

# **PRISON CONDITIONS IN JAPAN**

Human Rights Watch/Asia  
Human Rights Watch Prison Project

Human Rights Watch  
New York · Washington · Los Angeles · London · Brussels

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Printed in the United States of America.

ISBN 1-56432-146-0  
Library of Congress Catalog Card Number: 95-075214

Illustrations in Figures 1 and 2 (pages 7 and 8) by Pamela Blotner for Human Rights Watch. Drawings of the sitting position *seiza*.

Illustration in Figure 3 (page 10). Drawing of single cell exercise area in Osaka Prison. Courtesy of the Japanese Federation of Bar Associations (JFBA).

Illustrations in Figure 4 (page 27) by Shigeru Azuchi for Human Rights Watch. Drawings of physical restraints used on prisoners.

*Human Rights Watch/Asia*

Human Rights Watch/Asia was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeczyk is the Washington director; Robin Munro is the Hong Kong director; Zunetta Liddell, Dinah PoKempner, Patricia Gossman and Jeannine Guthrie are research associates; Mark Girouard is a Henry R. Luce Fellow; Diana Cheng and Jennifer Hyman are associates; Mickey Spiegel is a research consultant. Orville Schell is the vice chair of the advisory committee.

*Human Rights Watch Prison Project*

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## **ACKNOWLEDGMENTS**

This report is based primarily on information gathered by a Human Rights Watch delegation that visited Japan in July 1994 and included the director of Human Rights Watch Prison Project, Joanna Weschler, and a representative of the organization's Asia division. The report was written by Ms. Weschler. It was reviewed by Sidney Jones, the Executive Director of Human Rights Watch/Asia and edited by Cynthia Brown and Robert Kimzey, respectively Program Director and Publications Director of Human Rights Watch. Juan Mendez, the General Counsel of Human Rights Watch reviewed legal sections of the report. Marti Weithman prepared the manuscript for publication.

We wish to express our deep appreciation to the many Japanese lawyers, human rights advocates, and former prisoners who assisted us in our work. In particular, we wish to thank: Mr. Yuichi Kaido, Mr. Keita Abe, Mr. Yasuhiro Kanaitzuka, Ms. Futaba Igarashi, Mr. Koichi Kikuta, Mr. Toshikuni Murai, Mr. Yoichi Kitamura, Mr. Yasuo Maruyama and Mr. Shigeru Azuchi. Mr. Akira Suehiro, Ms. Mari Hasegawa, Mr. Mitsuhiro Wada, Mr. Akira Arai. We are also grateful to our translators, Ms. Lisa Prevenslik and Ms. Megumi Komori.

## CONTENTS

INTRODUCTION.....	vi
SUMMARY .....	xii
POLICE DETENTION .....	1
PHYSICAL CONDITIONS .....	4
CONTACTS AMONG PRISONERS AND CONTACTS WITH THE OUTSIDE WORLD .....	12
THE PREDOMINANCE OF THE RULES .....	19
PUNISHMENT .....	23
WORK AND ACTIVITIES .....	36
DEATH ROW .....	43
TREATMENT OF FOREIGN PRISONERS .....	47
IMMIGRATION DETENTION.....	51
THE INTERNATIONAL LAWS GOVERNING HUMAN RIGHTS VIOLATIONS.....	55
RECOMMENDATIONS.....	67
APPENDIX I.....	72
APPENDIX II.....	94

## ILLUSTRATIONS

FIGURE 1.....	.7
FIGURE 2.....	.8
FIGURE 3.....	10
FIGURE 4.....	27

## INTRODUCTION

For an outside observer familiar with different prison systems throughout the world, perhaps the most striking feature of Japanese prisons is silence: both literal and the one caused by the seal of official secrecy surrounding them. This quiet is largely due to the fact that many prisoners live alone and for years on end have little or no opportunity for human contact, and also because conversations in many situations or the making of loud noises in all situations, is strictly prohibited and punishable.

As of March 1994, the Japanese prison system held some 45,000 prisoners in its fifty-nine institutions capable of holding 64,000 inmates. Occupied at 70 percent of capacity, about 37,000, or 82 percent of the prison population are sentenced prisoners. In 1993, there was a daily average of 1,512 women prisoners in the system, 460 of them unsentenced. The system employs 21,000 correctional officers.<sup>1</sup>

Unsentenced prisoners live in detention centers, located throughout the country, which usually house both men and women in separate sections. Prisoners are classified according to their gender, age, nationality and type of penalty, and furthermore by the degree of their criminal tendency. Institutions usually house just one or a combination of two types of inmates. For male adult prisoners there are generally two security levels, A and B, with Category B institutions housing prisoners perceived as more dangerous and most of them repeat offenders. Prisoners under age twenty-six are held in institutions for juveniles or young adults, and women are housed in one of the six prisons for women.

Japan has a very low prisoner-to-population ratio: thirty-seven per 100,000 (as compared to 558 in Russia; 519 in the U.S.; 368 in South

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<sup>1</sup>Human Rights Watch interview with Ministry of Justice officials, Tokyo, July 20, 1994.

Africa; 229 in Singapore; ninety in Spain; eighty in Germany; and sixty-six in Denmark).<sup>2</sup>

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<sup>2</sup>Americans Behind Bars (Washington, DC: The Sentencing Project, September 1994), table 10.

The Japanese Ministry of Justice prides itself on the outstanding record of a system that has not experienced riots since the period immediately after World War II.<sup>3</sup> Escapes are very rare (twenty-two in the period from 1983 through 1992), and the ratio of assaults by prisoners on fellow inmates or staff members is also low.

Despite these impressive indicators (no overcrowding, low crime rate, and no escapes) for several years now Japanese prisons have been a source of concern for domestic and international human rights activists.

Several aspects of the system came under particular attack: detention during interrogation in police stations that can lead to instances of the use of undue pressure and brutality; the widespread use of solitary confinement in detention centers and in prisons; the restrictions on contacts between prisoners and the outside world, including legal representation; the correction system's obsessiveness about rules; the draconian punishments; and numerous incidents of guards' brutality.

The Japanese prison law dates to 1908, making it possibly one of the oldest such document still in effect anywhere in the world. Both the critics of the government and the government itself agree on the need for new, more modern legislation. Since 1982, the government has repeatedly tried to have a new prison law passed by the Diet. The government bill as it stands now, however, would not only fail to rectify any of the major areas of trouble within the Japanese prison and detention system, but would reinforce some of the system's most abusive elements.

In a glossy, bilingual brochure titled *Prison Administration in Japan*, published in 1993 in a clear attempt to fend off some of the criticisms, the government presents those aspects of its prison system of which it is particularly proud, notably the impressive statistical indicators regarding the low level of violence and escape. It admits that some critics have argued that prison guards commonly imposed arbitrary punishment.

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<sup>3</sup>Human Rights Watch interview in Tokyo, July 1994.



The brochure states that these "arguments are quite groundless. If they were true, riots and disturbances would have occurred frequently."<sup>4</sup>

A careful look at the Japanese prison system strongly suggests that the lack of serious prison disturbances may be related to the draconian discipline and the fear among prisoners and not necessarily the general contentment of the Japanese prison population. Order is achieved at a very high cost: the cost of violating fundamental human rights and failing to observe international standards the country has ratified.

Prompted by numerous reports of abuse, Human Rights Watch/Asia and the Human Rights Watch Prison Project decided to conduct a study of the human rights situation of Japanese prisons.

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<sup>4</sup>"Prison Administration in Japan" (Tokyo: Correction Bureau, Ministry of Justice, August 1993), p. 27.

As in the case of all other such studies (over the past seven years the Human Rights Watch Prison Project has studied prison conditions in more than twenty countries; the list is contained in Appendix B), Human Rights Watch wrote to the Japanese Justice Ministry requesting permission to visit the country's prisons, police detention facilities, and immigration detention centers. As in all other cases, we provided the government with the list of institutions we wanted to inspect and described the conditions under which we wished to conduct the visits.<sup>5</sup> In the letter, mailed on May 18, 1994, and also transmitted via the Japanese embassy in Washington, D.C., we informed the government that our delegation was going to visit Japan in the second half of July 1994.

Though we did not receive a formal reply to our letter, the embassy contacted the Ministry of Justice on our behalf in order to try to arrange our access to various facilities. The embassy suggested that we meet with ministry officials in Tokyo, and upon our arrival in Japan, we set up appointments with officials of the Corrections Bureau. In the course of two meetings, an agreement was reached under which the delegation would be able to visit three prisons (two prisons that the delegation specifically requested to see, the Asahikawa prison on the northern island of Hokkaido and the prison in the Japan Sea coastal city of Niigata were declared off limits). The ministry also informed the delegation that no interviews with prisoners would be allowed during the visits. Even though these limitations constituted a departure from our usual policy, the delegation decided that a thorough, albeit solely visual, inspection of three prisons in three different parts of the country would supplement information that was being collected through interviews with former prisoners and other sources.

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<sup>5</sup>The Prison Project has a policy of visiting prisons only under specific conditions, to avoid being shown only model institutions or the most presentable parts of prisons and to avoid being given access only to witnesses hand-picked by the government. For a more detailed discussion of this policy, see *Human Rights Watch World Report 1995* (New York: Human Rights Watch, 1994).

In the course of the first of the three visits planned it turned out that the visit was to be conducted under conditions much more controlled than anticipated by the delegation. The accompanying officials were unhappy with the fact that members of the delegation were taking notes and attempted to take measurements of the cells. The visit was cut short. The delegation subsequently notified the Ministry of Justice that unless it could receive an assurance that the inspections of the two remaining prisons could be conducted in a way consistent with Human Rights Watch methodology, i.e., that the delegation would be able to see all parts of the institution, measure cells, take notes, and make sketches when necessary, we would decline the offer to be shown these prisons. Because the ministry could not assure us that access would be given as specified in our request, we declined further visits.<sup>6</sup>

While in Japan, the delegation also tried to secure access to inmates in a half-way house in Osaka in order to interview them about their recent prison experiences. The Ministry of Justice notified the delegation that it would authorize our visit provided that the ministry choose the witnesses to be interviewed. The delegation turned down this offer for obvious reasons.

This report is based on interviews with over twenty former prisoners, relatives of current prisoners, clergy, prisoner support group members, lawyers handling current or recent prison litigation cases, and on

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<sup>6</sup>To our knowledge, the Japanese Ministry of Justice has never granted permission to conduct a full inspection to any outside delegation, representing either the human rights or academic communities. In several other countries, including Poland, the Soviet Union, South Africa, and Egypt, Human Rights Watch was the first human rights organization ever to be allowed to conduct prison inspections. In some of these countries, the government subsequently went on to grant more ready access to local human rights groups.

information provided to us by government officials. We conducted interviews in Tokyo, Kobe, Osaka, Niigata, and Asahikawa, and our witnesses provided testimony regarding prisons and detention centers in those cities and in other locations, including a youth facility and a facility for women. In addition, the delegation conducted a few interviews in detention centers where detainees are allowed to receive visits from individuals other than their immediate families. Those conversations, however, were closely monitored by the staff.

As in all its prison reports, Human Rights Watch does not purport to present a comprehensive portrayal of the country's prison system. By highlighting particular aspects of prison conditions and pointing to specific human rights violations that result, we strive to persuade the Japanese government to implement a thorough reform of the prison system and to bring the country's outdated prison laws in line with the modern human rights standards.

## SUMMARY

Prisoners in Japan experience routine violations of human rights. From the moment of arrest and the initial detention period in a police station, through the pre-sentencing stay in a detention center and throughout the serving of the sentence in a prison, a prisoner in Japan is deprived of the most basic rights and furthermore often suffers from severe abuse at the hands of his or her keepers.

The nature of the abuses differs from those described in most of the prison reports published by Human Rights Watch to date. The most widespread problems in Japanese prisons have to do with the extreme rigidity of the system and with the lack of the concept that prisoners have any rights at all. Even though most Japanese prisoners live in adequately clean cells, wear adequately clean clothes and do not starve, the extreme fastidiousness of the rules enforced by the draconian discipline, the lack of human contact for extended periods of time, and the very strict limits on contacts with the outside and among prisoners, make the living conditions quite intolerable. The cumulative effect of all these rules is like a straitjacket forced upon the Japanese prisoner. It is not a straitjacket for his or her protection, however, but a systematic effort to impose regimentation that has no apparent rehabilitative purpose.

Japanese suspects after being apprehended are routinely placed in police detention for up to twenty-three days. During that time they are subjected to lengthy interrogation sessions conducted by the police and the prosecution, which are aimed at obtaining confessions. Numerous reports indicate that in order to achieve that goal, interrogators apply various forms of pressure, ranging from sheer exhaustion inflicted by the length of these sessions, during which the authorities take turns but the suspect does not leave the room for ten or more hours at a time, to threats, deprivation of food and drink, and violence, in the form of poking, kicking and beating.

Prisoners have access to court-appointed counsel only after the indictment, that is after they had been transferred from a police station to a detention center. Even those capable of hiring a private attorney have their access to counsel severely restricted during the period in police detention.

After being indicted, prisoners are transferred to detention centers where they stay until their sentencing, a period that in some cases may last several years, after which they are placed in a prison.

Both in detention centers and in prisons, a large proportion of inmates live in single cells that are usually very small and scarcely furnished. Some cells are too short to roll out a futon (a Japanese-style mattress) lengthwise, and the inmate has to place it diagonally. Whether in single or in collective cells, there are strict limits on the number of personal items an inmate is allowed to keep in his or her cell, including objects such as photographs or personal letters. The natural light in the cells is often insufficient, and electricity has to be used all day long. The light switch is almost always outside the cell and is controlled by a guard. A dim light is never turned off during the night. Cells tend to be very stuffy during the summer and very cold in winter (only in the northern island of Hokkaido do prison cells have heating).

Reports indicate that prisoners considered troublemakers are often placed in particularly bad cells, that are damp, dilapidated, or infested with insects, and are clearly used in a punitive way.

Prisoners have extremely limited contact not only with the outside world but with each other as well. Under Japanese law, a warden "may prohibit prisoners to talk with one another when he deems it necessary."<sup>7</sup> In practice, prisoners are allowed to talk with their fellow inmates only on rare and specified occasions. Furthermore, many live in single cells and seldom have any contact with anybody other than their guards. In the course of the report we describe several cases of prisoners who have lived in this situation for ten years or more, including the case of Yoichi Isoe, held in solitary confinement since September 1982.

Any type of communication between a prisoner and the outside world is strictly controlled. Unsentenced prisoners can receive daily visits, in principle from anyone who wishes to visit them, but after sentencing only immediate family members can visit and the number of visits is limited to one per month (with a slight increase for those who work their way up to a higher classification level). Virtually all visits, both for sentenced and unsentenced prisoners, are through a glass partition. The only exception are visits for some sentenced female prisoners and the very small group of the

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<sup>7</sup>Art. 37 of the Japanese Prison Law.

sentenced male prisoners at the highest classification level who are allowed to meet with visitors across a table in a regular room. In either case, no physical contact between prisoners and their visitors is allowed. No exceptions from this last rule are made. A couple who married when they both were in prison, were not allowed to touch each other during the wedding ceremony, and a guard passed the document from one of them to the other to sign. All visits are carefully monitored by a guard who sits next to the prisoner and takes notes of everything that is being said.

All correspondence is read and often censored, sometimes in part, through blacking out portions of letters, and sometimes through refusal to deliver a letter (for example, in 1990 the government intercepted and did not deliver 17,080 pieces of correspondence). While unsentenced prisoners face no limits on the number of letters sent or received and may correspond with whomever they want, provided that it is being done in a language understood by the censors, sentenced prisoners may correspond with their immediate families only, and they may send and receive the number of letters equal to the number of monthly visits allowed for their particular classification group.

Legal contacts are seriously curtailed as well. An unsentenced prisoner may meet with his or her attorney without the presence of the monitoring guard, but legal correspondence is censored. After sentencing, all legal visits are monitored by guards.

The Japanese prison law dating from 1908 has been modified by numerous administrative directives and the Ministry of Justice's secret Standing Orders. Thus, large parts of legal documents relating to prison matters are not accessible to the public opinion. Each prison designs its own rules based on the law and the Standing Orders. As indicated by our interviews, rules are generally similar from prison to prison, and they all regulate prison life down to the most minute details and govern virtually all areas of a prisoner's life, leaving no room for personal choices. Furthermore, according to testimonies from recently released prisoners who had served sentences of ten years or more, the rules have become stricter and the emphasis on discipline has grown in the period since the late 1980s. Examples of what aspects of life are covered by the rules include: where to place any object in the cell and how; where to write anything; what position to stand or sit during the daily cell inspection; how to sleep; how to march and more.

Rules are strictly enforced, and any departure leads to punishment. But even though the rules are so detailed when prescribing ways in which things are to be done in the prison, they are very vague in specifying punishments, leaving a lot of latitude for arbitrary actions by individual guards or wardens. The most commonly applied disciplinary measure is solitary confinement, for up to two months at a time. Solitary confinement meant as punishment (as opposed to the placement in a single cell with practically no contact with other inmates) involves no contacts with the outside world, no reading, and no exercise. Using the toilet is allowed only at specified times and throughout the day the prisoner is required to sit motionless in a prescribed position.

Solitary confinement is meted out for a wide range of infractions, including some trivial ones, such as calling out to a fellow prisoner or refusing to keep one's eyes shut during a daily "reflection period." More serious infractions, such as attempted escapes or participation in fights, are punished with additional time in so-called protection cells. These cells are ostensibly meant to subdue prisoners who had become violent or to protect those in danger of committing suicide. In most cases, prisoners are placed in these cells in restraints consisting of a leather contraption that holds one arm in the front of the prisoner's body and the other one in the back, making it practically impossible, or in any event very humiliating, to use the toilet or to eat. The length of time spent in those cells ranges from several hours to several days. Usually, after the period in the "protection cell" a prisoner is placed in solitary confinement, his or her formal punishment.

Reports indicate that prisoners who commit more serious infractions or are perceived by prison staff as particularly defiant, are victims of beatings inflicted by the guards.

Disabled prisoners who are unable to follow the rules because of the disability, may be subjected to particularly disturbing abuses or punishments. Similarly, those who initiate a lawsuit regarding prison conditions or simply complain in their contacts with the outside, are routinely punished and retaliated against.

Most sentenced prisoners in Japan work, either in prison factories or in their cells. They receive no wages and instead get a gratuity of up to some \$35 a month, but often lower. Those who work in prison factories are not allowed to talk during work and are instructed to look at nothing other than



that on which they are working. Making eye contact with a fellow prisoner or a guard is prohibited and punishable.

During the periods of unstructured time in the afternoon on weekdays and on weekends, prisoners usually stay in their cells and read or write. They can listen to radio broadcasts, and some can watch TV, but what they listen to or watch and when is decided by guards.

Japanese prisoners get very little outdoor exercise time, at most three times a week for less than half an hour. Exercising in one's cell, or even stretching, is prohibited. Many prisoners report health problems related to the lack of exercise.

Japan retains the death penalty for some seventeen crimes, and as of this writing some fifty-eight individuals live under the sentence of death. Executions are kept under strict secrecy, and neither relatives of the condemned nor lawyers are notified prior to the carrying out of the death penalty. A prisoner may learn about his or her own upcoming death as little as an hour in advance. In some cases, no official notification is made afterward though relatives may receive a notice to collect the body.

Some inmates spend decades awaiting execution. They live in total isolation and usually do not work. They can only receive visits from and correspond with their immediate relatives and some, those without blood relatives or whose relatives have abandoned them, live in total isolation from the outside world.

Foreign prisoners account for some 5 percent of the total prison population in Japan, and their proportion is growing rapidly. As a rule they are placed in single cells, and their sense of isolation is even stronger than that among the Japanese inmates. The language barrier often causes additional problems, due to failure to understand instructions. Furthermore, because all contacts with the outside world are censored and because prisons at best have staff members with the knowledge of only a few languages, many inmates cannot receive visits or have correspondence unless they pay for translation of these communications, which is in practice frequently impossible. Some foreign prisoners, especially those from African countries, often become targets of racial taunts.

A number of individuals are in detention in Japan solely because of their immigration status. They are held in special immigration detention facilities or in regular detention centers. Their situation is similar to that of foreign criminal suspects, but reports indicate that instances of violence

against this type of detainee are frequent and often unpublicized, because the victim may be promptly deported.

### **Summary of Findings**

Human Rights Watch found numerous violations of the international human rights law in Japanese prisons. Japan routinely violates the International Covenant on Civil and Political Rights (ICCPR), as well as the basic provisions of the Universal Declaration of Human Rights. Furthermore, we noted numerous violations of the specialized international documents in the area of criminal justice, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, and the Basic Principles for the Treatment of Prisoners. We discuss these matters in detail in the chapter "The International Laws Governing Human Rights Violations." Here, we highlight only some of these violations.

Article 10 of the ICCPR mandates that all persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person, and Article 5 of the Universal Declaration of Human Rights and the ICCPR Article 7 prohibit torture, cruel, inhuman or degrading treatment or punishment. Human Rights Watch found that prolonged use of solitary confinement in Japanese prisons stands in violation of the above provisions of international law. Furthermore, the generalized use of solitary confinement throughout the prison system also violates the Basic Principle for the Treatment of Prisoners 7 that stipulates that states should undertake efforts to abolish or restrict the use of solitary confinement as punishment.

Beatings and other instances of physical violence that occur in prisons, police stations and immigration detention centers, as well as various methods of pressure used by interrogators during detention in police custody to extract confessions from suspects furthermore violate Article 7 of ICCPR.

The system of police custody also violates the provision of Article 14, paragraph 3 (g) of the ICCPR that stipulates that no one should be compelled to testify against himself or to confess to guilt.

The numerous and extremely strict limitations on prisoners' contacts with the outside world violate a variety of international standards, including

Article 10 of the ICCPR, summarized above, Article 7 (3) of the Body of Principles, stipulating that prisoners should be free to report rights violations to authorities and organs vested with reviewing or remedial powers, and Article 12 of the Universal Declaration of Human Rights and Article 17 (1) of the ICCPR, both of which stipulate that no one should be subjected to arbitrary and unlawful interference with privacy, family and correspondence. Human Rights Watch also finds that these harsh limitations on contacts additionally penalize family members on the outside and violate their right to family life and privacy.

Death row prisoners, in addition to being subjected to the violations described above, spend years and often decades in total isolation and uncertainty, which adds to their suffering. This and the secrecy surrounding executions can be considered in violation of Article 5 of the Universal Declaration of Human Rights and Article 7 of the ICCPR prohibiting torture and cruel and degrading treatment because the inmate is not allowed to prepare mentally, spiritually and psychologically for his or her imminent death.

Finally, the overall conditions in the Japanese prison system, with its emphasis on rules and regimentation, stand in violation of one of the basic tenets of international human rights law as it pertains to detained persons, that is that they should enjoy all basic rights with the exception of the limitations unavoidable in a closed environment.

### **Summary of Recommendations**

In this report, Human Rights Watch calls on the Japanese government to rectify its practices and to amend its laws in order to bring its prisons in line with the international human rights law by which the country is bound.<sup>8</sup> It is important to point out that Japan is in a fairly unique situation among the countries in need of a prison reform. The nature of changes that ought to take place to rectify the current violations of international human rights that occur daily in Japanese prisons, have to do

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<sup>8</sup>Japan ratified the International Covenant on Civil and Political Rights (ICCPR) in 1979.

more with policy changes than with any costly transformation of the infrastructure. Among our numerous recommendations, (all of which are listed in the last chapter of this report), several call out for immediate attention.

. First of all, new prison legislation is urgently needed. The law will have to conform to international standards and treaties by which the country is bound. In particular, the law ought to be grounded on the premise that prisoners have both obligations *and* rights.

. Strict rules need to be implemented covering the interrogation methods of the Japanese police that would place time limits on the sessions, and ban the use of violence and intense psychological pressure.

. The use of solitary confinement as punishment should be limited to the most serious offenses, clearly defined by the regulations, and never allowed to last for more than a few days.

. Prison guards who assault prisoners should be disciplined and prosecuted.

. There should be no prohibition on stretching, walking, or exercising in a prisoner's cell.

. Efforts should be made to assure wider and freer contacts between prisoners and the outside world.

The major hurdle blocking reform in most deficient prison systems—that is, overcrowding—does not exist in Japan. We are thus hopeful that Japan will find the political will to address the problems described in this report and to implement the recommendations.

## POLICE DETENTION

Under the Japanese Code of Criminal Procedure, a suspect apprehended by police must be brought before a judge within seventy-two hours of his or her arrest and, if the judge decides that the suspect should be detained during investigation, he or she should be sent to a detention center pending indictment for up to ten days. The Prison Law, however, states in its Article 1(3) that a police cell may substitute for a prison when there is no room in detention centers. Under this provision, ever since 1908, when the law was enacted, suspects have been routinely held in police custody throughout the pre-indictment period. That period, in practice, is almost invariably longer than the initial ten days. At the request of a prosecutor, a judge may (and usually does) extend the detention for an additional ten days for the purpose of completing the investigation. In total, suspects are usually held in police custody (or in *daiyo-kangoku*, the Japanese term for the system of substitute prisons, under which this practice is usually referred to also in the English-language literature) for twenty-three days before they are indicted and transferred to a detention center. In exceptional cases the duration of police detention may be extended even further, for as long as a year.

The police, thus, both conduct the investigation and have the custody of the suspect. Human Rights Watch has for many years expressed its concerns about those criminal justice systems in which the detaining power is the same as the investigating authority, noticing that invariably these situations lead to abuses and undue pressure on the suspects.<sup>9</sup>

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<sup>9</sup>See Human Rights Watch, *Prison Conditions in Poland; the Soviet Union; Romania; Brazil; or South Africa*, see Appendix II for full citations.

Japan is no exception in this regard. Japanese and foreign human rights groups have for years been documenting cases of serious abuses against suspects in police custody. Of particular value is the study conducted by the Japanese Federation of Bar Associations (JFBA) in the early and mid-1980s. According to Futaba Igarashi, who initiated the study and was one of its coordinators, over one hundred former detainees were interviewed.<sup>10</sup> The picture that emerges is disturbing.<sup>11</sup>

Suspects are subjected to daily sessions of interrogation, and the goal of the interrogation is to obtain confessions. According to testimonies gathered by the JFBA and confirmed by our interviews and research, interrogation sessions are held every day and are often as long as ten hours or more. Interrogators take breaks and rotate, the suspects, obviously, do not, and thus the sheer exhaustion is an efficient method of pressure applied to extract confessions. According to testimonies, when the confession is not forthcoming, interrogators often use threats, for example of ruining the suspect's and his or her family's reputation. As an additional pressure point,

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<sup>10</sup> Human Rights Watch interview in Tokyo, July 23, 1994.

<sup>11</sup> Findings of this study were published in "What's Daiyo-Kangoku?" (Tokyo: Japan Federation of Bar Associations, 1993). See also "A Typical Example of Human Rights Violations Under the Daiyo-Kangoku System in Japan" (Tokyo: Japan Civil Liberties Union, 1991); "Japan: The Death Penalty and the Need for More Safeguards Against Ill-Treatment of Detainees" (London: Amnesty International, 1991); "Police Cell Detention in Japan: The Daiyo-Kangoku System" (San Francisco: Association of Humanitarian Lawyers, 1989).

the judge, at the prosecution's request, may ban family visits. When a suspect continues to resist and does not confess, he or she may be shouted at, deprived of food or drink for days at a time, or forced to stand in a fixed position for prolonged periods of time. If none of the above methods of tormenting the suspect produces a confession, interrogators use violence, including poking, kicking or beating the suspect. Interrogators wear no identification tags and are thus anonymous to the suspect.

Needless to say, counsel is not present during interrogation sessions. Access to a lawyer is extremely limited throughout the daiyo-kangoku detention. Even though the Japanese Constitution guarantees the right to counsel, the Code of Criminal Procedure in Article 39(3) authorizes investigators to restrict the right to confer with counsel "when it is necessary for investigation." Furthermore, a suspect has the right to court-appointed counsel only after the indictment, that is when he or she is no longer in daiyo-kangoku. A suspect may hire a private lawyer when still in police detention, but in order to see the client, the lawyer will have to obtain a special permission from the prosecutor. More than 50 percent of suspects are unable to hire an attorney. In addition, the suspect may be discouraged by the police from retaining an attorney. A former female detainee interviewed by Human Rights Watch said that the police told her that "it was not necessary to hire a lawyer."<sup>12</sup> Furthermore, attorney-client meetings are very brief, usually limited to fifteen minutes, and all correspondence with lawyers is censored.

In addition to violating the suspects' basic rights, the daiyo-kangoku system has led to instances of serious miscarriage of justice. Once a confession is made, the suspect is almost invariably convicted. Overturning a conviction on appeal is extremely difficult and unusual. In the last fifteen years, however, there have been a few cases in which convictions were overturned on the grounds that they were based on false confessions obtained under duress. Of particular concern are four cases in which convictions involving death sentences were eventually overturned.

The four men were acquitted in separate retrials between 1983 and 1989 and were freed. They had all been convicted of murder in unrelated

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<sup>12</sup>Human Rights Watch interview in Tokyo, July 22, 1994.

cases, to which they falsely confessed after prolonged interrogation under the daiyo-kangoku system. Prior to their eventual release, however, the men spent between twenty-eight and more than thirty-four years of their lives in prison, and most of this period under the sentence of death.

The most serious of the violations that occur in daiyo-kangoku concern prisoners' basic rights to freedom from cruel and unusual punishment or treatment, and the right to legal representation, guaranteed under international law. (See the legal analysis chapter at the end of this report.)

An additional point of concern, however, are the conditions of detention as such. Since in theory police lockups are meant for temporary stays only, they lack all the basic amenities required for longer detention. The cells are bare, except for a sleeping mat; exercise areas are extremely small or nonexistent. Suspects are often not allowed to bathe for as long a week, and food is monotonous and tasteless.



## PHYSICAL CONDITIONS

### Cell Conditions

A large proportion of Japanese inmates live in single cells. This applies not only to virtually all unsentenced prisoners, who as a rule are placed in single cells, but to a significant proportion of sentenced inmates as well. For example, the Fuchu prison, with its capacity of 2,406 has 1,110 single cells. According to interviews with former prisoners who served their sentences in different institutions throughout Japan, the situation is similar elsewhere.

Collective cells house between six and ten inmates. According to a brochure published by the Japan Federation of Bar Associations (JFBA), they are usually between thirteen and sixteen square meters.<sup>13</sup> The one collective cell in the Fuchu prison that was shown to us, was somewhat larger and measured about twenty-two square meters. The floor was covered with tatami mats (Japanese prisoners, similarly to a large proportion of the Japanese society as a whole, sleep on futons rolled out for the night on tatami mats rather than on beds). The cell contained a sink, two low tables and six small shelves for inmates' possessions. The toilet was in a separate, adjacent room. The cell had big windows and sufficient natural light; it was also very neat and clean. It was empty during our visit, but we were told that six inmates lived there.

Single cells, according to interviews and other reports received by Human Rights Watch, are very small (usually measuring around fifty square feet, or about five square meters) and scarcely furnished. In some cases, the

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<sup>13</sup>"Prisons in Japan: The Human Rights Situation in Japanese Prisons" (Tokyo: Japan Federation of Bar Associations, October 1992).

cell is too short to roll out a futon lengthwise, and the inmate has to place the bedding diagonally. A cell is usually equipped with a flushable toilet and a sink or faucet.

There are strict limits on the number and type of personal items a prisoner may keep in his or her cell. A former prisoner released in 1992 told Human Rights Watch that at any given time he could keep up to three books, three notebooks and one pen in his cell. Possession of photographs was not authorized, and a personal letter received in the prison could be kept for a week before being sent into prison deposit.<sup>14</sup> A prisoner who was held in solitary confinement for several years in the mid- and late 1980s could only see family photographs once every three months, when they were provided to him by the guards.<sup>15</sup>

The cell usually has a window, but often the amount of natural light is insufficient and electric light has to be on all day. Of particular concern is the use of semi-solid plastic panels on the outside of the windows. For example, some 300 single cells in the Tokyo Detention Center had such panels installed in 1971 when the facility started housing unsentenced prisoners. The explanation of the existence of these panels is that they are to prevent unsentenced prisoners from communicating with each other and thereby somehow plotting to destroy the evidence against them.<sup>16</sup>

Interestingly, the other countries where Human Rights Watch had encountered similar devices in the course of prison investigations were the Soviet Union and communist Poland. The reasons given by the authorities for the use of those panels were identical as in Japan.

In the majority of Japanese prison cells, the electric light switch is outside the cell and is controlled by a guard. Only in some older prisons, a switch may be located inside the cell. The light can never be switched off completely, and a dim light is on all night.

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<sup>14</sup> Human Rights Watch interview in Tokyo, July 17, 1994.

<sup>15</sup> Bronwen Jones, "VIP Prisoner Sits in Pain," *The Daily Yomiuri*, April 7, 1985.

<sup>16</sup> Information provided by the JFBA.

Prisoners with a higher classification tend to get better equipped and brighter cells.<sup>17</sup> Conversely, prisoners considered troublemakers get cells that are particularly unpleasant and unfit to inhabit.

- A woman formerly detained at the Tokyo Detention Center described to us how, after having resisted some of the rules she considered arbitrary and absurd (such as having to sit in *seiza* (see Figure 1 and 2) position during cell inspection), she was moved to an unused wing of the facility. The cell was dilapidated, dirty, and full of cobwebs. Its window was blocked by a panel on the outside.

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<sup>17</sup> Sentenced prisoners are classified into four groups. All prisoners enter with group 4 classification and through good behavior can work their way up. According to our interviews, the majority of inmates remained in the two lowest classes. Only a very small number of inmates in each institution ever achieve the highest, group 1, classification. Conditions and rules regarding the frequency of visits or correspondence improve slightly with the advance on this scale.

- S. F., a British national who spent over a year in the Tokyo Detention Center before being acquitted on a robbery charge, got into a verbal argument with the guards three months into his detention there. According to Kazuyo Sakuragi, the lawyer representing S.F. in a damage suit over the injuries he sustained in a beating by guards that followed this argument, beginning with the time of the incident S.F. was held in a number of cells that were run-down, had windows obscured by plastic coverings, were damp, and were infested with vermin.<sup>18</sup> S.F. himself described his living conditions on the ABC News program 20/20: "The walls are damp. There is mold on the walls--infested with insects, rotting floorboards, rotting tatami, no heating at any time. No heating whatsoever, not even in the middle of winter."<sup>19</sup>
- An Egyptian detainee in the Tokyo Detention Center was confined to a particularly filthy cell twice, in November 1993 and in March 1994, for what his guards called "ill manners." The cell was infested with insects and was stained with a substance resembling feces. On November 1, the detainee filed a suit over his mistreatment in prison (see also the chapter on the treatment of foreign prisoners).<sup>20</sup>

Cell temperature was the source of frequent complaints that we received during our investigation. Japanese prisons, with the exception of the

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<sup>18</sup>Human Rights Watch interview in Tokyo on July 19, 1994.

<sup>19</sup>ABC News 20/20, July 24, 1992, Transcript #1231.

<sup>20</sup>*The Japan Times*, November 2, 1994.

northern island of Hokkaido, do not have cell heating. Former prisoners complained to us of suffering from cold during winter months. We also

**FIGURE 1**

**FIGURE 2**

received reports of extreme heat and stuffiness in the cells during the summer.

The single cells we were shown in the Fuchu prison housed foreign sentenced prisoners. We were unable to measure these cells but we were told that they were slightly larger than the single cells for Japanese prisoners. Unlike the cells for Japanese prisoners, foreign inmates' cells each had a bed, a chair and a small desk whose height was appropriate for the use with a chair.

Of the prisoners who live in single cells, most work in prison factories and leave the cells for most of the day. Some, however, both sleep and work in the cell. These prisoners exercise in specially designed areas, nicknamed "bird cages," that assure that even during the workout period they do not get in contact with other inmates. Former prisoners told us that a "bird cage" had a shape resembling a flat cone with a cut off top, and tall cement walls on the long sides. The longer of the short sides had wire-netting and a guard was positioned outside to monitor the prisoner during the exercise period. (See Figure 3.)

### **Personal Hygiene**

Prisoners take a bath twice a week in the winter and three times a week in the summer. The duration of the bath, including undressing, drying and dressing oneself again, is up to fifteen minutes, but often shorter. A man who served time in the Tokushima prison said that the bathing time lasted nine minutes in the summer and twelve minutes in the winter and that the guards used an hourglass to measure the duration of the bath with exactitude.

### **Clothing and the Physical Appearance of Prisoners**

Unsentenced prisoners are allowed to wear their own clothing (provided that there are no foreign-language slogans on garments such as T-shirts or sweatshirts) and are not required to have their heads shaved. Makeup for women is not permitted. After sentencing, prisoners are required to wear grey prison uniforms, and the males have their heads shaved. Three months before his release, a prisoner is allowed to grow his hair back. Prison clothes are washed every twenty days, and fresh underwear is issued daily. Prisoners complained that the prison-issued clothing is often inadequate for the season: too thin in the winter, too warm during the hot months. Wearing



an extra shirt as a measure for protecting oneself from the cold is prohibited, and so is

**FIGURE 3**

changing to a different type of clothing, regardless of the weather, before the assigned date.

## **CONTACTS AMONG PRISONERS AND CONTACTS WITH THE OUTSIDE WORLD**

### **Contacts Among Prisoners**

As described earlier, a large proportion of Japanese prisoners live in single cells and have only limited opportunities for contact with other persons during common activities such as exercising, bath or religious practices. During work hours in a prison factory, prisoners are not allowed to talk to each other; furthermore, they are prohibited from looking at one another. Even for prisoners who live in the same cell there are limits on when they are allowed to communicate. The 1908 Japanese Prison Law Enforcement Regulations stipulate in Article 37 that "The warden may prohibit prisoners to talk with one another, when he deems it necessary." (Also see the chapter on the prison rules.)

Many prisoners serve most or all of their sentences completely isolated from other inmates. Article 47 of the Prison Law Enforcement Regulations provides: "Prisoners considered necessary to be isolated from others for security shall be placed under solitary confinement." This provision allows in practice for arbitrary and indefinite use of solitary confinement, independently from its use as punishment, which will be discussed later in this report. The Japanese corrections system has produced an unusual number of variations on the theme of solitary confinement. In addition to the "minor solitary confinement" and "major solitary confinement" that are used as punishment (see below) there exist various other forms of isolating prisoners from one another. Some prisoners who live in single cells work in their cells and practically never meet other inmates. This form is called strict solitary confinement.

Solitary confinement (without a further defining term to describe it), is applied to death row prisoners (see chapter on death row) and to a large proportion of prisoners in the initial stage of imprisonment, a stage that may last for many years, in particularly complicated or prominent cases. Until a final sentence is meted out, Japanese prisoners are held in detention houses and as a matter of course, live in single cells, with extremely limited or no

contact with other inmates.<sup>21</sup> Human Rights Watch interviewed several former and current prisoners who spent between six and thirteen years in a detention center.

- A male prisoner currently in the Tokyo Detention Center told Human Rights Watch that he has not spoken to another prisoner since his arrival from police detention in 1988. "If I spoke, I would be punished," he reported.
- A prisoner who has been held for thirteen years in the Osaka Detention Center reported that he has had no contact with other prisoners throughout his detention. He said that in order to communicate with inmates held in the same center, he would have to do it in writing.
- A former female prisoner had spent twelve years in the Tokyo Detention Center. She told us: "I was always alone, all the time by myself. I couldn't talk to anyone." She said that even when she was taken outside her cell, to see a doctor or for a visit, the authorities made sure that the hallway was empty. On rare occasions when there was another prisoner in the hallway, he or she would be made to face the wall when our witness walked by.

### **Contacts with the Outside World**

Japanese prisons are separated from the outside not only by their walls but by a thick wall of secrecy as well. Every word that passes between a prisoner and the outside is carefully monitored.

### **Visits**

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<sup>21</sup>Article 24 of the 1908 Prison Law provides: "The accused awaiting trial shall be placed under solitary confinement as far as circumstances permit."

**Unsentenced Prisoners** may in principle be visited by anyone who wants to visit them, provided the conversation is going to be in the language understood by monitoring officials (see also the chapter on foreign prisoners). Some detainees, however, have been prevented from receiving visits from representatives of the media. Also, until recently, children under fourteen years of age were not allowed to visit. In most detention centers, a prisoner may receive one or two thirty-minute visits a day, and in three centers, up to three meetings a day are authorized.<sup>22</sup> All visits are conducted in special visiting rooms. Each such room is divided in half by a partition, with a door on each side of the dividing panel, one for the visitor, the other for the prisoner and the monitoring officer. The guard, who is sitting about a foot away from the prisoner, monitors the conversation and takes notes.

All visits for unsentenced prisoners are through a partition and do not allow for any physical contact. A couple who met and fell in love through correspondence while in detention (both the man and the woman are out now, and Human Rights Watch was able to interview them in Tokyo) were not allowed to touch during their wedding ceremony. A guard passed the document from one of them to the other to sign.

We were told that the thirty-minute visiting time is often shortened, and indeed, out of the three interviews conducted by us in detention centers, one was cut short after about ten minutes. A visit may be suspended if the guard finds the topic of the conversation inappropriate or feels that the prisoner and the guest are communicating in a way he does not understand.

The rules posted in the waiting room in the visitors' area of the Niigata detention center specifically prohibit any such attempts: "Other than what you requested [in the form filled out at the gate, as the purpose of the visit] try not to speak of other matters and try to keep the time short." The rules also specified: "Do not speak in a foreign language. Do not write any

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<sup>22</sup> "Prison Administration in Japan," Ministry of Justice, August 1993, p. 23.

message down and show it to the prisoner. Do not try to communicate by gesture....If any such thing is done, the meeting will be stopped."

**Sentenced prisoners** can be visited only by close relatives, and the number of visits is strictly limited. Upon his or her arrival in an institution, a prisoner is entitled to one fifteen-to-twenty-minute visit a month.<sup>23</sup> If the inmate works his or her way up to the next grade, he or she can receive a visit twice a month and once a week in the next group. The very few Group One prisoners are allowed to have visits on any visiting day. Visits are almost always through a partition, although some female prisoners and male prisoners of the highest classification are allowed meetings in a room. But even then, any physical contact is prohibited.

The former prisoner whose wedding ceremony in a detention center was mentioned above described how in the last several months of her incarceration, her husband (who had been released earlier) could sit with her at a table during his visits to her. "I could serve tea to my husband, but not touch him," she told Human Rights Watch.

The rule regarding visiting and correspondence by members of a prisoner's close family only is exceptionally harsh on those inmates who are without close relatives or whose relatives are either unable or unwilling to visit or write. For the same reasons, foreigners are also in a particularly difficult situation. We came across numerous cases of prisoners who for years on end receive no visitors and sometimes no letters from the outside world.

Until the early 1990s, children older than three and younger than fourteen years of age could not visit in prisons and detention centers. As a result of a lawsuit brought by a prisoner, on July 9, 1991, the Supreme Court invalidated the pertinent Article 120 of the Prison Law Enforcement Rules.

Visits, whether for sentenced or unsentenced prisoners, are conducted on weekdays and during office hours only, making the contacts between prisoners and their loved ones even more limited and difficult.

## Correspondence

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<sup>23</sup> "Prison Administration in Japan," Ministry of Justice, August 1993, p. 23.

Letters in either direction are read by prison officials and may be censored. Prison censors may black out portions of a letter or may confiscate the entire letter. According to the government, in 1990, 2.8 percent of all letters sent to prisoners (or 17,080 pieces of correspondence) were not delivered to their addresses, or as the government brochure put it, "were suspended from inmates' reading."<sup>24</sup>

**Unsentenced prisoners** may receive and write unlimited number of letters and are allowed to correspond with anyone they like. The following three conditions must be fulfilled, however: "1. The material does not have the potential to suppress or destroy evidence; 2. The material does not have the potential to lessen the security of the individual's detention; 3. The material does not have the potential to harm prison order." Furthermore, a 1961 directive from the Bureau of Prisons specifies that, in the case of foreign-language correspondence, because it cannot be judged whether the material meets the standards without being translated, foreign language correspondence must be translated and the fee for translation for the purpose of censorship shall be born by the detainee.

In practice, this means that correspondence is allowed only in Japanese, unless a prisoner can pay for the translation of every word of correspondence sent out or received. Thus, in June 1992, a female death row inmate, Hiroko Nagata, was denied the right to read a ten-line letter sent to her by Amnesty International.

**Sentenced prisoners** may receive letters from their immediate family and may write the number of letters per month equal to the number of visits they are entitled to according to their classification. That means that the vast majority of Japanese inmates can write at best only a few letters a month and only to members of their immediate families.

Prisoners without relatives or those whose relatives severed contacts with them in practice have no correspondence.

A former prisoner who was released in March 1994 after ten years' incarceration, told Human Rights Watch that he received no letters and no

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<sup>24</sup>"Prison Administration in Japan," p. 23.



visits because he had no family. A friend and prisoners' rights activist Mr. Akira Arai got himself officially registered as the guardian in whose care the prisoner would be eventually released, but even this did not give him the right to correspond with the prisoner. He had sent several cards to the prison, but these were never delivered to the convicted man. Upon the prisoner's release, when the sender learned that his letters never made their way to the prisoner, he protested. He received a letter from the warden of the Niigata prison apologizing that the letters had not been given to the prisoner upon his release, but maintaining that since the sender was not a blood relative, the prison was not obligated to deliver the letters while the prisoner was still serving his sentence.

(Procedures regarding correspondence for prisoners under the sentence of death are discussed in the chapter on death row.)

Prisoners' isolation from the outside world is further increased by the fact that they don't have access to uncensored news. Broadcasts are controlled by the authorities, and Japanese newspapers that in principle are allowed in prisons may be censored. Foreign publications can only be read if a prisoner pays for a translation and the prison does not object to the contents.

Unlike in other countries where telephone ownership is common and where phones play an important role in prisoners' staying in touch with their relatives and friends (for example in the United Kingdom, South Africa or the United States), Japanese prisoners have no access to phones.

The extremely strict control over any form of communication between a prisoner and the outside, the almost total lack of visits involving physical contact, and the limits on the number of letters a prisoner may write are reminiscent of the situation that Human Rights Watch encountered in its earlier prison investigations, notably those in communist Poland, in the Soviet Union and in Romania, as well as of some prison-related policies of the apartheid-era South Africa. This attitude is diametrically opposed to the philosophy in several Latin American countries whose prisons were examined by Human Rights Watch (for example Brazil and Mexico) where visits--with the exception of the maximum security prisons--are allowed almost on a daily basis and for several hours at a time, with guards

supervising them only visually, and with no limits and generally no censorship on correspondence.<sup>25</sup>

### **Contacts Regarding Prisoners' Legal Affairs**

An indicted prisoner may be visited in a detention center by his or her lawyer without the presence of a monitoring guard. Correspondence between counsel and the accused is censored, and their communication in court is often monitored.

Takashi Takano, a lawyer who represented a Pakistani defendant in a money extortion case, described to Human Rights Watch how during a court session in January 1991, a judge authorized a detention center guard escorting the defendant to court to seize the notes made by the defendant at the lawyer's request during the court hearing. Later in 1991, the lawyer filed a suit against the government seeking the judiciary declaration that the current Japanese prison law and practices stand in violation of the ICCPR. The case is pending as of this writing.<sup>26</sup>

A similar incident occurred in May 1991, when S. F. (the British detainee mentioned earlier) was exchanging notes in court with his attorney. An official from the Tokyo Detention Center demanded that he be shown the notes and that no further exchange of notes be made without showing them first to him for censorship.

Lawyers' visits concerning a suit that a prisoner might want to or decided to bring while in prison, are monitored. The prisoner and the lawyers are instructed to talk exclusively about matters relating to the suit.

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<sup>25</sup> See Appendix B for the titles and publication dates of the relevant reports.

<sup>26</sup> Human Rights Watch interview, Tokyo, July 19, 1994.

As one lawyer interviewed in Osaka pointed out, lawyer-client visits are thus monitored by representatives of the same authority against which the suit is being brought. Furthermore, he said, occasionally the monitoring officer may be the very person being named in the suit as the abuser. Other lawyers also remarked that the presence of prison guards during attorney-client conferences assures that the authorities know every detail of plaintiffs' litigation strategies well in advance. Of particular concern is the fact that prisoners bringing suits against prison authorities become targets of pressure, threats and retaliation for challenging the authorities (see below).

## THE PREDOMINANCE OF THE RULES

The Japanese Prison Law, as stated earlier, may be among the oldest documents of this type in effect anywhere in the world. Since its promulgation in 1908, the law has been modified by countless administrative directives and the Ministry of Justice's Standing Orders. Standing Orders are secret and thus large parts of documents regulating prison matters in Japan are not accessible to the public opinion, human rights activists, or lawyers litigating prison-conditions cases.

Based on the law and the Standing Orders, each prison designs its own prison rules. These may differ from institution to institution but, according to our interviews, they are generally similar and they all regulate prison life down to the most minute detail. It should be noted that such rules are characteristic of many aspects of Japanese life, including the educational system.<sup>27</sup> For the most part, these rules and regulations do not constitute

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<sup>27</sup> For example, schools in Japan have a wide range of written and unwritten rules which govern student behavior inside the classroom and out. The emphasis on order starts in primary school, and rules can include everything from arrangement of desks to the allowable angle between students' feet when they stand at attention. See the chapter entitled "Rules, Rules, Rules" in Ken Schoolland, *Shogun's Ghost: The Dark Side of Japanese Education*, Bergin and Garvey Publishers (New York: 1990) p.23. The book cites a Japanese Bar Association

major violations of human rights in themselves, but violations of them can bring about punishments that can be both arbitrary and abusive. It is also questionable whether these regulations are in fact necessary for what the United Nations calls "safe custody and a well-ordered community life."

Rules are issued to prisoners upon arrival in the institution and, according to all available accounts, are strictly enforced. Like the Standing Orders, the rules are secret and not to be made available to the outside world. During our brief visit to the Fuchu prison in Tokyo, members of the delegation asked about the availability of the rules in foreign languages (Fuchu is the prison where almost all foreign sentenced male prisoners are held) and were subsequently *shown* brochures with translations of this prison's rules to various languages. But the moment we attempted to read

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report on school rules. Another study of the Japanese educational system, however, suggests that by instilling a sense of order from the earliest grades in Japanese schools through such detailed regulations, Japanese teachers have more time to spend on actual teaching than their American counterparts. See William K. Cummings, *Education and Equality in Japan*, Princeton University Press, (Princeton: 1980), p.110. It is difficult to argue the positive side of such regimentation for prisons.

them carefully and take notes, officials promptly took the rules away from us.

From unofficial sources, we were able to obtain a copy of an earlier version of prison rules from this prison. Even though the rules had been somewhat modified since 1979, when the document in our possession was issued, we were told by former prisoners that the changes of rules in that period of time were minor and that most of the document still applied. Because we believe that the rules provide a very useful illustration of many of the aspects of conditions in a Japanese prison and help explain and support several of the points we want to make, we reproduce extensive fragments of these rules in Appendix A.

The rules regulate virtually all areas of a prisoner's life. We will list here just a few examples of what types of matters are mandated by the rules.

- Where to put every object in the cell and how. A former prisoner told us that he could be punished if he folded his pants in a slightly uneven way on a hanger.
- Where to write anything: only in a special notebook with numbered pages that gets inspected periodically or in letters that are censored prior to being mailed. A female former prisoner described to us being punished for making a calculation on a piece of wrapping from a sanitary napkin.
- In what position to sit or stand during the daily cell inspection. The rules state: "During inspection, when 'inspection' is signaled, arrange your clothing, and quietly sit and wait in the seiza position facing the door as in the illustration. In the communal cells, sit in the order of those who have been in the cell the longest... Until inspections of all the cells are complete and until the order to 'relax' is signaled, do not converse, leave your seat, nor read. Remain quietly in the seiza position and wait."
- How to sit at times when sitting is permitted: "The seating position within a cell should follow the illustration. Do not lean on the futon, do not sit against the wall on the side of the hallway, do not walk around the cell without purpose, hold onto the window frame, or stand on the window sill."

- How to sleep: "During sleeping hours follow these rules: (1) Sleep in your designated place. (2) After lights are out, leave clothing, books and other recreation materials in its designated place. Don't read, talk or stand up and walk around the room. (3) Do not cover your face with the blanket or futon while sleeping. (4) Do not, on your own accord, use the blanket as a sheet or wrap the blanket or sheet around your waist." The rules furthermore prohibit doing anything other than sleeping prior to the wake up time: "If you get out of bed, clean up, wash up or read before wake up time you may deprive others of sleep and this may cause problems." A former prisoner who served time in the Tokoshima prison reported that sleeping on his stomach was also prohibited. If a person nevertheless did turn onto one's stomach, guards would wake him up and warn him against it. After two such warnings, an inmate would be punished.
- How to march: Several prisons require inmates to march in a special way whenever they move from one part of the prison to another. The step is strictly prescribed, and any departures from the pattern are punishable. The first two weeks in a prison are largely spent on practicing the march. Later on, prisoners may be punished for imperfect execution of the march. During our brief visit to the Fuchu prison we were able to see a group of prisoners being marched to take a bath. It was an eerie sight: a column of several dozen men with their heads shaven, in grey, drab uniforms, marching to the accompaniment of a repetitive shouting. They goose-stepped, swinging their arms to the height of the shoulder and chanted "one-two, one-two." According to our interviews, in other prisons the step and the chant may be different, but the idea of the military-like marching is widespread in male prisons.<sup>28</sup>

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<sup>28</sup>According to the JFBA's brochure *Prisons in Japan*, in some prisons,

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inmates are made to chant the "five principles" of submission while marching. The principles are: 1. Always be honest; 2. Sincerely report; 3. Always be polite; 4. Keep a helpful attitude; 5. Be thankful.



- When not to talk or make any other noise: the rules prohibit inmates from talking (or looking aside) when they leave the cell; when they are dressing or undressing at the time of the body search before or after work; or in the toilet. Talking during work is also strictly forbidden. The rules furthermore caution: "Even during the periods where conversations are permitted, do not speak in a loud voice or make noise which would disturb other people trying to study, read, or listen to the radio;" and "during time periods which are not designated in the activity time chart, each person can freely use that time in the cell for study or leisure (play Go or Japanese chess). However do not talk loudly with each other or romp around so as to disturb others." Finally the rules mandate: "You must sleep quietly."

An ex-prisoner who was released in early 1994 after more than twenty years in prison told Human Rights Watch that prison regulations became stricter around 1988. It was at that time, he said, that the emphasis on military-style marching was introduced.

The government's bilingual brochure "Prison Administration in Japan" states under the heading "Order and Discipline in Prisons:" "Penal institutions accommodate divergent inmates whose characteristics and life histories vary considerably. For such clients, it is indispensable to keep a safe prison environment. To realize such an objective, discipline and order must be maintained." The text goes on to say in bold type: "The Standard Minimum Rules for the Treatment of Prisoners' of the United Nations stipulates that 'Discipline and order shall be maintained with firmness,..." Following this quote is a summary of the remainder of Standard Minimum Rule 27 ("... but with no more restriction than is necessary for safe custody and well-ordered community life." ) but without the clarification that this is a requirement of international standard, giving the impression that restraint in exercising firmness is a matter of prison authorities' discretion.

Many of the rules cited above are severely restrictive, arbitrary and impossible to defend as necessary for safe custody and the proper running of a facility.

## **PUNISHMENT**

The rules, by all accounts, are enforced very strictly and any departure from the rules leads to punishment. But the rules, ever so detailed when it comes to prescribing the ways in which things are to be done in the prison, are very vague when it comes to punishments. The text only states that violations of the rules in the brochure are punishable and lists eleven types of punishments that may be applied separately or in conjunction, in cases of rule violations. The rules do not specify what types of disciplinary measures may correspond to particular kinds of infractions.

The 1979 rules from Fuchu prison, quoted earlier, contain this list of possible punishments:<sup>29</sup>

"Following are the types of punishment and disciplinary measures. They may be imposed jointly. You will not work during the period when under punishment of solitary confinement.

- (1) Reprimand.

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<sup>29</sup>The rules repeat almost verbatim the provisions of article 60 of the 1908 prison law. The law contains one more possible punishment in addition to those listed by the rules, a measure called "Major disciplinary confinement." It is described by the law in the following way: "in the case of major solitary confinement, the punishment cell shall be always kept dark, and the use of beddings shall be prohibited." Under the law, it can be applied for up to seven days, although it is important to stress that its practical use has been discontinued in the years following World War II and we have not encountered reports of the use of this measure since.

- (2) Suspension of rewards for three months or less.
- (3) Abolition of reward.
- (4) Prohibition of reading, writing and drawing for three months or less.
- (5) Suspension of voluntary labor for ten days or less.
- (6) Suspension of the use of self-supplied clothing and bedding for fifteen days or less (unconvicted prisoner and work-house detainees).
- (7) Suspension of procuring extra food for fifteen days or less (unconvicted prisoner).
- (8) Suspension of exercise for five days or less.
- (9) Whole or partial deprivation of the calculated amount of remuneration.
- (10) Reduction of food for seven days or less.
- (11) Minor solitary confinement for two months or less."

In the course of our interviews, former prisoners and lawyers representing prisoners in a number of suits, described a variety of infractions for which punishments are meted out. It is worth mentioning some of them here: refusing to keep one's eyes closed during a daily "reflection period"; refusing to sit in seiza position during a cell inspection; not standing at attention when required; looking at a guard; and giving food to a bird that came to the window.

Punishments are obviously also meted out for more standard prison offenses such as engaging in fights, insubordination, and so on. Invariably, the most frequently applied punishment appears to be the most severe sanction: solitary confinement.

It is necessary to show the practical distinction between the solitary confinement as punishment and de facto solitary confinement that is applied to many Japanese prisoners who are not being punished. In addition to the widespread use of de facto solitary confinement, as described earlier, when prisoners live alone and have no contact with other inmates for years on end, solitary confinement functions as a disciplinary measure. Virtually all of the former prisoners interviewed by Human Rights Watch stated that solitary confinement was the most frequently applied disciplinary measure.

When solitary confinement is meant as a disciplinary measure, a prisoner is allowed no contact with the outside world (no visits and no letters in either direction, except for emergency situations), and has no exercise. Using the toilet is authorized only at prescribed times during the day. Prisoners are not allowed to stretch, make any noises or get up. Any departures from the rules of solitary confinement are likely to result in additional punishment. A sponge bath may be authorized after the first ten days. Throughout the day, the prisoner is required to sit motionless in a prescribed position (usually seiza, although some prisons allow alternating it with the more relaxed cross-legged position). Books are banned and so is listening to a radio. The length of time in punitive solitary confinement may vary from a few days to two months.

When assessing punishment from a human rights standpoint, it is useful to apply the test of "reasonableness," that is the need of the requirement that was not fulfilled by a prisoner for the proper running of the institution, the proportionality of the sanction to the infraction, and the mechanism under which the sanction was applied. As the examples that follow indicate, this test is most frequently not met.

- According to a lawyer for a disabled prisoner in the Osaka prison, in a period of less than two years his client received solitary confinement nine times, for between twenty and fifty days at a time. In each case the prisoner was being punished for not assuming the prescribed position, something his diseased back prevented him from doing. (For more details on this case, see below.)
- An ex-prisoner interviewed in Tokyo described being punished with ten days in solitary confinement for looking at a guard.
- A former prisoner of the Osaka prison received two months of solitary confinement for hitting a guard. During the day, he was required to sit in seiza position, with his eyes closed. He refused to keep his eyes closed and this in turn resulted in an additional punishment.
- A former prisoner who was released from the Osaka prison in 1990 after a four-year sentence, described being punished with solitary confinement for his refusal to keep his eyes closed during a daily "reflection period." He told his guards that he was willing to reflect,

but without closing his eyes. He received twenty days in solitary confinement. The same prisoner, on a different occasion, received fifteen days in solitary confinement because his hands were not properly pressed to his body, as prescribed by the regulations, during the weekly contraband inspection of his cell when prisoners are supposed to stand at attention.

- A female ex-prisoner interviewed by Human Rights Watch described how she was punished with eight days of solitary confinement in the Tokyo Detention Center for allegedly saying "good luck" to another prisoner during an exercise period (aside from the triviality of the offense, the prisoner maintained that the charge was false). During the eight days of her disciplinary term, she had to sit on the floor from 6:30 A.M. until 9 P.M., with nothing to do throughout that period.

Our interviews also indicated the widespread use of measures that are not listed among the sanctions, but are clearly used as such, namely the application of physical restraints and of special cells.

Several former prisoners described to us being placed in so-called protection cells. These cells ostensibly are meant to subdue prisoners who had become violent or to protect those who might injure themselves or commit suicide. The "protection cell" is about ten square meters, sometimes smaller, has no furniture and is windowless. There is a hole-in-the-floor type toilet, and the prisoner is monitored by a camera. Almost invariably, upon confinement in those cells, prisoners would be placed in physical restraints, in most cases consisting of a leather contraption that holds one arm in front of the prisoner's body and the other one in the back. (See Figure 4.) In some cases, a gag is also used to prevent a prisoner from shouting.

According to testimonies collected, confinement in the "protection cells" is usually applied to prisoners who attempted an escape, had engaged in a fight, or acted defiantly toward the guards, such as flatly refusing to follow rules. The time in "protection cell" is not considered punishment, and several former prisoners reported being placed in punitive solitary confinement immediately following a stay in such a cell.

- M.K., an ex-prisoner who served his sentence in the Kyoto prison, was placed in a "protection cell" for three days after participating in

a fight. His hands were bound in such a way that it was impossible for him to lie down. Instead, he leaned against the wall trying to sleep during the night. For the duration of his stay in this cell he was issued pants with a slit in the crotch, so that he could use the toilet. He said that since he could not use his hands to wipe himself, he chose not to defecate during that time. After that, he was transferred to a solitary confinement cell for his thirty-day formal punishment period.

- A former inmate of the Osaka prison described to us being placed in a protection cell after having hit a guard. During the ten days in the "protection cell" he had leather handcuffs on and for the first day, he also had a gag. Since the handcuffs were always on, eating was very

**FIGURE 4**

difficult. "I ate like a dog," he said. Using the toilet was difficult and humiliating. He was dressed in a kimono for the duration of the stay in the special cell, so he could stand or squat above the toilet in the floor and relieve himself, but had no way of wiping himself off. Furthermore, during the entire ten days in that cell, he had no opportunity to take a bath. Only after the period in the "protective cell" was he moved to a cell in which he underwent two months of solitary confinement, as his formal punishment for the incident.

- An elderly man who had spent eight years in the Fuchu prison, before his release in 1992, described being placed in a "protective cell" when he was seventy-one years old. He had provoked a fight in a prison factory and, as a result, he was placed in a "protection cell" for a month. Throughout that period, his hands were bound with leather handcuffs: his left arm was in the front and his right arm was in the back of his body. He sat all day long in the cross-legged position. The "protection cell" had no windows, and it had fluorescent lights. He was made to wear pants which were split in the crotch so he could use the toilet without using his hands. He ate his food in what he described as "dog" fashion, lying on the floor and picking it up off the plate with his mouth. After the month in the "protection cell," he was transferred to solitary confinement as his formal punishment of twenty-one days. The former prisoner reported that he suffers from back pain to this day, the fact he attributes to the month spent in restraints.<sup>30</sup>

Prisoners who commit more serious infractions such as an attempted escape or participation in fights, as well as those who disobey the rules in a manner that is perceived by the guards as defiant, are also reportedly beaten. Several of our interviewees described to us being beaten themselves or hearing a beating in a nearby cell or hallway. A former prisoner at the Osaka

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<sup>30</sup>Human Rights Watch interview in Tokyo, July 20, 1994.



prison who had himself been assaulted by guards said that he knew of "tens of times" when other prisoners were beaten by the guards. Asked how he knew about it, he said: "Guards assault prisoners in their cell or put a screen up in the hallway. But you can hear it even if you don't see it."

- A former inmate of a juvenile facility said that many times during his two years at the Matsumoto Youth Prison he saw inmates being grabbed by their collars and shaken or hit by the guards.
- A former prisoner in Osaka who had attempted an escape, told us that after he was apprehended he was put in handcuffs and then hit and kicked repeatedly by the officers. After that, he was placed in a "protective cell."
- A former prisoner in the Kyoto prison reported being assaulted by three officers after he had gotten involved in a fight.
- A female former prisoner held in the Tokyo Detention Center repeatedly refused to sit in seiza position during the daily inspection of the cell. As a result, she was transferred to a cell on an empty floor of the facility. After three days there, a male guard came to the cell and told her that he knew about her unwillingness to put up with the rules. He said he would not forgive her disobedience and that he would do anything to make her sit in seiza position. He returned to her cell in the afternoon that same day. She described what happened next in the following way: "He dragged me by my hair to the place where I was supposed to sit [in seiza position] and pushed me down to sit on the floor. I turned to shake him off and to stand up. He threw me down. When I stood up [again] he pushed me down. When I would straighten my leg, he would push it in. He was doing all things possible to make me sit in seiza position." At that time another guard came in. She tried to reason with him and talked about human rights. The second guard answered, "You don't have human rights." The guard then pushed her down to the floor on her stomach. "He was standing on my back, he twisted my arms together, it was extremely painful. When I stopped resisting, he finally stopped. It took about thirty minutes."
- The elderly former prisoner, mentioned above, described what happened after he got into a fight in the prison factory. A prison

official pressed the emergency button located next to the monitoring stand. About twenty prison patrol officers came running to the factory. Nine or ten of them had sticks. They twisted both of the witness's arms and pulled them behind him, and he was held down to the ground. The prison officials kicked his body with their shoes on, which resulted in bruises. (The prison officials were large and had been trained in Japanese martial arts, according to the former prisoner, who was seventy-one years old at the time). He was then taken to the security room, made to change clothes and then taken to the protection cell (see above).

#### **Abusive Treatment of Disabled Prisoners**

Prisoners who are unable to follow the rules because of a disability may find themselves subjected to particularly disturbing abuses. In the course of our mission to Japan, we collected information regarding two such cases.

- Mr. T., an elderly ex-prisoner, was released in March 1994 after ten years served in a number of different prisons.<sup>31</sup> In an interview he told Human Rights Watch that he suffered from a "ticking disease" that made him to give out unexpected yells every once in a while, without being able to prevent or predict them. In the course of his imprisonment he was placed in a protection cell for two months, and in addition, spent two years in solitary confinement in the Yokohama prison. He told Human Rights Watch that he knew of no other explanation for the treatment other than that it was a punishment for constantly breaking the silence rules due to his disease. Eventually, a medical examination in Yokohama confirmed that he suffered from a medical condition. He was then transferred to the Fuchu prison, where he was housed in a single cell but worked in a prison factory with other inmates.

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<sup>31</sup>Human Rights Watch interview in Tokyo, on July 20, 1994.

- In Osaka, Human Rights Watch interviewed a lawyer, Takeshi Kaneko, representing a prisoner at the Tokushima prison. His client, Mr. K., fifty-four years old, who is serving a fifteen-year sentence, suffers from a degenerative spine disease that makes it impossible for him to walk, stand or sit with a straight back. He suffers from numbness in his abdominal muscles, in his hands and in his feet. Upon the prisoner's transfer from the detention center in April 1990, several of the inmate's personal belongings, previously authorized because of his condition, were banned from his use by the prison. These included the crutches, his shoes, and gloves. Furthermore, prison officials demanded of Mr. K. that he maintain the position prescribed by the rules for particular occasions. When he disobeyed this order simply because his body physically could not assume the seiza position, for example, he was punished. During his first ten days at the prison, he was placed in a protection cell three times, for up to thirty hours at a time, including several hours with his arms in physical restraints.

Following this, the inmate requested to see his lawyer, who had been handling his criminal case and who immediately attempted to visit him. The lawyer, however, was told by prison officials that the prisoner was "too excited" to be visited. Only a week after the initial request was the lawyer, along with another attorney, able to visit his client. The lawyer described Mr. K. in the following terms: "He was extremely skinny, had bruises on his face and under his eye, his skin was dry and flaky. The shin of his left leg had a blue bruise the size of a palm. He told us he had been stepped on. He had also some other marks that looked like from hitting." The lawyer suggested that a week earlier the marks would have been even more visible and that this was probably why the prison delayed the legal visit.

The lawyers complained verbally to the prison and alleged an assault against their client. They were told that the inmate had been unruly and that the officers had needed to restrain him.

In the subsequent two years, Mr. K. received frequent punishment, and the reason given was always the prisoner's failure

to assume the prescribed position. He was placed in punitive solitary confinement for the following amounts of time:

June 19 - August 2, 1990	(45 days)
September 17 - October 11, 1990	(25 days)
November 22 - December 16, 1990	(25 days)
December 21, 1990 - January 23, 1991	(30 days)*
January 30 - March 10, 1991	(40 days)
March 22 - April 15, 1991	(25 days)

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\*Punishment was suspended on December 31 through January 3.

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July 24 - October 7, 1991	(20 days)**
November 18, 1991 - January 10, 1992	(54 days)***
January 28 - March 7, 1992	(40 days)

Throughout this period, upon seeing the deteriorating condition of their client, the lawyers became extremely concerned that the prisoner might not survive his sentence. They decided to initiate a lawsuit over the delay in legal visits with the lawyers named as plaintiffs. They formally filed the suit in August 1991. According to Mr. Kaneko, the lawyers hoped that the filing of the suit would allow for monitoring of Mr. K.'s condition and provide a measure of protection for him. Instead, they immediately found themselves in a situation where all their meetings with their client were monitored. (Until then, because they were ostensibly meeting regarding Mr. K.'s criminal case, they were able to meet in private.) Furthermore, since the filing of the suit, the meetings were limited to two per month, up to thirty minutes each. Mr. Kaneko pointed out that it was impossible to prepare for the suit properly.

At some point, in December 1991, one of the lawyers was made to wait for a meeting with Mr. K. for an hour and a half. When he got to the meeting room, Mr. K. told the lawyer that he was late because he had been told that he had to get to the visiting

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\*\* Punishment was suspended for periods July 25 through August 4; August 6 through August 9; August 11 through September 16; and September 25 through September 29, 1991.

\*\*\* Punishment was suspended from December 31 through January 3.

area by himself. Unable to walk and prevented from using his crutches, Mr. K. had crawled on the floor all that time. He also told his lawyer that prison officers were watching him during the ordeal. In a subsequent court hearing, the Tokushima prison warden called the treatment to which Mr. K. was subjected to on December 12, 1991 "physical training."

It took the lawyers until April 1994 to succeed in having their client examined by an independent doctor. Detailed and sophisticated medical tests helped to persuade the prison officials that the prisoner had not been faking his condition all along (which had been the initial diagnosis of the prison doctor), and the prison relented somewhat in its treatment of Mr. K. He is no longer being forced to sit in seiza position, is now permitted to recline in a chair in his cell and receives assistance from fellow inmates when he needs to move from one part of the prison to the other. But, at the time of our interview in late July, the prisoner was still not allowed the use of crutches, for example. The court case is still underway, as of this writing.

### **Retaliation Against Prisoners Who Sue**

In the course of our interviews in Japan, we observed a distressing pattern of punitive measures directed at prisoners who sue the prison system, hint at planning to sue, or assist someone else in a suit.

- The disabled Tokushima prisoner whose case has been described above, was prevented from seeing his lawyers as of the moment they filed a suit. Immediately after the August 21, 1991 filing of the suit, the prison prevented the lawyers from meeting with the client for several months, giving a number of different reasons, including that the prisoner was on a hunger strike. He was able to see his counsel only on December 12, and only after a humiliating crawl for an hour and a half on the floor, all the way from his cell to the visiting room.
- M.K., a former prisoner released from the Kyoto prison in June 1994, described to Human Rights Watch the treatment he received

after prison officials discovered that he intended to file a suit.<sup>32</sup> In January 1991 he was beaten after he got involved in a fight. In the summer of that same year he decided to file a suit over the use of violence. He wrote about it to his wife. Since all correspondence is censored, the authorities knew about his intentions even before the suit was actually filed in August. He was immediately moved from a communal cell to a single one and was made to work in the cell rather than a prison factory. He still exercised with other inmates but was prohibited from talking to anyone. From the moment when his intention to sue became known until his release almost three years later, he had no communications with other prisoners. In addition to being placed in isolation, he was subjected to different forms of harassment. He described how guards sometimes shone a light in his face in the middle of the night or made noise in front of his cell to wake him up. This case is currently pending in a district court.

- H.L., a former inmate of the Osaka prison (released in 1990) had filed a suit regarding prison conditions in May 1988.<sup>33</sup> Between May 1988 and October 1989 he was taken to testify in court fifteen times. Each time on his way to the court and back to the prison, he was subjected to a meticulous strip search. "They examined my genitals, and the inside of my armpits," he told Human Rights Watch. He said that each time he had to lift his penis to show it to the guards, then turn around and open his buttocks with his hands and bend down for inspection. He felt that the humiliating searches were meant as retaliation for his suing and that they were in fact quite unnecessary. "It was unnecessary to examine me in this way every time," he said. "For a court appearance, I would always be issued a fresh uniform; it was impossible to conceal anything."
- A former prisoner released in 1992 from the Tokoshima prison filed a suit in 1989 challenging the punishment he had received in the

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<sup>32</sup>Human Rights Watch interview in Osaka, July 26, 1994.

<sup>33</sup>Human Rights Watch interview in Osaka, July 25, 1994

prison.<sup>34</sup> On the day the suit was filed, he was moved to a single cell and was made to work in the cell. He said that from the moment of filing the suit on, prison officials made sure that he had no contact with other prisoners. He also reported to us that he was told by the guards that his filing of the suit would have a bad influence on other prisoners.

- A particularly distressing case is that of Yoichi Isoe, a fifty-year-old inmate serving a life sentence in the Asahikawa prison on the island of Hokkaido. Isoe has been kept in solitary confinement since the day of his arrival in the prison, on September 3, 1982. Other than the duration itself, what distinguishes this case from other instances of prolonged solitary confinement, is the fact that Isoe was placed there immediately upon his arrival in the prison. Lawyers and prisoner rights advocates speculated that this treatment may be due to the fact that Isoe became involved in a number of conditions-related suits when in the detention center and that the suits were underway when he was brought to the prison.

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<sup>34</sup> Human Rights Watch interview in Osaka, July 25, 1994.



According to Yasuo Maruyama, a prisoners' rights activist who has for years campaigned on behalf of Isoe, the prisoner is kept in total isolation.<sup>35</sup> He works in his cell, exercises alone and bathes by himself. He never speaks to anyone and is feared to be losing his faculty of speech. Because Isoe is being held far away from his place of residence and his only blood relative, his mother, is very old and has great difficulty traveling, he received only two family visits in the twelve years on Hokkaido. Some three to four times a year, he is visited by a lawyer representing him in his ongoing suits.<sup>36</sup> The lawyer and his mother are also the only people with whom he is allowed to correspond. Apart from this, he has no human contact (the guards do not talk to him, and he is not allowed to talk to them).

Prisoners who speak out on behalf of the improvement of overall prison conditions, are subjected to retaliatory treatment as well. An unsentenced prisoner in the Niigata detention center who has publicized news of abuse against foreign detainees in that center was put in punitive solitary confinement three times in 1993, for fifteen days each time. He also received repeated warnings, details of abuse were censored from his letters, and he was transferred to a different part of the institution, the one holding sentenced prisoners.

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<sup>35</sup> Human Rights Watch interview in Tokyo, July 21, 1994.

<sup>36</sup> Human Rights Watch telephone interview with Kazuhiro Yaegashira, of Asahikawa, July 21, 1994.

## WORK AND ACTIVITIES

The following excerpt from the government bilingual brochure portrays daily activities of a Japanese prisoner:<sup>37</sup>

### DAILY LIVES OF PRISONERS

The following is a typical daily schedule in prisons:

Inmates wake up at 6:45 in the morning. Following face-wash and toilet, morning roll-call is taken. During the roll-call, inmates are required to sit in a designated place in a room and wait for the officers who inspect the room. The main purpose of roll-call is to confirm that there is no escape. However, it also serves as a daily checkup of inmates' mental/physical health condition. It takes about five minutes to finish the roll-call. **As in general society, we are required to observe a set of rules to keep orderly society, and an orderly group life has to be followed to keep a secure and appropriate living environment within prisons.** Cultivation of orderly life habits is indispensable to lead smooth rehabilitation after release. Morning roll-call is an essential part of setting up orderly group life at the beginning of daily life in prison.

After the roll-call comes breakfast. Thereafter, inmates go from the living quarters to the prison workshops. Usually,

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<sup>37</sup> "Prison Administration in Japan" (Tokyo: Correction Bureau, Ministry of Justice, 1993), p. 25.

small groups organized by group room units in a dormitory walk in line to the workshops. This type of group behavior is also important to assist faster transfer. Usually, on their way to the workshops, they change their clothes to work wear. At this time, a body check is conducted to detect unlawful trafficking of properties and to check the condition of their health. Most facilities conduct the body check without removing underwear. After they enter the workshops, brief physical exercise is conducted and some principles on life and work are recited to assure smooth arrangement of the day. The prison industry begins at 8 A.M..

**During the work hours, inmates have to be alert to keep safety. They are prohibited to look away, as is a usual practice to keep safety in workshops in general society. During work hours, inmates are required to get permission from a supervising officer to go to the toilet.**

Fifteen minute short breaks are provided both in the morning and in the afternoon. Lunch time takes forty minutes. After lunch, physical exercises are conducted outdoors (on rainy days in the gymnasium) excluding bathing days. The work hours finish at 4:40. The inmates return to their living quarters after being checked up as in the morning. Following the evening roll-call, many prisons set a short introspection time of approximately five minutes. It is a good opportunity to reflect on themselves and their daytime behavior.

Following supper, **inmates can enjoy leisure hours from 6:00 in the evening.** During that period, inmates may use it for sleep, club activities, self-instruction time to learn correspondence courses, watching TV or listening to the radio. Also, some inmates spend this period to read/write

letters from/to their family members, which might enhance their yearnings for the future life after release.

At 9:00 in the evening, the inmates' daily life is over and they are expected to sleep.

The above passage portrays daily activities of Japanese prisoners in a fairly accurate way. Nevertheless, a few points deserve further elaboration.

### **Prison Labor**

Under Japanese law nearly all prison sentences involve incarceration combined with labor, and thus the majority of Japanese prisoners are employed in a variety of prison industries. Unsentenced prisoners do not work. Death row prisoners generally do not work but if they make a request they may be authorized to work in their cells.

Some of the prisoners living in single cells also work in their cells. When working in the cells, they usually perform very simple tasks, such as gluing paper bags, packing chopsticks in their envelopes or assembling simple parts of furniture. There are a variety of prison factories, involving production of clothing and shoes, printing, or carpentry.

A prisoner's work day is eight hours long, Monday through Friday. Until recently, every other Saturday, they worked half a day, but, as we were told by prison officials, this is no longer the case. Inmates receive no wages for their work, but instead a small gratuity. According to the official publication on prisons, quoted above, "Prisoners employed in the prison industry are rewarded with a remuneration, which is not a wage (...) since such necessary expenses as clothing, food and shelter are provided by the National Treasury."<sup>38</sup> The same source also states that the average gratuity was 3,379 yen (about \$33) a month as of 1992. Some of the recently released former prisoners interviewed by Human Rights Watch reported earning significantly less than that: an equivalent of \$20 or less a month. Prisoners are allowed to spend only about one-fifth of that amount, on articles such as toiletries or stationery. The remainder is kept for them in a savings account.

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<sup>38</sup> Ibid.

As with every other aspect of prison life, all matters related to work are strictly regulated. The Fuchu prison rules from which we have quoted before, stress: "The most important part of your sentence is that you fulfill your duty of assigned labor."

Prisoners who work in prison factories are instructed to look at nothing other than their work. That means that making eye contact with a fellow prisoner or a guard is prohibited. Talking during work is also forbidden. Prisoners reported to us that activities such as going to the toilet, wiping the sweat off one's face with a towel or even blowing one's nose were authorized only during specifically prescribed times.

In the course of our brief and abortive visit to the Fuchu prison, we were shown a carpentry shop and a shoe factory. Each employed about one hundred prisoners. Told ahead of time of the rules regarding eye contact we paid particular attention to this issue. In the course of the quick tour we did not see a single inmate looking at anything other than his work.

In most facilities, prisoners employed in factories are twice daily subjected to body searches. Sometimes the search involves raising one's arms and lifting alternately each leg, while completely naked or in underwear.

Prisoners who work alone are instructed: "In single cells during work hours, sit in the same position as during inspection while working. During break, lunch, and free time, sit in the same position or on the seat facing the sink."

Yoichi Isoe, the prisoner in solitary confinement since 1982 whose case was described earlier, works in his cell. He is required to sit on the floor in a prescribed position and during his workday is not allowed to stretch or to lean against the wall.

Interviews with former prisoners suggest that a workday in most institutions follows the same pattern as the one outlined at the beginning of this chapter. We received complaints about the heat and stuffiness in factories during the summer. Our witnesses reported that there was a strong emphasis in each prison factory on accident-free performance, and those who become involved in an accident could be punished even though they themselves were hurt in the accident. Consequently, prisoners often concealed accidents and chose not to seek medical attention in order to avoid punishment. Furthermore, since accident-free work is in some institutions

rewarded, for example with extra television time, prisoners hide accidents to avoid a collective loss of the reward.

### **Activities**

During the daily period of unstructured time and on weekends, inmates can read or write in their cells. Those who live in communal cells are allowed to talk to each other (provided it is not too loud) and can play games. Listening to the radio or watching TV is centrally controlled, inmates do not decide when and what they watch or listen to. Witnesses reported to us that broadcasts are interrupted without regard as to whether a program has ended or not. A witness currently in the Tokyo Detention Center told us that he was able to listen to a classical music station twice a week from 7:25 P.M. until 8:05 P.M. But the particular program that was on started at 7:15 and lasted until 9:00. Thus, he was never able to hear either the beginning or the ending of the show.

In many of the prison systems studied by Human Rights Watch, free unstructured time is usually spent outside the cell, with the exception of the maximum security prisons. Inmates are allowed to mingle, walk around the floor or all over the grounds of the institution, participate in sports or in other activities. This was generally true in the Latin American, the U.S., and the Indonesian prisons visited by Human Rights Watch, while prisons in Poland, the Soviet Union or Romania tend to keep their prisoners locked in their cells at all times other than work, the exercise period and bath, similar to Japan.

### **Exercise**

Article 106 of the Prison Law Enforcement Rules stipulates that: "The inmates shall take exercise out of doors for less than half an hour every day except on rainy days." In practice, exercise is only permitted on weekdays and on days when there is no bath. This means that at most, prisoners can exercise twice a week in the summer and three times a week in the winter (since "bath days" are thrice a week in the summer and twice a week in wintertime). Often, they enjoy even less outdoor time because exercise is canceled due to bad weather. On rainy days prisoners are allowed fifteen minutes of exercise in the morning and afternoon inside the cell.

We received several reports of prisoners experiencing physical problems for lack of exercise and due to the requirement to spend extended periods of time immobile and in an uncomfortable position. Lack of exercise, or in fact lack of virtually any opportunity to move, is a particularly serious problem for prisoners who do not leave their cells to go to a prison factory: the several thousand unsentenced prisoners, death row prisoners and prisoners in solitary confinement who either work in their cells or are being punished and are required to sit in a prescribed position all day long. They are confined to their tiny cells (in which it is prohibited to pace around or exercise) and the only chance to leave the cell is when they go out to exercise or take a bath. Mealtimes do not provide an opportunity to get out of the cell temporarily: with the exception of lunches for prisoners who work in prison factories that are served in dining halls, all meals are taken in the cell.

- A British unsentenced prisoner in the Tokyo Detention Center started experiencing sharp pains in his upper and lower back because he was forced to spend almost all his time sitting. He also experienced claustrophobia, anxiety and insomnia as a result of being confined in a tiny cell.<sup>39</sup>
- Yoichi Isoe, the inmate in his thirteenth year of solitary confinement who was referred to earlier, suffers, according to his lawyer, Kazuhiro Yaegashira, from back pain, constipation and hemorrhoids due to lack of exercise.<sup>40</sup>
- A press account described the situation of Takaya Shiomi, who was serving a twenty-year sentence for terrorism. He was placed in solitary confinement upon his transfer to the Fuchu prison in Tokyo in November 1983:

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<sup>39</sup> Human Rights Watch interview with attorney Katsuhiko Iguchi, Tokyo, July 19, 1994.

<sup>40</sup> Bronwen Jones, "VIP Prisoner Sits in Pain," *The Daily Yomiuri*, April 7, 1985.

Five and a half days a week Shiomi, still in the position, makes paper sacks for around 1,600 yen a month, with 5 minutes off morning and afternoon and 30 minutes at lunchtime. He may lie down at 6 p.m. He may go to the toilet only during his breaks and if he cannot hold on must beg permission from the prison guard.

Exercise in his cell is banned, and on weekdays he may exercise outside 15 minutes, though conversation is forbidden. Sundays, holidays and rainy days are spent sitting cross-legged in his tiny cell.<sup>41</sup>

Due to lack of movement the prisoner began experiencing sharp lower back and leg pain. The prisoner decided to sue, and after a year and a half spent under the conditions described above, his lawyers negotiated for him the right to work in the prison printing factory, without the suit ever actually going to trial.

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<sup>41</sup> Ibid.



## DEATH ROW

### Secrecy

Japan retains the death penalty for some seventeen crimes, and as of this writing fifty-seven individuals, three of them women, live under the sentence of death. The secrecy that is typical for the Japanese prison system as a whole is even more pronounced in matters relating to the death penalty. Executions are kept secret, and only the overall number of hangings in the previous calendar year is provided by the government in its annual release of statistics regarding corrections in June. In 1993, seven persons were executed in Japan. According to unofficial reports, two people were executed in December 1994.

Neither relatives of the condemned nor their lawyers are notified ahead of the execution, and in some cases, no official notification is made afterward, even though the relatives may receive a notice to collect the body. The prisoner may learn about his or her own upcoming death as little as an hour in advance.

One of those executed in 1993 was Tetsuo Kawanaka, forty-nine, who had spent nine years on death row convicted of murder. Upon hearing rumors that his client had just been executed, his lawyer, Takeyoshi Nakamichi, contacted prison authorities but was not given a conclusive answer. He then went to the Osaka prison personally and asked to see his client. Again, the prison refused to either deny or confirm the execution. Instead, the lawyer was told that Kawanaka "was not present."<sup>42</sup>

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<sup>42</sup> Human Rights Watch interviews with Yoshihiro Yasuda, Tokyo, July 18, 1994; and Takeyoshi Nakamichi, Osaka, July 25, 1994.

Kawanaka's case is of particular concern because he was reported to be mentally ill and his condition had deteriorated in the months immediately preceding his execution.<sup>43</sup> The lawyer described his condition to a reporter: "My client should not have been executed. In 1984, when the sentence was handed down, his mental condition was already questionable. When I met him [in 1989] he told me he was being dominated by computers and radio waves. During his detention, he was examined every six months and was given stabilizers [medication]."<sup>44</sup> Nakamichi believed that the detention center administrators were aware of Kawanaka's condition because he was not punished for breaking the rules and received some sort of medical supervision.<sup>45</sup>

In certain cases, information about an execution is leaked to the media, and executions are reported in the press shortly after they take place. Relatives of executed inmates are sometimes notified after the fact that they may collect the body, but on some occasions they receive no communication from the government whatsoever and discover that their relative has been executed only when prompted by reports such that they themselves approach the prison to confirm or deny the news. In fact, after the leaked reports of the March 1993 executions, other death row prisoners in the same detention center were instructed to send telegrams to their relatives to confirm that they were still alive.<sup>46</sup>

The Japanese government provides a peculiar rationale for the secrecy surrounding executions. A Ministry of Justice spokesman told *Tokyo*

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<sup>43</sup> Amnesty International, "Japan: Resumption of executions and ill-treatment of prisoners on death row" (London: Amnesty International, October 1993).

<sup>44</sup> *Japan Times Weekly*, April 17, 1993.

<sup>45</sup> Amnesty International, "Japan: Resumption..." October 1993, p. 2.

<sup>46</sup> *Ibid.*

*Journal* that the policy is designed "to protect the family of the prisoner from the shame of having it known that their relative has been executed."<sup>47</sup>

### **Living conditions on death row**

Prisoners condemned to death spend years awaiting execution. It is not unusual for an inmate to live for twenty or even thirty years on death row. In one particular case that period was thirty-seven years.<sup>48</sup>

Most condemned prisoners live in total isolation, although some of them, as a reward for good behavior, may be allowed to participate in activities such as tea drinking or watching TV with other death row prisoners.

According to lawyers representing prisoners on death row and to relatives of condemned inmates, death row inmates live in solitary cells, some of them continuously monitored by a TV camera. In some cells, nothing in the cell protrudes, to prevent the inmate from injuring himself. Death row inmates exercise alone two or three times a week in solitary outdoor exercise areas and on rainy days in their cells, following workout instructions broadcast by the radio. Exercise in the cell at any other time is prohibited. Death row inmates do not work, although they may request to be allowed to work and, if their wish is granted, they glue paper bags in the cell. If they do not work, they spend the day reading or writing, always in a designated place in the cell so that they can be seen by a guard at all times. Walking around the cell, stretching or lying down during the day is prohibited. Twice a day prisoners listen to the news, broadcast to their cells by a P.A. system. At night, a light bright enough for the camera is always on. Prisoners are prohibited from covering their faces while asleep.

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<sup>47</sup>Peter Dowling, *Tokyo Journal*, "Killing Time," March 1994.

<sup>48</sup>*New Law Journal*, "Capital punishment in Japan," June 17, 1994.

A sister of a death row inmate held at the Tokyo Detention Center told Human Rights Watch that her brother did not have any contact with other prisoners. He exercises outdoors twice a week, weather permitting. He is allowed to listen to the radio programs that come to his cell through a speaker, the programming of which are controlled by the guards. He spends his time reading and preparing his civil suits concerning aspects of the conditions of his imprisonment.

### **Visits**

Death row prisoners can be visited by members of their immediate family (but not, for example, by adoptive parents and siblings) and by their lawyers. In some cases the warden may authorize visits by other people for a particular prisoner. A prisoner may receive visits on weekdays, during office hours only, with each visit lasting up to thirty minutes, though in practice often less. There is never any physical contact between the prisoners and their visitors and the conversation is always monitored, by a guard. Lawyers need to request permission each time they want to visit their death row clients, and, unless yet another permission is granted, legal visits are limited to thirty minutes. Conversations with lawyers are monitored and any departures from the subject matter of the lawsuit are prohibited, at the risk of having the visit interrupted.

Prisoners under the sentence of death without blood relatives or with relatives who are unable or unwilling to visit, live in total isolation. For example, all three inmates with confirmed death sentences currently held on death row at the Osaka Detention Center have been abandoned by their relatives, and have no visitors as a result.

Occasionally, death row inmates may receive a visit from a priest. According to members of the clergy interviewed by Human Rights Watch, a priest or a minister who is opposed to the death penalty can be denied access to death row if the authorities learn about his views.

### **Correspondence**

All letters between prisoners on death row and the outside world are censored. Condemned prisoners are allowed to correspond with their blood relatives. They may also be permitted by the detention center to send letters elsewhere. Since 1993, however, death row prisoners are made to produce a

draft of almost every letter they want to mail out to persons other than their immediate family. If the letter contains any criticism of the prison or its staff, it will be rejected. After the draft is approved, a prisoner is told to re-write the letter, so that it looks clean.

Toshiaki Masunaga, an inmate on death row at the Tokyo Detention Center, repeatedly tried to write a letter to the U.N. Human Rights Commission describing his treatment and alleging human rights violations. He was denied the right to mail the letter three times. He was also denied permission to write letters to newspapers.

## TREATMENT OF FOREIGN PRISONERS

As of the end of 1993, there were 2,362 foreign nationals in Japanese prisons, 1,424 of them sentenced for criminal offenses and the remaining either awaiting trial or sentencing on criminal charges.<sup>49</sup> Their numbers are growing at a fast pace. According to officials interviewed at Fuchu prison, where the majority of foreign convicted male prisoners serve their sentences, in 1993 there was a 25 percent increase in the number of foreign prisoners. There were 413 foreigners out of a total of 2,204 on the day of our visit in July 1994. The Tokyo Detention Center held about 200 foreigners out of a total of about 2,000 in the summer of 1994. The majority of foreigners within the system come from other countries in Asia (most notably Korea and China), the next biggest group are inmates from the Americas (North and South), and then from Europe. The remaining regions account for less than 3 percent of the foreign prison population. As of December 1993, there were fifty-four Americans in Japanese prisons.<sup>50</sup>

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<sup>49</sup>This number includes Korean citizens, some of whom are long-term residents of Japan yet are not granted the Japanese citizenship. In prisons, the Korean residents receive the same treatment as the Japanese prisoners.

<sup>50</sup>Ralph Blumenthal, "On a Mission to Turn Spotlight on His Jailers," *The*

If enforced silence and lack of human contact are of the most difficult aspects of imprisonment for Japanese prisoners, it is even more so for foreigners. Foreign prisoners are as a rule placed in single cells and have none or very little contact with other inmates.

Foreign prisoners anywhere in the world are at a great disadvantage compared with their local counterparts because, in most cases, they lack friends and relatives in the country and thus are deprived of moral (and sometimes material) support from the outside. The language barrier is a further obstacle. It makes it difficult for prisoners to understand their jailers and to communicate with fellow inmates. In Japan, communication with fellow inmates is usually prohibited anyway, at least in the early, pre-sentencing stage of imprisonment, but the failure to understand instructions, for example, gets to be a very serious problem, given the system-wide emphasis on discipline and the harshness of sanctions imposed for infractions.

Furthermore, because Japanese prisons insist on screening every word that passes between a prisoner and the outside world, inmates who do not speak and write Japanese may be completely cut off from any outside contact. The most common foreign language understood by some staff members of prisons and detention centers with some exceptions, is English. Prisoners who speak neither Japanese nor English or whose visitors or correspondents cannot communicate in these languages are deprived of family contacts unless they are able to pay for translation or interpretation.

- A clergyman who often visits the Tokyo Detention Center told us of a case of an Israeli detainee in that center whose mother came to Japan to visit him. The mother, however, spoke neither Japanese nor English, and she and her son were not allowed to talk to each other during the visit.

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*New York Times*, June 10, 1994.

- A Korean prisoner in Kofu prison had a similar experience with his wife who came to visit him. Because the wife spoke only Korean, they had to remain silent during the visit. Similarly, this inmate was unable to correspond with his relatives who did not read and write Japanese.

The sense of isolation as well as boredom experienced by foreign prisoners who do not speak either Japanese or English is further exacerbated by the fact that they are not allowed access to any periodicals or books (unless they are able to pay for translation), with the exception of books from the prison library. They are also unable to understand radio news shows that are broadcast over the prison public address system.

The English-speaking prisoners are better off than their peers from the non-English-speaking parts of the world, but even here language problems lead to abusive situations.

- A British national detained in the Tokyo Detention Center in January 1991 started suffering from claustrophobia soon after his confinement. The prisoner was a large man (over six feet four inches tall and more than 217 pounds) and felt very claustrophobic in his tiny cell, which he seldom left. From the early days of his detention, he was given medication by a prison doctor. He had been trying to find out the name of the doctor, without success. More than a year after his arrest, in April 1992, he happened upon the doctor in a hallway and half-jokingly, addressed him as "Dr. Who," in reference to a BBC TV program of that name. The doctor misunderstood the prisoner and assumed that the inmate had called him "Doctor fool." He summoned security personnel who proceeded to interrogate the prisoner, presumably in preparation for punishment. The inmate tried to explain the mistake, so did his lawyer and eventually British embassy personnel. To no avail. Since the inmate was suffering from claustrophobia, he was extremely fearful of the punitive solitary confinement that would probably be imposed and where he would be deprived of any time out of the cell, such as to exercise and bathe. Through his lawyer, he filed a suit, challenging the validity of the accusation against him



and other aspects of the conditions of his incarceration. The day after the suit was filed the detention center decided not to impose the punishment.<sup>51</sup>

Foreign prisoners have also reportedly been victims of physical abuse and racial taunts. In two suits filed on November 1, 1994, two detainees of the Tokyo Detention Center, an Egyptian and a Nigerian, allege having been beaten and taunted by their guards in the period of time from late 1993 through the August 1994. According to Yuichi Kaido, the attorney for the Nigerian prisoner, his client was assaulted three times after his detention in February 1994.<sup>52</sup> During the third and the most serious assault, on August 4, a group of guards repeatedly lifted the detainee and dropped him on the floor and also threw him against a wall. As a result, the man's tooth was chipped, his nose bled for ten hours and he had a bloody discharge from his right ear. That assault was inflicted on the Nigerian after he protested being repeatedly called a "gorilla" by a guard.<sup>53</sup>

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<sup>51</sup>Interview with attorney Katsuhiko Iguchi, Tokyo, July 19, 1994.

<sup>52</sup>Human Rights Watch interview on November 17, 1994.

<sup>53</sup>*The Japan Times*, November 2, 1994.

The Egyptian prisoner was assaulted on March 17, 1994, by a group of about fifteen guards. He suffered serious injuries that, among other things, left him nearly deaf in one ear.<sup>54</sup> Furthermore he was taunted by his guards, who called him "beggar" and told him, "Don't think you can make fools of the Japanese."<sup>55</sup>

According to officials, foreign prisoners in Fuchu prison receive treatment that is different from that for Japanese inmates. Their cells are slightly bigger, they tend to have beds and they can get Western rather than Japanese-style food.

Foreign prisoners have played an important role in calling attention to the human rights situation of Japanese prisons. Several of them, upon release, have described their experience to their countries' media. Over the past few years, several detailed stories describing prison conditions in Japan have appeared in leading newspapers in the U.S. and the United Kingdom, and at least one major U.S. TV network has devoted a segment of its news show to conditions in Japanese prisons.

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<sup>54</sup>Ibid.

<sup>55</sup>Press release of the Lawyers Association of Foreign Criminal Cases, October 27, 1994.

## IMMIGRATION DETENTION

Prior to our trip to Japan, we had received reports about abuses against foreigners detained for various types of visa-related violations. We requested to see immigration detention centers but were told by the Ministry of Justice that the permission would not be granted.

Data regarding the number of people in detention in Japan because of their immigration status (lack of proper documentation, work without permit, etc.) is not available. There are about 1.3 million foreigners in Japan of whom it is estimated that 300,000 live there in violation of immigration regulations. There are three detention centers exclusively for immigration detainees--in Tokyo, near Nagasaki, and in Osaka--and in addition, non-criminal foreigners may be held in regular detention centers.

There exist serious problems related to the detention of foreigners suspected of immigration violations, including the fact that detention warrants are issued by immigration inspectors and not judges, the detention may be indefinite (pending deportation), and that immigration hearings are conducted in Japanese, without interpreters present and thus rendering them often totally incomprehensible to the detained individual. In this report we want to highlight briefly the abuses related to the conditions of their detention as such.

According to information collected through interviews with lawyers and members of support groups, conditions for non-criminal foreigners detained in Japan are often harsher than those for criminal suspects. For example, in some cases detainees are never taken outdoors and have no opportunity to exercise. Rules are as strict as in other detention facilities, but language problems lead not only to detainees' increased sense of isolation, but to additional abuse as well. Thus, we were told that Chinese detainees tend to yell and make noise not knowing that this is strictly forbidden. As a result, there have been numerous reports of beatings in retaliation for disturbing order. Like other foreign detainees or prisoners, immigration

detainees tend to receive more punishments than the rest of the prison population because they frequently do not understand the rules.<sup>56</sup>

Reports of violence against immigration detainees are frequent. During our July 1994 trip to Japan, we came across two recent cases.

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<sup>56</sup>Human Rights Watch interviews in Tokyo, Osaka and Niigata, July 17 through July 28, 1994.

- Mejrpooran Arjang, thirty-one, an Iranian suspected of entering Japan illegally, was arrested on June 20 in the Tokyo Ueno Park area and taken to the Ueno Police Station. Some twelve hours later, in the morning of June 21, he died in a Tokyo hospital where he had been taken by the police shortly before. The police maintained that Arjang banged his head against the seats of a van in which he was being transported to the police station following his arrest. Since this version raised a lot of skepticism, an independent commission, which included members of the Bar and politicians, was formed to investigate this death.<sup>57</sup> A forensic report available at this writing is inconclusive. But as to the cause of the death it describes internal bleeding and injuries to the left side of the deceased's head. On October 14, 1994 Arjang's surviving relatives filed a suit over his wrongful death.<sup>58</sup>

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<sup>57</sup>Human Rights Watch interview in Tokyo with attorney Tadanori Onitsuka, July 17, 1994.

<sup>58</sup>Human Rights Watch interview with Yuichi Kaido, November 18, 1994.

- On June 29 in the Osaka immigration detention center, two Korean men were beaten by guards. The series of events was provoked by an incident that took place at 10:30 P.M. in which a Korean man killed a cockroach with a slipper, making a lot of noise and thus violating the rules. He was taken away by the guards. The man's cell mates protested loudly, and guards took away another Korean man as well. We interviewed Mr. Utsumi, the attorney for the second Korean.<sup>59</sup> According to the lawyer, his client was pushed to sit on the floor, and three people punched him. He received punches to his head, stomach and chest. Several more officials were watching the abuse. The next morning the client and the other Korean man (who had also received a beating) were taken to an outside hospital. The lawyer subsequently (on July 11) obtained records of the medical examination. His client had a ruptured eardrum and damage to his inner ear, causing loss of hearing on one side.

The lawyer described to us the physical appearance of his client: "When I met my client for the first time [on July 5] his jaw hurt so much that he could barely speak," he told us. When the lawyer requested explanations from the detention center officials, he was told that the detainee was acting in an unruly fashion and the guards "had to take appropriate measures." The lawyer initiated steps toward the filing of a suit. He complained to us that all his interviews with his client were monitored by a guard. He said he felt he could not properly collect information under these circumstances and protested several times but without effect.

It is unusual for an immigration detainee to have a lawyer. In cases of abuse, we were told, detainees are promptly deported, so that the news of abuse does not get out. In fact, the other Korean man beaten in that incident (who, as the doctor told Mr. Utsumi, was in worse shape than Mr. Utsumi's client), was immediately deported to Korea. Upon his arrival in Seoul, he testified before the Korean police (he was arrested on pending embezzlement

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<sup>59</sup>Human Rights Watch interview in Osaka, on July 25, 1994.

charges), and a story describing the beating sustained by the two Korean men appeared in the daily *Hanguk Ilbo* on July 4. People concerned about the other man then contacted his former employer, who called the lawyer.

The lawyer told us that his client has reported to him that he witnessed other instances of guards' brutality against detainees.

Two law suits filed in the late 1994 further highlight the problem of serious mistreatment and violence against immigration detainees. An Iranian, in custody since May 1993, filed a suit in October 1994 alleging physical abuse on May 6, 1993 that resulted in injuries to his back, legs, face, and abdomen. He also reported being held in handcuffs for fifteen days.<sup>60</sup>

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<sup>60</sup> *Japan Times*, October 15, 1994.

A Chinese woman detained on October 31, 1994 filed a suit on November 4, over the beating she sustained during interrogation the day after her detention. According to Yuichi Kaido, a Tokyo attorney familiar with the case, her face was severely bruised and swollen in the aftermath.<sup>61</sup> A Justice Ministry official was quoted as saying that a thirty-seven-year-old guard admitted he hit her four times in the face after she put up a struggle during questioning and that he hit her twice after taking her to a separate room.<sup>62</sup>

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<sup>61</sup> Human Rights Watch interview, November 17, 1994.

<sup>62</sup> *The Daily Yomiuri*, November 5, 1994.



## **THE INTERNATIONAL LAWS GOVERNING HUMAN RIGHTS VIOLATIONS**

The chief international human rights documents clearly affirm that human rights extend to persons who are incarcerated. Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) prohibit torture, cruel, inhuman or degrading treatment or punishment without exception or derogation. Article 10 of the ICCPR goes on to mandate that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Furthermore, several international documents elaborate on the specifics regarding the human rights of persons deprived of liberty, formulate guidance as to how governments should achieve compliance with their obligations under the international human rights law, and provide an authoritative interpretation of the standards that are binding for governments. These in particular are the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), adopted by Economic and Social Council Resolution 663 (XXIV) in 1957; the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles), adopted by the General Assembly in Resolution 43/173 in 1988; and the Basic Principles for the Treatment of Prisoners (Basic Principles), adopted by the General Assembly in Resolution 45/111 in 1990. It is worth noting that, although these instruments are not treaties, their most important norms are nevertheless binding on governments because they have achieved the status of the customary international law.

The most recent of these documents, the Basic Principles, provides a useful reaffirmation of the tenet of the applicability of fundamental human rights to prisoners. It states in Article 5:

Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant

on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.

This philosophy was further endorsed by the United Nations Human Rights Committee in its General Comment 21(3), reproduced below in full:<sup>63</sup>

3. Article 10, paragraph 1, imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment contained in article 7 of the Covenant. Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the Covenant,

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<sup>63</sup>The U.N. Human Rights Committee, a committee of experts created by ICCPR, provides interpretation of the covenant through its so-called General Comments, issued periodically.

subject to the restrictions that are unavoidable in a closed environment.<sup>64</sup>

The strong emphasis on rules within Japanese prisons, the fact that they regulate the most minute details of life and that they leave next to nothing to the prisoners as far as making decisions or freedom of choice is concerned, by itself violates the above principles.

When assessing the rules, it is useful to look at them also from the point of view of their reasonableness, i.e. whether their application is used to pursue goals that are necessary from the point of view of running the institution and whether the same goals could be achieved without inflicting further punishment on prisoners by either humiliating them or depriving them of the most basic level of the freedom of choice.

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<sup>64</sup>General Comment 21, The Human Rights Committee, Forty-fourth session, 1992. HRI/GEN/1/Rev. 1., p. 33.

The emphasis on discipline, the harsh penalties imposed for the most trivial violations of the rules, the extended periods of time an inmate has to spend in a prescribed position with his or her eyes fixed in a specified point on the wall, and the numerous limitations on human contacts creates an environment that by itself may constitute a violation of Article 10 of the ICCPR.<sup>65</sup>

In the past, the United Nations Human Rights Committee also examined particular sets of prison conditions, specified violations, and deemed these overall conditions to be in violation of Article 10. For example, in 1980 it defined "inhuman prison conditions" using the set of circumstances under which a Uruguayan prisoner, David Alberto Campora, served his sentence in the Libertad prison in Uruguay, concluding that this constituted a violation of his human rights. The committee cited Campora's description of the conditions in its report:

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<sup>65</sup>See Nigel Rodley, *The Treatment of Prisoners Under International Law* (Oxford: Clarendon Press, 1987), pp. 228-229.

He described the daily life of the prisoners, including their constant harassment and persecution by the guards; the regime of arbitrary prohibitions and unnecessary torments; the combination of solitude and isolation on the one hand and the fact of being constantly watched, listened to and followed by microphones and through peepholes on the other hand; the lack of contact with their families...the cruel conditions in the punishment wing in which a prisoner might be confined for up to 90 days at a time; the breakdown of physical and mental health through malnutrition, lack of sunshine and exercise, as well as nervous problems created by tension and ill-treatment. In sum, he asserts that the Libertad Prison is "an institution designed, established and operated with the exclusive objective of totally destroying the individual personality of everyone of the prisoners confined in it."<sup>66</sup>

Though some elements of this description do not necessarily apply to Japanese prisons, several actually do. In another Uruguayan case, the committee examined conditions that included elements such as being kept in a small cell, too cold in the winter and too hot in the summer, with the light on twenty-four hours a day, in complete isolation for six months. The committee concluded that the prisoner who lived under these conditions "had not been treated with humanity and with respect [to] the inherent dignity of the human person." Again, such conditions are not uncommon in Japanese prisons, and as far as isolation is concerned, its duration is frequently much longer.

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<sup>66</sup>*Campora v. Uruguay* (66/1980), Report of the [U.N.] Human Rights Committee, *GAOR*, 37th Session, Supplement No. 40 (1982), n. 43, Annex VIII, para 19.

In applying the analysis, offered more generally by Nigel Rodley in his book cited earlier in this chapter, to our research on the "penitentiary environment" created by the specific conditions of Japanese prisons, we find that such an environment constitutes violation of Article 10 of the ICCPR.

Subsequently in this chapter we will examine the other specific violations of international standards that were observed in the course of our study.

The extremely strict limitations on prisoners' contacts with the outside world combined with rigorous control of all aspects of their lives, violate a number of prisoners' human rights. Of particular concern is the complete lack of privacy suffered by prisoners. The Universal Declaration of Human Rights in Article 12 as well as the ICCPR in Article 17 (1) stipulate that no one should be subjected to arbitrary and unlawful interference with privacy, family or correspondence. While the blanket interception of all prisoners' mail may be lawful when contemplated in the light of the Japanese prison regulations, it is certainly arbitrary because it is not a reasonable means of achieving a legitimate goal. As pointed out before, prisoners should enjoy all the basic rights with the exception of the limitations unavoidable in a closed environment. While it is true that certain limitations on the freedom of the contacts, be it direct or through correspondence, are unavoidable and necessary in the prison context for security reasons, the level of such limitations in Japanese prisons violates prisoners' basic rights to privacy and causes undue interference with family life. The total lack of privacy, the denial of any physical contacts between the prisoner and his loved ones, the fact that every single word, either written or spoken that passes between the prisoner and the outside world is controlled, cannot be interpreted as necessitated by the fact of incarceration. Furthermore, the extremely harsh limitations on contacts penalize family members on the outside and violate their right to privacy and family life. The punishment of prisoners' relatives serves no legitimate penal objective and produces unnecessary pain and suffering. It is also important to stress that limiting family contacts deprives the inmate of a support system that is invariably helpful in achieving his or her rehabilitation, and thus such limitations lead to the violation of Article 10(3) of the ICCPR that mandates that one of the objectives of incarceration should be rehabilitation.

Contacts with the outside world--visits, mail, access to media--are all vital to a prisoner's well being and his or her eventual reintegration into society. But the flow of communication between prisoners and the outside is also crucial in exposing and preventing human rights abuses.

The instances of preventing prisoners from reporting violations of their rights either in a letter, including to the United Nations, or during family visits, violate Article 7(3) of the Body of Principles, that states:

Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

The U.N. Human Rights Committee has attached great importance to the role of contacts with the outside for the compliance with the ICCPR Article 10. In its Comment 21(12) it asked the state parties to specifically provide information under which conditions for contacts with the outside world are ensured, including family, lawyers, and nongovernmental organizations.

Censorship and monitoring of legal contacts, through correspondence or visits, furthermore stand in clear violation of the Body of Principles, Article 18(3,4).

18(3). The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

(4). Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.

The lack of independent monitoring of prisons through inspections by representatives of authority, other than the prison authority itself, violates the Body of Principles, Article 29 that states:

(1). In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.

(2). A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the place of detention or imprisonment in accordance with paragraph 1 of the principle, subject to reasonable conditions to ensure security and good order in such places.

The Human Rights Committee has also reaffirmed its concern about specific measures applied to prevent abuses within penal institutions and the importance of independent inspections to achieve that goal. In its General Comment 21(6) it asked the states party to the ICCPR to inform how impartial supervision is ensured.

The generalized use of solitary confinement throughout the Japanese prison system violates the Basic Principle 7 for the treatment of Prisoners that states: "Efforts addressed to the abolition of solitary confinement as a punishment, or to the restrictions on its use, should be undertaken and encouraged."

The prolonged solitary confinement furthermore stands in violation of Article 5 of the Universal Declaration of Human Rights and Articles 7 and 10 of the ICCPR, that prohibit torture, cruel and unusual punishment or treatment and mandate that all persons under detention be treated with humanity and with respect for their dignity, respectively.

The use of various forms of solitary confinement is widespread in Japanese prisons, although how widespread is impossible to state with



complete certitude because specific numbers are not available. Furthermore, there are various types of solitary confinement in Japanese prisons, some forms are considered punishment, some a merely management measure. Their common denominator is the fact that they keep a person deprived or almost deprived, of human contact. Based on data we were able to collect, we have tried to assess how many inmates are affected. During a 1993 meeting before the U.N. Human Rights Committee, Japanese officials stated that "A prisoner who could not get along with other prisoners" was placed under strict solitary confinement. The official informed the Human Rights Committee that "strict solitary confinement" is applied to some 1.4 percent of Japanese inmates (or about 630 individuals at any given time).<sup>67</sup> According to prison officials interviewed by Human Rights Watch at Fuchu prison in Tokyo, "strict solitary confinement" meant confinement in a single cell with work conducted in the cell.<sup>68</sup> As the examples above illustrate, this type of confinement usually lasts for years. Inmates under punishment by disciplinary confinement are clearly not included in this number because they do not work; nor are inmates in pre-sentencing detention included. Those, according to the Japanese report to the U.N. Human Rights Committee on the country's compliance with ICCPR, are in general also held in single cells.<sup>69</sup> As discussed before, because unsentenced prisoners do not work, those housed in single cells spend virtually all their time by themselves, because they also exercise alone and are held in isolation from one another. Furthermore, as shown in several case studies earlier, in some cases, their detention under these conditions can last a decade or more. Unsentenced inmates account for some 17 percent of all Japanese prisoners, or about 8,000 individuals. If what the government stated to the U.N. Human Rights Committee is correct, it would be fair to say that close to 9,000 Japanese inmates live in total isolation, and many more in near total

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<sup>67</sup>U.N. Press Release HR/3553, October 28, 1993, p. 2.

<sup>68</sup>Human Rights Watch interview on July 22, 1994.

<sup>69</sup>"In principle, a room is allocated to each detained person." ICCPR/C/70/Add.1, p.35.

isolation. Furthermore, many more inmates experience disciplinary solitary confinement at some point of their incarceration for up to two months.

In its General Comment 20, the U.N. Human Rights Committee noted that "prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7."<sup>70</sup> When considering the specific length of time of solitary confinement to determine the possible violation of human rights, the U.N. Human Rights Committee found violations of the above article and of article 10 (1) as cited in the case of Gustavo Larossa, a Uruguayan prisoner whose solitary confinement lasted over a month.<sup>71</sup> As shown earlier, Japanese prisoners are subjected to solitary confinement whose duration is usually many times longer than one month.

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<sup>70</sup>United Nations Human Rights Committee General Comment 20 (Forty-fourth session, 1992).

<sup>71</sup>*Larossa v. Uruguay* (88/1981).

Another factor useful in assessing whether solitary confinement violates international law is to determine if it is excessive or unnecessary to assure safety within the institution or to achieve reasonable disciplinary objectives. Helpful in this process is to examine the decision-making process that goes into placing a prisoner under solitary confinement and the extent to which this process is controlled or arbitrary.<sup>72</sup> As shown by several examples cited above, in Japan solitary confinement is frequently instituted arbitrarily, without outside scrutiny and often in cases that imply retaliation for a prisoner's complaints. Consequently its use can hardly be described by a word other than "excessive."

Beatings and other examples of physical violence, described above, often applied by several guards to a prisoner who is either in restraints or completely subdued and defenseless, stand in violation of Article 7 of the ICCPR.

The use of physical violence by interrogators to extract confessions from suspects also violates Article 7 of the ICCPR. Violations of Article 7 occur also when other methods of pressure against suspects are applied. The U.N. Human Rights Committee in its General Comment 20, paragraph 5 stated that "The prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim."

The *daiyo-kangoku* system, with its emphasis on obtaining confessions blatantly violates the provision of Article 14 of paragraph 3 (g) of the ICCPR that stipulates that no one should be compelled to testify against himself or to confess guilt. The limitations posed on the access to lawyers, the lack of adequate time to consult with counsel, and the censorship of legal correspondence, furthermore violate Article 14, paragraph 3 (b) that provides that suspects should have adequate time and facilities for the preparation of his defense and communication with counsel. As stressed by the U.N. Human Rights Committee, this provision of the treaty further requires counsel to communicate with the accused in conditions giving full respect for the confidentiality of their communications.<sup>73</sup>

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<sup>72</sup>See Rodley, p. 231.

<sup>73</sup>General Comment 13, paragraph 9.

The *daiyo-kangoku* system also violates Principle 21 of the Body of Principles, which prohibits taking undue advantage of the situation of a detained person for the purpose of compelling him to confess and bans the use of violence, threats or methods of interrogation that impair a suspect's capacity of decision or his or her judgment.

The vagueness of the Japanese Prison Law regarding disciplinary offenses and the corresponding punishments, combined with the confidential character of the Standing Orders and prison rules, stands in violation of the Body of Principles, Article 30(1).

The types of conduct of the detained or imprisoned person that constitute disciplinary offenses during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

The use of physical restraints as punishment is prohibited by the SMR. Rule 34 stipulates: "Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as punishment." SMR allows for the temporary use of restraints as a security measure, for example in transfer, to subdue a prisoner or to prevent him from harming himself or the environment. In such cases, the application of the restraints has to be monitored by a physician.

We were able to observe a pattern of punitive use of restraints, and thus a pattern of violation of the SMR. Prisoners were held in restraints for extended periods of time, frequently in situations when they had not been violent but had committed an offense deemed by officials as particularly serious (such as using profane language to the guard, for example) and they were neither examined nor monitored by a doctor.

The prolonged use of restraints causes extreme discomfort, pain, and in some cases lasting damage and can be interpreted as corporal punishment. The Human Rights Committee held in its General Comment 20(5) that the prohibition of Article 7 of the ICCPR must extend to corporal punishment. Furthermore, because prisoners in Japan are kept in restraints for prolonged periods of time, they are forced to eat and use the toilet while restrained. These functions cannot be done in a dignified fashion in the restraints. This

amounts to degrading treatment, also prohibited under Article 7 of the ICCPR.

The treatment of death row prisoners, who spend decades in total isolation and uncertainty, in addition to the violations discussed above as it pertains to the general prison population, can also be considered to be in violation of Article 7 of the ICCPR, prohibiting torture and cruel and degrading treatment and punishment. In its General Comment 20 (6) the U.N. Human Rights Committee stated: "The Committee notes that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by Article 7....Moreover, when the death penalty is applied by a State party for the most serious crimes, it must not only be strictly limited in accordance with Article 6 but it must be carried out in such a way as to cause the least possible physical and mental suffering."

As demonstrated in the relevant chapter of this report, Japanese death row prisoners are treated in ways that cause severe mental distress.

In its comment regarding the Japanese government's report to the United Nations on the country's compliance with the ICCPR, the Human Rights Committee noted, when commenting on the compliance with Article 6, regarding the death penalty: "In addition there are matters of concern relating to conditions of detainees. In particular, the Committee finds that the undue restrictions on visits and correspondence, and the failure of notification of executions to the family are incompatible with the Covenant."

Furthermore, the secrecy related to executions constitutes cruel and unusual punishment because it does not allow the inmate to prepare mentally, spiritually and psychologically for his or her imminent execution, including reaching out for religious support; and it is cruel to the families, and as such it violates Article 5 of the Universal Declaration of Human Rights and Article 7 of the ICCPR.

Several aspects of physical conditions in Japanese prisons stand in violation of provisions of the Standard Minimum Rules, the most detailed of the U.N. documents regarding prisons. Rule 11 stipulates:

In all places where prisoners are required to live or work,  
(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air

whether or not there is artificial ventilation; (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

As shown earlier, cells in Japanese prisons are often very cold in the winter and very stuffy in the summer; in some cases the source of natural light is insufficient or nonexistent and some cells are dirty, dilapidated, and unsanitary. Furthermore, in some cases cells are extremely small, shorter than the length of a mattress and likely to cause the feeling of claustrophobia in their inhabitants.

The short time often allotted to prisoners' baths violates Rule 13 regarding adequate bathing, while the practice of shaving prisoners' heads is incompatible with Rule 16 about prisoners' being able to maintain a good appearance compatible with self-esteem. Furthermore, several testimonies suggest violations of Rule 17, that mandates that a prisoner should be provided with "clothing suitable for the climate and adequate to keep him in good health."

Finally, the extremely limited access to exercise for prisoners in Japan constitutes a blatant violation of SMR 21(1) that mandates a minimum of one hour a day of outdoor exercise for all prisoners who do not work outdoors. Under the best of circumstances--that is when it does not rain, when guards do not cut the time short, and in the winter, when in theory there is one extra exercise day per week--Japanese prisoners receive a one-fifth the mandated amount of exercise.

As shown above, Japanese prisons violate the human rights of their prisoners on a massive scale. The country is not fulfilling its obligations under the international law, and decisive steps are needed urgently to rectify this situation.

## RECOMMENDATIONS

Japan is in an urgent need of a thorough reform of its prison system. As we set out to write these recommendations, however, we realize that Japan is in a fairly unique situation among the countries in such a need. The nature of changes that ought to take place to rectify the current violations of international human rights that occur daily in Japanese prisons, have to do more with policy changes than with any costly transformation of the infrastructure. First of all, new prison legislation is urgently needed. The law will have to conform to international standards and treaties by which the country is bound. In particular, the law ought to be grounded on the premise that prisoners have both obligations *and* rights.

The major hurdle blocking reform in most deficient prison systems—that is, overcrowding—does not exist in Japan. We are thus hopeful that Japan will find the political will to address the problems described in this report and to implement the recommendations that follow.

### **Pre-Indictment Detention**

- The prolonged police detention system (daiyo-kangoku) must be abolished. Suspects apprehended by the police must be promptly transferred to detention centers and held there during the investigative period.
- Strict rules regarding interrogation methods that would put time limits on the sessions, ban use of violence and of psychological pressure need to be elaborated and enforced.
- Interrogators and their supervisors must identify themselves properly to suspects, their lawyers, their family members, and court officials.
- Suspects must be promptly informed of their right to have a lawyer and court-appointed lawyers must be available upon arrest.
- Lawyers must be allowed privacy and sufficient time to consult with their clients.

### **Prison Rules**

- Prison rules need to be a matter of public record and they should be uniform for particular types of institutions throughout the country,

to avoid the possibility of individual wardens taking arbitrary measures.

- Prison rules must clearly list disciplinary procedures, and inform inmates of specific disciplinary measures corresponding to specific types of disciplinary infractions.
- Prison rules should inform prisoners about their obligations and their rights as well.
- Prison rules should establish a simple, practical petition mechanism.
- Rules should not regulate the minute details of daily life. Notably, they should not prescribe the position in which a prisoner is allowed to sleep and should not require a prisoner to spend extended amounts of time in a strictly defined position during the day.
- A grievance procedure should be established to permit complaints about violations of the rules and for enforcement of compliance without fear of reprisal.
- Prisoners who file law suits or initiate grievance procedures must never be punished or retaliated against for doing so.

### **Punishment**

- The use of solitary confinement as punishment should be limited to the most serious offenses, clearly defined by the regulations, and should never be longer than a few days.
- Dilapidated cells should never be used as a means of punishment or pressure against prisoners.
- "Protection cells" must never be used as punishment.
- Physical restraints must never be used as punishment.
- Every prison or detention center should keep a log of any use of a protection cell or physical restraints, with the length of the use of each device clearly specified. The log should be available to inspection independent from the prison authority.
- Prison guards who assault prisoners should be disciplined and prosecuted.
- All prison guards should wear name badges to allow their identification in cases of assaults and other abuses.



**Activities and Work**

- All prisoners should be allowed a minimum of an hour of daily exercise, including on weekends and holidays. On rainy days, they should be allowed to exercise indoors.
- There should be no prohibition on stretching, walking, or exercising in a prisoner's cell.
- Prison factories should be better ventilated or heated, depending on the season.
- Prisoners should receive higher remuneration for their work.
- Cells should be provided with heaters in the winter and fans in the summer.

**Contacts Among Prisoners**

- Rules regarding the ban on talking and looking at each other at work should be abolished.
- All prisoners who live in single cells, including prisoners on death row, should be given a daily opportunity to interact with other inmates.

**Physical Conditions**

- Panels blocking the passage of light and air through the windows, that are used in some detention centers, should be eliminated.
- Inmates should be issued with appropriate clothing according to the weather conditions and not the calendar date.
- The practice of shaving prisoners' heads should be stopped.
- Prisoners should be allowed more time for bathing.
- Police stations that hold suspects for any period of time should have adequate bathing facilities for detainees' use.
- When remodeling existing institutions and building new ones, electric switches should be placed inside cells.
- The practice of leaving lights on during the night should be stopped.

**Outside Inspection**

- A system of inspections by representatives of authority other than the Ministry of Justice needs to be devised. Such inspections could be entrusted to an ombudsman, who would be appointed in a manner independent from the Ministry of Justice, for example by the Diet, or to special penitentiary judges whose only jurisdiction would be prison inspection.
- Qualified outsiders, including academics, members of the media and representatives of reputable human rights organizations should be allowed to inspect prisons and to interview prisoners.

#### **Recommendations Regarding Contacts With the Outside World**

Efforts should be made to assure wider contacts between prisoners and the outside world. In particular:

- All contacts regarding a prisoner's legal affairs, both in person and through correspondence, should be confidential.
- Prisoners' mail, in either direction, should not be read, except where justified by urgent security needs, for example after a prisoner had been discovered to be planning an escape or a criminal act through using his or her contacts with the outside. Instead, to be checked for contraband, it could be opened in the prisoner's presence.
- There should be no limits on the number of letters mailed or received by prisoners, and they should be allowed to correspond with whomever they choose.
- All visits should be contact visits. A ban on contact visits should be used only as a disciplinary measure, for violations of prison rules related to visits. Such a ban should never be imposed except under an appropriate disciplinary procedure and then only for strictly specified period.
- Sentenced prisoners should be able to receive visits from anyone who wishes to visit them, and whom they want to be visited by.
- Visits can be monitored visually by an official who is within the sight of the visiting party but not within earshot.

- Foreign prisoners should be allowed to receive visits and to correspond regardless of the language in which these contacts might be conducted.
- Efforts should be made to place sentenced prisoners in institutions as close as possible to their places of residence in order to facilitate family visits.
- To make visiting easier for prisoners' relatives, visits should be allowed on weekends and holidays.
- Prisoners should be allowed to follow events of the outside world through broadcasts and newspapers. Newspapers should never be censored, and prisoners should be allowed to tune in and out of broadcasts by themselves.
- Following the examples of other highly industrialized countries, Japanese prisons should allow prisoners access to telephones.

## **APPENDIX I**

"Handbook for Life in Prison"  
Fuchu Prison

### **APPENDIX A**

#### **INTRODUCTION**

From today you are in the position of being a prisoner in Fuchu prison. In this prison there are two thousand and several hundred people interned. A prison is a place where a sentence is executed and because a great number of prisoners must live together, discipline and order must be fully maintained. Therefore each person is not permitted to act on his accord. Accordingly, life in prison will have many particular restrictions compared to life in normal society.

This small booklet, "Handbook for Life in Prison," is based on law and is a compilation of what you must know and obey to live in this prison. Read this [booklet] very carefully to the end so that you won't cause any problems because you were not aware of a rule. We hope that this booklet will act as a good textbook in order for you to live cheerfully and soundly as you complete your sentence, that it will help build your character, and that it will make you a healthy member of society by the time of your discharge.

#### **ONE DAY IN A LIFE**

Your life each day will follow the Activity Time Chart [shown below] which will be enforced by chimes, bells and commands of prison officials. For communal living, it is necessary to maintain regular living habits therefore you must be mindful to move quietly and promptly.

**Activities Time Chart for Sentenced Prisoners****Weekdays**

Wake-up	6:50
Cleanup, face-wash, open	6:50-7:10
Breakfast	7:10-7:35
Leave cell	7:35-8:00
Begin work	8:00 (7:50)
Break	9:45-10:00
Lunch	12:00-12:40 (11:30-12:00)
Break	14:30-14:45
End of work	16:40 (16:20)
Return to cell	16:45-17:15
Closed cell inspection	17:15-17:25
Supper	17:25-17:55 (16:30-17:00)
Cleaning of living quarters	17:55-18:00
Bed-down	18:00-
Lights out	21:00

**Saturdays**

Wake-up	6:50
Cleanup, face-wash, open	6:50-7:10
Breakfast	7:10-7:35
Leave cell	7:35-8:00
Begin work	8:00 (7:50)
Break	9:45-10:00
(Lunch)	11:30-12:10
End of work	12:00 (12:30)
Return to cell	12:05-12:35
Inspection	12:35-13:10
Lunch	
Closed cell inspection	16:30-16:40
Supper	16:40-17:10
Cleaning of living quarters	17:10-17:20
Bed-down	18:00-
Lights out	21:00

**Holiday Schedule**

Wake-up	7:20
Cleanup, facewash, open cell inspection	7:20-7:40
Breakfast	7:40-8:00
Lunch	12:00-12:30

Closed cell inspection	16:30-16:40
Supper	16:40-17:10
Cleaning of living quarters	17:10-17:20
Bed-down	18:00
Lights out	21:00

The following [paragraphs] will detail the activities of the daily schedule and points which you should be aware of. Be sure to know them well.

#### 1. Wake up

(1) With the wake-up chime, you must get up and put away your bedding in the designated place, clean up, wash up and wait for cell inspection. During this time you must move quietly and promptly.

(2) If you get out of bed, clean up, wash up or read before wake-up time you may deprive others of sleep and this may cause problems.

#### 2. Inspection

(1) The cells are inspected to check the number of people [in the cell] as well as your physical and mental condition. It is also a time for greeting between you and the officers. Therefore you must be quiet and behave cordially.

(2) You must clearly state your "number" (during open cell inspection) or "name" (during closed cell inspection).

(3) With permission, those who are feeling ill can sit in the tailor position or lie down during inspection.

#### 3. Breakfast

(1) Sit in your designated place and remain quiet when you have your meal.

(2) Do not share your food with others and don't accept any from others.

(3) Do not keep your leftovers or flush it down the toilet or throw it outside the window. Always leave your leftovers [on the table.]

#### 4. Leaving the cell, body search

(1) When you leave the cell, tidy up your clothes, follow the instructions of the officer(s), do not speak, look aside or run. Stand in a tight row and march in an orderly fashion. Do not carry your clothing. Wear them as designated when you leave the cell.

(2) Upon leaving your cell and before returning to your cell, you will change your clothes and undergo a body search in the changing room. In the changing room you may not speak. During the body search you must state your number and name clearly. A body search can occur any time considered necessary. Do not sneak in objects into the cell or factory.

#### 5. Beginning of work, recesses.

(1) When you hear the chime or command by an officer to signal that you should begin work, go immediately to your designated seat and start working.

2) In order to allow you to recover from fatigue, to increase your efficiency and to prevent accidents during work there will be a fifteen minute recess in the morning and afternoon. Lunch break is forty minutes including the time to eat lunch. However, be aware that break time could be shortened for exercise, bathing or other activities.

(3) When you hear the signal for recess, stop working immediately and undergo inspection. When the recess is over, undergo inspection and start work.

#### 6) End of work

When you hear the signal or command to "Stop Work," stop working immediately, clean up around your work area, arrange the tools in order and undergo inspection.

7) Free time

During time periods which are not designated in the activity time chart, each person can freely use that time in the cell for study or leisure (play *go* or Japanese chess.) However do not talk loudly with each other or romp around so as to disturb others. Try to get along well with each other.

8) Bed-down

At 6 P.M. there will be a signal for bed-down. With that signal you may lay your bedding down on the designated place and lie down.

9) Lights out

At 9 pm the light in the cells will be reduced and the broadcasting of the radio will be turned off. You absolutely must stop reading, writing, recreation, speaking together and sleep quietly.

### **GENERAL RULES**

1) You live communally in prison so do not be self-centered. Be aware that you are a member of a group and act accordingly.

2) Speak and act courteously toward others. Be well-mannered and act in an orderly way.

3) Reflect upon your past conduct and always think about how you can make your present prison experience useful for your future life plans.



4) To maintain harmonious human relationships and group living situation, you must recognize that each person has a different personality, different beliefs, different personal history, came from different living conditions, and different reason for imprisonment. You must always try to understand the other person's position and respect it.

5) As prisoners you are in equal positions and will be viewed and treated that way by the prison. Therefore do not try bring in your social background into the prison to better your situation over others and do not create your own clique.

6) Do not give your address or the names of members of your family to others in the prison.

7) Permission forms (a form in which one writes their requests) must always be filled by the person making the request. If you cannot write, ask a prison official to write it for you, do not ask another prisoner to do it for you. When you submit the permission form, make an imprint of your left index finger onto the form.

8) When walking through the prison, do not put your hands in your pockets, fold your arms, deliberately sway your shoulders or drag your shoes. When walking with one or more people, stand in a straight line as instructed by the prison official and march in an orderly way.

9) Wear clothing as designated and always affix your name tag on the prescribed place. Do not become naked, wear a towel around your head or neck, or act slovenly without permission.

10) If you have been assaulted, persuaded or asked to do unlawful or indecent acts, inform the prison official.

11) If you hide or construct objects which are not permitted, they may be confiscated or discarded so don't do it.

- 12) If you find or pick up a mysterious object or an object without an owner, inform the prison official immediately.
- 13) In the event of a fire, sudden illness of a fellow cellmate or if something strange happens around you, inform a prison officer immediately.
- 14) Do not request or exchange objects or money with your work instructors or other people from outside the prison.
- 15) If there is a matter which needs to be dealt with that is not covered in this book, consult a prison official and get his instructions.

#### **RULES WITHIN THE CELL**

- 1) If you need to call a prison official, pull down the *hochiki* (alarm/communicator) and wait quietly until an officer comes.
- 2) Clean the living quarters well, throw wastepaper in the wastepaper basket which has been provided. Never throw garbage outside the room, in the sink or flush it down the toilet.
- 3) In order to conserve water, do not spray water out the window, use water to cool things, or leave the faucet running.
- 4) Do not on your own accord wash your head, your body, or your clothes in the cell.
- 5) The drainpipe of the toilet and sink can get clogged easily so be careful. Do not flush objects, or use paper other than tissue paper in the toilet.
- 6) All members of the communal cells must equally share the tasks of cleaning the cells, preparation for the meals and cleaning up after the meals.

7) Do not on your own accord lie down in the cell. Moreover, do not lean against or sit on the bedding.

8) During inspection, when "inspection" is signaled, arrange your clothing, and quietly sit and wait in the *seiza* position facing the door as in the illustration. In the communal cells, the position where you sit will be in the order of how long you have been incarcerated.

9) During inspection, follow the instructions of the prison officers. During open cell inspection, clearly state your number. During closed cell inspection, state your name in the order of the illustration.

10) Until inspections of all the cells are complete and until the order to "relax" is signaled, do not converse, leave your seat, nor read. Remain quietly in the *seiza* position and wait.

11) The seating position within a cell should follow the illustration. Do not lean on the futon, do not sit against the wall on side of the hallway, do not walk around the cell without purpose, hold onto the window frame, or stand on the window sill.

(1) Same as in the rule for communal cells, sit in the same order as during inspection and face the table.

(2) In single cells during work hours, sit in the same position as during inspection as while working. During break, lunch, and free time, sit in the same position or on the seat facing the sink.

(3) Those receiving punishment, as a rule, should sit in the same position as during inspection.

12) Do not lend or give clothing and other daily items provided for you by the prison to others in the cell. Do not, on your own accord, throw away towels and toothbrushes that can no longer be used. Request a prison official to exchange the items.

13) Do not touch the equipment in the hallway such as speakers, lights, TV, switches, plugs and name plates in the cells without reason.

14) Be careful when handling equipment within the facilities, things loaned from or bought in the prison. When not using these items, put them away as shown in the illustration. If you break or lose these items, inform a prison official.

15) Other than during sleeping hours, do not, on your own accord use the blanket and bedding.

16) Sleep in the following order and position and do not divert from it on your own accord.

17) During sleeping hours follow these rules:

(1) Sleep in your designated place.

(2) After lights are out, leave clothing, books and other recreation materials in its designated place. Don't read, talk or stand up and walk around the room.

(3) Do not cover your face with the blanket or futon while sleeping.

(4) Do not, on your own accord, use the blanket as a sheet or wrap the blanket or sheet around your waist.

(5) Wear your underwear as designated and do not sleep in the nude.

(6) Do not stick your arms or legs in other people's futons or sleep together in the same futon.

18) Do not hang clothing, towels, or rags on the window or leave objects on the window sill.

19) Even during the periods where conversations are permitted, do not speak in a loud voice or make noise which would disturb other people trying to study, read, or listen to the radio.

20) In communal cells, one person's inconsiderate behavior can be a nuisance to the other members in the cells therefore try to be considerate of each other.

## **WORK**

### ***Duty to Work***

The most important part of your sentence is that you fulfill your duty of assigned labor.

It is a matter of course for members of society to work. Work is also a duty as a human being. However, prisoners who are sentenced to imprisonment with labor are obligated under the law to engage in the work to which they are assigned. If without good reason a prisoner refuses to work, skips work or demands to change the type of work, it will be considered as an action against that duty and severe measures may be taken.

In any event, even if the work is forced labor under the law, you must cultivate yourself through work and make an effort to find enjoyment in working.

### ***Rules for Work***

1) As a rule, work hours are eight hours during weekdays and four hours during Saturdays. Special circumstances may prolong or shorten those hours. You must follow the orders or signals to "begin work" and "stop work" and work to the best of your ability, during work hours, following procedures instructed to you.

- 2) During work do not, on your own accord, leave your designated seat or talk about things unrelated to work. If you need to leave your seat, raise your hand and obtain permission from the officer in charge.
- 3) In order to strictly observe work hours, make a habit of using the toilet before work, during recess and break.
- 4) When using the toilet, put up the toilet placard in the designated place. Do not talk to each other in the toilet.
- 5) Take special care when handling the materials and tools used for work. Try to be mindful of conserving expendable supplies.
- 6) If you damage or lose any of the tools or other materials, inform the officer in charge as soon as possible.
- 7) Always make an effort to polish your skills and make good products.
- 8) Follow the work instructions of the instructor of the workshop.
- 9) Always be honest each day about the amount of goods produced. Do not lend, borrow, give, receive or wrongfully exchange products with others.
- 10) Those who work in the cells, must leave their books and writing utensils outside the room before commencing work and receive the tools and material for work. At the end of the work period, leave the materials and goods produced outside the cell and then receive your books and writing utensils.
- 11) When using a fire extinguisher or poisonous materials during work, take special care and try to prevent accidents. Moreover, paint thinner is harmful to the body so do not inhale it.
- 12) Follow the safety guidelines for work and be careful never to cause injuries or an accident. Should you injure yourself, no matter how small the injury, immediately inform the supervising officer.

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### *Safety Measures*

- 1) The institution is responsible that you do not injure yourself or become the cause of an injury. We must, therefore, have daily safety inspections, have safety devices installed in the facilities, and educate you about work safety to ensure that you do not do things which are unsafe while working. For your part, you must follow the safety guidelines for work and always practice what you've been taught about work safety, and learn safe work habits. When you work, remember that complete prevention of accidents depends on your precaution and initiative to follow safety measures during work.
- 2) If a factory has no accidents for a period of time, special benefits of watching television and/or movies will be given to all workers in that factory as a reward.
- 3) If you have ideas for improving machinery, tools or working procedures for higher safety, please be forward about letting us know. We will examine your suggestion and if we adopt the method or modification, we will add monetary reward to your calculated amount of remuneration [salary].

### *Work and Skill Classification*

- 1) There are ten classes in which work is divided, the classes range from trainee to class one and each prisoner will fall into one of these classes.
- 2) New workers or people who were transferred from other jobs will, as a rule, start at the trainee level. After completing the standard promotion schedule (see chart), we will examine your ability and work record (quantity and quality of goods made, level of effort, attitude toward safety, handling of materials and tools.) When it is decided that it will be appropriate for you to be promoted, you will move up to the next level.

Class	Promotion time
Class one	
Class two	Eight months
Class three	Eight months
Class four	Four months
Class five	Four months
Class six	Four months
Class seven	Two months
Class eight	Two months
Class nine	Two months
Trainee	One month

3. Depending on the worker's record, promotion or demotion may occur differently than shown in the chart.

### ***Remuneration***

1. Workers receive remuneration for their work. Remuneration is calculated in the following: the standard hourly wage designated to the class you are working in is multiplied by the number of hours worked during the month and becomes your standard salary. Then, depending on the work record and conduct of the prisoner, salary will be increased or decreased. For those working in labor outside the prison, dangerous labor, special labor or during hours outside of the normal work schedule, salary will be increased.

2. Remuneration is not the same thing as your money in retention and you do not own it. It is added on to your savings and, as a rule, it is to be given to you when you leave the prison. However, a portion of the remuneration can be used to buy necessary daily items in the prison. It is also possible to obtain permission to use the money to pay fines, police fines, fees for lawsuits, and alimony. Furthermore, for fines for violations of prison rules, a portion or the entire amount of your salary can be deducted. In the case of



intentional or serious errors which would cause damages to tools and/or materials, fines may be deducted from your salary so be careful that that does not happen.

### ***Solatorium for Death, Sickness and Injuries***

In the case a prisoner injures, gets sick or dies at work or if he loses his ability to work, a solatium will be paid accordingly. However, no matter what, money cannot be exchanged for your body so be extra careful during work not to injure yourself. But if it is clear that the [injured] prisoner is at fault then it is possible that a solatium will not be paid.

### ***Occupational Training***

Through daily work, you will increase your desire to work and improve your skills. This is very useful for your rehabilitation preparation for when you leave prison so you should put forth effort on your own initiative.

Occupational Training in this prison include: car maintenance, dry cleaning, photo typography, and leatherwork. In other institutions there is training for: welding, carpentry, making tatami. If you wish to apply for specific training, inquiries should be made to the supervisor. The classification committee upon deciding whether the training will be appropriate or not for you, will accept or reject your request.

## **VISITATION AND CORRESPONDENCE**

### **VISITATION**

#### ***Visitors***

Lineal relatives who are older than fourteen and your own children who are under three years who are accompanied by a lineal relative may

visit you. However, if necessary, exceptions are sometimes made where someone outside of your lineal relation (such as a guarantor) may be given permission to visit.

(1) Lineal relatives include blood relatives within six degrees (parents, grandparents, child, grandchild, siblings, uncle, aunt, nephew, niece, and cousin, etc.), spouse and blood relatives within three degrees of the spouse (spouse's parents and siblings.)

(2) When you enter the prison you must register the names, age, relationship, address and occupation of your lineal relatives. You must not give false information. People who are not listed in the registry will not be given visitation permission.

(3) If, at visitation, we cannot verify that the visitor is a lineal relative or guarantor, the visit will not be permitted. Therefore, please ask your visitors ahead of time to bring some personal identification such as a resident card or driver's license.

#### ***Number of visits and visitors***

(1) As a rule, the number of visits permitted for a fourth grade prisoner is once a month, third grade prisoner is twice a month, second grade prisoner is once a week and first grade prisoners may have visitors anytime.

(2) As a rule, a maximum of three people is allowed in one visit.

#### ***Hours and Place for Visit***

(1) As a rule, on Saturdays afternoons and on holidays, visits are not permitted. On weekdays, visits can take place from 8:30 A.M. to 3:30 P.M. On Saturdays, visits can take place between 8:30 A.M. to 11:30 A.M.

(2) The time period for each visit is 30 minutes but the time period may be shortened for reasons such as if there are many requests for visits on that day.

(3) As a rule, a visit will take place in the visiting room, however, for a necessary treatment, a visit will take place in a specified special visiting room.

#### ***Rules for Visitation***

(1) During visitation you must follow the instructions of the officer in the room and act accordingly. Try to stick to the point of your conversation and finish within the time allowed.

(2) Do not use foreign languages without permission. It is forbidden to use secret languages or body gestures to communicate.

(3) Do not speak loudly or intimidate the visitor. Speak calmly and quietly.

(4) If the instructions of the official are not followed or if prison rules are broken during the visit either in speech or in action, you may be prohibited from speaking or the visit may be temporarily stopped or brought to an end.

#### ***Private Meetings for First Grade Prisoners***

One of the goals for first grade prisoners is to achieve smooth rehabilitation by nurturing independence and responsibility and to foster and maintain intimacy between the visitor [and prisoner]. Therefore first grade

prisoners are permitted to have private visits without the presence of an official during the meeting.

(1) When meeting with your wife or child, you may meet them without the presence of an official once a month in the special meeting room.

(2) Because there is no official present in the room, you must report the contents of the conversation to the official in charge of visitation after the meeting.

(3) During meetings, it is prohibited to communicate illegally or exchange articles therefore you must independently follow these rules. Should there be a violation of the rules, the necessary punishment will be made toward the prisoner. Do not cause serious hindrances to the operation of the system of visits without the presence of officers. Make sure you do not cause any problems which may cause the abolishment of the system.

1) Correspondents and the permitted frequency of correspondence.

A prisoner can write to the same people who are listed in the registry for visits. The frequency in which he can send outgoing mail is the same as with visitors, however there are no limits to incoming mail.

2) Procedure for correspondence and other regulations

(1) All outgoing and incoming mail must be censored and follow official procedure.

(2) To make the censorship procedure smooth and speedy, cells of third and fourth grade prisoners have been designated particular days for sending letters. If you have an emergency to send a letter, you should make a request to speed up the process.

(3) Letters must be written within seven pages. If you need to exceed seven pages, you must seek permission in advance. Do not write outside the lines or on the back side of the paper. Write in big and clear letters.

(4) If you are not able to write, report it to an official so he can write it for you. Do not ask other prisoners to write for you.

(5) Outgoing correspondence must be written in Japanese. Permission must be sought in advance to write a letter in a foreign language. Conditions in which permission to write in a foreign language would be granted only if the prisoner will pay the expense for the translation [into Japanese.].

(6) The return address for your outgoing letters should be as follows: "4-10, Harumi-cho, Fuchu, Tokyo" and the zip code is "183". The envelope for outgoing correspondence must be unsealed when submitted.

(7) If you would like to send a letter by express mail or registered mail, make the request when you submit the letter. If you would like to send a telegram or certified mail, write the request on the request form.

(8) Received mail must go through a procedure of retention or destruction within 10 days from the day a prisoner receives the mail. If you would like to hold on to the letter for a longer period, make a request.

(9) The following are other regulations for correspondence which you must especially be aware of:

- 1) Do not write in an unlawful manner.
- 2) Do not use a false name, write in code or secret languages.
- 3) Do not write threats that would intimidate or coerce the recipient.
- 4) Do not enclose any letters other than to the person on the address.
- 5) Do not coerce others to give you money, valuables, replies to your letters or visits. Do not write things that would make you a nuisance to others.
- 6) Do not write about the situation of the prison or about other prisoners.

### **CENSORSHIP**

All correspondence is censored. Correspondence which is deemed inappropriate may be censored or stopped. Letters which are stopped will be delivered at the time of the prisoner's release. However, in some cases such letters will be destroyed.

### **REWARD AND PUNISHMENT**

As a policy for the treatment of prisoners, those who do good things will be rewarded and those who do bad things will be punished. This way of thinking exists not only in prison but also in society. If one uses common sense, anyone would see that this [way of thinking] is reasonable.

Especially regarding to punishment, it is wrong to believe that it is difficult to follow rules. Take baseball for example. A game of baseball goes smoothly because there are meticulous rules and you probably cannot imagine a game of baseball without rules. Rules in prison are the same. By following rules, there is an orderly life in prison and this ensures safety for lives for each individual living in the prison. When rules are not followed, the lives of those who are serious are disturbed by actions of the few who act inconsiderately. The reason for each person to follow the rules, ultimately, is for your own protection and to make all aspects of prison life cheerful.

### **REWARDS**

1. Rewards will be given to prisoners with good conduct and those who will be a model for other prisoners. The warden will decide the appropriate reward whether it be money, articles or certificate accordingly to the type of conduct.

- (1) Rescuing a person's life.
- (2) Distinguished service for helping prison officials during a natural calamity.
- (3) Prisoners who were involved in no accidents for a period of time (more than 6 months).
- (4) Prisoners with outstanding performance in their work or brought in original ideas during a period of time (more than 3 months).

### **PUNISHMENT**

1. Violations of laws or the rules appended to this booklet are punishable.
2. Following are the types of punishment and disciplinary measures. They may be imposed jointly. You will not work during the period when under punishment of solitary confinement.
  - (1) Reprimand.
  - (2) Suspension of rewards for 3 months or less.
  - (3) Abolition of reward.
  - (4) Prohibition of reading, writing and drawing for up to 3 months.
  - (5) Suspension of voluntary labor for up to 10 days.
  - (6) Suspension of the use of self-supplied clothing and bedding for up to 15 days (unconvicted prisoner and work-house detainees).
  - (7) Suspension of procuring extra food for up to 15 days (unconvicted prisoner).

- (8) Suspension of exercise for up to 5 days.
  - (9) Whole or partial deprivation of the calculated amount of remuneration.
  - (10) Reduction of food for up to 7 days.
  - (11) Minor solitary confinement for up to 2 months.
3. Prisoners who are imposed under disciplinary punishment may receive a remission from disciplinary punishment when they have shown clear signs of repentance.
4. Some cases will be taken beyond disciplinary measures and a complaint may be submitted to court.

### **COMPLAINTS**

To regulate and supervise your daily life as a whole by rules, order and direction is one of the most important roles of the prison. You may have a question or a complaint against our regulations and supervision. The following are procedures to make the complaint, to research and if necessary correct the situation, and resolve the misunderstanding.

#### ***Interviews***

- 1. If you have complaints against the treatment of yourself, you may ask the warden or executive officials for an interview.
- 2. If you hope to have an interview, make a written request and submit it to an official in charge of complaints.



3. Depending on the contents of the complaint, another official, other than the supervisor, may have to interview you.

### *Petitions*

1. If you have a complaint against your treatment in this prison, you may write a petition to the Minister of Justice or a prison inspector.

2. If the contents of your complaint are based on your impressions, desires or are about other prisoners, it will not be accepted a petition.

3. Petitions to the Minister of Justice may be written in a letter anytime. Petitions to a prison inspector may be written in a letter or orally during inspection.

#### 4. Petition procedure

(1) When you file a petition by letter, request the petition form from a prison official. If you would like to make an oral complaint, submit a written request for that. If you can't write, make a request to the prison official to have someone write in your stead.

(2) When you get permission to write a petition letter, you will be given a time limit to write it. You must finish writing within the limited time.

(3) Write the petition on the designated paper provided by the prison. All uncompleted documents must be stored in a bag issued by the prison.

(4) When you finish writing a letter of petition, make sure there is nothing else other than the letter of petition. Put the petition in a different envelope and seal it by yourself (there is no censorship because letters of petition are treated with confidentiality). This is to be done in the presence of a prison official. After completing the proper procedure, submit the petition. You do not have to place stamps.

***Others***

Other than requesting an interview or filing a petition, there are some other ways to seek help such as filing a suit, or filing complaints and accusations to the Public Prosecutor's Office. Following are the procedures:

- (1) Make a written request to file a suit along with your purpose and submit it to an official in charge.
- (2) When your request to file a suit is granted, the time period when the hearing will take place will be decided. Therefore you must file the complaint within the designated time period.
- (3) If you decide to drop your case, you must write a request with the reasons and submit it to a prison official.

## **APPENDIX II**

### **PREVIOUSLY PUBLISHED REPORTS FROM THE HUMAN RIGHTS WATCH PRISON PROJECT**

Global Report on Prisons  
Brazil: Prison Massacre in Sao Paulo  
Prison Conditions in Brazil  
Prison Conditions in Czechoslovakia  
Prison Conditions in Czechoslovakia: An Update  
Prison Conditions in Egypt  
Prison Conditions in India  
Prison Conditions in Indonesia  
Prison Conditions in Israel & the Israeli-Occupied West Bank & Gaza  
Strip  
Prison Conditions in Jamaica  
Prison Conditions in Mexico  
Prison Conditions in Poland  
Prison Conditions in Poland: An Update  
Prison Conditions in Puerto Rico  
Prison Conditions in Romania  
Prison Conditions in South Africa  
Prison Conditions in the Soviet Union  
Prison Conditions in Spain  
Prison Conditions in Turkey  
Prison Conditions in the United Kingdom  
Prison Conditions in the United States  
Venezuela: Prison Massacre in Maracaibo  
Prison Conditions in Zaire