

50 years of imprisonment: A personal perspective

**Reflections by Professor Andrew Coyle
to mark Nelson Mandela International Day 2018 and
the launch of the 3rd edition of *A Human Rights Approach to Prison Management***

- It is a great pleasure to be here in the offices of the International Committee of the Red Cross, with whom we at ICPS/ICPR worked so often in the past. We began our collaborations in the 1990s and, if my memory is correct, the last time I was in this building was in 2005 when I was invited to address the annual gathering of the Protection Co-ordinators about the contents of the first edition of the Handbook on Human Rights and Prisons.
- It is also an honour to be here on Nelson Mandela Day in recognition of the UN's recommendation that this day should be used 'to promote humane conditions of imprisonment, to raise awareness about prisoners being a continuous part of society and to value the work of prison staff as a social service of particular importance'.
- It is appropriate that ICRC has chosen this day, the actual centenary of Nelson Mandela's birth, to facilitate the launch of the third edition of the ICPR Handbook *A Human Rights approach to Prison Management*.
- I would like to take the opportunity to thank Helen Fair, my co-author for this edition, as well as Jessica Jacobson and other colleagues at the Institute for Criminal Research. We are delighted that ICRC offered to collaborate with us in this new edition. As Dominik Stillhart writes in his Foreword, the ICRC has made extensive use of the earlier editions of the Handbook and has translated it into several languages to help them in their work around the world.

For my presentation today I have chosen the theme *50 years of imprisonment: a personal perspective*. I first entered the world of prisons in Scotland in 1973 and the comments which I am about to offer are very much a personal perspective based on my own experience over almost half a century.

The final 30 years of the 20th century saw an increase in the use of imprisonment in many countries, with the rate of increase accelerating as the century ended. The most dramatic rise was in the United States of America. Between 1972 and 2000 the number of people in prison in the US increased sixfold. Speaking in 1999 an American commentator pointed out that it took more than 200 years for the United States to reach a prison population of one million while it took only one further decade to incarcerate the second million.

During the 1990s the number of prisoners in Europe increased by over 20% in almost all countries and by at least 40% in one half of the countries of the region. In Latin America

prison populations increased between 60 and 85%. There was a 50% increase in Australia and a 33% increase in the Republic of South Africa.

These massive rises in prisoner numbers were not matched by a comparable increase in resources and in many countries the conditions in which men and women were held became even more inhumane than they had been in the past. This led to situations, for example, in the prisons of the former Soviet Union where the UN Special Rapporteur on Torture reported to the United Nations in 1995 that he 'would need the poetic skills of a Dante or the artistic skills of a Bosch adequately to describe the infernal conditions he found' in pre-trial prisons in Moscow.

As Dominic Stillhart reminds us in his introduction to the third edition of the Handbook, the ICRC has been involved in visits to places of detention for over 100 years. I first came to know the work of ICRC in the field of imprisonment in the early 1990s when, along with Penal Reform International, we began to work on prison reform projects in countries in Eastern Europe and Central Asia. From the outset a priority was to do something about the shocking state of health of many prisoners, particularly in respect of infectious diseases. It was immediately obvious that in order to deal with the health problems of prisoners something needed to be done about the shocking physical conditions in the prisons and the lack of properly qualified staff. The ICRC was at the forefront of efforts in a number of these countries led by individuals such as Dr Hernan Reyes, who at the time was ICRC's medical co-ordinator for detention related activities. In a number of countries ICRC embarked on projects to assist in building colonies for prisoners suffering from tuberculosis. They also provided funds to improve the pay of nursing staff. In 2002 I was an expert member of the CPT's first visit to Armenia. There we found that the ICRC was assisting with funding for the construction and operation of a 200 bed prison hospital for prisoners with tuberculosis. Here, as in other countries, this led to a great deal of soul searching within ICRC. There was strenuous debate about whether this kind of activity took ICRC beyond its core mandate. We found similar anxieties being expressed when we worked with the Royal Netherlands Tuberculosis Association in prisons in Siberia.

This dilemma about whether involvement in improving conditions for prisoners might paradoxically lead to an increase in the use of imprisonment has surfaced in many situations. In 1994 I was invited by the United Nations to prepare a report on the situation of prisons in Cambodia in the immediate aftermath of the horrors brought on that country by the regime of the Khmer Rouge. Prisoners were being kept in shocking and inhumane conditions and I made a raft of recommendations as to how the situation might be improved. I ended my report with a warning that prison reform should only take place as one element of reform of the criminal justice system as a whole. I cautioned that the result of improving prison conditions in isolation might simply be that society would send more and more people into prison. At the time of my visit at the beginning of 1995 there were just over 2,000 prisoners in Cambodia. Today there are over 28,000.

There is much to be said about the use of imprisonment and prison conditions in Central and Latin America, where rates of imprisonment have also increased exponentially in many countries. When I first visited El Salvador in 1999 the country had 7,500 prisoners. When I returned there in 2016 that number had increased fivefold and now stands at 39,000. Last February the UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions produced a highly critical report on what she had discovered. In respect of prisons, she noted that

Outbreaks of tuberculosis have resulted in a number of deaths in custody, all of which could have been prevented had the proper conditions been provided...

It is essential (she wrote) that international organisations, such as the ICRC and OHCHR, and national specialized organizations, be given immediate and unhindered access to all prisons. The ICRC, in particular, can play a crucial independent monitoring function thus enabling prison authorities and relevant ministries to be informed in a reliable manner about the prevailing conditions, while also providing a range of recommendations that would assist the prisons authorities in meeting their human rights obligations.

The ICRC delegation in El Salvador has done sterling work, against significant official odds, particularly in the prisons which are subject to what the government describes euphemistically as ‘exceptional measures’, and it has warned of the danger of an epidemic which, if not controlled, will become a serious public health risk.

In the final decade of the 20th century and the first few years of the 21st there were increasing grounds for optimism about the general direction in which the world was moving. There was a growing, though by no means universal, acceptance of the human rights agenda.

Throughout this period the United Nations was taking a renewed interest in prison reform matters, primarily through its offices here in Geneva and in Vienna, as well as through its regional offices such as ILANUD and UNAFEI, as was the African Commission on Human and People’s Rights. European regional bodies, such as the EU and the OSCE, were active in promoting models of good governance in which prison reform was seen to be a crucial element. The Council of Europe was busy taking in new members and helping them to implement the ECHR and the European Convention for the Prevention of Torture and its Parliamentary Assembly was especially active in making sure that new accession states fulfilled their obligations in respect of abolition of the death penalty. In the Americas the Inter American Commission for Human Rights became increasingly interested in prison reform initiatives and in referring abuses which it uncovered to the Inter American Court of Human Rights. The Court in turn issued a number of ground breaking judgements, as did its sister court in Europe. And, importantly, work was being done which led to the adoption of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 2002 and its entry into force in 2006.

Just last week I was discussing these matters with Professor Juan Mendez, former UN Special Rapporteur on Torture, and he commented that in 2001 there was optimism that, finally, the official use of torture would be brought to an end. It was in that environment that the first edition of the handbook *A Human Rights approach to prison management* was published. Speaking at its launch in 2002 the UK Foreign Secretary, Jack Straw, said, “There has never been such a global consensus in favour of human rights.”

Within a few short years that optimism was shown to be unfounded. By the time the second edition of the handbook was published in 2009 we were living in a changed world. In the years immediately after 2001 there was an attempt from some quarters to argue that the threats to world peace and security were of such unparalleled severity that the human rights standards which had been developed in the course of the previous 50 years could no longer be regarded as universal.

These arguments continue to be advanced to this day and in some jurisdictions there have been suggestions that the principles of international law and of human rights standards have become a luxury that can no longer be afforded in the interests of general public safety. Examples of this thinking are the description of the Geneva Conventions as “quaint” by a former Attorney General of the United States and the assertion by a former British Prime Minister that “the rules of the game have changed”.

This is a serious misunderstanding and it is important to demonstrate that an observance of universal human rights standards is more necessary than ever in an insecure and uncertain world. This is necessary in order to protect those who, in whatever circumstances, are deprived of their liberty. It provides an ethical context for all of those whose task on behalf of society is to deprive people of their liberty. And it is important as a reminder for everyone who lives in a democratic society of what it is that provides the foundation of democracy and freedom.

The task which we now face is to package the universal principles and standards in a way which shows that they remain relevant today. More than that, we need to demonstrate that prisons which are managed effectively and humanely have an important contribution to make to international security as well as to democracy.

There are also a number of new challenges facing established prison systems. They include:

- The proper management of high security prisoners
- The influence of prisoners who have radical political agendas
- The increase in foreign national prisoners in many countries
- The detention of immigrants
- The increasing use of prisons as a way of managing marginalised and socially stigmatised groups in society.

That is why we are publishing the updated third edition of the Handbook in order to affirm that its message remains as relevant today as it did 16 years ago.

Thank you.

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ICRC Geneva
18 July 2018