

**OPEN EYE MODEL UN CONFERENCE 3.0**

Committee: United Nations Human Rights Council

Agenda: Protection and Promotion of Prisoners rights with special emphasis on arbitrary detentions

Chairs: Abhedya Agarwal, Johanna Koshy & Emily Heyler

Position: President and Vice Presidents

---



## Letter from the Dais

Dear Delegates,

It is our esteemed pleasure to welcome you all to **the United Nations Human Rights Council (UNHRC)** at **Open Eye Model United Nations 3.0 (OEMUN 3.0)** along with the Secretariat.

This Background guide will never be enough for research, however, it will give you enough insight into the agenda. Also, embedded in this study guide, are a series of hints, at which direction your research should be heading. The Dais encourages you to research further about the agenda, foreign policies and intricate details.

We hope that every delegate has a great time during the conference. An MUN is not only about battling out your foreign policy but also meeting new people, fostering friendships, learning new things and having a time to remember.

Feel free to drop your queries to the executive board. If this is your first MUN, it is highly encouraged that you should contact the dais and come to pace with the intricacy of the committee, agenda and the procedure of the MUN conference. Feel free to contact us.

Just to conclude, the background guide aims to make an effort to give delegates a better understanding of the agenda and give them a base to build their research upon. We will be following **UNA - USA Rules of Procedure**.

**Committee Email:** [Unhrc.oemun3@gmail.com](mailto:Unhrc.oemun3@gmail.com)

Looking forward to seeing you all in committee!

Regards,

**Abhedya Agarwal, Johanna Koshy and Emily Heyler (Chairs of UNHRC)**

## Introduction and Mandate of the Committee

The Human Rights Council (HRC) was established by the General Assembly (GA) in 2006 to replace the Commission on Human Rights (CHR). It is “the main intergovernmental body responsible for promoting and protecting all human rights and fundamental freedoms”. The Council addresses human rights issues and makes recommendations for possible improvement. It works to prevent abuses, responds to human rights emergencies, develops new international norms and assists states to fulfil their human rights obligations. Furthermore, it provides an international forum where states, nongovernmental organizations (NGOs) and intergovernmental organizations can discuss their views, problems and achievements. The 47 Council, elected directly and individually by the members, are majority of the members of the GA. They serve for a three years renewable term but cannot be immediately reelected after two consecutive terms. Membership is based on a geographical distribution: thirteen seats are for African States and Asian States, eight for Latin American and Caribbean States, seven for the Group of Western European and other States and six seats for Eastern European States. The Council meets regularly and also holds special sessions, which can be requested at any time by a member state with the support of one third of the Council's members. The most interesting feature of the HRC is the Universal Periodic Review (UPR). This involves a review of all UN member states once every four years. The Review provides the opportunity for each state to present actions taken and challenges to be met to improve the human rights situation in their country and on an international level. The work of the Council is also supported by a wide range of working groups and experts like the Special Rapporteurs and the Advisory Committee. This Committee of 18 experts serves as the “thinktank” of the HRC and provides it with expertise and advice on human rights issues.

## Introduction to Agenda

Prisons are a truly cruel place, with prisoners having to suffer from issues such as overcrowding, lack of sanitation, lack of basic hygienic equipments such as Soaps, pads, etc., overbearing heat and sometimes even torture and other Inhumane treatment following their incarceration. The situation has understandably worsened during the pandemic. The spread of covid within the confines of a prison has become a widespread issue, something not helped by the fact that a majority of these prisons are owned privately in developing countries where the owners have little to no care about the status of the inmates.

Article 9 of the Universal Declaration of Human Rights (UDHR) states that,

*"No one shall be subjected to Arbitrary Arrest, Detention or Exile."*

Furthermore international treaties and agreements such as the International Covenant for Civil and Political Rights (ICCPR), United Nations Standard Minimum Rules for the Treatment of Prisoners and Convention against Torture and Other Cruel all protect the rights of people from getting arrested unlawfully, however the reality is far from ideal.

All countries are confronted by the practice of arbitrary detention. It knows no boundaries, and thousands of persons are subjected to arbitrary detention each year:

- either merely because they have exercised one of their fundamental rights guaranteed under international treaties such as their right to freedom of opinion and expression, their right to freedom of association, the right to leave and enter one's own country, as proclaimed in the Universal Declaration of Human Rights;
- or because, having been unable to benefit from the fundamental guarantees of the right to a fair trial, they have been imprisoned without an arrest warrant and without being charged or tried by an independent judicial authority, or without access to a lawyer; detainees are sometimes held incommunicado for several months or years, or even indefinitely;
- or because they remain in detention even though the measure or punishment which has been applied to them has been executed
- Or, finally, because of the growing and preoccupying practice of administrative detention, notably for those seeking asylum.

The executive board encourages the delegate to deliberate not only on the issues that the prisoners face but also on the aspects that lead to them and how on a broader basis these are generally linked to the political system of the respective member state.

Know that not all countries look favorably to the pleas of the prisoners with many far-right leaders having especially authoritative views regarding the same so take your foreign policy into extreme consideration while partaking in the committee.

## DEFINITION OF KEY TERMS:

### Prison

A place of confinement especially for lawbreakers.

### Jail

A place where people accused of crimes are kept while awaiting trial.

### Arbitrary Arrest

The arrest and deprivation of liberty of a person outside of the confines of nationally recognized laws or international standards.

## Timeline

### 1829

- In **1829**, the first American prison was founded in Pennsylvania. At the prison, they placed an emphasis on solitary confinement as a disciplinary tool for prisoners.

### 1955

- During the first session of the United Nations Congress on the Prevention of Crime and the Treatment of Offenders on **August 30th of 1955**, they adopted the “Standard Minimum Rules for the Treatment of Prisoners.”

### 1966

- On **December 19th of 1966**, the International Covenant on Civil and Political Rights discussed the rights for prisoners to receive medical treatment in the same way as non-imprisoned citizens.

## 1971

- From **September 9th to the 13th of 1971**, a protest occurred at the Attica Prison, where they had a goal to protest the mistreatment of American prisoners. Over 35 people died due to the riot that later took place. Although it may be a simple date, it was an awakening for prisons around the world in terms of prison reforms.

## 1993

- Due to gang violence on **January 3rd of 1993**, a riot ensued at the Maracaibo National Prison in Venezuela, which claimed over 127 lives.

## 2002

- On **March 1st of 2002**, the European Convention for the Prevention of Torture and Inhuman Rights established a committee to look at alleged abuses of prisoner rights. It comprises 47 member states, with 28 being from the European Union.

## 2020

- In **March of 2020** the COVID-19 pandemic hit, which spread wildly in prisons and jails.

## Key Issues & Major Parties Involved

### 1. Africa

During the then Organization of African Unity, the African Charter on Human and People's Rights was adopted in 1981 and entered into force in October 1986. The African Commission on Human and People's Rights was established as part of this groundbreaking document. Aside from interpreting the Charter, the Commission is able to receive complaints of violations of the rights of individuals, states and groups. As a result of these complaints, the Commission may initiate studies and recommend actions. A Special Rapporteur on Prisons and Conditions of Detention in Africa was appointed by the African Commission on Human and People's Rights in 1997 to assess prison conditions and identify major issues. For information, he visits prisons, police lines and gendarmerie cells in various African countries, along with any other place where people are imprisoned. His report contains information on the visit, which he submits to the government concerned. It is the duty of the Government to comment on the recommendations of the Special Rapporteur and to describe the steps taken

to address them. It is published by the African Union in its reports and government comments.

## 2. Asia

In particular, Asian countries have been known for having the most people in confinement. For example in two of the most populous nations, China and India have the largest prison populations in the world, where China is known for having more inmates compared to India. However other countries in the region reflect different incarceration rates where Cambodia, Indonesia, Japan, and Nepal have some of the lowest number of prisoners in their criminal justice system.

For example the People's Republic of China has been known for not protecting human rights and indeed the criminal justice system in the country is a reflection of this. The United Nations Working Group on Arbitrary Detention saw this first hand where prisoners who used their visit as a way to promote political ideology were put into solitary confinement or even beaten.

In the country of India, a special commission of inquiry, appointed following the death of a prominent businessman in India's high-security Tihar Central Jail. This commission reported that the 10,000 inmates held in that institution did not hold up proper human rights and they experienced serious health hazards, including overcrowding, "appalling" sanitary facilities, and a shortage of medical staff.

## 3. Middle East

The Middle East, in particular, is in a period of transition to a modern nation-state, but with this transition it has produced a concentration of forced power. For example the rise in this type of power has caused a rise in mukhabarat states that have a goal to police and imprison its citizens, where they engage in widespread torture and implementing harsh punishments. During the committee, delegates should consider that the data of the prison conditions from this region is majorly hindered by a multitude of governments' refusal to permit an independent regulatory body to monitor these prisons or even to release information on their state run prisons.

For example in Egypt, the country that is known for their historic pyramids, the authorities in the country have only built 35 new prisons in just 10 years. Even though the country is being pressured by the international community to release political detainees and improve human rights conditions in the prisons, according to a report done by a human rights group in the country. Despite the country making improvements after the 2011 revolution it did not contribute to an improvement of prison conditions, according to the Arabic Network for Human Rights Information (ANHRI).

Not only has this been an existing issue for Europe, it has been an issue for Israel as well. The long-standing conflict between Israel and Palestine, has left many Palestinians in West Bank and

Gaza prisons deprived of regular family visits, which is a violation of international law. Not only are these prisoners deprived of family visits, they are also detained in prisoners outside of Israel and they are held without trial. In this bloc, member states must consider the already existing conflict between Israel and Palestine and ways to mitigate them.

With the rise of the COVID-19 pandemic, many prisons have experienced an influx of COVID-19 cases. In particular, Qatar has been at the forefront of the discussion due to the amount of cases in their prisons. According to Human Rights Watch, they have said that the conditions of overcrowding and unsanitary measures have led to this situation worsening in the country. During the committee, member states must assess how many prisoners can be held during a certain period of time, in order to ensure that prisoners are properly cared for in the criminal justice system.

#### **4. Western European and Nordic Countries**

Many countries in Western Europe and the Nordic States have established a multitude of solutions to improve the prison system in the respective region, solutions include the Alliance for Torture-Free Trade, the European Committee for the Prevention of Torture, and the European Convention on Human Rights. Many countries in Europe are known to have the best criminal justice in the world, where they can promote and protect prisoners' rights. In particular Norway, Sweden, Denmark, and Finland have been the leaders of improving prisoner rights and lowering the rate of arbitrary detention. In the past ten years they have made improvements to the types of punishments they give, putting an emphasis on community service compared to detention of prisoners. With that being said, these nations, due to the humane treatment of prisoners in their justice system, contribute to the reform of developing nations' criminal justice systems through the lending of foreign aid, establishing oversight bodies, or simply providing guidance to the country's government. In committee, delegates will have to remember the importance of country-specific solutions cannot be overstated because of the unique social, political, and culture of every nation.

#### **5. Central and Eastern European Countries**

Although many of the other countries in this bloc are trendsetters towards improving their prisons, countries in Central and Eastern European Countries are known to be less proactive at improving their criminal justice system. In particular, countries in Eastern Europe are known to have one of the highest rates of drug injections in the world, with nearly twenty percent of prisoners getting a drug injection while in the criminal justice system. However, countries in this bloc are making progress and this was seen with the opening of the Czech Republic's first open prison which brought results of lower recidivism rates. However, the region is still lacking in protecting the rights of prisoners. For example in Ukraine, have held prisoners in arbitrary detention for an extended period of time, without contact to their lawyers and their families. In

this bloc the social stigma around prisoners must be lifted in order to increase the amount of tax money directed towards prisons and get the government on their side.

## 6. Latin American Countries

Latin America is known for their gang activity and prison riots, Latin American prisons are some of the most violent and congested in the world. However, the region also has some of the highest arbitrary detention rates in the world and according to the Inter-American Commission on Human Rights (IACHR), "one out of three people awaiting trial in the Americas, which include Canada and the United States, are held behind bars and over the last two decades, the number of pretrial detainees in the region has grown by around 60%." Furthermore, prisons in this region are mostly controlled by gang activity that is tolerated and sometimes supported by prison guards. Not only is gang violence supported, but there is a lack of healthcare for prisoners in arbitrary confinement and others. Inmates live in terrible conditions or sometimes they have a lack of beds to sleep on. Due to the social attitudes towards criminal justice reform and the instability of the region, there will need to be specific solutions that can fit the needs of these Latin American states. Some solutions include the creation of independent regulatory bodies similar to the European Committee for the Protection of Torture. Committee members in this bloc and other countries, should take steps to create solutions that are outside of the government's control, because of the oppressive nature of a few governments in Latin America.

## Previous Attempts to Solve the Issue

### United Nations

The principal international human rights documents clearly protect the human rights of prisoners. The International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the Torture Convention) both prohibit torture and cruel, inhuman, or degrading treatment or punishment, without exception or derogation. Article 10 of the ICCPR, in addition, mandates that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." It also requires that "the reform and social readaptation of prisoners" be an "essential aim" of imprisonment.

Several additional international documents flesh out the human rights of persons deprived of liberty, providing guidance as to how governments may comply with their international legal obligations. The most comprehensive such guidelines are the United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Standard Minimum Rules), adopted by the U.N. Economic and Social Council in 1957. It should be noted that although the Standard Minimum Rules are not a treaty, they constitute an authoritative guide to binding treaty standards.



Other documents relevant to an evaluation of prison conditions include the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, the Basic Principles for the Treatment of Prisoners, and, with regard to juvenile prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (known as the "Beijing Rules"). Like the SMRs, these instruments are binding on governments to the extent that the norms set out in them explicate the broader standards contained in human rights treaties.

### **European Committee for the Prevention of Torture**

The European Committee for the Prevention of Torture (CPT), is a committee that conducts periodic reviews of prisons in member states. The main focus of this organization is to publish reports on detention centers to bring transparency to the general public, regarding their country's criminal justice system. The work of the Committee for the Prevention of Torute is to find preventative measures before torture of the prisoners ensue. Due to the work of the organization, a multitude of prisons in the region have become more humane. Improvements include making the Ministry of Health have the responsibility for prison medical services, which assist the prisoners in receiving better medical care.

### **The Kampala Declaration on Prison Conditions in Africa**

The Kampala Declaration on Prison Conditions in Africa was signed when 133 delegates from 47 countries met in the country of Uganda in 1966, in which the meeting resulted in the adoption of the Kampala Declaration. The Kampala Declaration begins by addressing the current situation of the conditions of the prisons in Africa. It also outlines the multitude of issues the region faces which include overcrowding and poor access to medical care. It further highlights the importance of proper training for prison staff and alternatives to sentencing such as community service or Monterey compensation to the victim to avoid overcrowding. The Declaration also resulted in the creation of a Special Rapporteur on Prisons and Conditions of Detention and Policing in Africa. Since the signing of the declaration the Rapporteur has led over 20 missions across the region of Africa. The main mission of the Rapporteur is to promote human rights in prisons and detention facilities through the use of periodical conferences, seminars, and much more. Not only does the Rapporteur address the problem, they also have pushed for the creation of an African Court on Human and Peoples' Rights which will act as a way to enforce the already existing human rights institutions to support the work of the Rapporteur and other organizations in Africa.

### **Possible Solutions**

Listed below are a few possible solutions to the problem at hand, However, the delegates are highly encouraged to further research and discover other solutions pertaining to the issue and find ways to implement them.

## Non-Governmental Organizations (NGOs)

One possible solution is working with Non-governmental organizations (NGOs), that have no connection to governments and that work to better specific caucuses, such as human rights issues. In particular, NGOs can help provide rehabilitation services for prisoners, in order to lower the recidivism rate and arbitrary detention rate. They can also work to provide prisoners with prisoners who need them. Not only can NGOs work with prisons they can also work with governments and the United Nations to create oversight on the issue of prison reform in terms of arbitrary detention. During the committee each delegation will have to decide how much involvement they want from Non-governmental organizations and whether they want it to be at the local, state, national or international level.

## Foreign Aid

In the global community, foreign aid can play a major role in funding prisons in developing nations due to the fact some countries do not have access for prison improvements. In particular foreign aid can be structured in a multitude of ways, such as bilateral aid, multilateral aid, and foreign trade.

Firstly, bilateral foreign aid is the most prevalent, with a single nation—most likely developing—receiving a certain amount of assets from another nation—which is most of the time developed, then they begin to pay this off over a certain amount of time. While this may seem like an excellent solution, bilateral foreign aid often causes nations to become in a cycle of debt, as they are not able to pay off their loans. Furthermore, many economists have realized that economic growth is not linked with foreign aid, which shows that recipient countries are able to build a dependence on the contributions of other countries. This relationship can cause an infringement on foreign policy and cause governments to make decisions that benefit the private sector.

Secondly, multilateral foreign aid is usually created through an organization, such as the International Monetary Fund (IMF), where member states compile assets. Through these assets individual countries can use this money for the purpose of development.

Lastly, foreign trade happens through the transfer of goods for money from a developing nation to a developed country. Foreign trade is linked to the greater economic activity in the recipient country, which is unlike multilateral and bilateral aid programs. This type of foreign aid can result in economic liberalization, which means citizens gain more money. These three methods and the many others of international financing could be used to generate profits to renovate prisons, build new ones, and bring them into the twenty-first century.

## Alternatives to Sentencing

In many countries overcrowding is an international problem and this leads to a multitude of other problems including sanitation issues, shortages of prison guards, and lack of adequate food resources for prisoners. One solution instead of housing prisoners is to rather employ alternative sentencing as a way to reduce the number of prisoners at any given time. In many European

countries, in particular they have eliminated short-term sentencing. For example in the country of France, they have eliminated one-month sentencing in 2018. They have replaced it with community service and fines. Additionally the Netherlands, a Nordic country, have reduced prison populations through the use of fines. In committee, delegates will have to consider what is reasonable in terms of eliminating jail time and finding alternatives to sentences.

## **Making the best use of prisons**

The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility. To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

## **Education**

- Providing education alongside other legitimate activities in prison is not easy to organize or manage. Some prisoners will require full-time educational courses during the day. Others may benefit from evening classes at the end of the working day. The needs of others may be met through correspondence courses
- .Where prisoners choose education rather than work they should not be significantly penalized in terms of their pay, or in other ways.
- Prisoners often benefit greatly when their teachers are not direct employees of the prison administration but teachers normally working for the local education authorities.
- As far as possible, education provided in prisons should be integrated with the educational system in the community. This will make it more likely that prisoners will continue with education after they are released from prison.
- In many countries, industrial work, education, skills training, physical education, recreational exercise and cultural activities are being seen as a balanced programme of prison activities. All need to be provided to some degree in all institutions, but the exact balance may vary from one institution to another depending on the age, abilities and needs of prisoners.

## **Focusing Questions:**

- How has your delegation implemented prison reform? Was it successful or was it not towards lessening arbitrary detentions for prisoners?
- How can the UNHRC lower the rate of arbitrary detentions, without intruding on national sovereignty?
- Should the UNHRC sponsor negotiations with the aim of lowering the rate of arbitrary detentions and promoting the rights?
- Should and how can past treaties be amended or made to be more easily enforceable? What treaties have your delegation already signed onto and how has it already been implemented?
- How can the UNHRC keep a record on national arbitrary rates, despite the organization having no legal binding power?
- What other United Nations organs should the committee work with to promote protecting prisoner rights?
- How have regional bodies implemented these previous solutions created by the United Nations in regards to prisoner rights and should the committee call upon them in the resolution?

## **Bibliography:**

<https://www.hrw.org/legacy/advocacy/prisons/asia.htm>

<https://www.amnesty.org/en/latest/news/2020/12/pakistan-overcrowding-in-pakistans-prisons-is-a-ticking-time-bomb/>

<https://www.penalreform.org/resource/standard-minimum-rules-treatment-prisoners-smr/>

<https://www.amnesty.org/en/documents/eur50/4455/2016/en/>

<https://www.amnesty.org/download/Documents/EUR0113552020ENGLISH.PDF>

<https://blogs.lse.ac.uk/latamcaribbean/2017/05/25/when-inmates-make-the-rules-self-governing-prisons-in-latin-america-and-beyond/>

[https://www.wola.org/wp-content/uploads/2019/05/Pretrial-detention-in-Latin-America\\_June-2019.pdf](https://www.wola.org/wp-content/uploads/2019/05/Pretrial-detention-in-Latin-America_June-2019.pdf)

<https://www.apr.ch/pt/node/2657>

<https://cdn.penalreform.org/wp-content/uploads/2013/06/rep-1996-kampala-declaration-en.pdf>

<https://www.un.org/africarenewal/magazine/july-2004/human-rights-move-africas-agenda>

<https://www.prisonerscholars.org/what-we-do/222-2/>

<https://www.easternstate.org/research/history-eastern-state>

<https://www.ohchr.org/Documents/ProfessionalInterest/treatmentprisoners.pdf>

<https://www.newyorker.com/magazine/2016/08/29/learning-from-the-slaughter-in-attica>

<https://www.nytimes.com/1994/01/04/world/100-reportedly-killed-in-venezuela-jail-riot.html>

<https://www.apt.ch/en/what-we-do/achievements/european-committee-prevention-torture-cpt>

<https://www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china/>

<https://www.ohchr.org/en/issues/detention/pages/wgadindex.aspx>

<https://www.forum-asia.org/?issues=arbitrary-arrests-and-detention>

<https://www.middleeasteye.net/news/arabic-press-review-egypt-built-35-new-prisons-since-arab-spring>

<https://www.hrw.org/legacy/advocacy/prisons/mideast.htm>

<https://www.amnesty.org/en/latest/news/2017/04/israel-must-end-unlawful-and-cruel-policies-towards-palestinian-prisoners/>

[https://www.arabnews.jp/en/middle-east/article\\_17580/](https://www.arabnews.jp/en/middle-east/article_17580/)

<https://www.ohchr.org/en/professionalinterest/pages/basicprinciplestreatmentofprisoners.aspx>

[https://academicjournals.org/article/article1381828146\\_Aluko%20and%20Arowolo.pdf](https://academicjournals.org/article/article1381828146_Aluko%20and%20Arowolo.pdf)

