

United Nations Human Rights Council Background Guide

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The United Nations Human Rights Council was created in 2006, but the UN had a human rights programme created during the 1940s and was upgraded to Center of Human Rights during the 1980s, with the goal of maintaining and strengthening human rights globally¹. The protection of human rights and addressing when human rights are violated occurs during the meeting of the HRC in Geneva². The UNHRC plays a vital role in creating and maintaining human rights standards internationally, and aids in recognizing previously unrecognized groups such as global indigenous communities, those with different ability levels, and the LGBTQ+ community. The UNHRC works as their own acting entity but also collaborates with other human rights bodies within the United Nations, such as the International Criminal Courts. Currently, the UNHRC has focused on linking climate change to human rights, as many face harmful effects of a degrading environment³.

I. Provisions, Guidance, and Tools on Detention, Prison Conditions, and Freedom of Movements

Statement of the Issue:

Prisons and forms of detention have existed for centuries with varying conditions and standards of prisons themselves, but also varying conditions and standards for those imprisoned. In recent decades, calls for alternatives to detention (also known as A2Ds) have arisen due to poor conditions and violent treatment in prisons, more specifically against people detained for migration and those utilizing their own freedom of movement, but also towards regular inmates (those who have committed crimes and are citizens of the country where they are detained). Another response to prisons and detention is a largely growing prison abolition movement, rather than an alternative or reform to prison and detention; social movements advocating for the abolition of prisons have been ongoing for decades, citing poor nutrition, poor infrastructure and layouts, and the anti-freedom of movement of modern prisons. The UNHRC has created terms of detention, stemming from multiple conventions on prisons and detention,

¹ "History of UNHCR." United Nations Human Rights Committee .<https://www.ohchr.org/en/hr-bodies/hrc/about-council>

² Ibid.

³ Ibid.

including guidelines such as access to asylum procedures and providing adequate lodging, healthcare, food, and linguistic assistance as rights to those utilizing freedom of movement⁴.

The COVID-19 Pandemic and its ongoing effects have posed more challenges for the provisions (governance and management), guidance, prison conditions and tools on detention, as well as greatly restricting freedom of movement. This includes large outbreaks of COVID-19 in prisons and detention centers due to overcrowding and/or poor layouts and healthcare management in prisons⁵. Equally, COVID-19 has negatively impacted freedom of movement greatly through many countries raising border restrictions against immigrants, asylum seekers, and other mobile people⁶. The pandemic also highlighted how communicable diseases, such as STIs, foodborne infections, blood infections, and other bacterial or viral infections spread more easily around detention centers and prisons with poorer physical infrastructures, hygiene conditions, and lack of clean material goods & foods⁷. Additionally, certain prisons across the United States during 2022 have banned languages such as Spanish and Swahili citing that the banning of these languages will prevent disruption amongst detainees.

Prison provisions, also known as management systems, can be both public and private, with the United States having a majority of private prisons, and different countries such as Chile and France that conduct prison provision through hybrid means; both private and public actors maintain and run the prison or detention center⁸. These prison provision systems are regulated largely by national and state policies in different countries, but certain UNHRC convention articles apply as well, specifically the 1951 Convention articles on freedom of movement and the prevention of discrimination of those utilizing freedom of movement in detention centers⁹. Many national policies and their varying aspects from country to country produce multiple indefinite definitions of provision, reasons of detention, unlawful detention, and what constitutes good

⁴ "Detention Guidelines." UNHRC: The UN Refugee Agency. Last modified , 2012. <https://www.UNHRC.org/en-us/publications/legal/505b10ee9/UNHRC-detention-guidelines.html>.

⁵ Ramji-Nogales, Jaya, and Iris Goldner Lang. "Freedom of movement, migration, and borders." *Contesting Power and Control* (November 11, 2020).

⁶ Ibid.

⁷ Riccardo, Flavia, Jonathan E. Suk, Laura Espinosa, Antonino Bella, Cristina Giambi, Martina Del Manso, Christian Napoli, Maria G. Dente, Gloria Nacca, and Silvia Declich. 2018. "Key Dimensions for the Prevention and Control of Communicable Diseases in Institutional Settings: A Scoping Review to Guide the Development of a Tool to Strengthen Preparedness at Migrant Holding Centres in the EU/EEA" *International Journal of Environmental Research and Public Health* 15, no. 6: 1120

⁸ Cabral, Sandro, and Paulo F. Azevedo. "The Modes of Provision of Prison Services in a Comparative Perspective." ANPAD; Brazilian Administration Review. Last modified January , 2008.

⁹ Edwards, Alice. "Measures of First Resort: Alternatives to Immigration Detention in Comparative Perspective ." Equal Rights Trust. Last modified , 2011

prison conditions¹⁰. International entities such as the UNHRC and their Detention Guidelines constitute international standards, but most of the time these standards are not incorporated into national systems of prisons, detention centers, and asylum processes¹¹. Questions of asylum and refugee processes on guidance and policy, as well as different tools to use during potential detention, usually do not fall upon international convention articles and policies, but rather on national or local policies that have individual definitions of lawful and unlawful entry into a country¹².

The conditions of detention and both physical and political tools to create better detention programs, and at extremes abolish or produce alternatives to detention can be seen through the usage of International Social Services (ISS), which has shifted guidance and policy on detention to a more social and care based perspective¹³. For example, the ISS provides food, accommodation, material goods, cover transport costs, and works with counseling for those in detention and/or prisons¹⁴. Certain models of reformed prison provision structures include a form called “New Penology”¹⁵, which focuses on a more humanitarian based provision structure whether the governance and management of a prison is private or public. This “New Penology” policy guideline addresses the top-bottom structure of prisons which can create poor prison & detention center conditions and violent means of authority against prisoners and detainees¹⁶.

History:

Provisions, tools, and guidance on detention and prison conditions can be dated back to the 1951 Refugee Convention, citing that refugees and those who use freedom of movement in order to seek asylum or migration “should not be penalized for their illegal entry or stay if they present themselves to the authorities without delay and show good cause for legal entry or

¹⁰ Edwards, Alice. "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants ." UNHRC LEGAL AND PROTECTION POLICY RESEARCH SERIES. Last modified April , 2011. <https://www.UNHRC.org/4dc949c49.pdf>.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ "Exceptional Prison Conditions and the Quality of Prison Life: Prison size and prison culture in Norwegian closed prisons." KRUS Norway. [https://krus.brage.unit.no/krus-xmlui/bitstream/handle/11250/160407/Preprint_Exceptional%20prison%20conditions%20and%20the%20quality%20of%20prison%20life%20_European%20Journal%20of%20Criminology_2011%](https://krus.brage.unit.no/krus-xmlui/bitstream/handle/11250/160407/Preprint_Exceptional%20prison%20conditions%20and%20the%20quality%20of%20prison%20life%20_European%20Journal%20of%20Criminology_2011%20)

¹⁶ Ibid.

stay”¹⁷. Although prisons and detention centers have existed for centuries, international documents and policy agreements were not common until after the formation of the United Nations, leaving policy and conditions of prisons and freedom of movement up to separate countries.

The 1951 Refugee Convention determined that once refugees enter a countries’ borders that said refugees obtain the benefits of rights based upon five levels, beginning at a refugee who faces a state decision on rights, to those who obtain rights through short periods of residency¹⁸. Multiple articles in the 1951 Refugee Convention, such as Article 9, 26 and 31 mention freedom of movement, and that states may press restrictions on those seeking asylum if there are circumstances of crises such as war, national security, and disease¹⁹. Even within article 31 on the 1951 refugee convention, illegal entry of refugees and asylum-seeking persons allows for restriction of the freedom of movement²⁰, but there have been many calls to find alternatives to detention of asylum-seekers and refugees. Article 26 references, and contradicts other articles, calling for recognition of a “general right to freedom of movement”²¹. This article has been the center of most debate around provisions, tools, and guidance on detention and prison conditions, as many different interpretations of this Article vary from country to country.

This lack of collaboration on guidance on prison conditions, provisions, and tools for detention has historically allowed for poor, and at times violent, prison conditions, provisions and tools of detention to persist, as seen in conditions of prisons like the US detention center Guantanamo Bay in Cuba, prisons in France, Brazil, and many more developed and developing countries²². Although, in 2009 the executive committee of the UNHRC held a roundtable on the criteria and standards of the detention of asylum-seekers with an attendance of thirty governments that were originally set in 1999; this roundtable resulted in recommendations of states’ creating conditions within detention centers and prisons that provided detainees with good conditions that respected overall dignity²³.

¹⁷ Edwards, Alice. "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants ." UNHRC LEGAL AND PROTECTION POLICY RESEARCH SERIES. Last modified April , 2011. <https://www.UNHRC.org/4dc949c49.pdf>

¹⁸ Maple, Nicholas. "Rights at Risk: A thematic investigation into how states restrict the freedom of movement of refugees on the African Continent." NEW ISSUES IN REFUGEE RESEARCH . Last modified October , 2016. <https://www.UNHRC.org/57ee60d57.pdf>

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Edwards, Alice. "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants ." UNHRC LEGAL AND PROTECTION POLICY RESEARCH SERIES. Last modified April , 2011. <https://www.UNHRC.org/4dc949c49.pdf>.

²³ Ibid.

Prison provision and the conditions underneath different forms of provision mainly came from government policies and funding, and the maintenance & management of prisons was conducted through public means that adhered to the specific countries' values and views on detention of asylum-seekers, citizens, and refugees²⁴. Not until the late 1980s through early 2000s did private prison provisions begin to appear in the international community, although the first private prison first appeared over 170 years ago in the United States. These private prisons began outsourcing services within the prison or detention center with correctional officers becoming private employees, not employees of the state²⁵, or the outsourcing of funding from the state to private actors to pay for material goods and other sectors of prison provision that impacted prison conditions²⁶.

Analysis:

The creation of a collective definition of prison conditions, terms of provision, and definition of freedom of movement negates countries' individual terms; when definitions are left to individual countries to determine, it can lead to abuses in human rights or dehumanization of marginalized groups. However, collective definitions and terms must come from a collaboration from both developed and developing countries. This collaboration must be holistic, with the incorporation of all aspects in prison conditions, provisions, and tools of detention, as well as a major focus on freedom of movement and how to recognize mobile communities and people and maintain their rights to freedom of movement.

To create solutions proposed in this first topic, equitable debate and the inclusion of all perspectives, including countries with private and public detention systems, as well as the incorporation of alternatives to detention and prison abolition movements will be necessary²⁷. The United Nations High Commissioner of Refugees currently urges countries to release asylum-seekers, and many reports done on both individual detention systems or their alternatives, as well as global reports on overall detention systems agree and argue further for the release of asylum-seekers, refugees, and migrants²⁸.

Freedom of movement and the shift towards a universal right to freedom of movement

²⁴ Cabral, Sandro, and Paulo F. Azevedo. "The Modes of Provision of Prison Services in a Comparative Perspective." ANPAD; Brazilian Administration Review. Last modified January , 2008.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Edwards, Alice. "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants ." UNHRC LEGAL AND PROTECTION POLICY RESEARCH SERIES. Last modified April , 2011. <https://www.UNHRC.org/4dc949c49.pdf>.

²⁸ Ibid.

will require working through previous international definitions, such as articles 9, 26, and 31 of the 1951 convention²⁹. Countries and regions that have attempted to address freedom of movement, and also aid in the protection of freedom of movement is Scotland. In the 2010s, Scotland shifted away from detention of migrants and asylum-seekers, with individuals being placed instead into governmental social services rather than long periods of detention³⁰. Overall, many reports conducted by individuals and scholars involved with the UNHRC and other human rights organizations with focus on detention and protection of freedom of movement call for countries across the globe to allow for freedom of movement of stateless individuals, asylum-seekers, and other mobile persons who may currently be in detention or not.

Certain barriers that may appear within debate and discussion this topic include the role of private prisons and their working conditions of prisoners, who generate profit for those who own and invest in prisons or detention centers³¹. Other incentives, whether economic or political, exist for both public and private prisons and detention centers provision systems³². Corruption within detention centers that negatively affect provision systems, tools and guidance on prisons conditions and detention centers will also be an issue, as this will also directly affect freedom of movement as an illegal form of incentive to continue detaining mobile persons and communities who enter certain countries³³.

Conclusion:

Prison conditions, as well as provision, tools and guidance on detention practices have long needed reforms to become more humane and friendly towards a UNHRC right to freedom of movement. Creating universal definitions and competent terms & standards within detention centers, and perhaps even creating & implementing new alternatives such as abolition of prisons all together will become central to not only freedom of movement but human rights all together.

Questions:

²⁹ Maple, Nicholas. "Rights at Risk: A thematic investigation into how states restrict the freedom of movement of refugees on the African Continent." NEW ISSUES IN REFUGEE RESEARCH . Last modified October , 2016.

³⁰ Edwards, Alice. "Measures of First Resort: Alternatives to Immigration Detention in Comparative Perspective ." Equal Rights Trust. Last modified , 2011. https://www.equalrightstrust.org/ertdocumentbank/ERR7_alice.pdf.

³¹ Cabral, Sandro, and Paulo F. Azevedo. "The Modes of Provision of Prison Services in a Comparative Perspective." ANPAD; Brazilian Administration Review. Last modified January , 2008

³² Ibid.

³³ Ibid.

1. How will the UNHRC define freedom of movement and the standards of prison provision & conditions?
2. What tools can help guide countries towards a more humanitarian-based detention system or alternatives to detention?
3. How will countries overcome corruption and address social norms and formal rules of both private and public prisons?

Resources:

- A. Edwards, Alice. "Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants ." UNHRC LEGAL AND PROTECTION POLICY RESEARCH SERIES. Last modified April , 2011. <https://www.UNHRC.org/4dc949c49.pdf>.
- B. Edwards, Alice. "Measures of First Resort: Alternatives to Immigration Detention in Comparative Perspective ." Equal Rights Trust. Last modified , 2011. https://www.equalrightstrust.org/ertdocumentbank/ERR7_alice.pdf.
- C. "Detention Guidelines." UNHRC: The UN Refugee Agency. Last modified , 2012. <https://www.UNHRC.org/en-us/publications/legal/505b10ee9/UNHRC-detention-guidelines.html>.

- D. Maple, Nicholas. "Rights at Risk: A thematic investigation into how states restrict the freedom of movement of refugees on the African Continent." *NEW ISSUES IN REFUGEE RESEARCH* . Last modified October , 2016.
<https://www.UNHRC.org/57ee60d57.pdf>
- E. Bauböck, Rainer. "Global Justice, Freedom of Movement and Democratic Citizenship." *European Journal of Sociology* 50, no. 1 (2009): 1–31.
- F. Ramji-Nogales, Jaya, and Iris Goldner Lang. "Freedom of movement, migration, and borders." *Contesting Power and Control* (November 11, 2020).
- G. Cabral, Sandro, and Paulo F. Azevedo. "The Modes of Provision of Prison Services in a Comparative Perspective." *ANPAD; Brazilian Administration Review*. Last modified January , 2008.
<https://www.scielo.br/j/bar/a/Lbx3R9hdhSPs3Vkws5SwMzq/?format=pdf&lang=en>.
- H. "Exceptional Prison Conditions and the Quality of Prison Life: Prison size and prison culture in Norwegian closed prisons." *KRUS Norway*. [https://krus.brage.unit.no/krus-xmlui/bitstream/handle/11250/160407/Preprint_Exceptional%20prison%20conditions%20and%20the%20quality%20of%20prison%20life%20European%20Journal%20of%20Criminology_2011%](https://krus.brage.unit.no/krus-xmlui/bitstream/handle/11250/160407/Preprint_Exceptional%20prison%20conditions%20and%20the%20quality%20of%20prison%20life%20European%20Journal%20of%20Criminology_2011%20)
- I. Riccardo, Flavia, Jonathan E. Suk, Laura Espinosa, Antonino Bella, Cristina Giambi, Martina Del Manso, Christian Napoli, Maria G. Dente, Gloria Nacca, and Silvia Declich. 2018. "Key Dimensions for the Prevention and Control of Communicable Diseases in Institutional Settings: A Scoping Review to Guide the Development of a Tool to Strengthen Preparedness at Migrant Holding Centres in the EU/EEA" *International Journal of Environmental Research and Public Health* 15, no. 6: 1120.
- J. "History of UNHRC." United Nations High Commissioner for Refugees.
<https://www.UNHRC.org/en-us/history-of-UNHRC.html>.

II. Accountability For and Prevention Of Torture & Inhumane and Degrading

Treatment

Statement of the Issue:

Torture and inhumane, degrading and cruel treatment of detainees across the globe has occurred for many decades, with cruel treatment including poor conditions of detention centers and prisons, but also lack of hygiene, food, and clean material goods has been considered cruel

treatment, and in certain literature as a form of torture³⁴. Previous attempts of accountability and prevention for those who have committed torture have been extremely limited, and similar to the previous topic, the responsibility and efforts to create more accountability & prevention around torture and inhumane conditions falls not on individual countries, but relies on large international collaboration efforts³⁵. With a lack of a unanimous definition on what constitutes torture, cruel, inhumane, and degrading treatment, both governmental regimes and non-governmental groups commit torture and do not face palpable consequences; therefore, removing accountability³⁶.

Torture, which many scholars and nation determine as both physical and mental forms of severe pain or suffering that is intentional, is already deemed illegal by the United Nations and the UNHRC, as it is in direct violation of the UN Declaration of Human Rights³⁷. Torture practices include waterboarding, electrocution, and other violent practices. At the center of the issue of lack of accountability and prevention of torture and inhumane treatment lies the lack of internationally agreed upon definitions and standards of treatment and detention, as individual nations' terms can leave violent forms of treatment and torture to continue as a form of governmental and non-governmental punishment³⁸.

Inhumane, cruel, and degrading treatment of detainees in prisons and detention centers, and more specifically for asylum-seekers includes excessive punitive nature of detention centers, like the practice of consistent shackling, refusal to provide detainees information to family, and refusal of legal counsel for detainees³⁹. Inhumane, cruel, and degrading treatment can also exist in detention centers as forcing detainees to remove religious and/or cultural materials and not allowing detainees to speak their first language, usually followed by degradation (physical, verbal, etc.) from prison staff and/or other inmates⁴⁰. Food of low nutritional value, and even the refusal of providing food is a form of both inhumane treatment and torture through means of starvation⁴¹. Lack of hygiene facilities and goods, such as bathing

³⁴ Bank, Roland. "International Efforts to Combat Torture and Inhuman Treatment: Have the New Mechanisms Improved Protection?" *European Journal of International Law* 8, no. 4 (1997): 613-37.

³⁵ Carter, Linda, "Torture and the War on Terror: The Need for Consistent Definitions and Legal Remedies" (2012). McGeorge School of Law Scholarly Articles. 206. <https://scholarlycommons.pacific.edu/facultyarticles/206>

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ "Detention Guidelines." UNHRC: The UN Refugee Agency. Last modified , 2012. <https://www.UNHRC.org/en-us/publications/legal/505b10ee9/UNHRC-detention-guidelines.html>

⁴⁰ Ibid.

⁴¹ "Detention Guidelines." UNHRC: The UN Refugee Agency. Last modified , 2012. <https://www.UNHRC.org/en-us/publications/legal/505b10ee9/UNHRC-detention-guidelines.html>

materials, clean clothes and beddings, and no provision of healthcare is also considered torture and inhumane, cruel, and degrading treatment⁴².

Torture and cruel, degrading & inhumane treatment towards detainees with special conditions, such as pregnant detainees, sick or ill detainees, detainees with varying ability levels and those suffering from mental illness and trauma, including responses such as PTSD can be more severe, as those who require extra needs in daily activities are more likely to have these needs refused on top of basic necessities like shelter, clothing, food and water, and are forced to endure both daily life in a detention center on top of violent forms of torture⁴³.

In prisons and detention centers globally, there has been a large decrease in the incorporation and respect of human rights, which is at times within the interests of violent political regimes in both the developing and developed world⁴⁴. Even though many scholars and studies point towards a unanimous definition and standard of accountability against torture and inhumane treatment, some debate that countries must adapt their own individual policies against torture and inhumane treatment in national institutions for full accountability and prevention efforts to exist⁴⁵. Countries such as France, where reports have been done on previously highly inhumane conditions in prisons and detention centers created changes in their detention center system that allowed for somewhat more humane conditions and treatment in prisons, but the practices of torture and police brutality persist⁴⁶.

Conflicts such as the War on Terror showed global audiences and individuals of the realities of torture, and how often it is conducted in both developing and developed countries, and the lack of domestic legal policies against torture in the Global North have also been central in efforts for accountability and prevention of torture, with many efforts attempting to focus both domestically and internationally⁴⁷.

History:

⁴² Bank, Roland. "International Efforts to Combat Torture and Inhuman Treatment: Have the New Mechanisms Improved Protection?" *European Journal of International Law* 8, no. 4 (1997): 613-37.

⁴³ Ibid.

⁴⁴ Imbert, Pierre-Henri, and Mark Kelly. "The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: Building an Effective Human Rights Accountability Mechanism; Work in Progress." *Man's Inhumanity to Man* (June 13, 2001): 423-42.

⁴⁵ Imbert, Pierre-Henri, and Mark Kelly. "The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: Building an Effective Human Rights Accountability Mechanism; Work in Progress." *Man's Inhumanity to Man* (June 13, 2001): 423-42.

⁴⁶ Bank, Roland. "International Efforts to Combat Torture and Inhuman Treatment: Have the New Mechanisms Improved Protection?" *European Journal of International Law* 8, no. 4 (1997): 613-37.

⁴⁷ Carter, Linda, "Torture and the War on Terror: The Need for Consistent Definitions and Legal Remedies" (2012). McGeorge School of Law Scholarly Articles. 206. <https://scholarlycommons.pacific.edu/facultyarticles/206>

Efforts against inhumane, cruel and degrading treatment, including torture, of detainees can be linked back to 1686 and the English Bill of Rights, also called the Déclaration des Droits de l'Homme et du Citoyen, was one of the first known documents addressing torture and cruel treatment of prisoners in England⁴⁸. A multitude of documents, whether produced by governments, educators, activists, religious figures, have discussed the topic of torture and cruel, inhumane, & degrading treatment of prisoners/detainees, including the 1934 Assembly of the League of Nations marking international recognition of International Penal and Penitentiary Commission standards of prisoners' rights⁴⁹.

The aftermath of the Second World War and the horrors seen by a large global audience marked a spike in advocacy and awareness of human rights and prisoners' rights which culminated in the signing of the United Nations Charter in 1945 & the creation of the Universal Declaration of Human Rights⁵⁰. Multiple articles in the UDHR that address prisoners' rights to humane treatment and the prevention of torture include Article 2, 3, 5, 7, 8, 9,10, 11, 12, all which cover equal treatment and preventing discrimination to the protection of one's privacy and right to a trial⁵¹. Although, the United Nations Universal Declaration of Human Rights is not binding to countries due to the lack of legislative power by the United Nations General Assembly; this issue of legislative binding was addressed in 1960 with the creation of an international Bill of Rights by the ICCPR (International Covenant on Civil and Political Rights) and the ICESCR (International Covenant on Economic, Social, and Cultural Rights)⁵².

Article 10(1) of the ICCPR directly calls for the respect of human dignity and the prevention of torture and inhumane treatment through a holistic approach addressing all forms of detention and imprisonment and placing direct responsibility on countries apart of the ICCPR⁵³. The ICCPR and the ICESCR also placed direct focus onto prison and detention center authorities to shift prisons from places of punishment and degrading treatment to that of social responsibility and rehabilitation in adequate conditions of existence for prisoners and detainees⁵⁴.

⁴⁸ Abels, D. "Prisoners of the international community: the legal position of persons detained at international criminal tribunals." University of Amsterdam. Last modified , 2012. https://pure.uva.nl/ws/files/1513535/104640_08.pdf.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Abels, D. "Prisoners of the international community: the legal position of persons detained at international criminal tribunals." University of Amsterdam. Last modified , 2012. https://pure.uva.nl/ws/files/1513535/104640_08.pdf.

International court cases such as Komarovski v. Turkmenistan, Dinka v. Cameroon, Boumediene v. Bush (U.S.) and many more in both developing and developed countries on the subject of cruel, degrading, and inhumane events of treatment and even cases of torture are also areas of debate on inhumane treatment and torture, where court decisions and state responses have shaped the current situation on accountability and prevention of torture and treatment⁵⁵. The different standards of what defines torture, cruel, inhumane, and degrading treatment in individual cases show the clash between international institutions such as the UNHRC and countries' definitions, as most of these cases ended in a ruling of cruel treatment occurring on the side of the court, and the state response denying or brushing off accountability⁵⁶.

Currently, accountability and prevention of torture and inhumane treatment of prisoners and detainees is conducted through self-reporting systems, where countries that participate create their own data and report of torture, prison conditions, and treatment conditions in their country⁵⁷. These reports are public, and countries are encouraged to also include decentralized (non-governmental) actors who conduct torture in their country into their data, such as terrorist groups, organized crime groups, and drug groups⁵⁸. Self-reporting has been occurring since the early 1980s, and some scholars and audiences argue that self-reporting and the provision of public information to both domestic and international audiences can be a positive and effective form of accountability and prevention of torture⁵⁹.

In the late 1980s, the Parliamentary Assembly of Europe created a draft recommendation, similar to a UN article, called Recommendation 971 that explicitly called for more protection of detainees and prisoners facing torture, inhumane, cruel and degrading treatment⁶⁰. This document added onto the large international pile of documents declaring human rights for prisoners and detainees who had faced, or currently face torture and inhumane treatment, but similar to United Nations documents, these are not technically legally binding⁶¹.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Creamer, Cosette D., and Beth A. Simmons. "Article Navigation Do Self-Reporting Regimes Matter? Evidence from the Convention Against Torture." *International Studies Quarterly* 63, no. 4 (December 2019): 1051-64

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Imbert, Pierre-Henri, and Mark Kelly. "The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: Building an Effective Human Rights Accountability Mechanism; Work in Progress." *Man's Inhumanity to Man* (June 13, 2001): 423-42.

⁶¹ Imbert, Pierre-Henri, and Mark Kelly. "The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: Building an Effective Human Rights Accountability Mechanism; Work in Progress." *Man's Inhumanity to Man* (June 13, 2001): 423-42.

Analysis:

Torture & inhumane, degrading, and cruel treatment as an ongoing issue must be dealt with as a collective by all countries participating in the United Nations High Commissioner of Refugees, as this issue directly harms refugees, asylum-seekers, and other mobile communities entering and leaving multiple countries' borders. Similarly to the previous topic, the incorporation of all perspectives and a constant awareness of detainees, specifically those detained who are asylum-seekers or refugees is essential to the creation of a viable resolution. Also as important is the creation of unanimous international binding terms & standards of treatment of prisoners and detainees, and a cohesive definition of torture across the globe. Countries participating in this council must find ways to make these terms and solutions legally binding for both developing and developed countries.

The incorporation of the International Criminal Courts, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, and other institutions that focus on torture, and detention conditions for refugees and asylum-seekers provide a multitude of perspectives. The concept of self-reporting and the consequences apart of self-reporting institutions such as mobilization, citizen self-education through publicizing self-reports, and greater public understanding of ongoing violent detainee conditions, and torture of detainees will also become important for incorporation into solutions and resolutions on this topic⁶².

The presence of safeguards for detainees and asylum-seekers immediately after arrest such as the notification of the detainee's family of the arrest, the immediate contact of the detainee with a lawyer, and medical exams following arrest and first detention period will become central to this topic as well, and can become essential for the prevention of torture by government entities and security forces⁶³. These safeguards, similar to other actions proposed in this background guide will require both international and domestic legitimate and binding policy.

Conclusion:

⁶² Creamer, Cosette D., and Beth A. Simmons. "Article Navigation Do Self-Reporting Regimes Matter? Evidence from the Convention Against Torture." *International Studies Quarterly* 63, no. 4 (December 2019): 1051-64

⁶³ Parry, John T. "Review on: RESEARCH HANDBOOK ON TORTURE: LEGAL AND MEDICAL PERSPECTIVES ON PROHIBITION AND PREVENTION." Rutgers University. Last modified January , 2022. <https://cljbooks.rutgers.edu/books/research-handbook-on-torture-legal-and-medical-perspectives-on-prohibition-and-prevention/>.

Prevention of torture and inhumane, cruel, and degrading treatment & the accountability of countries and groups who do commit these crimes is becoming more and more important in our world. Punitive treatment and torture committed in both the developing and developed world is continuing to grow into a larger human rights crisis as many communities face political and environmental threats destroying homes and provoking conflict. Addressing this issue with a multitude of human rights' perspectives will help mitigate the violence that refugees, asylum-seekers, and other mobile peoples face.

Questions:

1. How will countries that commit torture and inhumane, cruel, and degrading acts of treatment be determined, and how will this include both developed and developing countries?
2. What ways can previous acts of torture and inhumane, cruel and degrading treatment and the actors be held accountable today?
3. What does accountability for torture and inhumane, cruel & degrading treatment look like in the future, and how can accountability and prevention become consistent?