

Economic and Social Council (ECOSOC)

Topic A:

The question of regulating the treatment of prisoners to ensure the maintenance of worldwide humane standards in prisons



I. Introduction

Nelson Mandela, former president of South Africa, once argued that “It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.” As Mandela claims, maintaining humane standards in prisons is a fundamental human right. Imprisonment often affects the “lowest” layer of society the most, as during the Apartheid period that Mandela experienced, where there was a system of institutionalised racial segregation in South Africa and South West Africa, the current Namibia.

Nowadays, most countries do not have similar systems of social segregation. Yet, prison systems around the world continue to reflect the disparity between different layers within society. In the United States, for example, it is shown that higher incarceration rates are correlated to policy changes, such as imprisoning people for a wider range of offences and imposing longer sentences; factors that mostly affected the black population, as “almost 70% of the black high school dropouts in 2009 had been

imprisoned at some point by age 30, which was four-and-a-half times the rate of white high school dropouts” (Western and Pettit). This disparity causes harsh sentences to occur, thus overcrowding prisons.

“Prisons in over 124 countries exceed their maximum occupancy rate, which results in violence, higher rates of death in custody, a lack of healthcare provision and low rehabilitative opportunities” (Penal Reform International). This calls out for more regulated prison environments across the world, so that human rights are not violated, preserving prisoners’ self esteem and dignity.

II. Definition of key terms

Incarceration rate: also known as the prison population rate, it is the ratio of the incarcerated population to the country’s total population. It is often measured as the number of prisoners per 100,000 citizens.

Non-violent crimes: although their definition can vary across different countries, those are usually crimes that do not involve the use of any force or injury to another person.

Nelson Mandela rules: a UN document with a set of 122 rules setting international prison standards.

Hyperincarceration: this term highlights “more precisely that punitive criminal justice policies disproportionately target the poor and particular racial and ethnic minorities” (Karandinos and Bourgois).

III. Background information

With the release of the Nelson Mandela rules, it is globally agreed that prisoners should be treated with respect and dignity. The Rules condemn solitary confinement; prohibit the reduction of a prisoner’s food or water; restrict the use of instruments that are inherently degrading or painful, such as chains or irons; and oblige prison health care services (United Nations).

Today, the Nelson Mandela rules are of utmost importance. Prison populations are increasing throughout the world, as “prisons in over 118 countries exceeded their maximum occupancy rate, with 11 national prison systems at more than double their capacity” (Penal Reform International). At the same time, there has been no decline in prison violence worldwide (United Nations).

Overcrowding undermines the ability of prison systems to meet basic human needs, such as healthcare, food and accommodation. It also compromises the provision of rehabilitation services and recreational activities. In addition, its related problems such as lack of privacy can “cause or exacerbate mental health issues, and increase rates of violence, self-harm and suicide” (Penal Reform International).

Detainees often do not have the minimum space requirements recommended by the Mandela rules. In some cases, prisoners spend up to 23 hours, if not all day, in overcrowded cells (Penal Reform International). This may require that prisoners sleep in shifts, on top of each other, share beds or tie themselves to window bars so that they can sleep while standing (Penal Reform International).

When prisons are overcrowded, some groups can be more affected than others. Women, for example, can suffer from post-traumatic stress as many come from a history of sexual abuse, as it is noted from a study in Brazil that 96% of the women prisoners developed depression (Varella). This happens because women often have “the phenomena of revival, characterised by memories and intrusive thoughts that make them revive their traumatic experiences”¹ (Varella).

IV. Major countries and groups involved in the issue

Prison overcrowding arises in many countries as a consequence of criminal justice policies, not only rising crime rates (Penal Reform International). Overcrowding “undermines the ability of prison systems to meet basic human needs, such as healthcare, food, and accommodation” and “compromises the provision and effectiveness of rehabilitation programmes, educational and vocational training, and recreational activities.” (Penal Reform International).

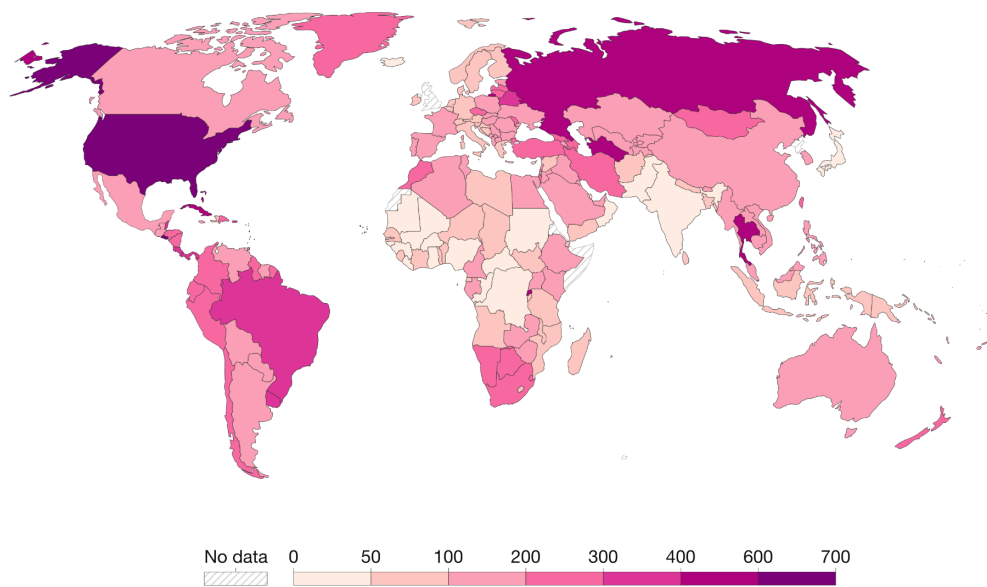
¹ Translated from Portuguese “o fenômeno da revivescência, caracterizado por lembranças e pensamentos invasivos que as fazem reviver a experiência traumática”

Given that overcrowding decreases the humane standards in prisons, the countries with the highest prison population rate are among the most involved, as their prisons are the most affected.

Figure 1: Prison population rate chart

Prison population rate

Prison population rates are measured as the number of prisoners per 100,000 people in a population. Shown is data for 2018 or the latest available data before 2018.



Source: World Prison Brief (2018)

OurWorldInData.org/covid-excess-mortality • CC BY

World Prison Brief

United States: has been consistently criticised for the physical mistreatment of prisoners, excessive disciplinary sanctions, and inadequate medical and mental health care (Human Rights Watch). Furthermore, many local jails are dirty, unsafe and lack open areas for the prisoners to get fresh air (Human Rights Watch). This preoccupying condition is supposedly due to the high incarceration rate, as 53% of the prisoners were incarcerated for non-violent crimes (Human Rights Watch). However, the current

government has been trying to improve this situation by making laws more permissive, such as by the recent marijuana reform (Biden).

Russia: its prison system is composed of more than 800 facilities called penal colonies, where inmates are housed in barracks instead of cells (Picheta). According to reports from several NGOs, human rights violations and torture are common, with extreme mental and moral pressure (Picheta).

Brazil: has one of the highest incarceration rates in South America and several known cases of prison riots and gang violence (World Prison Brief, Phillips). The recent hike in the incarceration rate is due to inequality in certain communities, causing an increase in crime and drug trafficking (Phillips). Humane standards in Brazil are especially affected within the female prison population. Although 7% of the Brazilian prisons are female exclusive, 17% are mixed (Lisboa); and women often suffer from abuse (Canineu).

Singapore: despite its low levels of crime, Singapore has one of the highest incarceration rates in the Asia-Pacific countries (Statista). Singapore has to “maximise the usage of land” as the costs would be high to build more prisons, and more land would be taken for this purpose (Mahmud). Yet, Singapore is internationally known for an exemplary prison system. Despite not being luxurious, Singaporean prisons fully respect humane standards. Among other features, their prisons ensure there is a good amount of ventilation and adequate hygiene, there are frequent mental health

assessments, correctional units for those with mobility issues and meals based on dietary requirements (Mahmud). In addition, its rehabilitation programme allows inmates to access learning materials, read e-books, write letters, exercise, and practise their religion (Mahmud).

V. UN Treaties and Historical Events

The UN recognised the importance of international prison standards after Apartheid, the “term that defines the racial segregation policy instituted by South Africa's white ethnicity government”² (Gariwo), that occurred between 1948 and 1995. During this historical period, prisoners in South Africa were separated into different divisions according to race and gender and faced inhumane conditions. Some prisons reached almost 200% of their capacity, prisoners were enslaved and lived through solitary confinement; with a remarkable racial discrimination (South African History Online).

Apartheid became an international crime after an international convention held in New York in 1973. In this treaty, the UN holds responsible under international law; individuals, members of organisations, and representatives of the State, if they: “commit, participate in, directly incite, or conspire in the commission of acts of apartheid” or “directly abet, cooperate with, or encourage the commission of the crime of apartheid” (Medecins Sans Frontieres). This way, the practice of inhuman and degrading practices based on racial discrimination became criminal.

² Translated from Italian “il termine che definisce la politica di segregazione razziale istituita dal governo di etnia bianca del Sudafrica”

There was a further treaty in 1984, the “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” in which the UN prohibited the use of torture in prisons under international law (Office of the High Commissioner for Human Rights).

VI. Main issues

In over 124 countries, prisons exceed their maximum capacity, resulting in “violence, higher rates of death in custody, a lack of healthcare provision and low rehabilitative opportunities” (Penal Reform International).

Prisons disproportionately affect the poorest layers of society. When an income generating family member is imprisoned, the rest of the family must adjust to compensate for the income loss (United Nations Office on Drugs and Crime). Thus, the family experiences financial losses, exacerbated also by new expenses, such as the cost of a lawyer, food for the imprisoned person, transportation costs, and so on (United Nations Office on Drugs and Crime). When released, former prisoners are often “subject to socio-economic exclusion and are thus vulnerable to an endless cycle of poverty, marginalisation, crime and poverty” (United Nations Office on Drugs and Crime).

Furthermore, incarceration frequently affects prisoners’ mental and physical health. Among the physical health threats, “beatings, stabbings, denial of medical care, and retaliation for grievances”, along with STIs, malnutrition and diarrhoea are the most common (Widra, United Nations Office on Drugs and Crime). In the mental sphere, prisoners are most affected by violence and sexual abuse, causing them to develop

trauma (Widra). As a result, PTSD, depression, anxiety and other psychiatric diseases can be quite common (Widra).

VII. Relevant UN Resolutions

UNODC

The UNODC (United Nations Office on Drugs and Crime) is the United Nations agency that has set the standard minimum rules for the treatment of prisoners, according to principles of Nelson Mandela; in a document with 122 rules produced with a contribution of the government of Germany in 2015.

The UNODC, in another resolution, has specifically targeted women. According to the Bangkok Rules, released in 2011, encourages countries to take preventive measures to guarantee that women's personal hygiene is appropriate, especially if they are breastfeeding; and conduct medical screenings on entry, including gender specific health care. In addition, the Bangkok Rules incentivise governments to allow women to have contact with their families, especially if they have children (United Nations Office on Drugs and Crime).

VIII. Possible solutions

The question of regulating humane standards in prisons came up firstly in 1955, when the UN drafted the Standard Minimum Rules for the Treatment of Prisoners, the first global set of minimum standards for prisons around the world. In 2015, this was further developed with the creation of the Nelson Mandela rules, setting international human rights standards.

Similar regulations occurred across the European Union. In 2006, the Council of Europe released the European Prison Rules, containing the “key legal standards and principles related to prison management, staff and treatment of detainees” and it guides the “47 Council of Europe member states in their legislation, policies and practices” (Council of Europe) In 2020, the rules were revised to better regulate solitary confinement, by for example, prohibiting locking up a prisoner for more than 22 hours a day without meaningful human contact.

Other countries, instead, are investing in new prisons, such as Turkey. Despite the high cost incurred through this policy, many nations initiate prison construction to “improve the conditions of imprisonment where existing facilities are old or dilapidated” (Riegler). This is common in Europe as this allows for both a better environment and a greater capacity (Riegler). To reduce costs, some countries are relying on transferring prisoners from one jurisdiction to another. The Netherlands, for example, has been renting prisons to Belgium and Norway; and Albania plans to house Albanian nationals held in UK prisons to free up UK’s prison space (Riegler).

Some countries also appealed towards improving the conditions of prisons. Switzerland, for example, has attempted to shape its prison system in such a way that would facilitate the process of rehabilitation and ensure the maintenance of humane standards, through learning opportunities and sport (Williams).

Other approaches towards improving prison standards go beyond specific regulations. Instead, they involve system reforms. Some countries, such as the United States, are appealing to a less punitive approach in law enforcement. This includes policies such as marijuana legalisation and the punishment reduction for non-violent crimes, aiming at reducing inequity in the prison system (Waldman and Onyekwere).

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