

INTERNATIONAL STANDARDS FOR THE TREATMENT OF PRISONERS

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Abstract: This paper analyzes the rules of the most important international documents in the field of treatment of convicts and the issues of their implementation in penal legislation. The necessity of transitioning to a more cultured and humane method of executing sentences in the form of imprisonment is substantiated.

Keywords: international standards for the treatment of prisoners, human rights, criminal enforcement law.

Since the atrocities against human rights committed against prisoners during World War II were uncovered, the treatment of prisoners has become a global issue. The international community's approach to prisoners now includes the formal recognition of the basic rights of convicts and the establishment of treatment standards in international law. These rights are reflected in various resolutions, conventions, and model documents that set minimum standards and prohibitions for prison conditions. Despite the development of international law, prisoners remain a vulnerable group, often targeted for human rights violations. Even in countries that highly respect human rights, cruelty towards prisoners is not uncommon because prisons are inherently closed institutions, and prisoners are seen as isolated from society[7. –P.139] .

The current body of law regarding the treatment of prisoners was developed after World War II in 1945. Specifically, Article 55 of the United Nations Charter promotes "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion"[6]. The 1948 Universal Declaration of Human Rights emphasizes in Article 5 that "no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment." This phrase is repeated in many subsequent international documents. Although neither the Charter nor the Declaration is legally binding in the same way as treaties and conventions, they are fundamentally significant due to their universal scope and influence on all related international acts. The Universal Declaration of Human Rights is the principal basis for international standards regarding the treatment of prisoners.

Many researchers point out that the trend of international protection for prisoners began with the "rules of war" established in the 1949 Geneva Conventions. The Geneva III Convention,

in particular, was the first legal document protecting the rights of all military prisoners and ensuring humane treatment. Although limited to military prisoners, this convention influenced the development of legislation protecting the rights of convicts. As part of implementing the convention and aligning it with local and regional legislation, documents related to prisoners' rights were developed.

A significant document in protecting prisoners' rights is the regional European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in 1950 and entering into force in 1953[1]. Although no article directly addresses prisoners' rights, Article 3 includes a prohibition of torture similar to the relevant provision in the Universal Declaration of Human Rights. Moreover, Article 15 prohibits deviation from this ban even during war or other emergencies. These provisions are reflected in the decisions of the European Court of Human Rights, contributing to the general humanization of criminal enforcement systems in the region.

Based on the above, it is recognized that the first phase of developing international standards for the treatment of prisoners did not separate prisoners' rights into a distinct category but included them as part of human rights.

In the subsequent phase, several international treaties (e.g., Conventions against Torture) and recommendations, binding standards, and norms directly related to prisoners' rights were adopted. These documents clearly state that prisoners, while deprived of their right to free movement, retain their natural rights. They must be protected from inhumane or degrading treatment. International standards prohibit all forms of torture. Furthermore, the main objective of the penal system concerning prisoners is defined as moral correction and social rehabilitation, not merely punishment, as stated in Article 10 of the International Covenant on Civil and Political Rights[4]. This article also provides for "humane treatment" and "respect for the dignity" of all prisoners. The document recommends separating adult offenders from juveniles and ensuring a special detention regime suitable for their age and social characteristics.

The 1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment is highly significant for the entire penal system[3]. This document unequivocally prohibits the use of torture and attempts to justify it. States parties to this convention must implement relevant provisions in their legal systems. The document provides a legal definition of torture, creating a clear direction for harmonizing national legislation. However, the convention's definition includes a serious drawback repeatedly highlighted by researchers and human rights advocates: it considers "pain and suffering" arising from lawful sanctions as acceptable. Human rights advocates correctly note that such an explanation is inconsistent with human rights and

allows for interpretations that sometimes contradict the spirit of the Universal Declaration of Human Rights. While the Convention Against Torture is highly significant for prisoners, given their vulnerability and the closed nature of the penal system, it does not fully correspond to the role of a "bill of rights for prisoners," as it does not entirely eliminate the use of violence against them[7].

Besides the Geneva III Convention, there are few other international documents specifically addressing prisoners' rights. Therefore, existing model standards, although not mandatory, are of great importance in international law. In 1957, the United Nations Economic and Social Council officially endorsed the Standard Minimum Rules for the Treatment of Prisoners and recommended their application in criminal enforcement systems to implement these rules in national legal systems[6]. The minimum standards set acceptable conditions for all categories of prisoners. Rule 31, which directly prohibits "all cruel, inhuman, and degrading punishments," is particularly noteworthy. Another section requires that prisoners maintain contact with the outside world to aid their social reintegration.

In 2010, the United Nations General Assembly established a special expert group to review the minimum standard rules for the treatment of prisoners through Resolution A/RES/65/230. Member states agreed on the review process, with active participation from UN bodies, intergovernmental organizations, civil society, and the scientific community. The expert group first met in 2011, agreeing to update many outdated rules without changing the document's overall structure. Subsequent meetings reached an agreement on the revised text. The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) were unanimously adopted in December 2015 in Vienna and widely recognized as a reference for prison administrators worldwide. Countries are advised to incorporate the Mandela Rules into national legislation for daily use by prison administrators.

The international standards for the treatment of prisoners are enshrined in relevant international law. However, the interpretation of these requirements remains problematic. International documents often use terms such as "cruel," "inhuman," and "degrading," but rarely provide precise definitions. To determine what constitutes a violation of international standards in each case, it is necessary to establish which legal documents apply and then correctly interpret their meanings.

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