Contents

Contents	
Table of contents	xi
Preface	
1 The history of European prison law and policy	1
2 Context and theory	38
3 Basic principles	86
4 Conditions of imprisonment	126
5 The prison regime	176
6 Contact with the outside world	212
7 Good order	262
8 Release	316
9 The future of European prison law and policy	344
Bibliography	385
Official documents	408
Table of Cases	415
Table of International Conventions, Treaties, Instruments and Stan	dards 423
Table of National Legislation	437
Index	439

Table of contents

T	abl		contents	ix xi
P.	refa	ice	,	xvii
1	TI	he h	istory of European prison law and policy	1
	1	Eu	ropean prison policy from the Enlightenment onwards	1
			iman rights and the international community	5
			ropean human rights developments	9
		3.1	Enforcing the European Convention on Human Rights in prison The Committee for the Prevention of Torture as an alternative	10
			source of European prison law and policy	13
		3.3	Recommendations of the Committee of Ministers and other	
			prison policy initiatives of the Council of Europe	18
			Initiatives of the 1990s	24
	4		nsolidation and interaction	25
			The growing role of the European Union	27
		4.2	Developments within the Council of Europe	30
			4.2.1 The Committee for the Prevention of Torture	30
			4.2.2 The European Court of Human Rights	31
			4.2.3 New recommendations of the Committee of Ministers	33
2	C	onte	ext and theory	38
	1	The	e problem with prisons—a penological framework	
		_	prisoners' rights	38
			Characteristics of prisons as institutions	38
			Modern prison life	42
			Psychosocial effects of imprisonment	47
			1.3.1 Entry phase of incarceration	48
			1.3.2 Effects of short-term incarceration	49
			1.3.3 Effects of long-term incarceration	50
		1.4	Interaction between prisons and society, and the resulting	
			characteristics of prison populations in Europe	54
		1.5	The place of imprisonment in European criminal justice	
			systems and the resulting characteristics of prison populations	56
	_		Prison numbers and incarceration policies	59
	2		man rights in a democratic constitutional state and prisoners' rights	63
		2.1	Human rights in a democratic constitutional state	63
		2.2	The prisoner as rechtshurger; when penology and human rights meet	69

	3	Prisoners' rights and the aims of deprivation of liberty	73
		3.1 Complexity of the aims of deprivation of liberty as punishment	73
		3.2 Relative autonomy of the aims of imposing and	
		implementing sentences of imprisonment	76
		3.3 Relationship of prisoners' rights to the aims of sentencing	80
		3.3.1 Retribution	80
		3.3.2 Deterrence	81
		3.3.3 Incapacitation	82
		3.3.4 Rehabilitation/social (re)integration	83
		3.4 Aims of deprivation of liberty for other categories of prisoners	84
3	В	asic principles	86
	1	Imprisonment as a last resort	86
		1.1 Characteristics of a reductionist penal policy	87
		1.2 Reductionist penal policies and European human rights standards	87
		1.3 Prison overcrowding	88
		1.4 Front door and back door strategies of reductionism	89
		1.5 Reductionism and the ECHR	91
		1.5.1 Article 3 of the ECHR, the length of sentences	
		and the possibility of early release	92
		1.5.2 Article 5 of the ECHR, the length of sentences	
		and possibilities for early release	95
		1.5.3 Articles 8–11 and the length of sentences	96
		1.5.4 Article 5 of the ECHR and the application of non-custodial	
	^	sanctions and measures	97
	2	Respect for the human rights of prisoners	99
	3	Normalization of prison regimes	103
		3.1 Normalization at the individual level	104
		3.2 Normalization at the collective level	105
	4	Facilitating reintegration	105
	5	Prisons in the society, the society inside the prisons	109
		The importance of prison staff	110
		6.1 Staff-prisoner relationships	110
		6.2 Prison management	114
	7	Independent inspection and monitoring	116
		7.1 Internal governmental inspection	117
		7.2 Independent national monitoring	118
		7.3 International monitoring	119
		7.4 Research	121
	8	Non-discrimination	122
		Applying the basic principles	124
4	_	Auto Communication of	
ŧ		onditions of imprisonment	126
	I	Conditions of detention in general	126

			Table of contents	xiii
2	Acco	mmo	odation	130
			num space	131
			s, shared or dormitory accommodation	135
			ate accommodation for different groups	138
			s and young children	139
			ıl accommodation needs	140
3	Hygi	-		140
			and bedding	143
	Nutr		-	145
-	Heal			147
Ü			ght to adequate health care	149
			dential access to competent health-care professionals	150
			alence of care	153
			Women	154
			Foreign prisoners and ethnic minorities	155
			Elderly prisoners	156
			Prisoners with mental health problems	157
			sional independence	158
			Health and the prison regime	160
			Health, security and good order	160
			Health and release	164
			ned consent	165
			Medical examinations	165
			Force-feeding	166
			Medical experiments	171
			ntive health care	171
			Drug addiction Women	172
			Transmittable diseases	172 173
			Suicide prevention	173
	`	J.O. 1	omerate prevention	1/4
Tł	ie pris	son re	egime	176
1	The r	ight t	o an adequate prison regime	176
	1.1	Prison	regimes and inhuman or degrading treatment	177
			regimes and fundamental human rights	178
	1.3 I	Prison	regimes and reintegration	178
	1.4	An ade	equate prison regime for all prisoners	179
			Remand prisoners	180
	i	1.4.2	Long-term prisoners	181
			Women	183
			Children	185
	4	1.4.)	Foreign and ethnic minority prisoners	186
2	Work		Other categories	187
Z			2.11	187
	2.1 l	rison	ers' right to work?	188

v	٠	10

Table of contents

		2.2 Remuneration for prisoners' work	191
		2.3 Prisoners' duty to work?	194
	2	2.4 Protecting prisoners who work	196
		Education	198
	4	Exercise and recreation	204
	5	Thought, conscience and religion	207
6	6 C	Contact with the outside world	212
	2	The importance of contact with the outside world	212
	2	Prevention of ill-treatment	214
)	Right to correspondence and other forms of communication	216
		3.1 Right to correspondence with whom?	219
		3.1.1 Correspondence with the courts	219
		3.1.2 Correspondence with legal advisers	219
		3.1.3 Correspondence with international bodies	220
		3.1.4 Correspondence with family, friends and strangers	220
		3.1.5 A positive duty to facilitate correspondence	221
		3.2 Legitimate interference with correspondence	221
		3.2.1 Interference in accordance with law?	222
		3.2.2 Interference with legitimate aims?	224
		3.2.3 Interference necessary in a democratic society?3.3 Other forms of communication	224
	4	Right to family life	226
	•	4.1. Diabasa and	228
		4.1 Right to marry	230
		4.2 Right to found a family	231
		4.3 Parental and children's rights	233
		4.4 Right to family visits	235
		4.4.1 Who is allowed to visit? 4.4.2 Limitations on visits	236
			237
		4.4.3 Allocation and transfer of prisoners 4.4.4 Conditions of the visits	239 240
		4.4.5 The question of conjugal visits	240
		4.5 Right to family life and humanitarian leave	245
	5	Right to contact with lawyers	247
	U	Right to freedom of expression	249
		6.1 The right to hold and express opinions	249
		6.2 The right to vote	251
		6.3 The right of access to information	257
		6.4 The right to impart information	260
7	G	ood order	262
	1	General approach to good order and dynamic security	263
		Safety and security	267
		2.1 Admission	268
			= \/\/

		Table of contents	xv
		2.1.1 Security	268
		2.1.2 Safety	269
		2.2 Transfer	271
		2.3 Special high security and safety measures	273
		2.3.1 Solitary confinement	276
		2.3.2 High security units	282
		2.4 Searches	285
		2.4.1 Searches and inhuman or degrading treatment	285
		2.4.2 Searches and private life 2.5 Use of force	289 291
		2.6 Weapons	293
		2.7 Restraints	295
	3	Prison discipline	298
	,	3.1 Disciplinary offences	299
		3.2 Disciplinary procedures	301
		3.3 Disciplinary punishments	304
	4	Complaints and requests	305
	_	4.1 Right of access to complaint and request procedures	306
		4.2 Information as the basis for complaints and requests	306
		4.3 Responding to prisoners' complaints and requests	307
		4.4 Complaints by others about the treatment of prisoners	312
		4.5 Complaints to international bodies	314
8	R	elease	316
	1	The significance of release in European prison law and policy	316
		Prison leave	321
		Conditional release	324
	-	Release of lifers	328
		Preventive detention	336
		European law and release from fixed-term sentences	337
		Preparation for release	340
	8	Post-release status	342
9	T	he future of European prison law and policy	344
	1	The European prisoner as legal citizen?	344
	2	The European prison as post-authoritarian institution?	348
		2.1 Total institutions	349
		2.1.1 Same place and authority	349
		2.1.2 Little contact with the outside world	349
		2.1.3 Protection of society as primary aim	350
		2.1.4 Imbalance of power	350
		2.2 The pains of imprisonment and resulting psychosocial effects 2.2.1 The pains of imprisonment	352 352
		2.2.1 the pains of imprisonment 2.2.2 Harm resulting from psychosocial effects	353
		2.2.2 therm resulting from psychosocial effects	טינ

xvi

Table of contents

3 Imprisonment as a measure of last resort?	355
3.1 Europe as a motor for or a bulwark against increased repression?	355
3.2 Prisoners' rights as a motor for or a bulwark against	
increased repression?	359
4 Strengths and weaknesses of the current European	
prison law and policy framework	364
4.1 The European Court of Human Rights	365
4.2 The Committee for the Prevention of Torture	370
4.3 Council of Europe Recommendations	371
4.4 Mutual reinforcement	375
5 New mechanisms for developing European prison law and policy?	376
6 The future of European prison law and policy	381
Bibliography	385
Official documents	408
Table of Cases	415
Table of International Conventions, Treaties, Instruments and Standards	423
Table of National Legislation	437
Index	
********	439