

HUMAN RIGHTS COUNCIL

STUDY GUIDE
UC3MUN 2019



UC3MUN





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Study guide of the topics

A. Political refugees, stateless persons and their status in the current global situation.

B. Prisoners' rights and the condition of the prisons.

of the United Nations Human Rights Council

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Welcome Letter

Dear delegate,

We are Dimitra Psychari and Guillermo Suárez and we are very honoured to be your Chairs. From the bottom of our heart, we would like to welcome you to the 2019 edition of UC3MUN and the United Nations Human Rights Council. MUN is the perfect place for you to develop your public speaking and research skills, but also meet many like-minded people from all around the world and leave with tons of new friends.

This committee is possibly one of the most important ones at the UN, especially the last years that there are many human rights violations all around the world, for example in Syria where indiscriminate attacks to civilians happen every day or in Yemen where people due to the blockade cannot have access to their basic needs. This committee always involves long discussions and careful examination of every aspect of the topic in order to make recommendations to the General Assembly for its solution.

Your role is to act as a diplomat, approaching the way a real diplomat of your country would act. You will have to research well your country's policy and read thoroughly this guide in order to have a broad idea about the topic and the path you should follow during the sessions. Also, it is recommended that you extend your research beyond the present guide, in an independent way (e.g. to find previous actions, recommendations by your country or policies established in the past...). During the simulation you will be called to discuss the problem, make your suggestions for solutions, lobby with other delegates and hopefully pass a resolution.

The topics we will discuss are contemporary and crucial: "Political refugees, stateless persons and their status in the current global situation" and "Prisoners' rights and the conditions of the prisons". We really hope we will have a fruitful and enriching debate, coming up with good and creative solutions for both topics, but most importantly all go home having gained something from this experience. We want to believe that you are as excited as we are.

If you have any queries regarding UC3MUN and our committee, please let us know and we will do our best to help you. Once again, welcome to UNHRC, see you all in February!

Your UNHRC Chairs,

Dimitra Psychari and Guillermo Suárez.



II. COMPETENCE, FUNCTIONS AND STRUCTURE OF THE COMMITTEE

The United Nations Human Rights Council (UNHRC) is an inter-governmental body within the United Nations, responsible for the promotion and protection of the human rights in all over the world¹. It also addresses human rights violation situations and makes recommendations on them, communicating them directly to the General Assembly².

The Council was created on March 15th, 2006, by UN General Assembly Resolution 60/251, replacing the former United Nations Commission on Human Rights. Its work must be led by the principles of the United Nations Charter of Human rights and it is also guided by the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the UN 2030 Agenda for Sustainable Development³.

Its meetings take place at the UN Office at Geneva. It has 3 regular meetings per year: in March, June and September. It also can decide to hold an emergency session, at the request of the $\frac{1}{3}$ of its members in case of urgent need to address human right violation emergencies⁴.

It consists of 47 member-states, that are elected for three-year terms on a regional group basis by the General Assembly. When voting the new members of the council, things that have to be considered are the contribution of the candidates to the promotion of the human rights⁵. The Bureau of the Council consists of five people:

¹ OHCHR, United Nations Human Rights Council, available at: <https://www.ohchr.org/en/hrbodies/hrc/pages/home.aspx>

² OHCHR, United Nations Human Rights Council, available at: <https://www.ohchr.org/en/hrbodies/hrc/pages/aboutcouncil.aspx>

³ United Nations General Assembly, A/RES/60/251 available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/502/66/PDF/N0550266.pdf?OpenElement>

⁴ OHCHR, United Nations Human Rights Council, Sessions, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Sessions.aspx>

⁵ United Nations General Assembly, A/RES/60/251



one President and four Vice-Presidents, representing all the five-regional group. They service duration is one year⁶. The current President is Vojislav Šuc of Slovenia⁷.

The resolutions are not legally binding; however, their impact is big. Its work enhances state accountability and it has contributed to major positive changes in human rights issues worldwide. It has three main tools: The Universal Periodic Review that assesses Human Rights in all UN Member-States, the Advisory Committee that provides consultation and expertise in thematic human rights issues and the Complaint Procedure, that allows individuals and organizations to bring violations to the attention of the Council⁸. When creating the Human Rights Council in March 2006, the United Nations General Assembly decided that the Council shall review its work and functioning five years after it has come into existence. It also provided that the status of the Council is to be reviewed at the level of the General Assembly⁹.

III. TOPIC A: REFUGEES, STATELESS PERSONS AND THEIR STATUS IN THE CURRENT GLOBAL SITUATION.

A. Background/History

International Law tolerates differentiation by the States of their own nationals and foreigners, only if that discrimination is not legally banned. In 1892 the International Law Institute passed a resolution on the International rules on the admission and expulsion of foreigners (*Règles internationales sur l'admission et l'expulsion des étrangers*)¹⁰ which stated that it was inherent to the sovereignty and independence of a State the right to

⁶ OHCHR, United Nations Human Rights Council, Membership of the Human Rights Council, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Membership.aspx>

⁷ OHCHR, United Nations Human Rights Council, President of the 12th cycle, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Presidency.aspx>

⁸ OHCHR, United Nations Human Rights Council, available at: <https://www.ohchr.org/en/hrbodies/hrc/pages/aboutcouncil.aspx>

⁹ United Nations General Assembly, A/RES/60/251 available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/502/66/PDF/N0550266.pdf?OpenElement>

¹⁰ Institut de Droit International (1892), *Règles internationales sur l'admission et l'expulsion des étrangers*. Available at: http://www.idi-iiil.org/app/uploads/2017/06/1892_gen_01_fr.pdf



admit or to expel foreigners, but this right must be exercised respecting the law and freedom and that exercised must be ruled. This was the basis of what later evolved into an international frame of rules on immigration law, which is also the frame on this topic.

The International Covenant on Civil and Political Rights¹¹ in its 26th article declares: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." However article 2 of the Resolution 40/144, passed by the General Assembly, which is the Declaration on the human rights of individuals who are not nationals of the country in which they live¹², interprets that no article of this declaration shall be interpreted in the sense of restricting the right of the States to promulgate laws and regulations that differentiate nationals and non-nationals, but those legal texts shall not be incompatible with the international legal obligations of that State, including those in the field of human rights. In the same direction goes article 1.2 of the International Convention on the Elimination of All Forms of Racial Discrimination¹³.

The legal status of the foreigners is not uniform, because International Law calls for special treatment for refugees (especially political ones) and stateless persons, because of their (severe) vulnerable state.

The status of refugees is contained in the Convention relating to the Status of Refugees¹⁴, which took place in Geneva on July 28th, 1951. Refugee is defined by article 1.A.2) as a person that, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is

¹¹ United Nations (1966), *International Covenant on Civil and Political Rights*, UN Doc. 2200A (XXI). Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

¹² United Nations (1985), *Declaration on the human rights of individuals who are not nationals of the country in which they live*, UN Doc. A/RES/40/144. Available at: <http://www.un.org/documents/ga/res/40/a40r144.htm>

¹³ United Nations (1965) *International Convention on the Elimination of All Forms of Racial Discrimination*, UN Doc. 2106 (XX). Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>

¹⁴ United Nations (1951), *Convention and Protocol relating to the status of refugees*, UN Doc. 2198 (XXI). Available at: <https://www.unhcr.org/3b66c2aa10>



unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

By these standards those who migrate because of economical purposes are not considered refugees, this means that they will most certainly obtain the treatment of a regular migrant and not the special protection required for refugees. They are the so-called economic migrants.

Stateless persons are those who lack nationality of any state. They deserve special protection by law because they do not have the protection a State offers to their nationals. Their status is defined by the following two conventions: the 1954 Convention relating to the Status of Stateless Persons¹⁵ and the 1961 Convention on the Reduction of Statelessness¹⁶. It is important to note that the last one does not count with sufficient ratifications, which embodies the general resistance of the International Community to give up on the exercise of their right to reject foreigners.

Summing up, immigration is not a human right, although it may be interpreted from article 13.1 of the Universal Declaration of Human Rights. International treaties on the topic and jurisprudence of international courts (especially the European Court for Human Rights) do not seem to endorse this position. Each and every State's (with some exceptions in the EU) law may vary and immigration rights, especially since the States still have the monopoly on this matter.

B. Main Measures Already Adopted

Taking into account the mentioned conventions and resolutions and as seen on the previous title, the States have the monopoly on immigration law. Seemingly, the international frame on immigration is insufficient, especially since the States are reluctant to give up on their power to deny the entry of migrants. That is why measures adopted on refugee population and statelessness may vary from State to State. Given that the UN and its organs as well as other international subjects and NGOs have tried and are in the effort of solving the state of vulnerability of this collective of fellow human

¹⁵ United Nations (1954) *Convention relating to the Status of Stateless Persons*. Available at: https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

¹⁶ United Nations (1961) *Convention on the Reduction of Statelessness*. Available at: https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf



beings, extraordinarily in the current situation where many suffer from being unable to stay in their countries and are forced to flee, such as in, but not limited to, Syria, Irak, Somalia, Sudan or the Central African Republic; the International Community has to act now.

There are an estimated 66 million people that are currently displaced by a conflict, either within their home countries or abroad, according to the UNHCR. But 86% of these remain in underdeveloped countries, not in highly developed regions such as Europe or North America. Refugees account for around 0.3% of the world's population, despite recent ongoing conflicts. The problem resides on lack of resources and policies, not on overwhelming numbers.

Delegates should be aware of the policy their State follows and if migratory flows start (e.g. Somalia or Syria), pass through their country (e.g. Morocco or Turkey), if they are the target of the refugees (e.g. Europe) or if they accept refugees although they are not included in the previously mentioned situations (e.g. Canada).

At the UN Summit on 19 September 2016 the global leaders agreed on the New York Declaration for Refugees and Migrants¹⁷, which expresses the political will to save lives, protect rights and share responsibility on a global scale. However, this work is not legally binding, so each State is free to implement its own measures as an expression of the commitments hereby made. Following up to the 2016 New York Declaration, the High Commissioner for Refugees has proposed a Global Compact on Refugees in his annual report to the General Assembly in 2018, which has been accepted by the General Assembly.¹⁸

HRC's claims and recommendations

Since this committee can not pass mandatory resolutions, they express their concern and try to make recommendations on those topics they find urgent. That is why the Council has expressed deep concern about the situation of the 6.5 million internally displaced persons across Syria and has urged all parties to ensure that any

¹⁷ United Nations (2016), New York Declaration for Refugees and Migrants, UN Doc. A/RES/71/1. Available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1 .

¹⁸ UN News (2018), UN affirms 'historic' global compact to support world's refugees. Available at: <https://news.un.org/en/story/2018/12/1028791> .



evacuation and movement of civilians was consistent with international humanitarian law and international human rights law¹⁹.

It has also condemned several restrictive policies towards immigration some member states have, for example the The United Nations' top human rights official has condemned the restrictive policies made by the Trump Administration on immigration and separation of families²⁰.

There have been several meetings (such as Multi-stakeholder meeting on the protection of the human rights of migrants in large movements, Geneva, 1 June 2016) and dialogues (such as the High-level dialogue on responding to large movements of refugees and migrants: human rights protection, labour market options and a Global Compact for migration, New York, 20 July 2016) in the frame of the United Nations regarding this topic, however getting the commitment of the Nations is very difficult. That is why these are mostly unsuccessful and hardly fruitful, managing mostly to get some political statements and vague commitments.

The human rights experts, which includes the UNHRC²¹ and the HRC presidency, also urge all Governments across the world to increase their efforts to accommodate people fleeing conflict or in need of protection, as seen during the Intergovernmental Convention held at Marrakech last December, which decided to start a process of intergovernmental negotiations leading to the adoption of the Global Compact for Migration²².

¹⁹ UNHRC (2018), *Human Rights Council adopts five resolutions, including on Burundi, Syria, and on the Rights of Peasants*. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23660&LangID=E>

²⁰ Nick Cumming-Bruce (2018), *U.N. Rights Chief Tells U.S. to Stop Taking Migrant Children From Parents*, The New York Times. Available at: <https://www.nytimes.com/2018/06/18/world/europe/trump-migrant-children-un.html>

²¹ Mokhiber Craig, UNHRC Director(2018), *Statement on the Adoption of the Global Compact on Migration - Global Compact on Migration, Plenary Debate, Marrakesh, 11 December 2018*. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24020&LangID=E>

²² UN General Assembly (2018), *Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration*. Available at: <https://undocs.org/A/CONF.231/3>



A. Actors Involved

- **Refugees and stateless persons:** they are not considered as subjects of international law, since they lack (most of the times) of personality to directly interact with international subjects, at least actively. This means that they cannot reach agreements with States or with International Organizations. However, this topics orbits around the violation of human rights and international law of this people, that is why this committee should consider their desires and obligations.
- **States:** i.e. countries where refugees (and to be stateless persons) come from, pass through and end at. Delegates have to understand the migratory flows and
- **International organizations:** such as, but not limited to, the United Nations, the European Union or the Arab League, which all have radically different positions on this topic.
- **Other actors:** NGOs play a big role in humanitarian aid these days, especially in saving, giving shelter and helping refugees and stateless persons, at all stages of their migration. On the other hand, are terrorist groups and other criminal organizations who both create the situation that forces people to flee their country or exploit the vulnerability of these people.

D. Possible measures to be adopted

This committee may encourage the reception and attention (medical and legal assistance, education, food and other supplies) of refugees and stateless persons. An international management of this situation may be crucial to both a short- and long-term solution. That is why the situation or conflict at origin that causes the migration or statelessness may be a goal to stop the vulnerability situation many suffer.

The genuine situation of each member State must be taken into account and the contribution may vary. Delegates should take into account that, as seen in the topic about the UNHRC competences, resolutions can only be recommendations, since only the Security Council can pass legally binding resolutions. Suggesting cooperation with other International Organizations is viable.

Working closely with the works of the UNHCR is highly desirable, not only because it is part of the UN, but because they have on terrain forces, that help, analyze and



report, and may be the most complete and unbiased source of information for this committee on this matter.

Taking measures adopted by other States or International Organizations is possible and sometimes desirable, but do not forget that finding a role model does not automatically mean that others will agree on that certain policy being preferable.

E. Questions that should be addressed in the final resolution

A complete resolution should take into account all the challenges and obstacles explained throughout the guide, trying to solve them in a logical, feasible and consensual way. For this, the competences, functions and the usual scope of action of this Committee should be taken in mind. Given the aspects that are grouped in our subject, a good resolution should contain the following aspects:

- Hotspots of traffic shall be identified, i.e. origin, route, current location and final destination. This means there must be a reasoning of why some migrants can be called refugees and determine where they are located, how they travel and all the subjects that intervene in this process.
- A basic analysis of the conflicts that are the root cause of this situation is highly preferable, since understanding the originator is always beneficial towards the shaping of a solution, although it is not a main topic of this session, and this will be the cause of giving those people the treatment of refugees.
- Proposals of measures both at origin and destination shall be made, so that the humanitarian crises are tackled, and a safe environment is found for those who find themselves in this undesirable and mostly inhuman position.

Do not forget that a resolution consists of two parts: the preambulatory clauses and the operative clauses. Both sections must be filled with the mentioned aspects of the situations, this means that there must be an objective description of the circumstances and then the proposals of measures to be taken.



F. Further Reading

Adding to this Study Guide a delegate should read and understand all aforementioned resolutions and conventions. The following works are also of great informative and statistical value (remember that this is a United Nations Model, so those documents produced by it and its organs are of utmost importance and a reference for your study).

Daniel Trilling (2018), Five myths about the refugee crisis, the Guardian, 5 of July 2018, access via: <https://www.theguardian.com/news/2018/jun/05/five-myths-about-the-refugee-crisis> .

International Organization for Migration (2018), World migration report 2018, access via: <https://www.iom.int/wmr/world-migration-report-2018> .

The United Nations High Commissioner for Refugees (UNHCR), access via: <https://www.unhcr.org/> .

United Nations (2018), International migration report 2017, report by Department of Economic and Social Affairs, UN Doc. ST/ESA/SER.A/404.

United Nations' *Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration*, Marrakech, Morocco, 10 and 11 December 2018.



IV. TOPIC B: PRISONERS' RIGHTS AND THE CONDITION OF PRISONS

A. Background/History

The general idea is that the deprivation on liberty is the punishment on its own, it is the core punitive sanction. The conditions and the treatment in prison should not be an additional punishment. ²³

Even though the restriction in the freedom of movement is necessary in prison, prisoners should hold all their other rights in the highest degree possible. They need to be treated with dignity and respect for their rights: safety and security of the person, right to be treated humanely and free from torture, degrading or inhuman treatment or punishment. ²⁴

However, in many prisons this does not happen. Many issues are making the prisoners' welfare difficult. Overcrowding, violence and sexual abuse put huge risks at their health and safety. Also, there is mistreatment based on race, sex, gender and disability. The most crucial issues are of the following nature:

a) Overcrowding: Overcrowding is a crucial issue in many prisons all over the world. Very often, there are extreme phenomena like not even having enough beds for all the prisoners, resulting in situations where prisoners are sleeping in shifts or even worse on the floor. Reports from countries like Ukraine and Eritrea show that prisoners many times are being kept in places with insufficient ventilation or hygiene facilities and sleep in shipping containers or basements. In Sri Lanka, a country that is one of the worst in terms of prisoners' human rights preservations, reports show that the average prison houses three times its capacity. Overcrowding, aside from any health risks it might cause, it also can lead in rise to the violence between the prisoners. ²⁵ Haiti

²³ Irish portal reform trust, Human Rights in Prison, available at <http://www.iprt.ie/human-rights-in-prison>

²⁴ Available at <https://www.aclu.org/issues/prisoners-rights/cruel-inhuman-and-degrading-conditions>

²⁵https://www.nytimes.com/2012/11/12/world/asia/sri-lanka-opposition-says-27-prisoners-died-in-a-massacre.html?_r=0



and Ukraine some countries where overcrowding happens, while the phenomenon is not unknown in also some western countries, like Italy for example. ²⁶

b) Mistreatment of prisoners by the prisons officials: The mistreatment of the prisoners can be physical, psychological and sexual.

Pre trial: Violence and torture can be used in order to extract confessions. There is large need for transparency and monitoring in order to avoid such phenomena. Also, appropriate legal representation is good to exist. ²⁷

Mistreatment to specific groups of prisoners: Ill-treatment of political prisoners is an often phenomenon. In addition, many times we see abusive authorities mistreating and degrading political prisoners in order to exert control or again to extract confessions. An example is North Korea, where reports have shown methods such as solitary confinement, electric shock and public nakedness. ²⁸

c) Unhealthy conditions: Malnutrition and lack of medical care are two issues that are not uncommon around the world and are leading in the poor health of the prisoners. Poor sanitary facilities are helping diseases to be quickly spread, including HIV/AIDS and hepatitis.

d) Inadequate supervision: Inadequate supervision can lead to phenomena like easy access to illegal objects or substances like weapons and drugs, and allowing ill behavior to be conducted like fighting and sexual assaults. ²⁹

e) Inadequate legal representation: Prisoners are often denied the minimum legal protections and legal process guarantees in the three phases of their detention or imprisonment: in the pre-trial phase; at trial; and in the post-conviction stage while they serve their sentences.

²⁶ <http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/ITALY-GOV-20-En.pdf>

²⁷ Open Society Foundation, "Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest

²⁸ https://www.state.gov/j/drl/rls/209944.htm#_ftn11

²⁹ <https://www.hrw.org/legacy/advocacy/prisons/abuses.htm>



B. Main Measures Already Adopted

The Standard Minimum Rules for the Treatment of Prisoners was the first measure ever adopted on the issue. It was a set of rules, initially adopted by the UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955. It was approved by the UN Economic and Social Council in 1957.

On 17th December 2015 the revised version of those rules was adopted, known as “The Nelson Mandela Rules” by the UN resolution (A/Res/70/175).³⁰ They are the primary source of standards regarding the rights of prisoners and detention circumstances and treatment.³¹ It focuses on eight key areas:

- Respect for prisoners' inherent dignity
- Medical and health services
- Disciplinary measures and sanctions
- Investigations of deaths and torture in custody
- Protection of vulnerable groups
- Access to legal representation
- Complaints and independent inspection
- Training of staff

³⁰ A/Res/70/175 available at: <https://undocs.org/A/RES/70/175>

³¹ Available at: <https://www.penalreform.org/priorities/prison-conditions/standard-minimum-rules/>



Another important step taken for prisoners' protection by the UN is the 1990 resolution (45/111) on "Basic Principles for the Treatment of Prisoners" that was adopted by the General Assembly.³²

Its main points are

- Treating prisoners with respect to their value as human beings
- No discrimination on grounds such as race, colour, religion, language, political beliefs
- Respect to religious beliefs and cultural precepts,
- Treat being in agreement with the i) Universal Declaration of Human Rights, ii) International Covenant on Economic, Social and Cultural Rights and iii) the International Covenant on Civil and Political Rights and its Protocol (except from the limitations that are demonstrably necessitated)
- Abolition/restriction of solitary confinement
- Access to health services

B. Actors Involved

The most important actors and legislation that relate directly to prison reform are:

- United Nations Standard Minimum Rules for the Treatment of Prisoners
- Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment
- Basic Principles for the Treatment of Prisoners

³² General Assembly Resolution 45/111 of 14 December 1990 "Basic Principles for the Treatment of Prisoners" available at <https://www.ohchr.org/Documents/ProfessionalInterest/basicprinciples.pdf>



- United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules)
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)

Other UN instruments relevant to the prison system:

- Universal Declaration of Human Rights
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Basic Principles for the Treatment of Prisoners
- UN Declaration on the Protection of All Persons from Enforced Disappearance
- Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women



- Code of Conduct for Law Enforcement Officials
- Basic Principles on the use of Force and Firearms by Law Enforcement Officials
- Safeguards guaranteeing protection of the rights of those facing the death penalty
- UN Recommendations on Life Imprisonment
- Basic principles on the use of restorative justice programs in criminal matters
- Kampala Declaration on Prison Conditions in Africa
- Arusha Declaration on Good Prison Practice ³³

³³ UNODC, Justice and prison reform, Prison reform and alternatives to imprisonment
<https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.html>



C. The measures/criticism by the UN and other international organizations

The UN:

As it was seen in previous sections, the UN has already offered important contribution towards the improvement of prisons conditions. One of them is the Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) that were adopted by the UN Resolution A/RES/70/175.³⁴

Also, the UN have offered their guidance in different instances. One example is Thailand:

- a) Thailand: Thailand is one of the countries with the worst prison conditions. Since 2005, many UN human rights mechanisms have highlighted the issue, including the Human Rights Committee, the Committee Against Torture and the Committee on Economic, Social and cultural rights. Remarkably, on the 24th of July 2017, the CEDAW (Committee on Elimination of Discrimination against women) released its conclusions for Thailand on a document named "Concluding Observations on Thailand".³⁵ It concluded that: "Conditions in Thai prisons remain well below international standards for the treatment of women".

³⁶

Amnesty International

Amnesty International is an NGO that works in 150 countries, with aim to end human rights abuses. Regarding prison conditions, their help and contribution is useful. They have highlighted the main seven problems: Imprisonments because of ethnic, national and social origin/economic status/sex/language/color, arbitrary detention, detention without access to family/lawyers, secret detentions, inadequate conditions like overcrowding and solitary confinement, unfair trials and torture. They are calling for:

- No secret detentions.



- No torture or other forms of ill-treatment.
- Rapid and regular access to lawyers, doctors and relatives.
- Effective legal process so that people can challenge their detention and treatment.
- Independent judges.
- Adequate detention conditions. Including an end to prolonged solitary confinement.
- Prompt and independent investigations when someone dies in detention.
- Independent Monitoring bodies make regular visits to detention places.
- Fair trials within a reasonable time or release.
- All prisoners of conscience released without conditions

One substantial contribution by Amnesty is its Fair Trial Manual ³⁷, a guide to international fair trial standards, a vital source of help and guidance to lawyers, judges, observes and political prisoners. ³⁸

Another example of their work is their help in the Guantanamo Bay case. Guantanamo Bay is a US detention military base in Cuba, "a symbol of torture, rendition and indefinite detention without charge of trial". At Guantánamo, the US government sought to hold detainees in a place neither US nor international law applied. It is in its 16th year of existence, and even though Barack Obama promised to close it down, it is still open and many people are tortured daily. Amnesty International is working hard towards the preservation of human rights of the prisoners. Since the opening of the camp, they are campaigning for all detainees to be immediately released or with a recognizable criminal offence and given a fair trial. The campaigning has led to the release of many inmates, however decades of people are still remaining behind the bars. ³⁹

Human Rights Watch

³⁷ Amnesty International, fair trial manual, available at:
<https://www.amnesty.org/en/documents/POL30/002/2014/en/>

³⁸ Amnesty International, Detention and imprisonment, available at:
<https://www.amnesty.org/en/what-we-do/detention/>

³⁹ Amnesty International, Guantanamo Bay Human Rights, available at:
<https://www.amnesty.org.uk/guantanamo-bay-human-rights#>



The Human Rights Watch is an international non-governmental organization, researching and advocating on Human Rights. It pressures governments, policy makers and human rights abusers to denounce abuse and respect human rights. Two of the groups they usually work with are political prisoners and immigrants.⁴⁰ They underline that one of the issues that is an impediment to human rights restoration is that most abuses are happening away from the public view because of prison officials barring the access to journalists and human rights observers. In their website, they describe in detail different forms of abuse that exist, the existing defence of prisoners in different places of the world, and the monitoring efforts by the U.N.⁴¹ One case they are recently working on is this of the Neglected Prisoners with Disabilities in Australia.⁴²

D. Possible measures to be adopted

As mentioned above, even though there are many steps taken to set minimum prisoners' rights standards, both by the United Nations and other organizations, The Mandela rules and the 45/111 Resolution are two very powerful documents covering many aspects and areas of the issue. However there are many countries that sadly those treaties are not fully implemented.

The 25 countries with the worst human rights conditions in prisons are: Afghanistan, Bangladesh, Benin, Brazil, Cambodia, Chad, Democratic Republic of Congo, Ethiopia, Georgia, Haiti, Honduras, Iraq, Lebanon, Liberia, Mexico, Myanmar, Pakistan, Panama, Saudi Arabia, Serbia, South Sudan, Sri Lanka, Ukraine, Uzbekistan, Vietnam.⁴³

Some proposals for improvement could be:

- 1) Universal acceptance of the Mandela Rules and the 45/111 Resolution
- 2) Universal compliance with:
 - i) The Universal Declaration of Human Rights,
 - ii) The International Covenant on Economic, Social and Cultural Rights and

⁴⁰ Wikipedia, Human Rights Watch, available at:

https://en.wikipedia.org/wiki/Human_Rights_Watch

⁴¹ Human Rights Watch, PRISONS, available at: <https://www.hrw.org/legacy/wr2k/Issues-12.htm>

⁴² Human Rights Watch: Interview: The horror of Australia's prisons , available at: <https://www.hrw.org/news/2018/02/06/interview-horror-australias-prisons>

⁴³ https://www.state.gov/j/drl/rls/209944.htm#_ftn11



iii) the International Covenant on Civil and Political Rights and its Protocol

- 3) Sanctions put on the states that do not comply
- 4) Organizations like the Human Rights Watch could establish a program focusing on prisons conditions on the 25 bottom countries
- 5) Establishment of more educational materials on prison rights. This could be used in order to make prisoners aware of their rights and also to educate the general public.
- 6) More pressure by NGOs like Amnesty International on policymakers and stakeholders towards the restoration of the human rights

E. Questions that should be addressed in the final resolution

1. Is the current prisoners' right status adequate? What are the main issues?
2. In which geographical areas/countries we can find the most human rights violations of prisoners?
3. What violations we can see in each area and what are the main reasons leading to it?
4. What measures have been already adopted? How can they be improved/be better and more universally enforced?
5. Which actors will be involved? What kind of interdisciplinary and inter body co-operations can be organized in order to achieve better and more universal enforcement?

F. Further Reading

In general, for your preparation for the debate you are expected to have read this guide and have a clear understanding of the material. In addition, even though this is a beginners committee, it will be good for you to extend your research further. You can have a look at the existing treaties on prisoners' rights and look at the work that is already done by the organisations and actors that are working on the matter. Here are some sources you can look at:

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



2. <https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.html>
3. <https://www.state.gov/j/drl/rls/209944.htm>
4. http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/70/L.3
5. <https://www.hrw.org/legacy/advocacy/prisons/abuses.htm>
6. <https://www.amnesty.org/en/what-we-do/detention/>
7. <https://www.amnesty.org.uk/guantanamo-bay-human-rights#>

V. ADDITIONAL INFORMATION AND REMINDERS

Please remember that the study for this Conference has to be deeper than the information included in this guide. It is also of your duty to prepare a Position Paper that will be sent to the Presidency of this committee before the beginning of UC3MUN.

It is also of your interest to read the Rules of Procedure, especially those regarding the dress code of this Model UN. The dressing of the delegate has to be appropriate at any time remembering the relevance of the event and the role he/she plays, that is why western business attire is mandatory.

- Women: full suit or blazer, with blouse or dress and formal footwear. Jeans, leggings or sneakers are not accepted. Cocktail dresses are also inappropriate.
- Men: full suit or blazer and formal pants (jeans are not accepted), shirt, tie or bow tie, and formal shoes. Again, neither sneakers nor cocktail clothing will be accepted.

Notwithstanding the aforementioned provisions, delegates may wear, at their discretion, clothing, badges, accessories or typical dresses of the countries they represent, if they are appropriate for the occasion in accordance with the protocol of those countries and are worn with the highest respect towards the culture and/or religion they represent. Misuse of this dressing possibility will be punished.

Finally, if you may have any questions regarding any of the aforementioned rules or about the conference in general, please feel free to contact us.



VI. POSITION PAPER

The position paper consists of three parts. Firstly, a brief description of your State, regarding the most important geographic, political and sociocultural matters. The second and third part are an analysis of your State's own position on the previously analysed topics. The position paper's maximum span is two pages (both sides of a A4 sheet).

This paper may help you focus the study and preparation of the conference as well as help you during the initial phase of the debate where each State gets to present their position.

Down below, we will provide you with a position paper example to understand better the structure and the exact form it should be in.

Please be reminded that the position papers will be taken into account for the final awards.

Committee: Committee on the Rights of Persons with Disabilities (CRPD)

Country: People's Republic of China



Represented by: Panteion University of Social and Political Sciences

Topic: Area A - General Comment on article 8: The role of the media in raising public awareness and combating stereotypes

Name: Dimitra Psychari

Nowadays, in our world, there are more than one billion people living with disabilities. This amounts to the 15 percent of the world's population. In the meaning of "disability", not only bodily-physical impairments are included, but mental disabilities as well. The disability on those people is causing to them limited movements, senses or activities. Of course, this is not a reason to discriminate them, exclude them or treat them differently than any other human being. Though, sadly, the stereotypes that exist lead to bias and discrimination against them, many times making non-disabled people to think of a person with some disability of objects of pity, charity and medical treatment. Media do not help, as they usually project them as such objects. Though, article 8 of the



present convention provides useful guidelines on the right use of the media for such purposes.

China is a country with about approximately 80 million disabled people. We have done a lot of work for the promotion of disabled people's rights and we have shown a great progress. First of all, since 1982 our constitution ensured protection for peoples with disabilities: "Citizens of the People's Republic of China have the right to material assistance from the State and society when they are old, ill or disabled. The State develops social insurance, social relief and medical and health services that are required" An important step we made was the signature of the Convention on the Rights of People with Disabilities in 2007 and we adopted the resolutions of the present committee, including resolutions 62/127, A/RES/30/3447 and A/RES/48/96. We are also a member of the United Nations Human Rights Council, having contributed to, and having adopted very important resolutions regarding the rights of persons with disability. We totally believe that the negative stereotypes should be combated and of course, media could help in such an exertion. Our government's policy regarding the media is to use them for purposes of value, and the rights of people with disabilities are such a purpose.

So, a very effective way to combat all this discrimination and stereotypes is to use the media, presenting and highlighting what those people can do instead of what they cannot do, The expert of China believes that there should be both national and international campaigns on all the kinds of media, as television, radio and the internet. On each of those categories of media there can be shows, talks, documentaries and interviews around this topic. Such programmes could show for example important achievements of people with different kinds of disabilities, how they can easily be included to the society like each other person, their different but effective ways of doing a lot of things that every non-handicapped person can do.

Furthermore, countries that do not have a developed disability rights protection, could be encouraged to establish informational programmes and shows about what disability is, about how every person should be seen as equal regardless the seriousness of their disability, and their rights on education, employment and much more. Also, for the aforementioned purposes, the CRPD could co-operate with committees like the Human Right Council. Last but not least, countries that have already effectively developed human right enforcement in such issues, could share intelligence with the rest of the countries, with aim, by assisting each other, all together to move forward.



VII. BIBLIOGRAPHY

Additionally to the aforementioned sources:

Topic A:

HRC (2018), *Human Rights Council Subsidiary Bodies*. Available at:
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/OtherSubBodies.aspx>

Nick Cumming-Bruce (2018), *U.N. Rights Chief Tells U.S. to Stop Taking Migrant Children From Parents*, The New York Times. Available at:
<https://www.nytimes.com/2018/06/18/world/europe/trump-migrant-children-un.html>

United Nations' Intergovernmental Conference on the Global Compact for Migration 10 and 11 December 2018 at Marrakech, Morocco. Further available at: <http://www.un.org/en/conf/migration/>

UNHRC (2018), *Fact Sheet No.20, Human Rights and Refugees*. Available at:
<https://www.ohchr.org/Documents/Publications/FactSheet20en.pdf>

UNHRC (2018), *States must ensure all migrants enjoy all human rights, UN experts say on International Migrants Day*. Available at:
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24027&LangID=E>

UN News (2018), *In Marrakech, UN chief urges world leaders to 'breathe life' into historic global migration pact*. Available at:
<https://news.un.org/en/story/2018/12/1028031>

Topic B:

Legislation and Treaties:

- 1) General Assembly Resolution 45/111 of 14 December 1990 "Basic Principles for the Treatment of Prisoners" available at
<https://www.ohchr.org/Documents/ProfessionalInterest/basicprinciples.pdf>
- 2) General Assembly Resolution A/RES/70/175

Articles:



- 1) Open Society Foundation, "Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest

Websites:

- 1) Irish portal reform trust, Human Rights in Prison, available at <http://www.iprt.ie/human-rights-in-prison>
- 2) <https://www.aclu.org/issues/prisoners-rights/cruel-inhuman-and-degrading-conditions>
- 3) https://www.nytimes.com/2012/11/12/world/asia/sri-lanka-opposition-says-27-prisoners-died-in-a-massacre.html?_r=0
- 4) <http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/ITALY-GOV-20-En.pdf>
- 5) https://www.state.gov/j/drl/rls/209944.htm#_ftn11
- 6) <https://www.hrw.org/legacy/advocacy/prisons/abuses.htm>
- 7) <https://www.penalreform.org/priorities/prison-conditions/standard-minimum-rules/>
- 8) UNODC, Justice and prison reform, Prison reform and alternatives to imprisonment <https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.html>
- 9) https://www.fidh.org/IMG/pdf/cedaw_c_tha_co_6-7_25136_e-2.pdf
- 10) <https://www.fidh.org/en/region/asia/thailand/un-deplores-conditions-for-women-in-prison>
- 11) Amnesty International, Detention and imprisonment, available at: <https://www.amnesty.org/en/what-we-do/detention/>
- 12) Wikipedia, Human Rights Watch, available at: https://en.wikipedia.org/wiki/Human_Rights_Watch
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15) Amnesty International, Guantanamo Bay Human Rights, available at:
<https://www.amnesty.org.uk/guantanamo-bay-human-rights#>



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