



UNHRC

Background Guide

United Nations: Human Rights Council

Topic: Violation of Inmate Rights



BME Model United Nations Conference 2019

Budapest University of Technology and Economics, Budapest, HU

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Letter from the Executive Board

Dear Delegates,

It is our pleasure to welcome you at this year's Human Right Council at BMEMUN 2019 that will be held 18-20 March 2019 in the beautiful Budapest.

In the world of the United Nations, the Human Rights Council (UNHRC) was established to discuss the most important, global issues regarding human rights. Therefore, an interesting topic was selected to let you experience the real essence of the Council.

If you have any questions or concerns, please feel free to contact us. We look forward to working with you and guide you through the process of UN negotiations.

Wish you good luck with your preparation and see you in Budapest!

Best regards,

Albulena Uka, *Director*

Mariia Popova, *Assistant director*



Introduction to the Human Rights Council

Established in 2006 to succeed the United Nations Commission on Human Rights (UNCHR), the United Nations Human Rights Council (UNHCR) is the United Nations (UN) intergovernmental body responsible for strengthening the promotion and protection of Human Rights (HR) globally bringing together 47 member states.

Founding this mandate is the UN charter's Article 1.3 stating that "The purposes of the United Nations include promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion." – As well as the Universal Declaration of Human Rights (UDHR) adopted by the UN in 1948. Prior to the Human Rights Council (HRC), the Commission on Human Rights (CHR) – established in 1946 – had lost credibility after being led and included some of the world's most repressive regimes (In 2003 for instance, Libya and Cuba chaired the Commission while Saudi Arabia, Sudan and Zimbabwe were members) – leading some gross situations of HR violations being ignored.

As a result, the commission was criticized for being infected by politicization and selectivity. In 2006, after long negotiations with some states supporting that the future HRC candidates for membership be states with "a solid record of commitment to the highest HR standards" and be elected by a 2/3rds majority of the UN General Assembly (GA), a much 'watered down' reform was adopted, including the lighter requirement that candidates for membership receive the votes of an absolute majority of the GA.

Members of the HRC are elected for a period of 3 years and distributed into regional groups including:

- 13 from Africa
- 13 from Asia
- 6 from Eastern Europe
- 8 from Latin America and
- 7 from the 'Western Europe and Other group

The HRC functions by a mechanism of 'Universal Periodic Review' consisting in the organization of three annual sessions – held in March, June and September – which submit an annual report to the GA. These regular sessions – presided over by an elected president and vice presidents – can be extended by requesting special sessions.

Additionally, the HRC also includes an 'Advisory Committee' containing a panel of experts and advisors, and functions through the participation of individuals and organizations which through the 'Complaint Procedure' can bring forward specific HR issues. Finally, 'Special Procedures' led by 'Special Rapporteurs' exist within the HRC to research and counsel on country specific and thematic issues and report on these annually to the GA.

UN Member States also expressed the need for global protection and promotion of healthcare by the world community in the Declaration of Alma-Ata in 1978. It was adopted as the first international declaration addressing the importance of primary healthcare at the International Conference on Primary Health Care. A complete physical, mental and social health is reaffirmed by the declaration as a fundamental right and it is stressed, that governments are responsible to protect the health of individuals through a proper primary healthcare.



Today, the HRC's work is also guided by the documents of International Covenant on Economic, Social and Cultural Rights (1966), International Covenant on Civil and Political Rights (1966) and its two Optional Protocols – commonly referred together as the International Bill of Human Rights – as well as the 2030 Agenda for Sustainable Development (2015) and the 17 Sustainable Development Goals.

Introduction to the topic: Violation of inmate rights

According to the latest data provided by the International Centre for Prison Studies there are likely to be over 11 million prisoners held in penal institutions worldwide 3.2 million of whom have not yet had a trial. The biggest number of prisoners are held in the USA (2.1 million), China (1.6 million) and Brazil (0.7 million). The USA, El Salvador and Turkmenistan are leading the Prison Population Rate with 655, 617 and 552 inmates per 100,000 population respectively. Being convicted, a prisoner inherently loses certain constitutional freedoms, but even though sentenced for breaking the law a person still has rights, which are recognized internationally.

These rights include the right to humane facilities and conditions, the right to be free from sexual crimes and racial segregation, the right to medical care and attention as needed. These rights are protected by international treaties and supported by not legally binding documents such as the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners.

Repeatedly, either fellow inmates, prison staff or governments, are violating the rights of prisoners without being punished or without their case being even investigated. The prevention of human rights violation of prisoners is a difficult task as most of the prisoners worldwide are caught in a prison system, which does not offer them the possibility to get justice. In May, 2018 more than a dozen of social activists were imprisoned in Saudi Arabia because of their outspoken support for women's equality.

Some of the detained have been charged with “suspicious contact with foreign parties”, and state media has labelled them “traitors”. At least eight women and several male supporters of the movement remain in custody. Human rights groups have said at least three of the women have suffered torture and sexual assault in Dhahban Prison, where they are being held, and all have been denied access to lawyers. The conditions in which the Saudi women activists are being detained became a subject of international investigation. Human Rights Watch, Amnesty International as well as the UN Committee against Torture called on Saudi Arabia to free the activists, citing allegations of “torture, sexual harassment and other forms of ill-treatment during interrogation”. At the same time, Saudi Arabia has denied the allegations of torture saying that they are baseless¹.

Definition of Key Terms

Prison: A place of detention which holds people who are awaiting trial, who have been convicted or who are subject to different conditions of security.

Prisoner: An individual who is kept in prison as punishment for a crime.

¹ See more at <https://www.amnesty.org/en/latest/news/2018/11/saudi-arabia-reports-of-torture-and-sexual-harassment-of-detained-activists/>



Detainee: A person who is held in custody even though he or she has not yet been convicted of a crime.

Prisoner of War: A person who has been captured and imprisoned by the enemy in war.

Solitary confinement: A place where a prisoner is completely isolated from others.

Torture: Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Violated rights of prisoners

Prisoners, even though sentenced to spend a certain amount of time in prison for a crime, still have rights, which are granted internationally by binding and supported by non-binding documents. Most of the time their rights are being ignored and they must endure a traumatizing time in prison. Captive and confined to the outside world, prisoners are extremely vulnerable to abuse. Whether it is dictated by a desire to punish, by interest in getting information, or by simple neglect, the bad treatment of prisoners is appallingly common. Millions of people deprived of their liberty all over the world are in unsanitary conditions without adequate food and medical assistance, corruption flourishing among prison staff, subject to violence and harassment from other prisoners. There are several examples in which human rights of prisoners are being violated.

Inhumane treatment

Most of the inmates are subjected to an inhumane treatment, which comes from either their fellow inmates or from the staff members. Very often inmates are made victims of sexual and mental abuse, physical and verbal violence, threats, psychological manipulation, and other methods of physical or mental torture. In most cases inmate victims are too scared to reach out for help because they believe they will worsen their situation, or they simply cannot ask anyone for help. Unfortunately, such events can leave victims with physical and physiological traumas for life, making their adaptation back into society even harder.

Punishment

Sometimes inmates get punished during their sentence for reasons such as being violent, trying to commit suicide or for not respecting other prison regulations. Usually, the punishment consists of solitary confinement, which is considered by many as a measure that is causing more problems than solutions. During their stay in solitary confinement, inmates might not receive basic food, light, ventilation or sanitation, which is completely out of order, as prisoners cannot be denied fundamental human necessities. This type of punishment is also considered by many as an inhumane punishment, which can cause yet again a physiological trauma to the inmate. Furthermore, the solitary confinement be a breach in treaties such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Conditions

Globally, the existing number of prisons that do not offer adequate conditions and basic human necessities is still high. For instance, due to overcrowding prisoners must live in an unhygienic environment, which can cause an easy spreading of diseases. Furthermore, many prisons lack adequate food, ventilation and enough sanitation facilities. Lack of medical supplies results in



increasing of HIV prevalence among prisoners. Recommended HIV prevention and treatment services are usually unavailable in prison settings. Condoms are available to prisoners in only 28 countries, although they are accessible through programmes in community settings worldwide.

Classification of prisoners

In some countries, such as India, prisoners are classified in different classes, which are not based on their criminal record. Such classification can represent a serious issue as more dangerous prisoners can easily take advantage and abuse new prisoners who do not impose a threat.

Staff indifference

Prison staff often ignores cases of rape or any type of violence, even when it happens right in front of them. In many cases staff members abuse inmates themselves. The reasons behind their indifference could be the lack of training they receive, low salary, the few promotion opportunities and the fact that they never get punished for their illegal actions.

Language restrictions

Inmates who are citizens of foreign countries may not speak a language of the state where they were convicted. In this case language barriers can cut off prisoners from meaningful human contact for long stretches and will not let them explain their health problems in the event of illness. In some cases, it will be also impossible to communicate with an advocate in the language of the inmate as it happened to a British citizen Mr Whelan who was arrested in Moscow on December 28, 2018 and charged with spying. Guards forbid members of the public monitoring commission from speaking to Mr Whelan in his native tongue. They demanded all conversation be in Russian based on Russian law which requires that prison officials should be able to “see and hear” monitors' conversations with inmates which is a violation of the rights of advocates and prisoners².

Major organizations involved

Human Rights Watch

Human Rights Watch (HRW) is an NGO, which was created in 1978 and has grown to about 400 members all around the world excelling in various professions. HRW publishes reports based on research on human rights conditions around the globe. Moreover, after publishing the reports, this NGO cooperates with other organizations, institutions, and governments to promote human rights and implement much-needed changes in legal systems to provide justice to the people. Some of the issues HRW tries to tackle are torture, political corruption and abuses in criminal justice systems. HRW is very known for criticizing prison conditions in countries such as the U.S, Iran, and Saudi Arabia.

Amnesty International

Amnesty International is a non-governmental organization (NGO), established in July 1961 with the purpose to conduct research and generate action to prevent and end grave abuses of human rights, and to demand justice for those whose rights have been violated. For this purpose, it provides annual report on the Human Rights violation in every country. Also, this NGO became involved in the protection of the human rights of prisoners since its beginning and has tried to

² See more at: <https://www.telegraph.co.uk/news/2019/01/11/monitors-not-allowed-speak-british-spy-moscow-jail/>



fight the human rights degradation of prisoner's through various methods. One of them is the launch of a 12-point program, which gives measures in order to prevent human rights violations of prisoners. This program was created in 1984 and revised twice until 2005.

World Health Organization

The World Health Organization (WHO) was established on 7 April 1948 as a specialized agency of the United Nations that is concerned with international public health. In terms of health services, WHO strives to ensure improved access, quality and use of medical products and technologies. One of its first priorities is to control the spread of sexually transmitted infections. WHO supports the implementation of comprehensive HIV services for people who live in prisons or other closed settings, including harm reduction services for those who use drugs?

World Organization Against Torture

The World Organisation Against Torture (Organisation Mondiale Contre la Torture; OMCT) was founded in 1985 as a coalition of non-governmental organizations fighting against arbitrary detention, torture, summary and extrajudicial executions, forced disappearances and other forms of violence. OMCT aims at accompanying, reinforcing and protecting anti-torture organizations in erosive environments and provides a comprehensive system of support and protection for human rights defenders around the world. The OMCT contributes to UN activities through three main activities: submitting reports to the UN Committee Against Torture, providing legal support to individuals and organizations wishing to challenge torture practices; and supplying practical guidance on international and regional conventional mechanisms relevant to torture.

No effective punishment

Unfortunately, one of the main factors for the continuous violation of human rights in prisons is the lack of consequence management. Many inmates abusing others and staff members do not seem to get punished. A reason for not getting punished might be that in many prisons staff members are not being monitored carefully.

Relevant un treaties and events

- Universal Declaration of Human Rights, 10 December 1948 (A/RES/3/217A)
- Third Geneva Convention, 12 August 1949
- International Covenant on Civil and Political Rights, 16 December 1966 (A/RES/21/2200)
- Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 9 December 1975(A/RES/30/3452)
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 26 November 1987 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984 (A/RES/39/46)
- Basic Principles for the Treatment of Prisoners, 14 December 1990 (A/RES/45/111)
- Optional Protocol against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 18 December 2002 (A/RES/57/199)



- Convention on the Rights of Persons with Disabilities, 24 January 2007 (A/RES/61/106)
- United Nations Standard Minimum Rules for the Treatment of Prisoners, 29 September 2015 (A/C.3/70/L.3)

Just regarding the cells condition European Court of Human Right has taken many verdicts. “Peers v. Greece”, “Kalashnikov v. Russia”, “Modârca v. Moldova”, “Florea v. Romania”, “Canali v. France”³ and many more are exact examples of poor cells condition of inmates that are directly considered as inmate rights violation.

Another huge violation is absence of Medical assistance for prisoners with physical illnesses. European Court of Human Right again has dealt with such request of inmates and examples are as: “Mouisel v. France”, “Sakkopoulos v. Greece”, “Tekin Yıldız v. Turkey”, “Holomiov v. the Republic of Moldova”.⁴

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³ See more at: https://www.echr.coe.int/Documents/FS_Detention_conditions_ENG.pdf

⁴ See more at: https://www.echr.coe.int/Documents/FS_Prisoners_health_ENG.pdf



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- What Rights do prisoners have? Part 1 <https://www.youtube.com/watch?v=zq8nh4y2nVw>
- What Rights do prisoners have? Part 2 <https://www.youtube.com/watch?v=Db-UZv8eU3M>