

**VASTLY DIFFERENT AND EQUALLY BAD –  
LIVING CONDITIONS ON DEATH ROW  
ACROSS THE UNITED STATES**

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# The political opportunity structure of the US

- Model of legislative federalism, states have more autonomy in the field of criminal justice than in other Western countries with a federal state structure
- Liberal welfare state (Esping-Andersen 1990) with low guarantee of social rights by the political system, and no social rights laid down in the constitution
- in international comparison low presence/availability of international human rights institutions and instruments that pertain to prisoners' rights

# Social rights – the capabilities approach

Access of an individual to social rights: “what is each person able to do and to be?” and “which freedoms are created by the social environment of a person” (Nussbaum 2014)

approach takes into account the agency of individuals and views social rights as elements of autonomy in an overall system of control

“I try to show them [the men on death row] the small spaces of freedom that they can find within themselves and in that environment” (interview Texas)”

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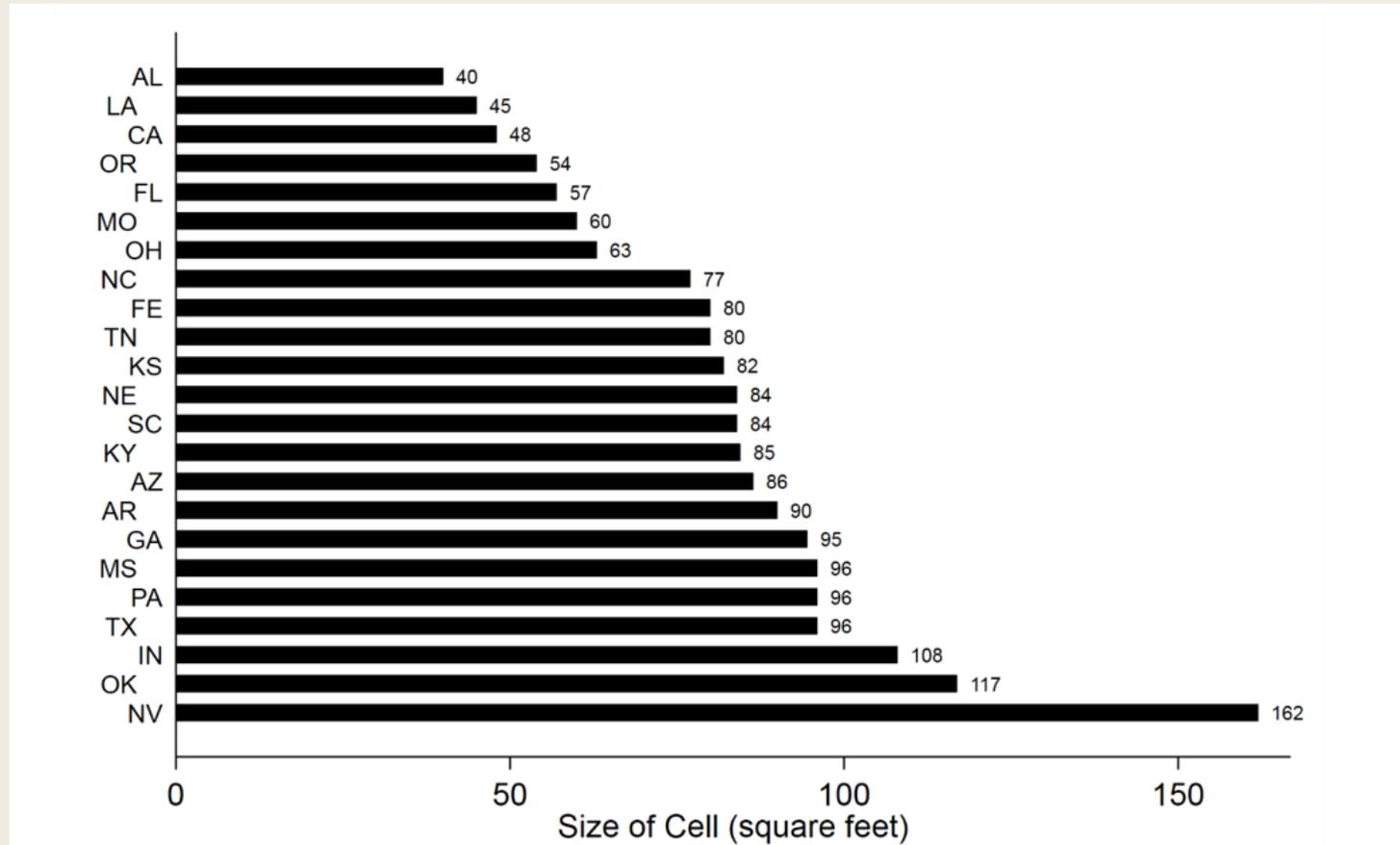
*Vizard and Burchardt's  
'domains of valuable capabilities'*

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- life
  - physical security
  - health
  - education
  - standard of living
  - productive and valued activities
  - individual, family and social life
  - participation, influence and voice
  - identity, expression and self-respect
  - legal security
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# Differences between states (2)



# Differences between states (3)

Visitation: Kansas: no-contact and shackled, Texas: no contact, not shackled, Florida: contact visit and can prisoner can walk freely with visitor to cafeteria, California: contact visit Oklahoma: contact visit but shackled to black box, Alabama: contact

Phone time: phone on tablet in cell (OK), five minutes every 90 days (TX), unlimited (AL)

Religious service: Texas no, NC yes, FL no, OK yes

Allowed to decorate walls: Texas no, FL no, OK yes, AL no

# Differences between states (4)

## Social effects of confinement:

“They [the men on death row] are a pretty close-knit community” (Oklahoma)

“[Death row prisoners being in general population on different security levels] has created a caste system” (Missouri)

“Even if they don’t like a particular inmate, there is a lot of solidarity of the men as a group” (Texas)

Only prisoner-run newsletter in Alabama, which was until 2021 one of the very restrictive settings

# Changes in access to social rights

Missouri 1987,  
Mississippi,  
Louisiana 2017,  
Arizona 2017,  
Florida 2017,  
Pennsylvania  
2018) South  
Carolina (filed  
2017) Kansas  
(filed 2020),  
Oklahoma  
(demand letter  
by ACLU 2019)  
Virginia (2019)

legal

Utah, Arizona,  
(Texas)

administrative

Arizona 1997,  
Texas 1999;  
Alabama 2021

External events

# Similarities

## Food

The kitchen has been out of order for a year now. And they bring them a little food in these Styrofoam plates." (Mississippi) (1)

"Starving the men is a way to control them" (Missouri)

"In the last 23 years I can count the meals that arrived in my cell and were warm on one hand" (Texas)

"I am sending you the canteen list. During Covid 70 percent were out, usually its 60 percent" (Alabama)

(1) <https://www.apmreports.org/story/2018/05/29/inside-parchman-mississippi-notorious-prison>

# Similarities

## Health care

“Unjustified denial of services, lack of follow-up care, availability of specialists, delays in care” and as a difference “definition of serious medical need” (ACLU 2005)

“In a way I would understand if the guards were mean, but I cannot understand how a nurse, a health care professional, can be so mean to a sick person” (Florida)

“Health care in prison? What health? What care? (Alabama)

“Those guys on death row, I wouldn’t touch them with a 10 foot pole” (prison nurse, Ohio)

# Similarities

## Official religious services in prison

“The chaplain is superficial and authoritarian in his interactions, acts as though he is an officer and is unreliable” (survey)

“The chaplain comes through maybe once a month...often it seems like he can't be bothered to come at all” (interview)

“The chaplain seems to take notes when a relative calls but then later you find out that he never went to see the inmate” (interview)

# Conclusion

Living conditions of men on death row are specific in their restrictiveness but they vary widely across the US

federalism negatively impacts death row prisoners' access to social rights, in the US social rights of men on death row are negotiated between the federal and the state level

a look at the federal level shows that a national standard regarding social rights of people on death row exists, even if it is not institutional and formal, and it's the lowest standard

→ need to link the discussion about living conditions on death row to the discussion about prison reform in general

# Outlook and avenues for further research

Dominance of state and federal level in US: organizational culture and organizational change in prison administrations and corrections departments

International comparison of federal countries and the access of prisoners to social rights (eg. Germany after federalism reform)

The discursive power of welfare state principles and their reflection in corrections system

Impact and lessons from the international level: EU 2006 prison rules, EU Stockholm 2010 program on harmonization of prison rules, WHO healthy prisons program Europe