

no date: Found in 1968 file



AMNESTY INTERNATIONAL

CODE OF CONDUCT
TOWARDS
PRISONERS OF CONSCIENCE

AMNESTY INTERNATIONAL IS AN INTERNATIONAL NON-GOVERNMENTAL ORGANISATION
IN CONSULTATIVE STATUS WITH THE ECONOMIC AND SOCIAL COUNCIL
OF THE UNITED NATIONS AND WITH THE COUNCIL OF EUROPE

INTRODUCTION

AMNESTY INTERNATIONAL was established in 1961 to protect freedom of opinion and religion. Its long term aim is to secure effective judicial machinery to enforce these two fundamental freedoms, guaranteed in the Universal Declaration of Human Rights. In the meantime, through its national sections and local groups, it endeavours to mobilise pressure in favour of the release of men and women imprisoned merely because their views are unacceptable to their government.

At the 2nd International Meeting of the movement, held at the Chateau de Male, near Bruges in Belgium, on 29 - 30th September, 1962, it was unanimously decided to publish on Human Rights Day, 1962, a minimum Code of Conduct for the humane treatment of persons suspected by the state of being a danger to its security.

The first draft of this Code was presented to an international committee of lawyers present at this meeting. After revision, the text was sent to each national section for observations. The final text, approved by a meeting of the lawyer members of the Policy Committee in London, incorporates amendments suggested by the Australian, Belgian, French, German, Irish and Swedish national sections.

Drafted by lawyers, this Code of Conduct is based on experience of prison and concentration camp conditions. Many of its safeguards have been suggested by those who have actually suffered torture, forced labour, semi-starvation and other types of cruelty.

In order to make the Code more readily acceptable by states, its articles, wherever possible, employ the wording of

The Universal Declaration of Human Rights,
The European Convention of Human Rights,
The Geneva Red Cross Conventions of 1949,
The United Nations Draft Principles on Freedom
from Arbitrary Arrest and Detention (1962).

This Code of Conduct is being simultaneously published in different languages in all those countries where there are national sections or local groups of the movement. Its publication forms one part of the many ceremonies being organised on Human Rights Day, 1962, in honour of those held in prison for their conscience's sake.

It is the intention of AMNESTY INTERNATIONAL to publish on each succeeding Human Rights Day information as to the extent to which states have either expressly accepted the terms of this Code or else applied them in practice.

Those who wish to play any part in this work to safeguard the dignity of man's mind and spirit may obtain further information, or send it, or order additional copies of this Code (price 1s.) from the address stated below. Donations sent to the 'Prisoner of Conscience Fund' the trustees of which are here set out, may rank for tax exemption, since the fund is a recognised charity in the United Kingdom.

The Right Rev. The Bishop of Birmingham,
Professor Ritchie Calder,
Ian Gilmour M.P.,
The Rev. I. Grunfeld, M.P.,
Sean MacBride, S.C.,
Dr. Ernest Payne, D.D.,
The Most Rev. Archbishop Roberts, S.J.,
Lord Sainsbury,
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CODE OF CONDUCT TOWARDS PRISONERS OF CONSCIENCE

*W*HEREAS, on 10th December, 1948, it was declared by Article 18 of the UNIVERSAL DECLARATION OF HUMAN RIGHTS that 'everyone has the right to freedom of thought, conscience and religion' and by Article 19 that 'everyone has the right to freedom of opinion and expression', and by Article 5 that 'no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment';

AND WHEREAS these rights have not yet been universally applied with the result that many persons who have endeavoured to exercise them have been tortured and inhumanly punished on the alleged ground that the security of their state has been endangered;

AND WHEREAS political and religious prisoners have frequently been deprived of any judicial safeguards and subjected to worse conditions than other prisoners;

NOW, on 10th December, 1962, this document is published to invite all concerned to use their efforts to insure that each state observes this MINIMUM CODE OF CONDUCT towards those persons holding beliefs or expressing opinions unacceptable to their particular government.

SCOPE

1. (a) So far as is consistent with the maintenance of public order, no person shall be physically restrained on any ground set out in Article 2.
- (b) Any person so restrained shall be presumed to be innocent until proved guilty.
- (c) Any person so restrained is hereinafter referred to as a 'Prisoner of Conscience' and shall be entitled to the protection of this Code of Conduct.
- (d) Nothing in this Code shall be deemed to condone the advocacy or use of violence to further political, religious or social ends.
- (e) Nothing in this Code shall derogate from safeguards already existing in the laws of any state.

2. Any person arrested, tried, detained, banished, confined or held under house arrest on any of the following grounds shall be entitled to the safeguards set out in this Code :—

- (a) Advocating, by speech, writing or conduct the alteration of the constitution of the state, or its frontiers;
- (b) Advocating, by speech, writing or conduct the alteration of the government of the state, or its policies;
- (c) Criticism, by speech or writing, of the Head of any state, of the government or any of its ministers, of the parliament or any of its members, of the courts of justice or any of their judges, of an executive institution or any of its officers, or of any corporation, association or individual in his public capacity;
- (d) Publication, by speech or writing, of any matter declared unlawful by the laws of a particular state;
- (e) Membership of or affiliation to any association declared unlawful by the laws of a particular state;
- (f) Organising, publicising or attending a meeting, discussion, religious service, procession or other gathering declared unlawful by the laws of a particular state;
- (g) Refusing to work, carry arms, move residence or otherwise to perform a physical act upon the order of a particular state.

ARREST

- 3. (a) No Prisoner of Conscience shall be arrested except on the written order of a judicial authority and no unnecessary force shall be used to arrest him.
- (b) Once arrested, he shall not be subjected to any physical violence.
- 4. (a) A Prisoner of Conscience shall be orally informed immediately before or as soon as practicable after his arrest in a language which he understands of the nature and cause of the accusation against him.
- (b) He shall be handed in writing within 14 days particulars of the accusation.
- 5. The authority arresting a Prisoner of Conscience shall immediately notify his next-of-kin or his legal representative of his arrest and of the place where he is kept in custody.

REMAND

- 6. (a) Upon arrest a Prisoner of Conscience shall have the right to be assisted by legal counsel of his own choice.
- (b) He shall be informed of this right and provided with facilities to communicate with his lawyer.
- 7. (a) A Prisoner of Conscience should be brought before a judicial officer within 24 hours of arrest. In no case shall a Prisoner of Conscience be held in custody for more than 72 hours before being brought before a judicial authority.
- (b) A Prisoner of Conscience shall have the right to apply to the judicial authority for provisional or absolute release and for this purpose shall be entitled to have his lawyer speak on his behalf. In the event of denial of provisional or absolute release an immediate appeal shall be available.
- 8. (a) Once arrested and charged a Prisoner of Conscience shall not be interrogated except by a judicial authority.
- (b) He shall not be interrogated for more than six hours in any one period of 24 hours.
- (c) Interrogation shall not be continued for more than four hours without his being given a meal of food and drink.
- 9. (a) A Prisoner of Conscience shall not be induced to give information by violence or threats or any unfair means.
- (b) He shall not be induced to give information by threat of sanctions against a third person.
- (c) A third person shall not be punished on account of his relationship with or his refusal to give information about a Prisoner of Conscience.
- 10. A Prisoner of Conscience shall not be required to stand except when his cell is inspected or during the first five minutes of any interrogation.
- 11. (a) A Prisoner of Conscience on remand shall not suffer any unnecessary restrictions or deprivations. In particular he shall be permitted to receive visits, letters, parcels of food, clothing, reading and writing material.
- (b) In the event of the imposition of an unnecessary restriction or deprivation he shall have the right to present his complaint in person or by his lawyer to a judicial authority.
- 12. (a) A Prisoner of Conscience shall not be required to work during remand; nor shall he be required to eat or drink anything contrary to his wishes except on the advice of a medical practitioner.
- (b) Wherever practicable, he shall be entitled to see his own doctor.

TRIAL

13. A Prisoner of Conscience shall be brought to trial as soon as possible. If he is not brought to trial within six months, he shall be deemed to be acquitted and shall be free from further arrest, custody, imprisonment, trial or other sanction on the ground on which he was originally arrested.
14. (a) A Prisoner of Conscience shall be given at least 14 days notice of his trial and shall be informed in writing of the nature of the evidence to be called by the prosecution.
- (b) After service of notice of trial he shall be entitled to unlimited consultation with a lawyer of his choice outside the hearing of a prison or police officer.
15. A Prisoner of Conscience shall not be charged under a law which was not in force when the alleged offence was committed.
- 16.(a) A Prisoner of Conscience shall be tried before a court duly constituted in accordance with a law in force when the alleged offence was committed.
- (b) After final acquittal or conviction he shall not be tried a second time on the same facts, whether or not for the same offence, before another court.
17. At his trial a Prisoner of Conscience shall be entitled to the following safeguards:—
- (a) to have the opportunity to be present at all stages of his trial;
- (b) to address the court;
- (c) to be represented by a lawyer of his own choice;
- (d) to have the prosecution evidence tested;
- (e) to have the opportunity to present evidence on his own behalf by witnesses of his own choice;
- (f) to have the proceedings interpreted if conducted in a language other than his own;
- (g) to be protected against arbitrary actions of public opinion, particularly against publications in print, public assemblies or on television, radio or cinema, prior to the judgement of the court of first instance, such as:
- (i) prediction of the outcome of the proceedings prior to judicial decision, or
- (ii) publication of non-official enquiries into the case in a manner designed to prejudice the impartiality of the members of the court, the jury or the witnesses, thus prejudicing the outcome of the trial.

18. No confession or admission shall be admitted in evidence unless the person alleged to have made it affirms at the trial that it was made voluntarily without torture, threat, trickery or hypnosis.

19. A Prisoner of Conscience shall have the right to address the court in public in argument against a proposal to hear the case in camera and in mitigation before sentence.

20. A Prisoner of Conscience shall not be sentenced to death or to corporal punishment.

APPEAL

- 21.(a) Every conviction or sentence shall be appealable for a period of not less than 14 days before at least one higher court.
- (b) A Prisoner of Conscience shall be entitled to unlimited consultation with his lawyer outside the hearing of a prison officer during the period between sentence and the filing of notice of appeal.
- (c) Every appeal shall be heard and determined within three months of notice of appeal.
- 22.(a) A Prisoner of Conscience shall not be punished until the period for filing a notice of appeal has elapsed and until he has had an opportunity to see his next-of-kin.
- (b) A Prisoner of Conscience condemned in his absence shall have the right to apply for a re-trial until such time as the offence of which he has been accused has elapsed by prescription

IMPRISONMENT

- 23.(a) A Prisoner of Conscience should not be held in prison for more than seven years.
- (b) At least once each year during his imprisonment he shall be entitled to petition to the Head of State for clemency and he shall receive a written reply within three months.
- 24.(a) Inspectors shall be appointed by a judicial authority to supervise all penal establishments and to prepare an annual report on the health and condition of every Prisoner of Conscience.
- (b) For the purpose of such annual reports the inspector shall see each Prisoner of Conscience privately.

- (c) The annual report shall specify whether the Prisoner of Conscience receives:
- (i) sufficient food, clothing, bed covering, heating, sanitation and washing facilities, exercise, reading and writing materials and medical treatment;
 - (ii) the opportunity to receive at least one visit each month from a person of his choice;
 - (iii) the opportunity to receive and write at least two letters a month to or from persons of his choice; and,
 - (iv) protection from intimidation or violence by other prisoners.
- 25.(a) A Prisoner of Conscience shall not be subjected to:
- (i) physical violence;
 - (ii) forced labour;
 - (iii) cruel or inhuman punishment;
 - (iv) a collective punishment; or
 - (v) deprivation of nationality.
- (b) Wherever possible, Prisoners of Conscience shall be confined in a separate prison or in a separate part of a prison.
- 26.(a) A Prisoner of Conscience found guilty of breaking a prison regulation may be punished by loss of privileges or remission of sentence for good conduct.
- (b) He shall not be subjected to any other penalty until he has had an opportunity of explaining his conduct to an inspector appointed by a judicial authority and the latter has authorised the penalty.
- (c) The inspector shall include a summary of the explanation and the nature of any penalty imposed in his annual report.
27. A Prisoner of Conscience shall not be retained in prison after the expiration of his sentence as a preventive measure or as a punishment for an alleged breach of prison discipline unless he has been tried in respect of such breach in the manner laid down in this Code.
- 28.(a) A Prisoner of Conscience may be released from prison before the expiration of his sentence upon conditions but his full civic rights, including unrestricted freedom of movement, shall be restored as soon as is possible and (except as provided by Article 33) in no case later than seven years from the date of sentence.

- (b) A Prisoner of Conscience shall not be released conditionally upon terms that prevent him from resuming family life and the rights connected therewith.
- (c) If a Prisoner of Conscience is released conditionally and in circumstances that prevent him from earning a living, he shall be paid a reasonable living allowance.

DETENTION

- 29.(a) In time of war or other public emergency threatening the life of the nation, provided that the state of emergency has been duly publicised, a judicial authority may in accordance with the procedure laid down in Article 7 when refusing to release a Prisoner of Conscience on provisional liberty pending trial serve upon him an order detaining him in custody for a period of not more than 12 months without trial.
- (b) Such an order of detention shall on its face show good cause why, if the Prisoner of Conscience were released, he would threaten the safety of the state.
- 30.(a) An order of detention shall be appealable at any time to a higher judicial authority.
- (b) The higher judicial authority shall within 30 days of notice of appeal examine the ground stated on the face of the order in the light of representations made by the Prisoner of Conscience or his legal representative and shall publicly advise the Head of State whether the order is still justified in the light of prevailing circumstances.
31. During the period of his detention a Prisoner of Conscience shall receive treatment not less favourable than that accorded to an officer Prisoner of War under the Geneva Convention relative to the treatment of Prisoners of War, dated 12th August, 1949; and shall, in addition, be entitled to at least one visit each week from a person of his choice, to consult his lawyer privately and to prosecute any legal suit designed to obtain his release from detention.
32. During the period of his detention the state shall be obliged to pay an allowance in cash to any dependent of a Prisoner of Conscience unable to support himself. The scale of such allowance shall be in accordance with the social security benefits prevailing in that state.
33. During the period of a state of emergency the provisions of article 28 relating to the restoration of civil rights may be suspended to the extent that the judicial authorities may determine in each case.

ENFORCEMENT

34. Any official or other person who wilfully or through negligence causes the arrest or detention of any person in contravention of the provisions laid down in the foregoing articles shall be subject to penal sanctions or disciplinary measures or both.

35. A copy of the annual reports referred to in Article 24 shall be forwarded to the International Committee of the Red Cross in Geneva, or, alternatively, shall be open to inspection by a representative of the International Committee.

36.(a) A copy of every order of detention made in accordance with article 29 shall be forwarded to the International Committee of the Red Cross, or, alternatively, shall be open to inspection by a representative of the International Committee.

(b) The International Committee shall have all the rights and powers in respect of detained Prisoners of Conscience as if they were Prisoners of War within the meaning of the relevant Convention of 12th August, 1949.

REDRESS

37. Anyone who establishes affirmatively that he has been arrested or detained in contravention of the articles of this Code shall have an enforceable right to compensation. If the person causing such arrest or detention is a public official or agent of the government, the state shall be responsible and compensation shall be payable from public funds.

INTERPRETATION

38.(a) Wherever the male sex is referred to, this shall be taken to apply equally to the female.

(b) Wherever the term 'next-of-kin' appears, a Prisoner of Conscience without next-of-kin, or who does not normally reside with his next-of-kin shall have the right to nominate a friend to act as next-of-kin in the context of this Code.

(c) Wherever the expression 'judicial authority' appears, it shall be taken to mean a tribunal consisting of one or more persons with legal training exercising functions independently of the executive.

39.(a) The authorised text of this Code is the English version.

(b) The articles of this Code shall be translated and applied as closely as possible given differences in legal terminology and legal systems.