

Committee: Legal Committee (GA6)

Topic: Rethinking universal standards for the treatment of prisoners

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Position: President

Personal Introduction

Dear delegates,

My name is Ioulianos Kotsios and I am a 12th grade student at Pierce – The American College of Greece. During the 8th CS MUN I will have the honor to serve as the Chair of the Legal Committee (GA6) of the General Assembly.

My MUN experience started two years ago and CS MUN 2020 will be my 11th conference overall and chairing during it will be a great pleasure for me.

Through this Study Guide I aim to introduce you to the second topic of GA6 and present you with all the necessary details in order for you to fully understand it and be able to draft resolutions and debate on it. However, research from your side will be needed as well.

Should you have any questions, don't hesitate to contact me at the following email: i.kotsios@acg.edu.

Looking forward to meeting you all in October!

Best regards,

Ioulianos Kotsios



Topic Introduction

Throughout the years there have been numerous attempts for an internationally accepted accord to be adopted globally regarding the correct treatment of prisoners.

Conventions have been also held in order for this topic to be discussed. Through them some global leaders agreed to measures, which have never been implemented, on how prisoners should be treated.

It is widely known that prisoners often face cruel punishments, sexual harassment and discrimination. During their stay at the correctional facilities they have inhumane living conditions and, above all, there is sometimes lack of medical and mental healthcare.

Correctional Facilities are supposed to be places where prisoners will be rehabilitated in order to re-enter society and not pose a threat anymore. Thus, new and modern measures should be adopted for the prisoners' better living conditions to be secured.

In order for the aforementioned to be achieved the universal standards for the treatment of prisoners should be reconsidered and a solution to the issue needs to be quickly found.



Definition of Key Terms

Nelson Mandela Rules (NMR)

The Nelson Mandela Rules (NMR) “are 122 Rules that cover all aspects of prison management and outline the agreed minimum standards for the treatment of prisoners – whether pre-trial or convicted.”¹

Inmate Social Code (ISC)

The Inmate Social Code “(also known as: Convict Code) refers to five rules and values that have developed among prisoners inside prisons' social systems. The inmate code helps define an inmate's image as a model prisoner. The code helps to emphasize unity of prisoners against correctional workers.”²

Rehabilitation

Rehabilitation is “the process of returning to a healthy or good way of life, or the process of helping someone to do this after they have been in prison.”³

Capital Punishment

“Capital punishment, also called death penalty, execution of an offender sentenced to death after conviction by a court of law of a criminal offense.”⁴

¹ “UN Nelson Mandela Rules.” Penal Reform International, 17 July 2020, <https://www.penalreform.org/issues/prison-conditions/standard-minimum-rules/>

² “Inmate Code.” Wikipedia, Wikimedia Foundation, 8 July 2019, https://en.wikipedia.org/wiki/Inmate_Code

³ “Rehabilitation.” Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/rehabilitation>

⁴ Hood, Roger. “Capital Punishment.” Encyclopedia Britannica, Encyclopedia Britannica, Inc, 6 Apr. 2020, <https://www.britannica.com/topic/capital-punishment>



Police Brutality

“The term ‘police brutality’ is sometimes used to refer to various human rights violations by police. This might include beatings, racial abuse, unlawful killings, torture, or indiscriminate use of riot control agents at protests.”⁵

Non-Governmental Organization (NGO)

“A non-governmental organization (NGO) is a non-profit, citizen-based group that functions independently of the government. NGOs can play a major role in international development, aid, and philanthropy.”⁶

Background Information

History of imprisonment

In modern history, prisons were not originally built in order for inmates to be rehabilitated, but to keep them until the punishment could be carried out. This happened in order for the guilty people to have the sense of pain, as usually rehabilitation methods varied between being beaten by a whip to the well-known “capital punishment”.

The birthplace of modern prison is considered to be London, United Kingdom. The idea behind the new kind of Correctional Facilities emerged from British philosopher Jeremy Bentham. Bentham, who was against the death penalty, spoke about prisons which would keep inmates in there as a kind of punishment. He drew plans for this idea of him bearing in mind that prisoners should never know if they were being watched by guards at any

⁵ “What Is Police Brutality?” Police Violence | Amnesty International, <https://www.amnesty.org/en/what-we-do/police-brutality/>

⁶ Folger, Jean. “What Is an NGO (Non-Governmental Organization)?” Investopedia, Investopedia, 25 July 2020, <https://www.investopedia.com/ask/answers/13/what-is-non-government-organization.asp>



time. That allowed the government to save money as fewer officers, than expected, were hired. “In the end, this prison was never built, but the concept of using prisons as a form of long term punishment did catch on.”⁷

By the middle of the 19th Century prisons were only built so as to house prisoners and detain them from committing any kind of crime again. Inmates were sent to prison after being charged at a court of law in order to be stripped from their right to freedom. It was very common for inmates to be forced to do labor and live under inhumane conditions.

After a short period of time the main aim of prisons became the rehabilitation of the incarcerated, as experts believed that being locked up would detain the prisoners from committing a crime again. Others believed that certain policies should be enforced in order for them to be rehabilitated, including; “mental examinations, educational programs and sometimes even far more drastic measures such as electroshock therapy.”⁸ Finally, there were also people that believed that being involved with other criminals, while imprisoned, would not rehabilitate anyone rather make them become more involved with crime. Regardless of the opinions that might be out there imprisonment still is the most common form of punishment.

Standard Minimum Rules (SMR) for the Treatment of Prisoners

In 1955 the United Nations Office on Drugs and Crime (UNODC) organized the first Congress on Crime Prevention and Criminal Justice which ended up drafting the Standard Minimum Rules for the Treatment of Prisoners. This

⁷ “History Of Imprisonment.” Crime Museum, <https://www.crimemuseum.org/crime-library/famous-prisons-incarceration/history-of-imprisonment/>

⁸ “History Of Imprisonment.” Crime Museum, <https://www.crimemuseum.org/crime-library/famous-prisons-incarceration/history-of-imprisonment/>



draft became effective in 1957 when the United Nations (UN) Economic and Social Council (ECOSOC) approved it.

Since 1957 the Rules have served as the only internationally accepted Framework on the correct and humane treatment of prisoners. Even though they are not legally binding they provide guidelines on international as well as domestic law on how people should be treated while in custody. The basic principle presented in the SMR is that; "There shall be no discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".⁹

The Rules are divided into two different parts. In the first part the correct management of Correctional Facilities and the right way to treat prisoners is mentioned. The second part contains rules that apply to different kinds of prisoners, already prosecuted or not.

The Nelson Mandela Rules

In 2010, the UN General Assembly (GA) called for the Commission on Crime Prevention and Criminal Justice to establish a group of experts to exchange ideas on the revision of the SMR in order to reflect on modern events and situations.

In December 2015, the GA passed Resolution 70/175, in which the words Mandela Rules were first used. This Resolution was named in honor of the South African politician who was an advocate for equality and fair treatment of prisoners. The UN also decided that during International Mandela Day (18 July) the Mandela Rules would also be promoted.

⁹ "Standard Minimum Rules for the Treatment of Prisoners." Wikipedia, Wikimedia Foundation, 16 July 2019, https://en.wikipedia.org/wiki/Standard_Minimum_Rules_for_the_Treatment_of_Prisoners



ADX Florence

ADX Florence is a federal prison in the state of Colorado, United States of American. It operates as a maximum security facility and is part of the Florence Federal Correctional Complex (FCC Florence).

In 2012, some inmates filed a lawsuit against the Federal Bureau of Prisons, namely *Cunningham v. Federal Bureau of Prisons*. The inmates in the lawsuit talked about failure of the prison staff to diagnose seriously mental ill prisoners and brought as an example six inmates that had committed suicides.



Figure 1: ADX Florence main building¹⁰

Since the lawsuit was filled the living conditions in ADX Florence, according to independent organizations research, have worsened and police brutality has been even harsher. Since the lawsuit was filled there have been two more, recorded, suicides within the correctional facility; however organizations believe that the number of actual suicides is much more than the one the Federal Government has published.

¹⁰ “ADX Florence.” *Wikipedia*, Wikimedia Foundation, 16 Aug. 2020, en.wikipedia.org/wiki/ADX_Florence#/media/File:Florence_ADMAX.jpg.



Guantanamo Bay Detention Camp

Guantanamo Bay Detention Camp (GBDC) is a United States penitentiary center located in the Naval Station Guantanamo Bay (NSGB) in Guantanamo, Cuba. It was created during the first term of President George W. Bush during the 2002 War on Terror, against terrorist organizations responsible for the 9/11 attacks. During the administration of his successor, President Barack Obama, it was reported that the Federal Government would shut down this correctional facility; however, the leadership of the Department of Justice (DOJ) met strong opposition during debate at both houses of the US Congress. The US Congress passed a law prohibiting inmates from Guantanamo to be imprisoned in the US; however the Obama administration reduced the number of inmates in the facility by moving a lot of them to prisons located in the States. President Donald Trump signed a Presidential Executive Order, in January 2018, in order to keep the facility open forever.

GBDC has many times been on the spectrum as it is considered one of the facilities with the most inhumane treatment of the incarcerated. Indefinite imprisonment and torture are just a few of the breaches of human rights according to Amnesty International that can be seen at the camp. Living conditions reportedly are completely against the US Constitution and specifically the Due Process Clause (DPC) of the Fifth and Fourteenth Amendment. DPC acts as a safeguard from prisoners being denied a fair trial at a court of law. With DPC all people are ensured a fair trial before being incarcerated in any penitentiary center.

As mentioned previously GBDC has often been on the spectrum for the inhumane living conditions it offers to its prisoners. Specifically, there have been many reports regarding abuse of the detainees' religion, mostly towards Muslims, and acts of torture, such as sleeping deprivation, locking in cold



cells and beating. As a result of these conditions there have been many incidents of suicide attempts in the camp. The detainees have complained to the US Department of Corrections (DOC) of the DOJ but the leadership of this agency has never helped any prisoner; thus, leaving them no other way to save themselves but take their own life.



Figure 2: The main entrance to Camp Delta 1, one of the camps at Guantanamo Bay¹¹

Guantanamo Bay Suicide Pact of 2006

Three detainees were found dead on June 10th, 2006, after them all together, according to the leadership of the US Department of Defense (DOD), killed themselves in a suicide pact. The then Prison Warden Rear Admiral Harry Harris stated that this was not an act of desperation by the inmates by an act against the name of the correctional facility. After the public got to know about the inmates' story about the events many humanitarian organizations, such as Amnesty International, called for the government to publicize the prisoners' records and investigate the case together with the organizations.

¹¹ Borger, Julian. "Donald Trump Signs Executive Order to Keep Guantanamo Bay Open." *The Guardian*, Guardian News and Media, 31 Jan. 2018, <https://www.theguardian.com/us-news/2018/jan/30/guantanamo-bay-trump-signs-executive-order-to-keep-prison-open>



Amnesty International also stated that this event is the result of tragic years and experiences within the correctional facility and that the government should wait for more cases like these.

Prison Corruption

Corruption in prison has been widely discussed in recent years and many government organizations have taken action towards solving that issue. The United Kingdom recently established in 2013 a task force which will aim to stop corruption in England and Wales. Between 2013 and 2018 the task force uncovered “2,270 into breaches of security, 718 into assault or unnecessary use of force against a prisoner and 174 into inappropriate relationships with prisoners”.¹² At the same period of time 567 penitentiary officers were found guilty of breaching rules and later fired.

Police Brutality

Police brutality appears to be one of the biggest issues within the issue of prison corruption. Correction Officers (CO) many times have taken extreme measures in order to maintain order inside a penitentiary center.

Amnesty International has multiple times talked about that problem. It has stated that police brutality can even become a human right breach if an inmate ends up dead from being beaten by correctional officers or if the officers didn't ensure that the inmates had humane living conditions.

¹² “Prison Officers Who Smuggle Drugs Targeted by New Corruption Unit.” The Guardian, Guardian News and Media, 4 May 2019, www.theguardian.com/society/2019/may/04/prison-officers-who-smuggle-drugs-targeted-by-new-corruption-unit.



Many NGOs have called for immediate actions to be taken from governments worldwide in order to minimize and even, if possible, eliminate this effect.

Major countries and organizations involved

United States of America (USA)

Many human rights violations in the United States happen during incarceration of prisoners. The criminal justice system, including policing, prosecution and punishment is plagued with injustices like racial discrimination and harsh sentencing. As a result, the prison population in the United States is the largest worldwide. Additionally, specific policies often have a harsh impact on youth, racial minorities or low-income populations accused of committing a crime. Living conditions in many prisons and jails are often unsafe and inhumane, while physical mistreatment and inadequate medical and mental health care have been frequently reported.

Democratic People's Republic of Korea (DPRK)

Although there are many UN reports concerning the prisons' inhumane conditions in DPRK the government has repeatedly denied them. According to a report, by the UN Office of the High Commissioner on Human Rights, in the Democratic People's Republic of Korea 200,000 people, including children, are estimated to be incarcerated in North Korea. In the same report, first-hand testimonials were collected by former guards and prisoners, which detailed cases of starvation, rape, arbitrary detention and mutilation. Additionally, according to the report most prisoners are imprisoned for life without a chance of leaving, while escaping the prison is "virtually impossible," as prison areas are surrounded by perimeter fences that are



electrified at a high voltage and further secured by wire. That being said, the DPRK can be considered one of the countries with the most inhumane prisoners treatment system worldwide.

United Nations Office of the High Commissioner on Human Rights (OHCHR)

The United Nations Office of the High Commissioner on Human Rights (OHCHR) is the office of the UN responsible for ensuring the treatment of prisoners according to the Universal Declaration of Human Rights proclaimed by the GA in 1948.

United Nations Office on Drugs and Crime (UNODC)

The United Nations Office on Drugs and Crime (UNODC) has an active role on the issue as it is the body that organizes the Congress on Crime Prevention and Criminal Justice every five years. UNODC is also responsible for the revision of the Mandela Rules when it deems necessary for this actions to take place.

Timeline of events

<u>Date</u>	<u>Event</u>
July 1929	The Geneva Conventions were signed and became effective.
July 1949	The Third Geneva Convention regarding the treatment of prisoners of war was revised.



August 1955	The First UN United Nations Congress on Crime Prevention and Criminal Justice began (CCPCJ).
August – September 1955	The Standard Minimum Rules (SMR) for the Treatment of Prisoners are drafted by the CCPCJ during its first session.
July 1957	The SMR are approved by the ECOSOC.
January 2010	The GA called for the revision of the SMR.
January 2011- December 2015	Review process of the SMR takes place.
December 2015	The Standard Minimum Rules are revised and renamed to Nelson Mandela Rules.

Previous attempts to solve the issue

Geneva Convention

The only international convention signed regarding the treatment of prisoners was drafted at the 1929 Geneva Conference and is part of the Geneva Conventions, a four treaties and three protocols agreement about the humanitarian treatment in war.

The third Geneva Convention (officially known as Geneva Convention relative to the Treatment of Prisoners of War) talks about the treatment of prisoners during times of war. It became effective when signed in 1929 and was



revised twenty years later, in 1949. The convention has 196 parties that have signed it.

The Convention is divided into six different parts, each with a different goal. The first part defines what prisoner of war is while the second talks about how prisoners should be treated and their life conditions. In the third part the definition of captivity is given and some different kinds of it. Part number four mentions ways that can terminate captivity while the fifth part sets up an Information Bureau which would inform governments about prisoners' treatment within the Third Convention. Finally, the last part talks about how the treaty should be executed.

The Convention has been proven to be a very effective one that helped all nations during times of conflict. Lastly, UN member-states believe that the 1949 revision of the treaty will also help if a big conflict was to arise.

Relevant UN Resolutions, Events, Treaties and Legislation

The First United Nations Congress on the Prevention of Crime & the Treatment of Offenders in 1955

In 1955 the UN Office on Drugs and Crime held the first Congress on Crime Prevention and Offenders Treatment which focused on crime and crime prevention as well as criminal justice. The purpose of this congress is to make recommendations to the UN GA about the aforementioned topics. Since 1955 the Congress has been held every five years and since 2005 its name is United Nations Congress on Crime Prevention and Criminal Justice.



Possible solutions

Raising awareness on prisoners' rights

All prisoners should be made aware of their fundamental human rights and what should they do if any violation occurs. That can be done by their lawyers prior to their incarceration in a prison or by a Correction Officer specifically responsible to carry out this task.

Rehabilitation programs

Rehabilitation programs, such as educational ones, should be established in correctional facilities in order to ensure that the prisoners are ready to re-enter society. These programs should be funded by governments and created by specialists, such as psychologists, in order to fit the profiles of the prisoners.

Monitoring Systems

In order to prevent any forms of torture discrimination, sexual abuse and generally violations of human rights an effective monitoring system should be established. These monitoring mechanisms will record possible instances of violations of human rights of prisoners.

Mental support

Mental support should be provided to every prisoner. Every correctional facility should hire a psychologist which will provide immediate support to the incarcerated when it will be needed. Also, prisoners who would be found with



some kind of mental problem should be immediately taken to the appropriate facilities where experts would know how to handle any problem.

Lack of funds

The issue of the lack of funds is a major issue that should be addressed in order for governments to set higher budgets which will directly go to the prisons and enable them to have many rehabilitation programs.

Staff training

Training prison staff, including prison guards and medical officers is more than necessary, so that they know how to treat detainees. These training programs can include drug abuse training, rehabilitation programs and rapid response. The programs would be mandatory for anyone who wishes to become a Correction Officer. Furthermore these programs should be updated when deemed necessary.

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