first started working in UK, together with first prison volunteer teachers.
1902 AD	The first reform school is built for juveniles in the form of Borstals, the first being set up in Kent.
1948 AD	UK Criminal Justice Act created a model of all modern prisons
1989 AD	Prison Inspectors first started working in UK, together with first prison volunteer teachers.
2005 AD	America held over 40 supermax facilities who all enforced constant 23-hour periods of isolation

Relevant UN Treaties and Events

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

These were adopted by the United Nations General Assembly resolution 43/173 on December 9, 1988. These were a set of principles established to provide standards for the protection of all individuals under any form of detention or imprisonment. Some of these key principles included that all persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person, and that there shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any state party to these principles.

Universal Declaration of Human Rights (UDHR)

This was adopted by the United Nations General Assembly on December 10, 1948. It was the first document to establish concrete human rights to which all humans would be universally protected. It included provisions for prisoners as well, stating that, in article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Also, in article 9 it states that "No one shall be subjected to arbitrary arrest, detention or exile."

Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

The Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules (in honour of Nelson Mandela, who spent 27 years in prison), were originally adopted by the United Nations in 1955 and were comprehensively revised in 2015. These rules provide guidelines on a wide range of aspects concerning the treatment of prisoners and the management of prison facilities. It mentions several factors which aren't being respected in modern day prisons.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

This was adopted by the United Nations General Assembly on December 18, 2002, and entered into force on June 22, 2006. The OPCAT complements the Convention against Torture (CAT) by establishing a proactive system of regular visits to places where people are deprived of their liberty, with the goal of preventing torture and other cruel, inhuman, or degrading treatment or punishment. It aims to take a more preventative measure to prevent abuses against prisoner populations.

Previous Attempts to solve the Issue

European Convention on Human Rights (ECHR) - 1950

This agreement is the establishing document which created fundamental human rights agreements in Europe. It prohibits torture and inhuman or degrading treatment or punishment, and ensures the right to liberty and security, protecting individuals from arbitrary detention.

Importantly, it also ensures the right to a fair trial. It is signed by all Council of Europe members, which includes 46 European states.

African Charter on Human and Peoples' Rights – 1981

This agreement was signed by all members of the African Union, which encompasses almost all African states. In this, key agreements are made, including the prohibition of torture, cruel, inhuman, or degrading punishment and treatment, and the right to liberty and security of the person, including protection against arbitrary arrest or detention.

Inter-American Convention to Prevent and Punish Torture - 1987

This was an agreement signed by all the member states of the Organisation of American States. In this they made human rights agreements, coincidentally, to prevent and punish torture. It creates a clear definition of torture, and states ensure any person alleging torture has the right to complain to and have their case promptly and impartially examined by competent authorities.

Possible Solutions

Funding

There is the question of funding in prisons, as the poor treatment of prisoners comes from a lack of funding to provide separate juvenile prisons or women's prisons. Also, there might need to be funding for basic provisions such as food and water to ensure that prisoners don't die due to malnutrition.

Regulation

Even though there are basic human rights provisions in place, there is a need for a long-lasting body which can ensure that any agreements made can be followed up on and be enforced, possibly being given weight in the UN to be able to sanction or attack those who don't follow them.

Co-operation

There is also the question of current organisations made to handle the situation. Organisations such as the CPT already do checks in local regions to ensure prisoners' rights are met, and so there may need to be clauses to cooperate with these organisations which have much sway in their local regions. Also, there may need to be long-lasting provisions to ensure that member states can constantly meet to assess changes to the situation which would require new provisions.

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