

Committee: Legal Committee (GA6)

Topic: Reforming the criminal justice system to improve rehabilitation and develop alternatives to imprisonment.

Student Officer: Georgia Papaioannou

Position: Co-Chair

Personal Introduction

Dear Delegates,

My name is Georgia, I am 15 years old and attend the 10th grade in Athens College. I will be serving as the expert chair on the topic of “Reforming the criminal justice system to improve rehabilitation and develop alternatives to imprisonment”. I am very excited to be serving as a student officer in CS MUN and I hope that this study guide will assist you during committee work and guide you in the right direction so we can have a fruitful and productive debate. While most of the important information is included in the guide, you will need to do your own research to find out your country’s policy as well as develop solutions to the issue.

I can’t wait to meet everyone in the conference. If you have any questions about this topic, don’t hesitate to contact me through the attached email.

Yours truly,

Georgia Papaioannou

georgiapap456@gmail.com

Topic Introduction

Since the dawn of time, civilizations have developed criminal justice systems so that unlawful actions are duly punished. This is why criminal justice institutions and subsequently prisons have existed for a long time. For a society to be functional, there must be adequate protection to all law-abiding citizens, while all those who violate the



law and act against the common good must face the consequences and pay their debts to society.

During the past couple of decades there have been rising concerns surrounding the treatment of prisoners in correction facilities, since according to the Universal Declaration of Human Rights, signed in 1948, they too have inherent rights as human beings. With that concern, the topic of prison and criminal justice reform was first established.

Any discussion pertaining to the reform of the criminal justice system must be examined primarily from a human rights perspective. When an individual is incarcerated they are restricted with regard to the human right to liberty, while all other human rights should not be violated by the prison sentence. Therefore, when the criminal justice system does not respect the rights of prisoners established by international law, the need for reform is imperative. Right now, most prisons worldwide fail to provide their inhabitants with sufficient facilities for rehabilitation, medical and mental care, social integration etc.

Definition of key terms

Criminal Justice

A network, frequently consisting of three branches, the police, the courts and correctional facilities, whose main purpose is to administer justice and enforce the law.

Rehabilitation

“Rehabilitation is a central goal of the correctional system. This goal rests on the assumption that individuals can be treated and desist from crime.” “Rehabilitation

includes a broad array of programs, including mental health, substance abuse, and educational services.”¹

Mass Incarceration

The product of prioritizing harsh punishment in criminal justice, leading to overcrowding in prisons and a significant rise in the prison population. Because of mass incarceration and the consequential overcrowding that comes from it, a lot of disputes emerge among prisoners.

Social Integration

An inclusionary objective, to ensure that all persons who enter or re-enter a society have equal human rights, access to personal and/or economic growth, and opportunities to better their daily lives.

Pre-trial Detention

Individuals imprisoned pending trial who have not yet been found innocent or guilty. Pre-trial custody accounts for about 30% of the total incarcerated population in some countries.

Non-Custodial Measures

Alternatives to a prison sentence such as probation, community service and house arrest.

Background Information

Concerns

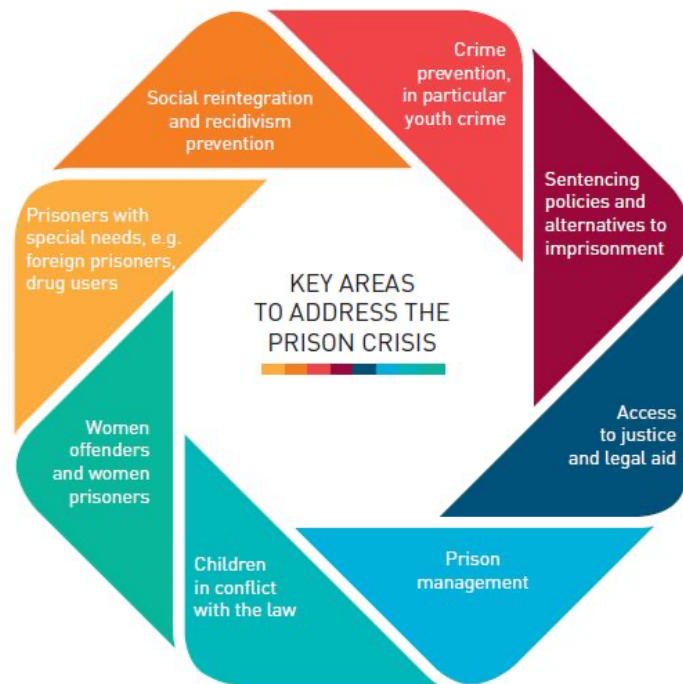
The issue of criminal justice reform and consequently the issue of rehabilitation and alternatives to imprisonment were first raised because of the concern around the

¹ "Rehabilitation". In obo in Criminology. 29 Sep. 2021.
<<https://www.oxfordbibliographies.com/view/document/obo-9780195396607/obo-9780195396607-0046.xml>>.



proper treatment of prisoners by both the justice system and later by prison guards and facilities.

Most prisons worldwide exceed the maximum occupancy rate, preserve poor sanitation and hygiene levels, which often leads to the rapid spread of transmissible diseases, such as, but not limited to COVID-19, HIV/AIDS and tuberculosis. Additionally, it is not uncommon for prison personnel to abuse the power they are given by not treating prisoners with the appropriate dignity and respect.²



Key Areas to Address the Prison crisis (from UNODC)³

Another concern is violent and frequent conflicts between prisoners. Most of them are assaults or fights that often lead to serious injuries. What causes them varies. A majority happens because of arguments over material goods, such as tobacco, narcotics and cellphones. Others happen because the victim of the assault broke the

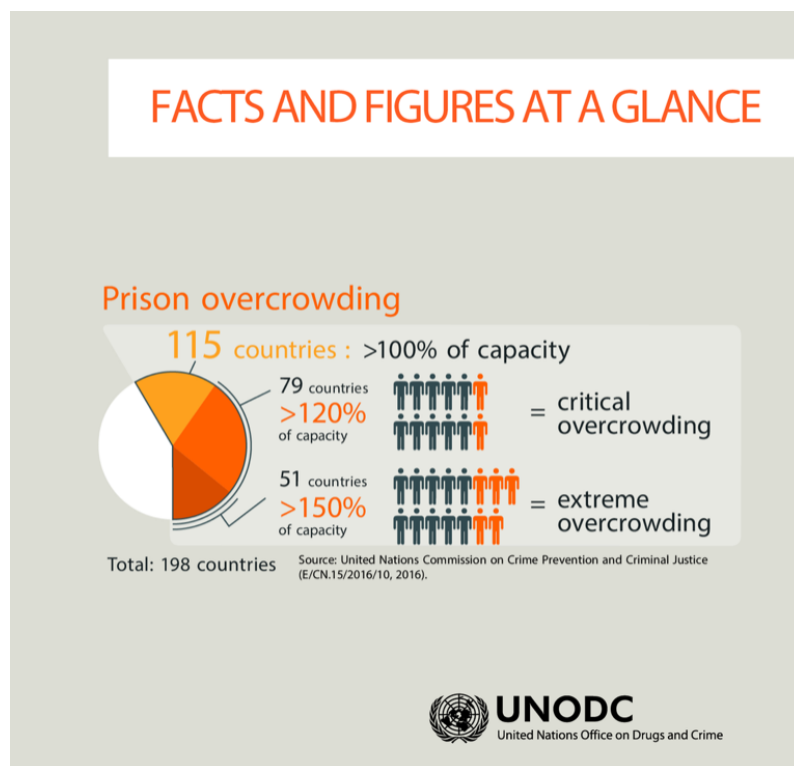
²“Basic Principles for the Treatment of Prisoners.” *OHCHR*, www.ohchr.org/en/professionalinterest/pages/basicprinciplestreatmentofprisoners.aspx.

³ “The Global Prison Challenges Programme.” *United Nations Office on Drugs and Crime*, www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-gloz85.html.

“inmate code”. Furthermore, a disturbing amount occur because of ethnic, religious, racial or political differences between prisoners. ⁴

Key Challenges

The issues that many criminal justice systems of nations face today originate from a series of communally reinforcing challenges. A large problem a multitude of these nations face is the issue of overcrowding, which also ties in with the matter of poor prison conditions, since a lack of adequate space caused by overcrowding eventually leads to the worsening of conditions in these facilities.



Statistics on overcrowding in prisons worldwide ⁵

These aforementioned poor conditions often result to inadequate and underfunded health services, both in the mental and the physical aspect of health. This puts all prisoners' in danger but especially poses a threat to prisoners with special

⁴Jacobs, James B. “Stratification and Conflict among Prison Inmates.” Northwestern University School of Law, 1976.

⁵ “Alternatives to Imprisonment.” *United Nations : Office on Drugs and Crime*, www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-alternatives-to-imprisonment.html.

needs or drug and alcohol addictions. Arguably, the biggest challenge in modern prisons is the lack of social reintegration programmes such as facilities for therapy and treatment of drug or alcohol addiction, educational programmes and exercise facilities.

The necessity of Criminal Justice Reform

Reforming the criminal justice system would not only assist in achieving the goal of equal human rights for all but also benefit society, the economy and the public health sector in multiple ways. Promoting impartial trials and subdued prison sentences or alternatives to jail time would improve the lives of prisoners worldwide.

For example, if we were to decrease overcrowding, persons who have not committed any significant or violent crimes would not have to be separated from their respective lives, families, and so on because they would not be sent directly to prisons but put on probation or given community service hours. That would rebound to a statistical decrease in poverty, as income generating members of society would still be able to support themselves and their families. The above-mentioned change would be especially relevant in less economically developed nations that cannot provide financial assistance to people whose lives were somehow modified by someone supporting them going to jail.

Additionally, it has been proven that going to jail does not assist criminals in becoming law-abiding citizens, in contrast, it may be worsening the already exacerbated situation. Many prisons may traumatize the already traumatized prisoners, worsening their mental health and setting them up to fail when they eventually get released. That may be true in a number of other situations like when dealing with prisoners whose physical health may be damaged and prisoners dealing with addiction.

Furthermore, the spread of transmissible, life-threatening diseases that are prevalent in prisons because of poor health services would dramatically decrease and public health would overall be improved.

Alternatives to imprisonment

Putting non-custodial measures at the forefront of criminal justice will assist in developing a more peaceful and safe world. Alternatives to imprisonment, both rehabilitation facilities and measures such as probation, house arrest and community service, have been proven to help a vast amount of the prison population. Mostly they have helped persons suffering with drug and alcohol dependence, and lowered the chances of them reoffending.

One can easily say that the root of a big part of the problems in criminal justice, specifically the problems that have been brought up because of prisons, is the overcrowding in penal institutions. Thus alternatives to imprisonment are highly important as they strive to find a sustainable solution to the issue of overincarceration.

With using non-custodial measures when dealing with punishment, governments are not only helping the individuals get a better chance at life and not fall back into criminal behavior. But they are also saving funds that can be used to build and maintain new prisons to cope with the rising criminal population.

Major countries and organizations involved

Norway

Norway's prisons have often been described as model and exemplarily humane. The prisons focus heavily on rehabilitation and offer prisoners a life closely emulating the one outside prison. Inmates are often encouraged to partake in workshops or sports they are interested in. It is required that the personnel are thoroughly educated on criminology, ethics, psychology etc. since they are in close communication with the prisoners, often participating in activities together.⁶



Overcrowding in Prisons ⁷

Venezuela

Venezuela has a long history of abuse of power by prison personnel. Distinctively, Venezuelan prison authorities are notorious for extrajudicial arrests and killings, meaning that citizens were sent to prisons without any real reason or on the

⁶ Ministry of Justice and the Police. "Norwegian Directorate for Correctional Services." *Government.no*, www.regjeringen.no/en/dep/jd/organisation/underliggende-etater/norwegian-directorate-for-correctional-s/id426320/.

⁷ Sethi, Arjun. "Four Ways to Relieve Overcrowded Prisons." *The Science Monitor*, www.csmonitor.com/Commentary/Opinion/2011/1229/Four-ways-to-relieve-overcrowded-prisons.

basis of “resistance to authority”. Moreover torture and assault are also particularly common among prisons in the country. ⁸

A study conducted by the World Justice Project, an NGO, called the “Rule of Law Index”, reveals that Venezuela, along with a number of Latin American countries, ranks among the lowest in the world in the field of criminal justice. ⁹

United States of America

When it comes to criminal justice and prison reform the United States, it is an example of a nation that prioritizes punishment over rehabilitation. The US has the largest prison population worldwide. Specifically, with the help of rampant mass incarceration within the past century, the United States house 25% of all incarcerated individuals worldwide.

The US has a “tough on crime” policy when it comes to criminal justice. This means that the slightest misdemeanor can land a citizen in some type of penal institution, if he or she does not have the means to pay the fine appropriate for the crime. ¹⁰

Uzbekistan

In 2017, Uzbekistan underwent a period of radical change. The government enacted a new development strategy that was centered around criminal justice reform. The main objective was to modernize and liberalize the old criminal justice system so as to be in a position of equality with international law. A conference was held in with the partnership of the UN Office on Drugs and Crime (UNODC), to consider possible

⁸“Venezuela: Justice Needed for Systematic Abuses.” *Human Rights Watch*, 15 Dec. 2020, www.hrw.org/news/2020/12/14/venezuela-justice-needed-systematic-abuses.

⁹Wells, Mirriam. “Venezuela Justice System among the Worst in the World: Ngo.” *InSight Crime*, 6 Oct. 2017, insightcrime.org/news/brief/venezuela-justice-system-among-worst-in-the-world-ngo/.

¹⁰ “Criminal Justice Reform.” *Equal Justice Initiative*, 16 Mar. 2020, eji.org/criminal-justice-reform/.



solutions to the problems faced by the criminal justice system of Uzbekistan and to discuss ongoing reforms. ¹¹

Zimbabwe

An vast problem faced by the citizens of Zimbabwe in the criminal justice sector is the issue of fair access to justice. Zimbabwe, like many countries, is plagued with widespread corruption in all subdivisions of the government, especially ones that are correlating to legal justice. Both the courts and the police frequently ask for money in exchange for freedom and are no strangers to getting bribed by citizens. In Zimbabwe an estimated 28% of individuals in conflict with the law payed a law enforcement officer a bribe so they could get laid off. ¹²

Amnesty International

Since the start of the COVID-19 pandemic Amnesty International has been urging governments to invest in alternatives to imprisonment, due to the fact that the virus is spreading rapidly in prisons all across the world. Specifically the UK department of Amnesty International urges the current UK government to develop alternatives to imprisonment. The UK department has explicitly expressed concern about the elderly and those with pre-existing conditions that happen to be part of the incarcerated population in order to protect them from contracting the virus and possibly dying.¹³

¹¹Dariya, Kudabaeva. "United Nations Office on Drugs and Crime." *UNODC Supports Criminal Justice Reforms in Uzbekistan*, www.unodc.org/centralasia/en/news/unodc-supports-criminal-justice-reforms-in-uzbekistan.html.

Yuldashev, Sherzod. "Legal Reforms in Uzbekistan: A New Era." *Federal Judicial Center*, www.fjc.gov/content/351047/legal-reforms-uzbekistan-new-era.

¹² "Delivering Justice in ZIMBABWE'S Courts - Blog." *Transparency.org*, www.transparency.org/en/blog/delivering-justice-in-zimbabwes-courts.

¹³ "UK: Government Must Consider Alternatives to Detention Following Prison Lockdown." *Amnesty International UK*, www.amnesty.org.uk/press-releases/uk-government-must-consider-alternatives-detention-following-prison-lockdown



European Union

The EU has passed an extensive list of rules and guidelines specifically calling for the improvement of the treatment of prisoners and the reform of the criminal justice system so as to promote alternatives to imprisonment and non-custodial measures, such as the European Prison Rules that were first adopted in 1987. Along with the passing of legislation, the EU has also published several assessments of the criminal justice and prison systems of their member states. These assessments reveal that some countries still fail to reach the EU standards of hygiene, physical and mental health services, while having untrained personnel. There are of course exceptions to this phenomenon. Some prisons have become leading examples, with actions such as building separate facilities for visiting hours, having programs that permit prisoners to exercise their right to vote, building educational facilities inside prison and having special buildings that house prisoners in rehabilitation.¹⁴

Penal Reform International

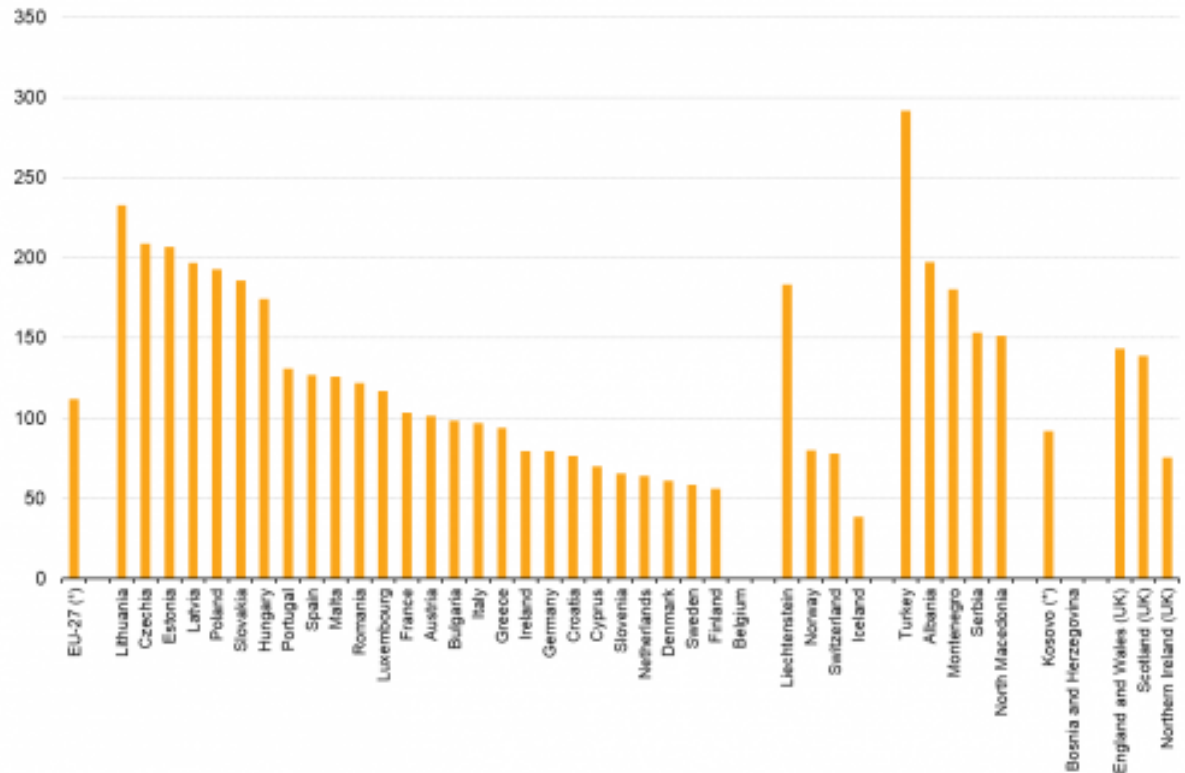
Penal Reform International is a global non-governmental organization (NGO) that promotes impartial trials and assists the resolution of criminal justice crises worldwide. The organization also advocates for the rights of incarcerated individuals and believes that the main purpose of prisons should be rehabilitation, and not

¹⁴Raffaelli, Rosa. "Prison Conditions in Member States: Selected European Standards and Best Practices." European Parliament.



retribution. Moreover, they deal with problems such as the rising number of women in prisons, children and young adults in conflict with the law and foreign nationals.¹⁵

Prisoners per 100 000 inhabitants, EU-27, average 2016-2018



(*) Belgium not included, missing data for all three years.

(*) This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

Source: Eurostat [crim_pris_cap]

eurostat

Incarceration Rates in Europe (data from 2016-2018)¹⁶

¹⁵“Penal Reform International (PRI).” *World Health Organization*, World Health Organization, 8 July 2021, www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/partners/penal-reform-international-pri.

¹⁶ “Prison Statistics.” *Prison Statistics - Statistics Explained*, ec.europa.eu/eurostat/statistics-explained/index.php?title=Prison_statistics.

Timeline of events

<u>1955</u>	1 st UN Congress of Crime and Treatment of Offenders in Geneva
<u>1987</u>	European Prison Rules adopted
<u>December 1990</u>	UN Standard Minimum Rules for Non-Custodial Measures
<u>September-August 1990</u>	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials established
<u>2000</u>	Crime Congress in Vienna
<u>2004</u>	African Common Position on Crime Prevention and Criminal Justice adopted by the African Union
<u>2005</u>	Crime Congress in Bangkok
<u>17 December, 2015</u>	The UN Standard Minimum Rules for the treatment of Prisoners are adopted by the General Assembly

Previous attempts to solve the issue

Minimum Security Prisons

Minimum security prisons are certain penal institutions reserved for offenders with severe but non-violent charges, such as embezzlement or fraud. These prisons have a relatively better quality of life since they have a low staff-to-inmate ratio and the prisoners are often granted more personal freedoms.

Reform Strategies

By developing tools and materials, while also having comprehensive programs focusing specifically on criminal justice reform, organizations such as UNODC have thoroughly assisted in solving this problem. Having unique strategies for marginalized

groups and providing legal assistance to people that need it also helps towards reaching the eventual goal of a more impartial legal system.

Solutions Provided by the African Union

The African Union, during the second Ministerial Conference on Drug Control in Mauritius, recognized that crime plays a big part in the delay of development. With that in mind, they acknowledged that to stop the large increase of crime in their respective countries, measures such as alternatives to imprisonment shall be taken.

In a resolution, the African Union developed a national social and economical framework that focused on both development and social programmes whose goal was to prevent and combat narcotics and crime. Likewise, they established legal frameworks to cope with the number of crime.¹⁷

Relevant UN Resolutions, Events, Treaties and Legislation

The United Nations Standard Minimum Rules for the Treatment of Prisoners

“The United Nation’s Standard Minimum Rules for the Treatment of Prisoners” or the “Nelson Mandela Rules” are a list of requirements put in place to ensure the minimum necessary safety and health measures that should be existent in all penal institutions, keeping in mind the prisoners’ inherent values as human beings. This set

¹⁷ “Annex A: African Common Position on Crime Prevention and Criminal Justice.” African Union, 14 Dec. 2004.



of rules and regulations protect prisoners from dangers they are often subjected to when incarcerated, such as torture, discrimination, isolation etc.¹⁸



The UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)¹⁹

¹⁸*The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*. United Nations Office on Drugs and Crime (UNODC), www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

¹⁹“Prison Reform Resources.” *United Nations : Office on Drugs and Crime*, www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-gloz85-resources.html.

United Nation's Office on Drugs and Crime (UNODC)

The United Nation's Office on Drugs and Crime is one of the main components working towards the improvement of global criminal justice and prison systems by publishing assessments of prisons worldwide. It also passes documents which guide nations when revising certain elements of their criminal justice systems.

United Nations Standard Minimum Rules for Non-Custodial Measures

“The United Nations Standard Minimum Rules for Non-Custodial Measures” or the “Tokyo Rules” were adopted by the UN General assembly on the 14th of December 1990. They are a list of rules that encourage member-states to implement alternatives to imprisonment and reduce the use of imprisonment to when it is absolutely necessary. These rules have long served as an outline to what a criminal justice system that uses alternatives to imprisonment should look like.²⁰

Basic Principles for the Treatment of Prisoners

The General Assembly Resolution 45/111 of 14 or The Basic Principles for the Treatment of Prisoners, that was first published in December of 1990, establishes the rights of prisoners inside penal institutions. The resolution clearly states that all prisoners should be treated with the appropriate dignity and respect by the prison staff, not be subject to any limitations, such as cultural, religious or social and live in such conditions where personal development is possible. The resolution goes on to address discrimination in prisons and seeks for the abolishment of solitary confinement.²¹

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

On the 8th UN Congress on the Prevention of Crime and the Treatment of offenders, held in Cuba in August and September of 1990, the Basic Principles on the

²⁰“Standard Minimum Rules for Non-Custodial Measures.” *OHCHR*, www.ohchr.org/EN/ProfessionalInterest/Pages/TokyoRules.aspx.

²¹ “Basic Principles for the Treatment of Prisoners.” *OHCHR*, www.ohchr.org/en/professionalinterest/pages/basicprinciplestreatmentofprisoners.aspx.

use of Force and Firearms by Law Enforcement Officials were adopted. This document aims to better international criminal justice systems from a point of view of law enforcement officials.

The resolution goes on to forbid law enforcement officials from using physical or firearm force on prisoners in prisons or when in custody, unless they are in personal danger and there is absolutely no other way of defusing the situation. Additionally, the congress requests that law enforcement officials get trained and nations test their prison personnel frequently. ²²

Possible solutions

Alternatives to imprisonment

Community Service

Community service entails unpaid community work for a certain amount of hours assigned by a judge. In some cases serving a prison sentence is counterproductive, with community service criminals can pay their debts back to society in a more useful way, without being a burden to the prison system.

Probation

By using probation as an alternative form of punishment, states can give criminals a second chance and a motive to stay away from violent or criminal behavior, while also ensuring that they carry out court orders so that they can continue living in the public sphere.

Psychiatric Treatment

In a large number of cases where violence is involved, the person charged with the crime is often not mentally sound and therefore charging them with a prison sentence will not achieve the desired effect, if not worsen the already existing

²² “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials .” *OHCHR*, www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx.

psychological troubles the individual faces. In these cases psychiatric treatment and therapy become important aspects of the prison system.

House Arrest

While house arrest is still a relatively harsh sentence and a large burden to any people living with the individual, the person charged still has autonomy over certain parts of his or her life and is completely free to do anything he desires within the assigned space.

Rehabilitation

In the case of when an individual has a pre-existing addiction to alcohol or drugs when entering prison, there is often little done to help his situation. Addicts can land in prison because of their addiction, if they portray behavior such as driving under the influence and possessing or using illegal drugs. When inside the prisons addicts can die of withdrawal symptoms or find a way to use what fueling the addiction while inside the correctional facility. Eventually when released, if not given the correct assistance from a rehabilitation facility inside prison they are very likely to relapse. To stop this cycle nations must invest in rehabilitation facilities and reform their criminal justice system so that proper treatment is given to addicts.

Legislation

While material solutions are critical to the resolution of the issue of reforming the criminal justice system to improve rehabilitation and develop alternatives to imprisonmen, the ratification and adoption of legislation is also largely important to this problem. With the passing of legislation nations can cooperate diplomatically while also ensuring that prisoners are treated appropriately by the criminal justice system and are given impartial trials, leading to fair punishments.

Nations should be required to pass certain laws about when it is suitable to command a criminal to attend a specified amount of community service hours or give out probation periods. Additionally judges should be able to send criminals that have problems with substance abuse to rehabilitations facilities instead of prisons.

Furthermore legislation regarding the rights of prisoners when inside prison and how they should be treated by the personnel should be published.

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