

# Human Rights for Prisoners

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By LEONARD ORLAND

HARTFORD, Conn. — In the beginning, prisons housed the untried who, if found guilty, were beheaded or hung or, if more fortunate, whipped or maimed and then set free. One hundred and fifty years ago, the reformers, principally Quakers, urged prison as an alternative to death to enable the wicked in solitude to see the error of their ways and to reform.

Since that time, we have been dehumanizing, brutalizing and punishing, all in the name of "treatment." A century ago, the leaders of American penology assembled in Cleveland and issued a declaration of principles. It stated that the objective of imprisonment was "the reformation of criminals, not the infliction of suffering," that the "prisoner's self-respect should be cultivated to the utmost," that "every effort be made to give back to him his manhood." The Cleveland congress concluded that "there is no greater mistake than the studied imposition of degradation as a part of punishment."

But then, as today, the divergence between objectives and reality is gross. A survey of American prisons by the Prison Discipline Society in 1826 concluded that the prevailing mode of prison punishment was "stripes [whipping], chains and solitary confinement, with hunger."

Relatively little has changed. It is true that much of the whipping and mutilation is now gone from the American prison scene. (Even so, a Federal court, in 1970, found beatings and torture prevalent in the entire Arkansas prison system.)

American prisons continue to function as warehouses for long-term storage of human refuse. In 1967, a consultant to the President's Crime Commission found that most American prisons are "mediocre at best." More recently, a Ford Foundation observer of foreign prisons found only a handful of penal institutions in the world which claim to be designed for "rehabilitation," let alone be effective in reaching that objective. In 1967, the President's Crime Commission found that of the one half billion dollars spent annually on prisons, ninety-five cents out of each dollar went to "custody," with only a nickel for "treatment."

In point of fact, we are not even sure of how to go about the task of rehabilitation.

The scope of the problem has been spelled out in a series of commission recommendations, including, most notably, the task force report on corrections of the crime commission, the final report of the joint commission on the correctional manpower and training and the report of the President's



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task force on prisoner rehabilitation.

Hopefully, Tombs, Soledad and Attica will create some pressure for serious public consideration of reform. Pending that, there is an overwhelming need that can be implemented without massive expenditures of money or time — legislative specification of the rights of prisoners.

The Congress, as well as all of the state legislatures, should begin immediately to enact standard minimum rules for the treatment of prisoners. The model for such legislation is available and has had the benefit of four decades of debate and refinement in the international penological community.

I refer to the United Nations standard minimum rules for the treatment of prisoners.

The standard minimum rules are clear, detailed and specific—in effect, a declaration of human rights for prisoners. The rules prohibit racial or religious discrimination, require separation of untried and convicted inmates as well as separating of youthful offenders and hardened criminals. They prohibit corporal punishment as well as punishment by "handcuffs, chains, irons or straitjackets." They declare that no punishment should be

imposed unless the inmate has "been informed of the offense alleged against him and given a proper opportunity of presenting his defense." They clearly state that untried prisoners are "presumed to be innocent and should be treated as such."

The legal status of these rules was considered by the fourth United Nations congress on the prevention of crime and treatment of criminal offenders in Kyoto in 1970. The U.S. delegation took the position that the U.N. General Assembly should endorse the rules and "urge member states to take appropriate action toward their implementation."

To date, no nation in the world has enacted the standard minimum rules into positive law. To date, no American state has enacted any code of rights for prisoners.

Soledad and Attica could provide the impetus for sorely needed penal reform legislation of a fundamental nature, and at the same time provide America with a unique opportunity to reassert its moral leadership among the nations of the world.

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