

## Words of Welcome

Honourable delegates,

welcome to the 2018 Lahn Model United Nations taking place in the beautiful city of Marburg, Germany. We are very pleased to introduce you to the Human Rights Council. Our names are Gregor Beck and Nathalie Ferko and we will serve as your committee directors during the upcoming conference. As your chairs we would like to introduce ourselves:

My name is Gregor and I am studying Peace- and Conflict Studies in Frankfurt am Main. I participated in more than 12 MUNs as a Delegate, Chair or Crisis Director. Having participated at LahnMUN three times already this year marks my first time as a Chair at LahnMUN.

My name is Nathalie and I am also a student of Goethe-University in Frankfurt, majoring in Political Science and minoring in Human Geography. I attended several MUN's before as Delegate, Staff, Chair and as part of the Secretariat.

We hope you will find this Background Guide useful as an introduction to the topics of this committee. However, it does not serve as a replacement for individual research. We highly encourage you to explore your member state's policies in-depth, as well as to use the provided bibliography to broaden your knowledge on these topics. In preparation for the conference it is useful to write down the position of your country regarding this topic.

If you have any questions concerning your preparation for the committee or the conference itself, feel free to contact us at [info@unsociety.de](mailto:info@unsociety.de).

We wish you all the best for your preparations and we are looking forward to seeing you at the conference!

Sincerely,

Gregor Beck  
Committee Director

Nathalie Ferko  
Committee Director

## The Human Rights Council

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”.<sup>[1]</sup>

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, non-governmental organizations (NGOs) and intergovernmental organizations can discuss their views, problems and achievements.

The 47 Council-members are elected directly and individually by the majority of the members of the GA. They serve for a three-year renewable term, but cannot be immediately re-elected 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 “think-tank” of the HRC and provides it with expertise and advice on human rights issues.

<sup>[1]</sup>All information concerning the HRC in: United Nations Department of Public Information (2011): Basic Facts about the United Nations, New York, pp. 214-215.

# I. Human Rights and the Environment

## 1. Introduction

*"More people die from unsafe water than from all forms of violence, including war. These deaths are an affront to our common humanity, and undermine the efforts of many countries to achieve their development potential."* – Former Secretary General of the United Nations Ban Ki-Moon

All people depend on the environment in which we live. A clean, healthy, safe and sustainable environment is necessary for the full gratification of a broad range of human rights, especially the rights to life, health, food, water and sanitation. We are not able to fulfil our aspirations or even live at a level adequate with minimum standards of human dignity, without a healthy environment.

70 years after the adoption and proclamation of the Universal Declaration of Human Rights on 10 December 1948, human rights are facing a grave crisis. This crisis impacts on the environment and, in particular, on the human right to the environment. Pollution causes approximately 2 million annual deaths and billions of cases of diseases. Around the world, people experience the negative effects of environmental degradation, ecosystems decline, depletion of fishing grounds, unsafe management and disposal of toxic and dangerous wastes and products, natural disasters due to deforestation and water shortage. Indigenous people are especially affected by the degradation of the ecosystems that they rely upon for their livelihoods. Climate change is one of the biggest threats of the 21st century. It is not a regional, but a global challenge and does not stop at (state) borders. The effects of climate change are independent of any economic and geographical situation of states. Global strategies are needed to slow down climate change or limit human amplification on climate change. In particular, with the increasing concentration of CO<sub>2</sub> and other greenhouse gases rising into the atmosphere, the global average temperature will continue to soar. According to the Intergovernmental Panel on Climate Change (IPCC), the average sea temperature will continue to rise and the consequences for the environment, humans and animals are

devastating. Polar caps and snow are melting, sea levels are rising and increased extreme weather events and acidification of the oceans are the consequences. All those phenomena may affect the human rights of all human beings (IPCC 2013: 4). The 2007 report also includes violations of human rights, such as the right to water, food and health, through climate change (IPCC 2007: 48-49). More and more humanitarian crises tackled by UN bodies are believed to be at least in part caused by climatic changes (IPCC 2014: 76).

## 2. History

Effects on the environment from any actors or from any natural disaster, impact directly on the realization of human rights. The link between human rights and the environment has long been recognized. In 1972, the first efforts to link environment and human rights has been made in the Stockholm Declaration of the United Nations Conference on the Human Environment. The first resolution 1989/42 with the title *human rights and the environment* was adopted by the Commission on Human Rights, which have started to address environmental issues since 1989. In April 2011 the resolution A/HRC/RES/16/11 “Human Rights and the Environment”, which was adopted by the Human Rights Council, asked the Office of the High Commissioner for Human Rights in consultation with the members of the United Nations and other stakeholders to conduct a detailed analytical study on the relationship between human rights and the environment (The Office of the United Nations High Commissioner for Human Rights 2018). After the Paris Agreement in 2015, in which 196 states agreed to a common framework to keep the increase in global average temperature to well below 2°C above pre-industrial levels and pursue efforts to limit it to 1.5°C, the international community were confident, that climate change and environmental issues that come along with climate change, can be endured (Council of the European Union 2018).

The United Nations Special Rapporteur on Human Rights and the Environment presented in March 2018 the *Framework Principles on Human Rights and the Environment*, which provides a study basis for understanding and implementing human rights obligations relating to the environment. Those principles should encourages states, international organizations and other stakeholders to safeguarding human rights and the environment to disseminate and publicize the Framework Principles, and to take them into account in their own activities (United Nations Human Rights Special Procedures 2018: 3).

### 3. Definitions

According to the *Framework Principles on Human Rights and the Environment*, states should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights. Only if states respect, protect and fulfil human rights in the actions they take to address environmental challenges and pursue sustainable development, they can secure the human rights. However, it is not up to one state or a group of states, the world can only act together to shrink the effects of environmental issues on climate change (United Nations Human Rights Special Procedures 2018: 6).

There are three fundamental dimensions of the interconnection between environmental protection and human rights:

- The environment is necessary for the fulfilment of human rights (implying that human rights obligations of States should include the duty to ensure the level of environmental protection necessary to allow the full exercise of protected rights)
- Fixed human rights, like the access to information, taking part in decision-making processes and access to justice in environmental issues, are fundamental to good environmental decision-making (implying that human rights must be implemented in order to ensure environmental protection)
- The right to a safe, healthy and ecologically-balanced environment as a human right in itself (this approach has been debated).

(United Nations Environment Programme 2018a).

Until today, no environmental rights have been recognized by the United Nations or any other international organisation.

### 4. Current Developments

Ecuador is the first state to have firmly anchored the Law of Nature in its new constitution in 2008. *“The right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability and the good way of living (sumak kawsay), is recognized”*

(Article 14). Article 72 notes that the *“nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems”*. Additionally, article 73 states: *“The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles”*. But the most important article is article number 71. In this article the state gives nature (called Pacha Mama in Ecuador) the right for its existence. The article highlighted that *“nature, where life is reproduced and occurs, has the right to integral respect for its existence and for the preservation and renewal of its life cycles, structure, functions and evolutionary processes”* (Legislative and Control Committee of the National Assembly 2008: 47). Ecuador is becoming a pioneer in international climate policy by implementing a right to nature in its constitution.

In 2017 197 people died while protesting for and defending their right to land and a healthy environment. The deaths are mainly linked to mining and major infrastructure protests or the expansion of the agriculture frontier. Sixty percent of those 197 people worked in Latin American or Caribbean states, one of the reasons why 24 Latin American and Caribbean states have signed a legally binding framework on environmental rights containing measures to protect land defenders. The world's first binding agreement on environmental democracy will be open for signatures from September 2018 to September 2020. The agreement contains measures to protect the environmental human rights defender including measures to guarantee their rights to life, peaceful assembly and personal integrity, as well as ensuring access to information, participation and justice in environmental matters (United Nations Environment Programme 2018b).

Also in 2017, the United States of America withdrew from the 2015 Paris Agreement on climate change mitigation, the breakthrough climate change treaty adopted at the UN Climate Change Conference in Paris in 2015 and the first UN agreement to mention a connection between human rights and climate change effects in its perambulatory clauses (United Nations 2015).

Human rights and environmental protection were long considered isolated issues, but they have been increasingly brought into cooperation, particularly over the past decade. More

than 100 countries have laws that acknowledge the link, but dozens of countries – and the UN itself – have yet to formally recognise environmental rights.

## 5. Guiding Questions

- What are the links between human rights and the environment?
- Is your country affected by climate change effects and events?
- How do effects of climate change or other environmental issues affect human rights in your country?
- What can your country do to help mitigate and adapt to the effects of global climate change?
- How can the international community adapt to and cope with the threats posed by environmental issues on human security?

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# II. The Human Rights Situation of Prisoners

## 1. Introduction

An estimated number of around 11 million people is held in penal institutions such as jails, prisons and other correctional facilities around the world. The United States alone has more than 2.2 million prisoners, followed by China (1.65 million), the Russian Federation (640.000), Brazil (607.000), India (418.000) and Thailand (311.000) (Walmsley 2014). While imprisoned, many prisoners are facing the same challenges around the world. Human rights abuses, torture, lack of access to fair trials, overcrowded prisons leading to serious sanitary and health conditions are just some of the issues that potentially hinder the full enjoyment of human rights that prisoners have.

International Human Rights treaties clearly protect the human rights of prisoners. The International Covenant on Civil and Political Rights (ICCPR) as well as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment prohibit any torture or cruel and inhuman treatment or punishment without exception (Human Rights Watch 2018). Furthermore, Article 10 of the ICCPR states: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” (ICCPR Article 10). Therefore, the Human Rights Council is the adequate forum to debate the human rights situation in prisons and to find ideas and solutions to improve the situation of prisoners around the globe.

## 2. Current Problems and Challenges for Human Rights in Penal Institutions

This chapter takes a look at some of the major challenges for Human Rights in penal institutions. The magnitude of these problems may of course vary from country to country.

## Health Situation in Prisons

While international law acknowledges the right of everyone to the enjoyment of the highest attainable standard of physical and mental health the situation of many prisoners does not conform to these standards. In reality, many prisoners receive healthcare inferior to the standard available to people outside of prison or in some cases do not receive medical treatment at all (Penal Reform International 2018a). Due to unhygienic and unhealthy prison conditions prisoners may develop health problems in prison while prisoners with pre-existing healthcare conditions may have their health needs ignored (ibid.).

The World Health Organisation reports that at least half of the world's prison population struggles with personality disorders while at least one million prisoners worldwide suffer from serious mental disorders such as depression or psychosis and each year several thousand prisoners commit suicide during imprisonment (World Health Organisation 2007, p. 133). People with mental disorders are arrested and imprisoned, importing mental problems into prisons. Additionally, people without mental disorders develop mental problems while serving time in prison due to their negative experiences during imprisonment (see ibid.). According to the revised UN Standard Minimum Rules for the treatment of Prisoners people with severe mental health issues should not be imprisoned, but receive proper treatment. This not only helps to ease the situation of the affected prisoner, but also relieves the strain on prison staff and other prisoners who are often not equipped to deal with mental health issues (Penal Reform International 2018a).

Infectious diseases such as tuberculosis and hepatitis spread easily in prisons, with the circulation of HIV/AIDS being one of the most serious health problems in penal institutions. Prisons offer an ideal environment for the transmission of the disease with drug use and needle sharing, tattooing with unsterile equipment, high-risk sex and rape being commonplace (World Health Organisation 2007, p. 73). The incidence of tuberculosis can be up to 81 times higher among prisoners compared to the general population and HIV infections are much more common in prisons as well (Penal Reform International 2018a).

Furthermore, prisoners living with HIV are often stigmatized and belong to the most vulnerable group of the prison population. The fear of HIV and AIDS places prisoners infected with the disease at risk of isolation, violence and abuses from other prisoners and prison staff alike (World Health Organisation 2007, p. 61). The fear of the disease and the

accompanying social stigma can have negative effects on individuals and even discourage prisoners with HIV to seek health care services or taking voluntary HIV tests, affecting the chances of an early discovery and treatment of the disease (see *ibid.* p. 62).

### Overcrowding

Overcrowding – in this case meaning the number of prisoners exceeding the number of available prison places – is one of the major contributing factors to adverse prison conditions around the world (Penal Reform International 2018b). Currently there are 123 countries in the world where prisoner numbers exceed official prison capacity. In 23 of these countries the number of prisoners is more than double the number of available places in prison with Haiti topping the list with an occupancy level of 454% (World Prison Brief 2018). It is not necessarily rising crime rates which are responsible for overcrowding of prisons, but a consequence of criminal justice policy. A policy of ‘being tough on crime’ has led to increased prison populations for example in the United States of America. Overcrowding negatively affects the ability of prison systems to provide for basic human needs such as food, healthcare and proper accommodation. Furthermore, it undermines the effectiveness and provision of rehabilitation and educational programmes. A lack of privacy due to overcrowding can also lead to mental health problems and increase the rate of violence, self-harm and suicides in prisons (Penal Reform International 2018b).

### Torture

While the possibility for violence is already increased in prisons, a specific human rights violation occurs when prisoners are specifically targeted by authorities. The UN Convention Against Torture defines torture as

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity” (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1).

The convention declares any incidence of torture to be illegal. Nonetheless, human rights organisations have documented torture in at least 122 countries in 2015 (Penal Reform International 2018c). In prison one of the most commonly used techniques for torture is

solitary confinement. The complete isolation of a prisoner with almost no human interaction known as solitary confinement is a commonly used punishment for prisoners but can be regarded as torture, specifically if prisoners are in solitary for a prolonged time or even indefinitely. Solitary confinement – even for a short time – can lead to various physiological and psychological effects such as headaches, insomnia, hallucinations and traumas, severely affecting the wellbeing of prison inmates (Corcoran 2018).

### General Treatment of Prisoners

A basic amount of human dignity and respect towards prisoners can contribute to a healthy and functioning environment in prisons. However, often there is a lack of basic courtesy towards prisoners by guards and prison staff leading to a mistreatment of prisoners, which can be found in many countries around the world (United States Department of State 2012). The Standard Minimum Rules for the Treatment of Prisoners prohibit discrimination against prisoners based on their race, sex, religious beliefs, political opinion and other factors. Nonetheless, a study conducted in the United Kingdom found that Black, Muslim and young prisoners as well as prisoners with disabilities are more likely to have force used against them, to be segregated in prison, to be subject to disciplinary charges and to have negative records in prisoner records (Edgar/Tsintsadze 2017, p. 2).

The religious freedom of prisoners is another issue that needs to be addressed, with recorded cases of prisoners being denied access to religious literature, prohibiting religious headgear, denying Christian prisoners a pre-meal prayer or refusing to accommodate to dietary needs of prisoners due to their religion (American Civil Liberties Union 2018). And while many countries have eradicated prisoner disenfranchisement prisoners in the United States and several other countries are still prohibited from voting in elections, denying prisoners their democratic rights (FairVote 2018).

## 3. Relevant United Nations Documents and Decisions

The Universal Declaration of Human Rights (UDHR) is the fundamental guideline for all human rights related issues concerning the United Nations. Specifically Articles 5, 9, 10 and 11 are significant when it comes to the treatment of prisoners as they address arrests, the presumption of innocence and the prohibition of torture, but the whole declaration is applicable to any living person, regardless of being imprisoned or not (United Nations 1948).

However, there are additional documents of high significance when it comes to human rights in penal institutions. The Standard Minimum Rules for the Treatment of Prisoners is a non-binding guideline which has been adopted by the UN in 1955 to establish a consensus on the treatment of prisoners. The document includes provisions and recommendations concerning a multitude of topics like prisoner health, food distribution, sanitation, instruments of restraint and the general treatment of prisoners, to name just a few. Principles concerning the respect of religious beliefs, professional conduct of prison staff and the treatment of mentally ill prisoners are also included in the document (OHCHR 1955).

The Basic Principles for the Treatment of Prisoners are another set of guidelines, proposed by the Office of the High Commissioner for Human Rights and adopted by the General Assembly in 1990. This document advocates to take all necessary steps to successfully reintegrate former prisoners into society and to prepare prisoners for their life after they left prison. It also encourages the abolition or at least the restriction of the use of solitary confinement. Most importantly the document states that

“Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto” (General Assembly 1990)

thereby underlining the fact that individuals do not lose their basic human rights once they are prosecuted and sent to prison.

#### 4. Points of Discussion and Regional Differences

When tackling the issue of Human Rights of prisoners, one has to keep in mind that the situation of prisoners differs from country to country and region to region. The United States of America has the highest incarceration rate in the world and has been criticised for overcrowded prisons and a constant use of solitary confinement as a punishment. However, in recent years the US has also worked on prison reforms to improve the conditions in prisons. In many European countries prison systems are considered to be one of the best examples of penal institutions worldwide. The focus on rehabilitation instead of punishment, alternatives to imprisonment such as fines and probation and the fact that inmates are given a lot of control over their lives help in reintegrating convicted prisoners into society after

their release from prison (New York Times 2013). In contrast South America has a penal system notorious for being overcrowded and violent. Prisoners are held, sometimes with untreated injuries, riots are common and there is little to no care for human rights of prisoners (The Economist 2012). These conditions can also be found in several countries in Asia and the Middle East. However, the region also prison systems like in Japan where prisons operate under capacity and rehabilitation programmes are responsible for low recidivism rates. In Africa prisons are often overcrowded, lack sufficient funding and suffer from an inefficient justice system. A UN report from 2013 found that more than 100 prisoners in Congo had died in a year, with prisoners dying from malnutrition and health issues, but also as a result of mistreatment and torture from authorities (Reuters 2013).

It is obvious that many steps still have to be taken to make sure that prisoners all over the world can enjoy their basic human rights without infringement of these rights. The Human Rights Council needs to debate how the existing frameworks concerning the treatment of prisoners can be improved and how their implementation can be encouraged in countries with poor prison conditions, while not infringing on the sovereignty of a state by imposing rules from above. What are best practice examples for penal institutions and can the international community help states to improve conditions in prisons. Which punishments are appropriate for dealing with prisoners and do punishments like solitary confinement constitute torture? Tackling these issues will make sure that the universal enjoyment of human rights does not end at the prison door and that prisoners are still able to enjoy their guaranteed human rights.

## 5. Guiding Questions

- What are the prison conditions in your country?
- What is your countries philosophy when it comes to prisons (rehabilitation vs. punishment)?
- What is your countries position towards prison reform?
- What can the international community do to ensure human rights standards in prisons?
- How can your country contribute or what does your country need to improve prison conditions worldwide and secure the upholding of human rights in prisons?

## 6. Further Reading

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