



SARDAR PATEL INSTITUTE OF
TECHNOLOGY



UNHRC

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THE UNITED NATIONS HUMAN RIGHTS COUNCIL

Study guide



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ABOUT THE COMMITTEE

The United Nations Human Rights Council is a United Nations body whose mission is to promote and protect human rights around the world. The headquarters of UNHRC is in Geneva, Switzerland.

The UNHRC investigates allegations of breaches of human rights in UN member states, and addresses important thematic human rights issues such as freedom of association and assembly, freedom of expression, freedom of belief and religion, women's rights, LGBT rights, and the rights of racial and ethnic minorities.

The UNHRC works closely with the Office of the High Commissioner for Human Rights (OHCHR) and engages the UN's special procedures.



MANDATE OF THE UNHRC

The Human Rights Council is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.

The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former United Nations Commission on Human Rights. The Council was created by the United Nations General Assembly on 15 March 2006 by resolution 60/251. Its first session took place from 19 to 30 June 2006. One year later, the Council adopted its "Institution-building package" to guide its work and set up its procedures and mechanisms.



MANDATE OF THE UNHRC

Among them were the Universal Periodic Review mechanism which serves to assess the human rights situations in all United Nations Member States, the Advisory Committee which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues and the Complaint Procedure which allows individuals and organizations to bring human rights violations to the attention of the Council.

The Human Rights Council also works with the UN Special Procedures established by the former Commission on Human Rights and now assumed by the Council. These are made up of special rapporteurs, special representatives, independent experts and working groups that monitor, examine, advise and publicly report on thematic issues or human rights situations in specific countries.

Please note that unlike the United Nations Security Council, the Human Rights Council simply provides recommendations in order to resolve the agenda and States have the sovereign right to decline ratification of a Resolution/have their reservations, when such a consensus does not comply with their interests.



INTRODUCTION TO THE AGENDA

The agenda:

Protection of victims against torture in penitentiary systems

What this means:

It is common knowledge that the human rights of prisoners are often not respected. But can guidelines help to prevent such violations? Both greater awareness of existing guidelines and development of further guidelines are required for the protection of the rights of prisoners.



HUMAN RIGHTS

Background:

All human beings are born independent, free and equal in dignity and rights. They are endowed with reason and conscience and should act accordingly, living in a high spirit of love and brotherhood. Human rights are rights inherent to all human beings, irrelevant to our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination as these rights are fundamental to us because we are human. These rights are all interrelated, interdependent and indivisible.

Non-discrimination is a sine-qua-non principle in international human rights law. The principle is present in all the major human rights treaties.

Who is a prisoner?

The word 'prisoner' means any person who is kept under custody in jail or prison because he/she committed an act prohibited by law of the land. A prisoner is anyone who, against their will, is deprived of liberty. This liberty can be deprived by forceful restrain or confinement.



HUMAN RIGHTS

Human Rights of Prisoners:

Human rights are necessitated because of the reason of human life. Being in civilized society organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life. Even if the person is confined or imprisoned because of his wrong, he is entitled to their rights unaffected by the punishment for wrongs, simply because if a person under trial or a convict, his rights cannot be denuded.

Prisoners have basic legal rights that can't be taken away from them. These include:

- The right to food and water.
- Protection from torture, violence and racial harassment.
- Being able to get in touch with an attorney to defend himself.



THE CURRENT SCENARIO

The situation in India:

The Indian socio-legal is based on non-violence, mutual respect and human dignity of the individual. By committing a crime, a person does not change from being human and still is endowed with all the aspects which demand him to be treated with human dignity and respect that a human being deserves.

However, the practice of torture in prison has been widespread and predominant in India since time immemorial. Unchallenged and unrestricted, it has become a 'normal' and 'legitimate' practice all over.

In the name of investigating crimes, extracting confessions and punishing individuals by the law enforcement agencies, torture is inflicted not only upon the accused but also on bona fide petitioners, complainants or informants amounting to cruel, inhuman, barbaric and degrading treatment, grossly derogatory to the individual dignity of the human person. Torture is also inflicted on women in the form of custodial rape, molestation and other forms of sexual torture.



THE CURRENT SCENARIO

The situation in the world:

In many countries, resources allocated to the administration and management of prisons are insufficient even to meet basic needs. This translates into prison overcrowding, long pre-trial detention, unduly harsh prison conditions, and lack of effective rehabilitation programmes.

Prison overcrowding is one of the key contributing factors to poor prison conditions around the world. It is also arguably the biggest single problem facing prison systems and its consequences can at worst be life-threatening at best prevent prisons from fulfilling their proper function.

Moreover, due to corruption, prisons also become recruitment grounds in organized crime and terrorism.

These are some of the primary reasons of poor prison conditions in the world:

Overcrowding:

Prison overcrowding is one of the key contributing factors to poor prison conditions around the world. It is also arguably the biggest single problem facing prison systems and its consequences can at worst be life-threatening at best prevent prisons from fulfilling their proper function. Data suggests that the number of prisoners exceeds official prison capacity in at least 115 countries.



THE CURRENT SCENARIO

Interpersonal violence:

Both men and women in prison have histories of interpersonal violence. Extant estimates suggest that at least half of incarcerated women have experienced at least one traumatic event in their lifetime. Rates reported by men are lower by comparison, but significant nonetheless.

Unsuitable living conditions:

Healthcare professionals need to navigate the conflicts of interest that can make it difficult to ensure that patients' rights are respected. Within such institutions, the main challenges are ensuring that patients receive healthcare that is equivalent to that available outside prison, and ensuring patient autonomy in healthcare decisions.



CASE STUDIES

Unchecked outbursts of prison violence frequently violate prisoners' right to life.

Venezuela:

Overcrowded, understaffed, physically deteriorated, and rife with weapons, drugs and gangs, Venezuela's prisons have a deservedly poor reputation.

- In Venezuela in 1996, Human Rights Watch researchers saw scores of prisoners with bruised and bleeding buttocks, attesting to the wholesale nature of the punishment meted out by members of the military force guarding the prisons. The infirmaries of several prisons held prisoners who had been badly beaten or shot by members of the Guard.
- At least twenty-nine prisoners were killed in a remote jungle facility in Venezuela, leading the country's Justice Ministry, charged with prison administration, to promise reforms, and its Public Ministry to conduct an extensive investigation of the incident's causes.
- In certain Venezuelan prisons with one guard for every 150 prisoners, and an underground trade in knives, guns, even grenades, prisoners kill other prisoners with impunity.



CASE STUDIES

Morocco:

In Morocco's Oukacha prison, twenty-two prisoners were burned alive in September 1997; they had been crammed together in a cell reportedly built to hold eight. The cause of the fire was not announced, but the country's Justice Ministry acknowledged that overcrowding might have played a role in the deaths.

Tajikistan:

The Tajikistan government, earlier in the year, chose to cover up an even bloodier prison massacre. Although information about the events is scarce, reports indicate that in mid-April the Tajik security forces stormed a prison in the northern city of Khujand, killing over a hundred prisoners. Earlier that week, inmates had rioted and taken several guards hostage to protest life-threatening detention conditions. Ignoring Human Rights Watch's request for information and its calls for a thorough and impartial investigation of the incident, the Tajik government has apparently taken no action to punish those responsible for the deaths.



CASE STUDIES

Other countries:

A special commission of inquiry, appointed after the 1995 death of a prominent businessman in India's high-security Tihar Central Jail, reported in September 1997 that the 10,000 inmates held in that institution endured serious health hazards, including overcrowding, "appalling" sanitary facilities, and a shortage of medical staff.

Similar conditions prevail in the prisons of the former Soviet Union, where tuberculosis continues its comeback. Russia's prosecutor general announced in March 1997 that about 2,000 inmates had died of tuberculosis in the previous year.

In Kazakhstan, the disease, including drug resistant strains, has reached epidemic proportions. AIDS also plagues many prison populations.

The heavy bar fetters used in Pakistani prisons turn simple movements such as walking into a painful ordeal. Nineteenth-century prisons needing constant upkeep remain in use in some countries, including the United States, Mexico, Russia, and the United Kingdom, although even many modern facilities are in severe disrepair due to lack of maintenance.



WHY PRISON REFORM IS NECESSARY

Central to the arguments to promote prison reforms is a human rights argument - the premise on which many UN standards and norms have been developed. However, this argument is often insufficient to encourage prison reform programmes in countries with scarce human and financial resources. Some of the reasons why prison reform should be considered seriously are:

Human rights consideration:

A sentence of imprisonment constitutes only a deprivation of the basic right to liberty. It does not entail the restriction of other human rights, with the exception of those which are naturally restricted by the very fact of being in prison. Prison reform is necessary to ensure that this principle is respected.

Imprisonment and poverty:

When an income generating member of the family is imprisoned the rest of the family must adjust to this loss of income. Thus the family experiences financial losses as a result of the imprisonment of one of its members. When released, often with no prospects for employment, former prisoners are generally subject to socio-economic exclusion and are thus vulnerable to an endless cycle of poverty, marginalisation, criminality and imprisonment.



WHY PRISON REFORM IS NECESSARY

Public health consequences:

Prisons have very serious health implications. Prisoners are likely to have existing health problems on entry to prison. Their health conditions deteriorate in prisons which are overcrowded, where nutrition is poor, sanitation inadequate and access to fresh air and exercise often unavailable.

Detrimental social impact:

Imprisonment disrupts relationships and weakens social cohesion. When a member of a family is imprisoned, the disruption of the family structure affects relationships between spouses, as well as between parents and children, reshaping the family and community across generations.

The cost of imprisonment:

Taking into account the above considerations, it is essential to note that, when considering the cost of imprisonment, account needs to be taken not only of the actual funds spent on the upkeep of each prisoner, but also of the indirect costs, such as the social, economic and healthcare related costs, which are difficult to measure, but which are immense and long-term.



MEASURES THAT CAN BE TAKEN

A sentence of imprisonment constitutes only a deprivation of the basic right to liberty. It does not entail the restriction of other human rights, with the exception of those which are naturally restricted by the very fact of being in prison. Prison reforms are necessary to ensure that this principle is respected, the human rights of prisoners protected and their prospects for social reintegration increased, in compliance with relevant international standards and norms.

In order for a prison system to be managed in a fair and humane manner, national legislation, policies, and practices must be guided by the international standards developed to protect the human rights of prisoners. Prison torture in all forms is banned by the 1948 Universal Declaration of Human Rights (UDHR), the 1949 Geneva Conventions (signed 1949), the American Convention on Human Rights (signed 1977), the International Covenant on Civil and Political Rights (signed 1977), and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (signed 1988).

Several measures can be taken to ensure the prisoners enjoy basic human rights:



MEASURES THAT CAN BE TAKEN

Holding facilities:

Prisons range from high-security closed institutions to open prisons with minimum security. Whether a prisoner is held in a high- or low-security prison will depend on the prisoner's profile. Factors such as the type of offence, length of sentence, degree of risk, etc., are taken into account. If a prisoner is considered dangerous or poses a threat to you as a victim, he or she will be held in one of the secure closed prisons.

Reducing overcrowding:

There are multiple ways in which prison overcrowding can be addressed and its harmful consequences mitigated. Some of them are:

- investing in non-custodial alternatives to detention both pre- trial and post sentencing
- diverting minor cases out of the criminal justice system altogether
- investing in long-term strategies for crime prevention and reduction
- reducing high rates of pre-trial detention by improving access to justice
- making special or alternative arrangements for vulnerable groups, such as children, mothers with dependent children and people with mental health issues.



MEASURES THAT CAN BE TAKEN

- One of the main aims of the prison system should be to rehabilitate offenders so that they do not offend again when they are released from prison. Prison services should provide work- training, counselling and treatment for drug and alcohol addiction.

Proper healthcare:

It is the responsibility of the State to provide for health services and a healthy environment. Because prisoners are more likely to already be in a bad state of health when they enter prison, and the unfavourable conditions therein make the health situation even worse, the need for health care and treatments will often be greater in a prison than in an outside community. However, providing even basic health care to prisoners has proved extremely difficult in countries where the overall health systems have collapsed or are chronically insufficient.

Personal security:

Authorities should protect prisoners from physical injury, corporal punishment, sexual assault, extortion, harassment, and personal abuse, among other harms.



MEASURES THAT CAN BE TAKEN

Authorities should exercise reasonable care with respect to property prisoners lawfully possess or have a right to reclaim. A remedy should be reasonably available to prisoners if correctional authorities negligently or intentionally destroy or lose such property.

Rules of conduct:

Administrators and officials should promulgate clear written rules for prisoner conduct, including specific definitions of disciplinary offenses, examples of conduct that constitute each type of offense, and a schedule indicating the minimum and maximum possible punishment for each offense. The prisoner should also be provided with a personal copy of the rules for prisoner conduct and an informational handbook written in plain language.



INITIATIVES TAKEN BY THE UN

Since 1955, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has been engaged, within its Technical Cooperation Programme in the Field of Human Rights, in assisting States towards the building and strengthening of national structures that have a direct impact on the overall observance of human rights and the maintenance of the rule of law. In this context, the Office has been involved for many years in the training of personnel working in the area of administration of justice.

Among the professionals working in this sector, prison officials play an essential role in ensuring that the human rights of those who have been deprived of their liberty by imprisonment or other forms of detention are respected and upheld. In recognition of this role, the United Nations, since its inception, has developed a host of international human rights instruments (both treaties, such as the International Covenant on Civil and Political Rights, and other documents, for example the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment) containing basic standards relevant to prison officials' work.



INITIATIVES TAKEN BY THE UN

Such standards provide invaluable guidance to prison staff for the performance of their professional duties through practices that are lawful, humane and disciplined. OHCHR's Human Rights and Prisons—a human rights training package for prison officials is intended to constitute a comprehensive curriculum for the training of prison officials on such international human rights standards.

The main objectives of this publication, and of the training's methodological approach contained herein, can be stated as follows:

- To provide information on international human rights standards relevant to the work of prison officials;
- To encourage the development of skills necessary to transform that information into practical behaviour;
- To sensitize prison officials to their particular role in promoting and protecting human rights, and to their own potential for affecting human rights in their daily work;
- To reinforce prison officials' respect for, and faith in, human dignity and fundamental human rights;



INITIATIVES TAKEN BY THE UN

- To encourage and reinforce an ethos of legality, and of compliance with international human rights standards, within prisons;
- To equip trainers of prison officials to provide effective human rights education and training.

The training package's principal beneficiaries are staff who work within prison administrations, particularly those who work directly with prisoners and other detained individuals.

In addition, it may also assist various intergovernmental and non- governmental agencies and organizations in carrying out effective training activities for prison personnel. Since the package focuses on international human rights standards, it needs to be supplemented in the light of the particular national requirements and legal systems in which the related training programme is taking place.



FURTHER READING

- [https://www.citizensinformation.ie/en/justice/victims_of_crime/victims and the prisons.html](https://www.citizensinformation.ie/en/justice/victims_of_crime/victims_and_the_prisons.html)
- <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3793850/>
- <https://www.penalreform.org/issues/prison-conditions/key-facts/overcrowding/>
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FURTHER READING

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