2 The Global Framework for Social Work and Health in Prisons

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The conditions in prisons and the rights of prisoners have always been an issue of contentious debate. In this debate, the principles of humane treatment and security have often been set against each other. Imprisonment is the greatest restriction of freedom and can only be justified in exceptional cases. According to UNODC, there are five theoretical justifications of criminal punishment: retribution, incapacitation, deterrence, rehabilitation, and reparation (UNODC, 2019). Whereas retribution justifies punishment on the basis that all offenders deserve to be punished, incapacitation assumes that the state has a duty to protect the public from future wrongs or harm. Deterrence, in turn, justifies punishment on the basis of preventing future crimes, while rehabilitation presupposes that punishment can change the offender's behaviour and thereby prevent future crime (UNODC, 2019). Finally, reparation justifies punishment on the premise that crimes should be corrected through a form of replenishment by the offender to the victim (UNODC, 2019). It is important to note that an imprisonment is a restriction of individual freedom but does not entail the restriction of other human rights. Therefore, all efforts to humanise the prison system start with the principle that the human rights of those in prison must be protected.

Guaranteeing prisoners' rights is not an easy task. In fact, people living in prisons are among the most vulnerable and marginalised population groups and face a multitude of social, psychiatric, and general medical challenges (Matejkowski et al., 2014). Worldwide, more than 10.77 million people are held in penal institutions, either as pre-trial detainees or having been convicted and sentenced (Fair & Walmsley, 2021). Key concerns in correctional institutions include poor conditions, lack of care, health issues, overcrowding, and violence (Matejkowski et al., 2014). Compared to the general population, prison inmates have higher rates of poverty, alcohol and drug addiction, and mental health problems (Matejkowski et al., 2014). In his seminal study, Johnson (1987) described the prison as a place of suffering: 'Prisons can be seen for what they are, as settings in which the average inmate does indeed suffer. Rehabilitation can be

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defined as equipping offenders to cope with the pains of imprisonment in mature ways, not wasting away but rather growing through the adversity posed by imprisonment' (p. 162). International efforts have been of key importance for improving the conditions in prisons.

This chapter discusses the global framework for the promotion of prisoners' rights and humane prison conditions. It addresses three questions: which regulations were developed to guide prison conditions worldwide, who are the main international actors involved, and what are the key issues in the debate on prison reform? With this analysis, we aim to provide the basis for discussing the prospects of humanising the prison system in Central Asia and China.

The chapter is structured as follows. Firstly, we provide an overview of the relevant international standards and explain how international organisations have been advocating the development of acceptable minimum standards in closed institutions. Secondly, we look into the role of international actors in promoting prison standards, most importantly the United Nations and its various agencies and offices that deal with various aspects of prison conditions. Furthermore, we will discuss the contributions of non-governmental organisations in advocating for prisoners' rights. Thirdly, we present the most important debates focusing on acceptable conditions in the prison system, including the mitigation of its adverse social and health consequences. Finally, in the conclusion, we will discuss the implementation of international prison standards in the region of Central Asia and China and the collaboration between international organisations and the governments of the region.

1. International Prison Standards

This first section provides an overview of the relevant international prison standards. These standards were developed as minimum standards that the prison system should aim to meet. Although states commit to the rules on a voluntary basis and thus the rules do not have any binding legal force, they serve as focal points for international action on improving prison standards around the world. As so-called 'soft law', the rules provide a concise guide to states and their penal agencies (Peirce, 2018). International prison standards can enable states to adjust their prison system to internationally accepted norms.

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1.1. *Standard Minimum Rules for the Treatment of Prisoners (SMR)*

The first international prison guidelines date back to the 1950s, with preparations having already started in the 1920s. In 1955, the Standard Minimum Rules for the Treatment of Prisoners (SMR) were adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders and, two years later, in 1957, approved by the United Nations Economic and Social Council. The SMR formed a key international standard governing the treatment of prisoners. They were 'designed to spell out the conditions which are thought to be minimal to preserve human dignity, maintain contact with outside society, and encourage a form of classification that protects prisoners and reduces the risk of contamination for those younger and less addicted to crime' (Clifford, 1972, p. 233).

The original SMR consisted of a set of 94 rules, including minimum standards for accommodation, medical services, complaints, contact with the outside world, quality and training of prison personnel, and prison inspections (reference document). As non-binding rules, the SMR lacked the authority of a convention (Clifford, 1972). Despite this, the SMR were increasingly applied by UN member states. They were also used as a framework for monitoring and inspection bodies engaging in assessment activities. In many countries, the SMR served as a blueprint for developing national prison rules. In other countries, the SMR have remained the only document directly regulating the treatment of prisoners.

1.2. *UN Standard Minimum Rules for the Treatment of Prisoners ('Mandela Rules')*

In 2010, the United Nations Commission on Crime Prevention and Criminal Justice established an open-ended intergovernmental expert group to exchange information on the revision of the SMR so that they reflected advances in correctional sciences and best practices. Finally, after a five-year negotiation process, the revised UN Standard Minimum Rules for the Treatment of Prisoners were adopted by the United Nations General Assembly, on 17 December 2015 (Peirce, 2018). The rules were named the 'Mandela Rules' to honour the late South African President Nelson Mandela, who was known for his imprisonment and his long-standing struggle for human rights and against apartheid in South Africa (McCall-Smith, 2016).

The negotiation process that preceded the adoption of the Mandela Rules involved four International Expert Group Meetings (IEGMs), organ-

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ised by the UNODC from 2012 to 2015, and preparatory meetings organised by NGOs and universities (Peirce, 2018). The Mandela Rules are an example of a new generation of soft law international norms. They are voluntary standards and oversight mechanisms built collaboratively by many countries within the UN structure, with the goal of solving a complex global problem (Peirce, 2018). Juan Mendez, the UN Special Rapporteur against Torture, was crucial for the negotiation process. Furthermore, the negotiation process greatly benefitted from the expert input of NGOs and think tanks, including the so-called 'Essex meetings' (Peirce, 2018). Evidence-based approaches played an important role during the revision process. Whereas the primary rationales were based on international laws and norms, social science evidence appeared in complementary ways, mainly on health and solitary confinement issues (Peirce, 2018).

The Mandela Rules expand the SMR and build upon the international human rights documents that have emerged since the first adoption of the minimum prison standards in 1955. The human rights documents that influenced the revision include the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of all Forms of Discrimination against Women; the Convention on the Rights of the Child; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment; and the Common Article 3 of the Geneva Conventions (McCall-Smith, 2016). As a result, the Mandela Rules synthesise a range of international laws that are relevant to ensuring the inherent dignity of all imprisoned individuals.

The inviolability of human dignity is a common thread in the Mandela Rules: 'All prisoners shall be treated with the respect due to their inherent dignity and value as human beings' (Rule 1). This is directly linked to the prohibition against torture or other cruel, inhuman, or degrading treatment of prisoners (McCall-Smith, 2016). The reinforcement of human dignity and the prohibition of torture lead to six broad considerations: holistic health and well-being; disciplinary procedures; in-custody complaints and investigations; legal representation; protection of vulnerable prisoners; and appropriate staff selection and training (McCall-Smith, 2016).

Firstly, the Mandela Rules emphasise the right of prisoners to health care, including medical attention regarding both physical and mental health concerns, as well as rehabilitation treatment. In particular, the rules state that 'the provision of health care for prisoners is a State responsibility' (Rule 24) and that 'prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status' (Rule 24). Secondly, the rules ensure that

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human dignity is protected in all disciplinary procedures. The rules therefore expressly prohibit the use of restraint instruments, the prohibition of family contact, corporal punishment, food or water manipulation, and prolonged solitary confinement as disciplinary measures (McCall-Smith, 2016). Special attention is paid to the prohibition of indefinite and prolonged (fifteen days or more) solitary confinement, as this can have harmful physical and psychological effects on prisoners (Peirce, 2018).

The third set of considerations concern in-custody complaints and investigations. The Mandela Rules stipulate that prisoners have the right to raise complaints against those who are responsible for their treatment and that these complaints need to be considered promptly (McCall-Smith, 2016). Fourthly, the Mandela Rules emphasise the rights of prisoners to legal representation that does not only encompass formal legal proceedings but also investigation into prisoner or staff misconduct (McCall-Smith, 2016).

A fifth problem area concerns the protection of vulnerable individuals and groups in correctional institutions. The Mandela Rules stipulate that prison standards should follow the principle of non-discrimination, including a positive consideration of self-perceived gender (McCall-Smith, 2016). To protect human rights in the prison system, the Mandela Rules are intended to be read in conjunction with other guidance instruments, including international human rights treaties (McCall-Smith, 2016). Finally, the Mandela Rules emphasise the need for appropriate selection and training of prison professionals. This includes ensuring all staff members working with vulnerable individuals receive relevant training (McCall-Smith, 2016).

Overall, the Mandela Rules are remarkable, in that they aim to improve both human rights and prison safety (Peirce, 2018). Since their adoption in 2015, the discussion has focused on the international implementation of the rules. Before turning to this issue, we will present two other important international standards.

1.3. United Nations Standard Minimum Rules for Non-Custodial Measures (the 'Tokyo Rules')

The United Nations Standard Minimum Rules for Non-custodial Measures, known as the 'Tokyo Rules', are the key international standard on alternatives to imprisonment. The Tokyo Rules are a supplement to the more general Mandela Rules and focus on non-custodial measures that can be applied as alternatives to prison sentences. The Tokyo Rules were

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adopted by the United Nations on 14 December 1990. They provide a 'set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment' (Rule 1.1 General Principles).

The Tokyo Rules are based on the premise that there are effective alternatives to imprisonment (Penal Reform, n.d.). The United Nations therefore calls on member states 'to avoid unnecessary use of imprisonment' and 'provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions' (Rule 2.3). In their decisions, judicial authorities should balance the 'rehabilitative needs of the offender, the protection of society and the interests of the victim' (Rule 8.1).

In particular, the Tokyo Rules stipulate that 'pre-trial detention shall be used as a means of last resort' (Rule 6.1). The document summarises a variety of non-custodial measures that can be applied as an alternative to imprisonment (Rule 8.2). The Tokyo Rules state that in their decisions, judicial authorities should take into account a number of factors, including the nature and gravity of the offence as well as the personal characteristics and background of the person who is charged with or convicted of a criminal offence (Penal Reform, n.d.). Furthermore, the rules emphasise the need for professionally and adequately remunerated staff that can supervise and implement non-custodial alternatives (Rules 15 and 16). Public participation should be strengthened, as an important factor for improving the ties between offenders and the community (Rule 17). The Tokyo Rules also call for scientific cooperation to expand the range of non-institutional options and facilitate their application across various countries (Rule 23).

According to the NGO Penal Reform International, the Tokyo Rules are an important international document for promoting alternatives to imprisonment (Penal Reform, n.d.). The rules result from two considerations. Firstly, many states are struggling with overcrowded prisons (Walmsley, 2005). Non-custodial measures can offer a more cost-effective alternative that takes into account both society's need for security and the offenders' rehabilitation needs. Secondly, there is a growing consensus among researchers that incarceration has harmful social and health consequences and does not reduce reoffending rates (Penal Reform, n.d.).

1.4. UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the 'Bangkok Rules')

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders – or, in short, the 'Bangkok

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Rules' – is a set of prison rules focusing on the treatment of female offenders and prisoners (Cerezo, 2017). The Bangkok Rules were adopted by the United Nations General Assembly on 22 December 2010. Similar to the Tokyo Rules, the Bangkok Rules can be viewed as a complement to the more general Mandela Rules: they address the specific needs of women in prison. The Bangkok Rules cover three overlapping issue areas: women's specific needs, the prevention of abuse, and the protection of children's rights (van Kempen and Krabbe, 2017).

The rules acknowledge that female prisoners have different needs and, consequently, require different treatment to male prisoners. Because women often have a crucial caretaking role in the family, non-custodial sentences are preferred to keep the family together and to ensure that children and elderly family members are taken care of (Rules 57–62). Because of the importance of family ties, frequent visits should be made available (Rule 4 and Rules 26–28). The Bangkok Rules also stipulate that prison authorities should take into account the special health needs of women, including their greater susceptibility to depression and self-harm (van Kempen and Krabbe, 2017).

A second central topic in the Bangkok Rules is the prevention of (sexual) abuse in the prison. Van Hout et al. (2021) show that women in prison are often subject to gender-based violence. As a rule, women are sentenced for less severe, non-violent crimes (Van Hout et al., 2021). Moreover, female imprisonment is often underpinned by poverty, for instance when women are breaking the law in order to secure their basic survival, so-called 'crimes of survival' (Van Hout et al., 2021). The Bangkok Rules therefore focus especially on the needs of women in prison. As measures to decrease the risk of (sexual) violence, they mention screening for prior (sexual) abuse, counselling, legal action, training of female staff members, special rules on searches and medical examinations, and a specific procedure in case of abuse in prison (van Kempen and Krabbe, 2017).

Furthermore, the Bangkok Rules aim to protect children's rights, sometimes through protecting the rights of their mothers (van Kempen and Krabbe, 2017). The rules stipulate that custodial sentences should be avoided for pregnant women and women with dependent children (Rule 64). If incarceration is necessary, prison administration should make it possible for children to stay with their mother (Rules 49–51). When children are not in prison with their mother, contact between mother and children should be facilitated by the prison administration (Rules 26–28). Because of the fact that women are sometimes accompanied by dependent children, the Bangkok Rules also focus on the specific needs of children in prison (Van Hout et al., 2022).

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In addition to these three main issue areas, the Bangkok Rules also contain rules for specific groups of female prisoners, including juvenile females (Rules 36–39 and Rule 65), foreign nationals (Rules 53 and 66), and minorities and indigenous peoples (Rules 54 and 55).

The Bangkok Rules recognise the specific needs of female prisoners and provide guidance to meet these needs in the prison context and reduce the female prison population (Cerezo, 2018; Van Hout et al., 2021). As women form a minority among the prison population, their situation and needs have, for a long time, been invisible. The Bangkok Rules play an important role in creating international attention for female prisoners. The final sections of the Bangkok Rules therefore call for more research (Rules 67–70) with the aim of better understanding the situation and needs of women in prison (Van Kempen and Krabbe, 2017).

1.5. The Legal Status of International Prison Standards

As mentioned above, international prison standards are voluntary commitments that states make and they do not have any binding force. Their legal status is thus lower than that of conventions or agreements that carry obligations for the signatory parties. One can clearly see that prison conditions are seen as a state's internal affair.

Nevertheless, prison standards offer important guidelines for improving prison conditions worldwide. The standards are firmly embedded in the international human rights regime and make frequent references to international human rights laws. The prison standards, as we know them today, have been developed to provide a generally accepted basis for guaranteeing minimum human rights standards in the prison context. In the following section, the efforts of international actors to improve prison conditions will be discussed.

2. International Action on Improving Prison Conditions

International action on improving prison conditions has a long history. In 1777, the English philanthropist John Howard published the groundbreaking book *State of the Prisons in England and Wales*, in which he advocated for humanising prison conditions. Howard's publication can be considered the first comprehensive account of the prison system in England and Wales and a starting point for prison reform (Roberts, 1985).

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In the 20th century this work became more concrete. The League of Nations provided the first space in which prison conditions were discussed internationally. The International Penal and Penitentiary Commission started to work on standard minimum rules for prisoners as early as 1926, resulting in a draft of 55 rules that were endorsed by the League of Nations in 1934 (Clifford, 1972). This work was taken up again two decades later by the United Nations and resulted in the adoption of the Standard Minimum Rules for the Treatment of Prisoners (SMR) in 1955 (Clifford, 1972). In the second part of this chapter, the development of international action on improving prison conditions will be presented. This includes an overview of the main actors, the most important issue areas, and the modes of implementation and cooperation with individual states.

2.1. The United Nations and the Promotion of Prison Standards

The United Nations plays a key role in the promotion of prisoners' rights and humane prison conditions (Bouloukos and Dammann, 2001). Within the UN framework, the United Nations Office on Drugs and Crime (UNODC) has the mandate to assist countries in building and reforming their prison systems, and in implementing non-custodial measures in compliance with human rights principles and UN standards and norms in crime prevention and criminal justice. UNODC offers assistance in improving legal safeguards for prisoners. In addition, UNODC helps states develop alternatives to pre-trial detention within domestic criminal codes. In order to promote the practical application of international prison standards, UNODC has produced a series of technical guidance tools and publications, which are made available on its website (UNODC, n.d.).

UNODC collaborates closely with UN Member States and has regional offices in all regions of the world. In Central Asia, UNODC started its operation in 1993 and focuses on providing technical assistance to law enforcement agencies, health care and criminal justice (UNODC, n.d.). In China, UNODC's work is organised through the Regional Office for Southeast Asia and the Pacific. The office is conducting a project strengthening law enforcement action to prevent the further spread of HIV/AIDS in China.

In addition to UNODC, the UN Office of the High Commissioner for Human Rights and the UN Department of Peacekeeping work on prison issues within the UN system. In 2021, the three agencies published the Common Position on Incarceration, which lays out a common approach across three thematic areas: shifting policies towards crime prevention

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and alternatives to incarceration; strengthening prison management and improving prison conditions; and advancing the rehabilitation and social reintegration of offenders (Rope, 2021). The central objective of the common position is the reduction of global prison populations, which skyrocketed during the Covid-19 pandemic. Due to prison overcrowding and increased vulnerability, Covid-19 had a disproportionate impact in prison settings (UNODC, 2021).

The UN recognises prisoners as a particularly vulnerable and marginalised group that is subject to discrimination and exclusion (UNODC, 2021). UN agencies therefore strive to improve prison conditions. The United Nations System Common Position on Incarceration provides a common framework for these efforts (UNODC, 2021). The document is informed by research and emphasises the collaboration between the United Nations system, Member states, and societal actors, including social service providers and civil society organisations (UNODC, 2021).

2.2. Non-Governmental Actors

Non-governmental actors have played an important role in the promotion of prisoners' rights and humane prison conditions. Human rights protection in the prison system and prison reform is an active field of non-profit action. Altogether, there are more than 1,780 NGOs working on prisoners' issues. Important organisations include the British NGO Penal Reform International (PRI), the London-based Centre for Crime and Justice Studies, the US-American think tank Prison Policy Initiative (PPI), and the Canadian International Centre for Criminal Law Reform & Criminal Justice Policy.

The British NGO PRI has been especially influential. The NGO works on penal and criminal justice reform worldwide. It was established in 1989 by a group of criminal justice and human rights activists, including Ahmed Othmani, a former Tunisian political prisoner, and Vivien Stern, an academic and politician. PRI has worked in collaboration with the United Nations to improve norms and standards in order to better protect the rights of people in criminal justice systems. The NGO has a seat at the United Nations Economic and Social Council (ECOSOC); the African Commission on Human and Peoples' Rights; the African Committee of Experts on the Rights and Welfare of the Child; and the Council of Europe. Its work in Africa has been particularly influential, as the NGO managed to convince governments to improve prison conditions. In Uganda, for example, PRI developed a torture prevention programme that in-

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cluded a police training course on international human rights standards. In Kenya, Tanzania, and Uganda, the NGO led a pilot project on the development of community service as an alternative to short-term prison sentences for petty offences (PRI, sub-Saharan Africa, n.d.).

The United Nations has acknowledged the important contribution that NGOs make towards improving prison conditions worldwide. The United Nations System Common Position on Incarceration, for example, mentions social service providers and civil society as key stakeholders in improving prison conditions and in developing alternatives to imprisonment (UNODC, 2021).

3. Key Debates on Prison Conditions

The international debate on humanising the prison system has revolved around a number of key human rights topics, including the prohibition of torture, the restriction of solitary confinement, the response to prison overcrowding, and the improvement of health conditions in the penal system. In the following sections, we will present these key areas of international debate.

3.1. Prohibition of Torture

The prohibition of torture in the prison system is a central human rights issue. Torture is an important concern in the prison system, as individuals are in an extremely vulnerable position in terms of potential maltreatment by law enforcement agencies or prison staff. In international law, the prohibition against torture and cruel, inhuman, and degrading treatment is described as absolute (Greer, 2015), which means that torture is not permitted under any circumstances. According to human rights lawyers, the prohibition of torture has been recognised as a *jus cogens* norm and as key to the protection of human dignity (McCall-Smith, 2016).

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is the key international human rights document for protection against torture. It was adopted by the United Nations General Assembly in December 1984 (resolution 39/46). The Convention entered into force on 26 June 1987, after it had been ratified by 20 States. The provisions of the Torture Convention deal with the obligations of the

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States parties among which, mostly importantly, is the provision that 'each state party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture' (Article 2).

The majority of UN Member States, namely 173 states, are parties of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment, which makes it a powerful human rights instrument. The Convention includes the decision to set up a Committee against Torture (Article 17) that is responsible for receiving periodic reports from the State parties and starting investigations. The Committee against Torture can also receive and examine applications from individuals claiming to be victims of a violation of the Convention by a State party (Article 22).

However, collaboration with the Committee against Torture is not compulsory. States may 'opt out' and declare that they do not recognise the Committee's competence to initiate investigations under Article 20 (Article 28). Similar to other human rights conventions, the implementation of the Torture Convention gave rise to extensive discussions at the international level (Danielus, 2008). Nevertheless, the convention is applied as a key reference for international prison action. Consequently, the Mandela Rules and other prison standards make frequent reference to the prohibition of torture (McCall-Smith, 2016).

The prohibition of torture is also protected at the regional level. A prime example is the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which was adopted by the member states of the Council of Europe on 26 November 1987. Next to the European Convention on Human Rights, the Convention for the Prevention of Torture is commonly regarded as one of the most important human rights treaties in Europe. The convention has been ratified by all 47 of the Council of Europe's member states.

The convention is a flagship project for checking on human rights abuses in prisons. Part of the Convention is the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which controls prison conditions in Council of Europe (CoE) member states and may conduct unannounced visits to penitentiary institutions. The work of the CPT is closely linked to the European Court of Human Rights. Non-compliance with human rights standards in the prison system can lead to member states being convicted by the European Court of Human Rights and corresponding sanctions.

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment offers opportunities for legal action. People living in prisons can draw attention to grievances and maltreatment in the prison system and can thereby refer to the convention. If

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human rights are violated in the prison system, these cases can be brought to the European Court of Human Rights. Within Europe, NGOs such as the European Prison Litigation Network (EPLN) work to strengthen the judicial protection of the rights and freedoms of prisoners in Europe. The EPLN uses advocacy and human rights litigation strategies to improve the conditions in European prisons (EPLN), n.d.). It is important to note that the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment applies only to the members of the Council of Europe.

3.2. Solitary Confinement

The restriction of solitary confinement is another important topic in the international debates on improving prison conditions. Solitary confinement describes forms of imprisonment in which the prisoner is kept in a single cell with little or no meaningful contact with other inmates. The issue has gained attention after reports from different country settings in which solitary confinement has been used as a punitive measure for (political) prisoners. Most importantly, solitary confinement has been criticised because of its adverse consequences on mental health. A well-known case is the imprisonment of the anti-apartheid activist and lawyer Nelson Mandela, who spent 27 years in prison and a significant proportion of that time in isolation. Mandela later described solitary confinement as 'the most forbidding aspect of prison life' (Mandela, 1994).

Because of the adverse effects of isolation, the prison standards named after him – the so-called Mandela Rules, adopted in 2015 – attach great importance to the prohibition of solitary confinement, characterising it as a practice that expressly violates human dignity (McCall-Smith, 2016). Rule 43 of the Mandela Rules prohibits 'indefinite solitary confinement' and 'prolonged solitary confinement'; Rule 45 states that 'solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review'. To be exact, the Mandela Rules specify that prisoners should not be subjected to solitary confinement for longer than 14 days.

The prohibition of solitary confinement is based on scientific research that has shown that solitary confinement has adverse psychological effects as human beings have a basic need to establish and maintain connections to others (Haney, 2018). Researchers particularly emphasise the negative effects of solitary confinement on prisoners' mental health (Grassian, 2006; Smith, 2006). Haney concluded that 'a robust scientific literature

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has established the negative psychological effects of solitary confinement' (Haney, 2018: p. 285). According to Haney, scientific evidence has led to an emerging consensus to drastically limit the practice of solitary confinement (Haney, 2018).

However, despite this knowledge of its adverse consequences, solitary confinement is still widely applied in the prison system, for example in the United States, where an estimated 84,000 individuals endure extreme conditions of isolation (Cloud et al., 2015). In super-maximum security prisons, the so-called 'supermax', solitary confinement is a regular practice as prisoners are seen as a security risk. Human rights organisations such as the American Civil Liberties Union have therefore set up public campaigns to address the problematic use of long-term solitary confinement in the prisons (ACLU, 2022).

3.3. Prison Overcrowding

Prison overcrowding is one of the main contributing factors to poor prison conditions globally. According to the NGO 'Penal Reform International', prisons in over 118 countries exceed their maximum occupancy rate, with 11 national prison systems at more than double their capacity (Penal Reform, n.d.).

Overcrowding arises as more people are sentenced to imprisonment than the prison system has capacity for. Often, higher incarceration rates are not the result of growing criminal activity, but of underlying socio-economic and political factors, including growing inequality and societal marginalisation (UNODC, 2013). Prison overcrowding undermines the ability of prison systems to meet basic human needs, such as health care, food, and accommodation (Penal Reform, n.d.). In overcrowded prisons, detainees do not have the minimum space requirements and are, in some cases, spending up to 23 hours of the day, if not all day, in overcrowded cells (Penal Reform, n.d.). In some prisons, the level of overcrowding may be so acute that prisoners are forced to sleep in shifts or share beds (UNODC, 2013). Prison overcrowding has a particularly negative impact on health conditions. Lack of space and unsanitary conditions increase the risk of contracting infectious diseases, such as Hepatitis C, TB, and HIV/AIDS (UNODC, 2021).

Although it has widely been acknowledged that prison overcrowding has harmful social and health consequences, states have not been successful in addressing this issue (Guetzkow and Schoon, 2015). On the contrary, incarceration rates are on the rise globally (Penal Reform, n.d.). It has been

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estimated that, as of today, almost 70% of prisons are overcrowded (Walmsley, 2005). The problem of prison overcrowding intensified during the Covid-19 pandemic and was one of the underlying reasons for issuing the United Nations Common Position on Incarceration, which aims to reduce global incarceration rates (UNODC, 2021). Researchers have shown that Covid-19 incidence and mortality have been higher among incarcerated persons than across the general US population (Leibowitz, et al. 2021). This effect was especially pronounced in those prisons where the population exceeded its originally specified capacity (Leibowitz, et al. 2021).

There is a growing awareness that prison overcrowding has detrimental consequences. UNODC has therefore developed strategies to assist governments in addressing the problem of overcrowding in prisons (UNODC, 2013). Among other things, the agency recommends that governments improve prisoners' access to legal assistance and legal aid, reduce pre-trial detention, and develop alternatives to imprisonment, such as non-custodial sanctions and measures (UNODC, 2013). UNODC tries to convince governments to reduce incarceration rates by arguing that imprisonment is a heavy financial burden (UNODC, 2013). By reducing incarceration rates, governments can cut costs and, at the same time, improve the conditions in their prison system.

3.4. Prison Health

Health is an important topic for humanising the conditions in the prison system. Rule 24 of the Mandela Rules stipulates the right to health care for people who live in prisons. According to the Mandela Rules, health-care services in penitentiary institutions should be organised in close connection with health administration for the general public and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis, and other infectious diseases, as well as for drug dependence. Within the Mandela Rules, an important principle is that of equivalence between the health care offered to people living in prisons and to the general population. People living in prisons should thus enjoy the same standards of health care that are available in the community (Rule 24).

The normative foundations for prison health are derived from general human right standards. The International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1967 recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (Article 12). According to the 2006 European Prison Rules, "persons deprived of their liberty retain all rights that are not lawfully taken

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away by the decision sentencing them or remanding them in custody" (Basic Principle 2) (Council of Europe, 2006). This means that detainees also retain the right to health care in prison. The WHO Moscow Declaration of 2003 therefore states that prison health is part of public health (WHO, 2003).

In practice, however, health care in penitentiary institutions is often low-quality and difficult to access. The reality of prison health is not the equivalence of health care, but rather a high level of inequality (Stöver et al., 2019). Overall, people living in prisons are among the most vulnerable populations and face greater health problems than the general population (Matejkowski et al., 2014). The poor health of people living in prisons is due both to structural determinants (institutional, environmental, political, economic, and social) and to the physical and mental constitutions of the prisoners themselves (De Viggiani, 2007). Most inmates already have a poor health status when they enter the penitentiary system. De Viggiani observed that prisoners 'come from the poorest or most socially excluded tiers of society and often have the greatest health needs' (De Viggiani, 2007: p. 115). Deprivation in prisons intensifies existing vulnerabilities among prison populations, as it denies individuals basic human rights and needs, and results in physical, mental, and social harm (De Viggiani, 2007). After prison, these adverse health effects make rehabilitation more difficult, as those released from prison find it harder to rebuild their lives if they face serious health restrictions (De Viggiani, 2007).

To address the manifold health issues in prison and reduce health inequalities, the World Health Organization (WHO) has established the Prison Health Framework (Alves da Costa et al., 2022). The objective of the framework is to achieve equivalence of care for people living in prison (WHO, 2022). The framework forms the basis for measuring and monitoring health-care delivery in the prison system and serves as a reference for policy design and implementation in different country settings (WHO, 2022). The framework consists of three main building blocks: the health system, health service delivery, and health outcomes. The first captures the system-level aspects of prison health care (or 'inputs'), whilst the second captures delivery aspects of prison health care (or 'outputs') (Alves da Costa et al., 2022). These building blocks are in turn modified by two influencing factors: the prison environment and health behaviour. Ultimately, all these elements impact the third building block: health outcomes. In addition, two cross-cutting principles are included in the framework: (1) adherence to international standards for human rights and good prison health and (2) reducing health inequalities and addressing the needs of special populations (Alves da Costa et al., 2022). The two

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cross-cutting principles are especially important, as they relate to the objectives of improving prison health. The first objective refers to the adherence to international standards for human rights and good prison health; the second describes the goal of reducing health inequalities and addressing the needs of special populations (Alves da Costa et al., 2022).

A particular issue when it comes to prison health is the treatment of drug dependency and other health services for drug users in the prison system. Drug users form a significant part of the prison population. About 15 to 25% of European prison inmates are sentenced for drug-related offences. According to recent research, the prevalence of drug dependence among prisoners varies from 10 to 48% for male prisoners and 30 to 60% for female prisoners at the point of incarceration (Fazel et al. 2006; Stöver and Michels, 2010). Opioid use disorder is often associated with harmful health consequences, especially for people living in prison, including the risk of fatal overdose and infection with hepatitis B and C, and HIV, due to the use of contaminated syringes (Stöver et al., 2019). Although it is generally acknowledged that opiate substitution therapy (OST) is an effective drug dependence treatment, access to OST in prison is inadequate in most countries and falls short of the standards for people outside of prison (Stöver et al., 2019).

Another important topic is compulsory drug treatment, which is used in many parts of the world (UNODC, 2022). UNODC recommends that governments abstain from compulsory treatment as it is associated with low efficiency and a high risk of human rights violations. The agency instead advocates for the use of voluntary forms of treatment for people who use drugs. It advises governments to transform compulsory facilities towards voluntary community-based treatment and complementary health, harm reduction, and social support services (UNODC, 2022).

Prison health clearly shows that there is a discrepancy between the global objectives and the reality on the ground. The WHO Prison Health Framework was developed to support decision-making and implementation for prisons and other places of detention (Alves da Costa et al., 2022). However, the comprehensive framework cannot guarantee that prison conditions are, in fact, improved. This fully depends on the willingness of policy makers who often do not have an interest in spending public resources on improving prison conditions. Hence, De Viggiani (2007) concluded that the WHO's notion of a 'healthy prison' is a contradiction in itself, as prisons epitomise the antithesis of a healthy setting. There is thus still a long way to go before health care equivalence across prisons and the general population is achieved, as postulated in the Mandela Rules.

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Conclusion: International Prison Action and Its Implications for the Region

This chapter presented an overview of the global framework for humanising prison conditions. In this concluding section, we turn to two evaluative questions: what has been achieved by international actors in terms of improving prison conditions and protecting human rights, and what are the implications of these efforts for the countries of Central Asia and China.

First of all, it is important to note that the prison system is generally seen as a state responsibility. International prison standards have been developed to provide national governments with guidelines for minimum standards. The standards, however, are voluntary and do not have any binding force. UN agencies, such as UNODC, can assist UN member states in their prison management and develop recommendations for humane prison conditions. However, it is up to states to decide the extent to which they are willing to implement international recommendations. In this sense, international prison standards are a *soft law* instrument. Many states – regardless of political system – see the prison system as their sovereign responsibility and are cautious about providing full information, especially in cases that are politically sensitive.

However, the character of soft law does not mean that international prison standards have no effect. Over the years, the efforts of international actors have achieved significant results in humanising prison conditions. The codified prison standards, such as the Mandela Rules and the Bangkok Rules, have been important milestones in this development. They describe globally agreed guidelines for guaranteeing basic human rights in the prison system. In the national context, international standards and guidelines can serve as palpable recommendations for prison administrations. Policy-makers and prison administrators can use these standards in their daily work. The standards help them to understand what to look out for to guarantee good conditions and avoid human rights violations. Moreover, the global framework provides an arena for debate, which enables the international dissemination of best practices. In all parts of the world, prison administrations are confronted with similar problems, such as the need to organise a daily structure, to avoid conflicts and violence, and to provide detainees with opportunities for social rehabilitations. The collaboration with international actors gives national administrations an opportunity to discuss these challenges and learn from other examples and recommendations. This, however, presupposes that prison administrations are willing to consider international advice.

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Furthermore, international prison standards can serve as an important reference point for non-governmental organisations advocating for prisoners' rights. In many countries, prison reforms have not been an internal development but rather came about under pressure from external actors. By exposing human rights violations in the prison system, non-governmental organisations have asserted pressure on governments and achieved important improvements. These change processes often take a lot of time. International prison standards are important for the activities of advocacy groups as they describe the objectives towards which state policies should converge. By assisting governments in developing national legislation and policy implementation, UN agencies can work towards gradually improving prison conditions in different country settings. We can thus conclude that the existing global framework is still imperfect, but nevertheless offers important channels for humanising the prison system worldwide.

One should, however, not overlook the fact that the global framework also has several important limitations. International prison standards are formulated in a very general way and cannot account for the diverse realities in prisons, particularly not in developing countries where prison administrations are poorly funded and riddled with corruption. Despite the internationally agreed minimum standards, human rights violations in the penitentiary system remain widespread. This is due to the fact that prisons are closed institutions and are rarely controlled by the public. If human rights violations occur in the prison setting, they are rarely prosecuted. Failure to uphold international prison standards leads to impunity for potential offenders. Next to the arbitrariness of the prison administrations, general violence and the feeling of hopelessness and depression associated with imprisonment are among the predominant problems in the prison. At best, international prison standards can alleviate the situation for prisoners, but they cannot end the suffering.

In the regions of Central Asia and China, too, international norms and standards have been important in the process of prison reform. A comparison between the countries of the region reveals some interesting differences. While Central Asian countries have cautiously moved closer to international norms and have started to collaborate with international organisations, China has increasingly isolated itself from the international community in recent years.

Let us first take a look at the development in Central Asia. After the end of the Soviet Union, the five countries of Central Asia inherited an extensive and repressive prison system. After 1991, the repressive prison policy was initially continued in the newly independent states. Because of the authoritarian nature of the post-Soviet regimes in Central Asia, human

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rights violations in the region's prison system have been widespread. For the past three decades, there have been regular reports of maltreatment and even torture in penal institutions. However, over the last couple of years, some tentative steps towards reforming the prison system could be observed. The governments of Central Asia have started to reduce the prison population and improve the conditions in the penal institutions. Kazakhstan and Kyrgyzstan, for example, have been successful in decreasing incarceration rates (ICPR, n.d.). The reforms in these two countries aim to lower the cost of prison management and improve the prospects of social rehabilitation for their prison populations. One key component has been offering rehabilitation and probation programmes as an alternative to imprisonment. UNODC has supported the governments of Kazakhstan and Kyrgyzstan in the prevention of evidence-based drug use treatment and the establishment of rehabilitation programmes in the prison (UNODC Central Asia, n.d.).

In Uzbekistan, the political system shows stronger authoritarian traits than in the neighbouring countries, and the prison system is a rather closed institution that is sealed off from international cooperation. However, since President Mirziyoyev came to power in 2016, the country has started some political reforms, which are controversially discussed. According to the Organization for Security and Co-operation in Europe (OSCE), political reforms in Uzbekistan 'have not yet resulted in a genuinely pluralistic environment' (OSCE, 2021). Furthermore, with regard to the prison system, Uzbekistan remains a largely closed country, with a high number of religious and political prisoners and a long legacy of state repression (USCIRF, 2021). However, Uzbekistan has joined international efforts to combat extremism and violence in Central Asia (United Nations Office of Counterterrorism (n.d.). Within the framework of this larger programme, some projects focus on the prevention of religious extremism in the prison system.

In contrast to the countries in Central Asia that have seen some tentative successes in prison reform, China is on a confrontational course with international organisations. Unlike in Kazakhstan and Kyrgyzstan, incarceration rates in China have been growing over the past two decades (ICPR, n.d.). In 2017, more than 1.7 million people were detained in Chinese prisons, which is an increase of 20% in comparison with the year 2000, when about 1.4 million people were imprisoned (ICPR, n.d.). This increase in the prison population is partly due to the fact that Chinese courts have become stricter in punishing drug-related crimes (ICPR, n.d.).

China's prison policies are particularly harsh in the Western province Xinjiang, where government agencies pursue a repressive policy towards

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the Uyghur minority (Khalid, 2021). The oppression of the Uyghurs has been a concern for many years. In 2022, the conflict became apparent when the UN Human Rights Office (OHCHR) published a report on human rights violations in Xinjiang (OHCHR, 2022). In this report, the OHCHR accuses the Chinese government of using prisons and so-called 'vocational training centres' to persecute the Muslim minority under the pretext of anti-extremism policies. Researchers estimate that about a tenth of Xinjiang's Muslim population was incarcerated in 2021 and characterise Chinese policies as a 'cultural genocide' aimed at destroying the cultural identity of the Uyghurs in Xinjiang (Khalid, 2021: p 495).

The international controversy surrounding the secret detention camps shows that the topics of imprisonment and prisoners' rights are more relevant than ever before. In many parts of the world, governments use prisons to suppress political opposition and control the populace. International actors cannot prevent these practices of repression. However, they can raise awareness regarding the conditions of imprisonment and can keep up the pressure on governments to realise that human rights must also apply in prisons.

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