

**GROUP 2**

**PRACTICAL MEASURES TO IMPROVE PRISON CONDITIONS**

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**I. INTRODUCTION**

Reviewing current issues in correctional treatment in the world, one of the problems is the improvement of prison conditions. The issue of prison conditions is very important because it relates to the human rights of prisoners in correctional institutions.

On this point, the Standard Minimum Rules for the Treatment of Prisoners (herein after referred to as “SMRs”) adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, defines the standard of institutional treatment (including prison conditions) in detail and has served as the basic guidelines that must be satisfied by each country. However, many countries are confronted with problems which hinder the fulfillment of this standard.

Given these circumstances, Group 2 first takes a general review of the international instruments regarding prison conditions, and how domestic legislation is described based on the SMRs and what the actual situation of prison conditions is in the participating countries of our group, particularly on accommodation, hygiene and medical services, clothing and bedding, and food.

Then, Group 2 also analyzes the main causes which impede the implementation of the SMRs and its influences on prisoners. Finally, some measures to improve prison conditions are examined from both a legislative and practical point of view.

**II. STANDARDS AND NORMS REGARDING PRISON CONDITIONS**

The SMRs is well-known as the international standard regarding the treatment of prisoners including prison conditions. In this section, our group firsts takes a general view of human rights in prison and then describes the historical background and legal nature of the SMRs and discusses the interpretation of “Standard Minimum” in the SMRs and its adaptation to practice.

**A. Human Rights in Prison**

Human rights are the basic rights of human beings and no person should be deprived of such rights. The protection of human rights is guaranteed by some important international instruments and should not regress. This fundamental principle is also applied to prisoners in custody in correctional facilities and should be respected fully as long as it does not harm the purposes of their incarceration. Making an effort to attain this goal is

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expected to lead to the improvement of prison conditions.

In this connection, some basic principles regarding the treatment of prisoners including prison conditions are mentioned in the international instruments. For example, the important provisions relating to prison conditions can be found in the International Covenant on Civil and Political Rights as follows:

*Article 7*

Article 7 prescribes the prohibition of torture or cruel, inhuman or degrading treatment or punishment, stating "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no men shall be subjected without his free consent to medical or scientific experimentation."

*Article 10, Paragraph 1*

Article 10, Paragraph 1 prescribes the treatment of all persons deprived of their liberty, stating "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

**B. Standard Minimum Rules for the Treatment of Prisoners**

**1. Historical Background**

The SMRs was adopted at the first United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Geneva in 1955. On 31 July, 1957, the Economic and Social Council of the United Nations adopted these rules.

**2. Legal Nature**

The SMRs is not a treaty and is not legally binding. Taking account of legal, social, economic and geographical conditions, the SMRs has the meaning of the international standard that each government should give favorable

consideration to adopting and applying it in the administration of their penal institutions.

**3. Interpretation of "Standard Minimum" of the SMRs and its Adaptation to Practice**

It is quite a basic question as to at which level "Standard Minimum" of the SMRs should be located. On this point, The SMRs does not describe it explicitly, with Rule 2 only stating that ".....the minimum conditions which are accepted as suitable by the United Nations" and it seems to depend on the interpretation of the provision. In connection with an aspect that the public is very sensitive to at which level prison conditions are, this issue is considered worth discussion. Thus, Group 2 discussed the interpretation of "Standard Minimum" of the SMRs and its Adaptation to the Practice in Respective Countries.

In terms of the interpretation of "Standard Minimum" of the SMRs, there are two opinions presented in our Group; (i) it is considered "the level of minimum" to the letter to be observed by each country in consideration of the International Covenant on Civil and Political Rights, and (ii) it is deemed to signify the living standards of the outside people in respective countries. However, in the latter perspective, it is quite difficult to satisfy such a "Standard Minimum" in most countries, especially taking into consideration the different level of economic situation or other. Therefore, our Group considers the "Standard Minimum" as a relative standard, while indicating the minimum conditions to be observed by respective countries so that inmates may be treated as human beings, and is the guidance for realizing the betterment of prison conditions in its adaptation, according to the circumstances in respective countries.

### **III. DOMESTIC LEGISLATION REGARDING PRISON CONDITIONS AND ACTUAL SITUATION OF PRISON CONDITIONS IN THE PARTICIPATING COUNTRIES**

Group 2 focused on the four areas; 1) accommodation, 2) hygiene and medical services, 3) clothing and bedding and 4) food, which are considered important factors of prison conditions. Here, the legal provisions and the actual situation regarding the above mentioned areas in our respective countries are discussed.

#### **A. Accommodation**

##### **1. Significance**

Accommodation is a basic factor for inmates to spend their prison lives and its equipments should satisfy the conditions necessary for maintaining their health in prisons. Proper equipments are also expected to contribute to the betterment of hygiene. The SMRs stipulate the accommodation of prisons in Rules 9 to 14 in the following items:

- (a) Types and conditions of accommodation;
- (b) Standard of sleeping arrangements;
- (c) Lighting and ventilation;
- (d) Sanitary facilities;
- (e) Bathing and shower installations; and
- (f) Maintenance.

In addition to Rules 9 to 14, Rule 8 also stipulates the separation of different categorized inmates, which is indirectly related to accommodation.

##### **2. Domestic Legislation and Actual Situation**

###### **a) Fiji**

In Fiji, there are two types of accommodation; cell type and dormitory type. In case of cell type regulations, a prisoner shall not be housed in a cell with less than 60 square feet of floor space and

only one prisoner shall be accommodated in one cell. But at times when there is a situation of overcrowding, three prisoners can be accommodated in one cell.

On the other hand, in case of dormitory type regulations, each prisoner confined in a dormitory shall be allocated at least 40 square feet of floor space. Usually 22 to 24 prisoners are accommodated in a dormitory. Both cells and dormitories are sufficiently provided with lightning and ventilation. In case of dormitories, bathing and toilet areas are located within the buildings. Sanitation allocated within accommodation buildings is well cleaned and maintained. However, most prisons that were built during the colonial era are not provided with sufficient sanitation and are still using sanitary buckets.

###### **b) India**

In India, accommodation in a prison consists of cellular and association wards. A cell is intended for a single prisoner and an association ward for more than one prisoner. Rule 701 of the Assam Prison Manual lays down that every prisoner in an association ward shall be allowed not less than 36 square feet of ground space and 540 cubic feet breathing space, that the height of the walls of a ward shall not be less than 13 feet and that in calculating the allowance of cubic feet per person no account shall be taken of any air space above 13 feet.

Near the door of every ward shall be recorded the number of cubic and superficial feet which it contains and the number of prisoners which it is capable of accommodating. On the basis of the manual, the lock up register shall show the maximum accommodation of every ward, so that the Superintendent may be able to judge at a glance whether any ward is over crowded or not. Also he/she shall pay special attention to the ventilation of the

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sleeping wards. In all cases, care shall be taken that there is sufficient lateral, as well as roof ventilation. The interior of worksheds, sleeping wards and cells shall ordinarily be white washed twice a year, and in hospitals once in every three months.

c) Indonesia

In Indonesia, there are two types of accommodation; single cell and dormitory. The latter is designed to accommodate 3, 5, 7, or 9 prisoners.

Both types of accommodation are provided with facilities like: mattresses, pillows, toilets and bathing, ventilation and light. Both single cells and dormitories are available for prisoners and detainees as well and almost 80 percent of the prisoners or detainees are accommodated in dormitories. The placement of prisoners is determined according to the classification of prisoners and security, such as - maximum security, medium security and minimum security.

d) Japan

In Japan, there are two types of accommodation; single cell and dormitory. Both types of accommodation are sufficiently provided with a window, an electric light, and a flush toilet. Unconvicted inmates are put into single cells in principle. Each correctional institution accommodates inmates separately according to sex, age and the number of previous offenses.

e) Nepal

In Nepal, as most of the prisons were built long ago, they are lacking the basic facilities. The prisons were also considered as punitive centres and not as correctional centres at the time of their construction. Therefore, the functional structure and equipment in most of the prisons is very poor. No new prisons have been constructed so far, but the government is

planning to construct new prison buildings. Although the prisons in Nepal are divided into four categories, they are not classified according to the type of detention or level of security but capacity alone. There are no separate facilities for detainees and sentenced offenders, although the Prisons Act stipulates keeping detainees and sentenced offenders separately as far as possible. Similarly, there are no special women's prisons (female inmates are accommodated in separated wings of the same buildings of the male inmates). In Nepal dormitories are provided for prisoners. No size of the prison is mentioned in law. The size differs from prison to prison and there is no uniformity. A case of one prisoner accommodated in a single cell is often the exception rather than a general rule and the standard of one prisoner per a single cell is utilized in the case of solitary confinement.

f) Findings of Discussion

In Fiji, India and Nepal, on the basis of the domestic laws, civil prisoners are kept separately from prisoners. However, in India and Nepal, due to overcrowding and the lack of space, all prisoners are actually kept together in many prisons, except that female prisoners are kept in separate blocks. In Japan and Indonesia, there is no concept of civil prisoners and otherwise the domestic law and practice comply with the other provisions of Rule 8 of the SMRs.

Nevertheless the domestic legislation regarding accommodation in the participating countries is a bit different, the substantial matters mentioned in Rules 9 to 14 of the SMRs are almost stipulated by them, except that Japan and Indonesia have no domestic legislation in compliance with Rule 14. In general, the actual situation concerning the requirement of the separation of convicted and unconvicted prisoners is not satisfied and it is recognized in some participating countries.

## **B. Hygiene and Medical Services**

### **1. Significance**

Maintaining hygiene and providing necessary medical services are of vital importance on the ground that correctional institutions accommodate a large number of inmates and manages them. Bad hygiene risks spreading diseases rapidly among inmates, and insufficient medical care damages their health conditions and sometimes may lead to their deaths. Thus, good hygiene and medical care are the fundamental prerequisite to be addressed by prison authorities in order that inmates send their sound lives in prisons. In this connection, the SMRs have provisions regarding personal hygiene as follows:

#### *Rule 15*

*Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.*

#### *Rule 16*

*In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.*

Here, our group also discussed the matter of medical services stipulated by Rules 22 to 26 on the ground that hygiene and medical care are very closely related to each other.

### **2. Domestic Legislation and Actual Situation**

#### a) Fiji

In Fiji, the visiting medical officers (VMO) to prison are provided by the government and they visit the prisons once a week to make medical checks of newly admitted prisoners, pre-release prisoners and prisoners complaining about sickness and those necessary to be diagnosed on the

request of prison officers. Prisoners with serious and complicated disease are sent to hospital for diagnosis. The VMO is also to visit a prison at least once a month to inspect every part of the prison and shall pay special attention to its sanitary state, the health of the prisoners, and the adequacy and of the diet.

Recently, due to the threat of incurable diseases like HIV/AIDS, thorough medical examinations are conducted for all newly admitted prisoners and their specimens are sent to hospital for further assessment and conformation of results. Prisoners are encouraged to keep themselves clean and decent and are provided with basic necessities like bathing soap, towels, tooth paste and brushes, toilet tissues and shaving gear for daily use. All convicted prisoners are to shave daily and cut their hair short. Civil and unconvicted prisoners are not compelled to shave and have their hair cut short unless the VMO certifies it to be necessary.

#### b) India

In India, the Superintendent, medical officer and all other subordinate officers are responsible for any hygiene matters. Rule 707 of the Assam Prison Manual lays down that attention shall be paid not only to the more important subject of the disposal of night soil and refuse but also to every detail connected with the cleanliness and neatness of the prison and its surroundings. The jail area shall be cleaned daily and be kept free from all jungle matter and weeds, accumulation of broken manufacturing refuse etc. No cooking room refuse shall be permitted to be thrown on the ground, nor shall rubbish of any kind be allowed to accumulate near the jail.

The drainage of the ground round about the jail shall be carefully attended to and where necessary drainage cuts shall be

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made with a view to preventing the accumulation of water. The Superintendent and medical officer are responsible that an ample supply of water of good quality is always available for drinking, bathing and other purposes. The sources from which drinking water is derived shall be carefully selected and protected from pollution. Samples of water should be sent to the laboratory for chemical examination twice a year and also when in the event of an outbreak of epidemic disease, there is a reason for a belief that it might be due to contamination of the water supply. Every possible precaution shall be taken to prevent pollution of the water supply either at the source or at the storage. Every officer of the prison shall exercise utmost vigilance in maintaining hygiene and sanitation.

Section 37 of the Prison Act of 1894 requires that the name of sick prisoners shall be reported without delay to the jailer or medical officer. Under section 39 of the Prison Act a hospital shall be provided in every prison. Rule 650 of the Assam Prison Manual lays down that every prisoner complaining of illness be sent for immediate medical examination by a doctor. A lady doctor may be called in to attend female prisoners when necessary. Every prisoner suffering from any active disease shall be brought under medical treatment and his name shall be recorded in the appropriate register. The medical officer shall daily inspect the out patient register and order the admission to hospital of any out patient if necessary. At least once a week, the medical officer shall examine all out patients. The medical officer shall also visit daily all prisoners in hospital and under observation and decide whether any prisoner shall be admitted into or discharged from hospital.

c) Indonesia

In Indonesia, prisoners are required to maintain a short haircut and be shaved cleanly at all times in order to maintain a good state of personal hygiene. Items such as nail cutters, mirrors for shaving are provided by the prison authority and are available on a communal basis. Inmates are also provided with soap every two weeks from the prison.

In terms of medical care, medical treatment is provided inside a prison or detention house. However, as facilities are not adequate, an inmate may be sent to a hospital outside the prison under escort by prison officers. Doctors from local government and the Red Cross institutions examine inmates for HIV/AIDS once a year.

d) Japan

In Japan, an inmate can take a bath and shave twice a week (three times in the summer). The bathing time is 15 minutes on average (20 minutes on average for women). There is no restriction on hair-styles of unconvicted inmates. However, convicted inmates are required to have a given hair-style in view of keeping better hygiene or safety.

Doctors and other medical staff shall be assigned in every correctional institution. The ratio of doctor against inmates is about 1 to 150, which seems to be higher than that of the general Japanese population. There are the medical prisons and if necessary, sick inmates may be transferred to them. Also if a special medical care or operation is needed, inmates may be transferred to a hospital outside the institution at national expense. Medical checkups are firstly conducted at the time of admission and done regularly once per 6 months afterwards.

e) Nepal

In Nepal, there is legislation regarding the hygiene and medical services to be provided to prisoners. In general, all prisoners are urged to keep their personal and living environment clean. Medical treatment of ill prisoners is to be done by the government doctors serving in prisons. Depending upon the number of prisoners, there is the regular doctor's service only in some prisons. Otherwise, the visit of the doctors is made as per the necessity or on the request of the prison. If an inmate is seriously ill and a government doctor diagnoses that he/she should be admitted to a hospital for better treatment, he/she should be hospitalized and treated in a hospital. In terms of the matters regarding the personal hygiene of inmates, prison officers shall be responsible for maintaining its good state in compliance with the law.

f) Findings of Discussion

The matters relating to personal hygiene are well stipulated in the legislation of the respective participating countries, but in a different way. In the legislation such as in Indonesia, it is just mentioned to provide prisoners with soap, while in Nepal the legislation is silent as to what kind of articles should be provided to prisoners but simply states that the conditions of personal hygiene among prisoners should be kept properly as the duty of prison staff.

As far as medical services are concerned, not all of the matters as stipulated in the SMRs are covered by the legislation of the participating countries. Also the different degree of the provisions is recognized. For example, the services of a qualified dental officer as stipulated in sub-rule (3) of Rule 22 of the SMRs is not mentioned in any legislation of the participating countries except Japan. Similarly, the matter stipulated in Rule 26 of the SMRs is not mentioned in details in any domestic

legislation of the participating countries but India. It is the actual situation that medical services provided to inmates do not always satisfy the provisions of the legislation.

## **C. Clothing and Bedding**

### **1. Significance**

Clothing and bedding are necessary requirements for daily life. Providing clean and sufficient clothing and bedding to inmates is essential for maintaining humanitarian prison conditions and also ensures good hygiene by preventing the spread of contagious diseases in a prison. The SMRs prescribe the matter of clothing and bedding in Rule 17 through to 19. These Rules include the following items:

- (a) Adequate clothing;
- (b) Cleanliness of clothing;
- (c) Clothing in exceptional circumstances;
- (d) Cleanliness of their allowed own clothing; and
- (e) Separate bed and sufficient bedding.

### **2. Domestic Legislation and Actual Situation**

a) Fiji

In Fiji, on the basis of the regulations, prisoners are provided with three pairs of uniform and may be allowed to wear personal clothing on occasions, such as attending court, being transferred by public transport, attending outside church services and burial for close family members. They are also supplied with bedding, such as beds, mattresses, pillows, mosquito nets and two blankets.

b) India

In India, the existing scale of clothing and bedding for all the convicted prisoners is prescribed in the Assam Prison Manual rule 393 in detail. The prison clothes supplied to an inmate under trial shall be withdrawn and taken back at the time of his discharge or release on bail. The above-

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mentioned scale of clothing and bedding shall also be admissible to non-criminal mentally disordered people who are not provided with sufficient clothing and bedding from a private source.

c) Indonesia

In Indonesia, according to the regulations, the basic necessities are provided by the prison authority. Prisoners are provided with two sets of blue uniforms and are allowed to receive shirt and pants from their family. All prisoners are also allowed to wear their own clothing for all authorized purposes, such as visiting prison mosques, churches, attending the funerals of family members, attending medical treatment in public hospitals, family visiting program. If they are not able to afford to have personal clothing, they are supplied with civil type clothing by the prison authority.

d) Japan

In Japan, on the basis of the Prison Law, clothing and bedding are provided for convicted prisoners by correctional institutions. Those for unconvicted detainees are self-supplied in principle. However, those who are unable to afford them may be supplied with such items by the institutions. Different types of clothing are supplied according to the seasonal changes of climate. If any circumstances (e.g., in case of sick, aged and foreign inmates) require special consideration, additional supplies, such as clothing for cold weather or other materials are available.

e) Nepal

In Nepal, all convicted prisoners are provided with dresses two times a year. Mats, blankets, bed sheets and pillows are provided to both convicted and unconvicted prisoners upon their admission. Unconvicted prisoners are allowed to receive approved items of clothing from

their relatives or friends, or to purchase them at their own expense. In cases where unconvicted prisoners stay in prison for more than one year they are also entitled to get dresses.

f) Findings of Discussion

There is domestic legislation in each of the participating countries corresponding to the provisions of Rules 17 to 19 of the SMRs. Especially, the legislation in India as well as in Indonesia is fully compliant with the provisions stipulated in those Rules. In Japan, all the things required by the SMRs are not stipulated in the domestic regulation. In Fiji, except sub-rule (2) of Rule 17 and the matter relating to climate, all requirements are stipulated in the domestic legislation. In Nepal, except for the matters of Rule 19, all requirements are mentioned in the domestic legislation. In general, as far as clothing and bedding, the domestic legislation in each participating country is well provided and put into practice in conformity with its provisions.

**D. Food**

**1. Significance**

Providing food of nutritional value adequate for maintaining inmates' health and physical strength is of vital importance in correctional institutions. Keeping well-balanced calories in food is also required to prevent adult diseases such as diabetes. In this connection, the SMRs have the following provision regarding food as follows:

*Rule 20*

- (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.*
- (2) Drinking water shall be available to every prisoner whenever he needs it.*

**2. Domestic Legislation and Actual Situation**

**a) Fiji**

In Fiji, on the basis of the regulation, there are three dietary scales provided to the prisoners, which are prescribed in the First Schedule commonly known as dietary scale of A, B and C. Prisoners may select any of these dietary scales on admission. On the other hand, there is no any legislation regarding the amount of calories which is required. However, there is the provision regulating that the food supplied shall be wholesome in quality and with all the ingredients prescribed in the First Schedule.

**b) India**

In India, Rule 368 of the Assam Prison Manual lays down that it is the responsibility of the Superintendent to see that the prisoners entrusted to his custody are fed properly so that their health is not impaired and their weight is maintained. The food should contain an adequate quantity of each of the essential elements for maintaining proper nutritional status of the individual. The degree of physical activity is the most important factor that determines the calories of food required.

Calorie value required: An average man who is engaged in any hand manual labor will require 2000 to 2400 calories. A person who is to do heavy work would require not less than 2800 calories. An average woman would require about 2400 calories. A pregnant woman or a nursing mother should have additional calories. Every prisoner shall be entitled to receive diets at the prescribe scale for the class to which he belongs. The diet scales are categorized into A, B and C division of prisoners.

Special diets shall be given to each prisoner on the occasion of Republic Day, Independence Day, Gandhi jayanti and Magh bihu, in addition to the diet

ordinarily admissible.

**c) Indonesia**

In Indonesia, on the basis of the regulation, food is served three times a day, and food calories for inmates are uniformly determined at 2,250. Foreign prisoners who cannot eat Indonesian food due to some reasons (religious or cultural reason) are given special meals. Even in such a case, both quality and quantity are the same as the food for national prisoners. Special diets are available for sick prisoners subject to the recommendation or approval of medical officers (doctors). During the religious month, including hari raya and Christmas day, prisoners are allowed to receive food from their home or religious organizations to celebrate these occasions.

**d) Japan**

In Japan, according to the regulation, food is supplied for inmates three times per day. Food is required to maintain enough calories with reference to their constitutions, health conditions, age, and kinds of work assigned. The nutritional values of food vary from 2300 kcal (kilo-calorie) to 3000 kcal per day. Special diets are available for foreign prisoners whose customs and religious restrictions are different from those of the Japanese, in addition to sick inmates due to medical reasons.

**e) Nepal**

In Nepal, the legislation clearly stipulates that food be provided to the prisoners. Prisoners are divided into two categories; "Category A" and "B". Daily necessary commodities are supplied based on the Category of prisoners or detainees placed. Those placed in "Category A" are entitled to obtain a quantum of 700 grams of rice and 20 rupees a day, while those in "Category B" obtain 700 grams of rice and 15 rupees a day. In case when a female

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inmate gives birth to a baby in a prison, some additional commodities are provided to her.

f) Findings of Discussion

The domestic legislation regarding food in each of the participating countries is in compliance with Rule 20 of the SMRs, although they are stated in a different way slightly. That is to say, the legislation has provisions regarding the quantity of the commodities in detail, whereas other legislation includes clear clauses of the nutritional value adequate for health and strength. For example, in India, the food is subject to different categories of prisoners and this is mentioned in a form of clarifying the calories per the kinds of items in detail. In Japan the legislation clearly states how many times the food is supplied and calories according to the work assigned to the prisoners, which seems to be more detailed than Rule 20 of the SMRs. In general, as far as food is concerned, the domestic legislation in each of the participating countries is well provided and put into practice in conformity with the provision.

Through the discussions, our group is of the same opinion that enjoying sufficient living space, clothing and bedding, hygiene and medical care, and food is the fundamental necessity for human beings. Such a principle is applied to even inmates in custody in correctional facilities and should be respected fully as long as it does not harm the original purpose of their incarceration.

**IV. MAIN CAUSES FOR IMPEDING  
IMPROVEMENT OF PRISON  
CONDITIONS, AND ITS INFLUENCE  
ON PRISONERS**

Our group first reviewed both the Standards and Norms regarding prison conditions and then, especially on the basis

of the provisions of the SMRs examined how the domestic legislation is stipulated in each of the participating countries and what the actual situation was in practice in prisons. As a result, it is found that the actual practice does not always comply with the standards stipulated in the SMRs. Therefore, it is necessary to find out the existing problems in prisons and to examine the main causes for impeding the improvement of prison conditions and its influence on prisoners. This group first discussed the causes for impeding the improvement of prison conditions and tried to relate each problem with the respective causes. The main causes for impeding the improvement of prison conditions are found as follows:

**1. Insufficient Budget**

Our group reaches the consensus that the insufficient budget is the main cause for impeding the improvement of prison conditions. This cause may differ from country to country and may exist even in the developed countries. But this is considered as the main cause in most of the developing countries. The government has other priority sectors such as poverty alleviation, health, education, drinking water and so on. As the budget is very limited and many sectors need to be improved, there is no sufficient budget allocated for the improvement of the prison conditions. The national budget of many developing countries depends not only on internal resources but also on foreign resources. Therefore, the priority sectors are sometimes determined by the external factors as well. Similarly, the priority sector, in most of the developing countries, is determined, depending on the returns to the government by the particular sector concerned and as the prison sector does not make any substantial returns to the government, the government does not allocate sufficient budget to it. In many countries the prison buildings were built

many years back and lack minimum facilities, but constructing new prison buildings costs a lot and most developing countries can not afford this because of the insufficient financial resources.

On the other hand, the budget allocated to the prisons is not properly distributed among the prison institutions and thereby the conditions of the prisons such as accommodation, clothing and bedding, food, and personal hygiene etc. differ from prison to prison. Due to insufficient budgets there is the lack of equipment, lack of medical care and insufficient implementation of rehabilitation programs. If the above mentioned problems are in a prison, there is a bad influence on the inmates housed in such prisons and it causes the dissatisfaction of the prisoners which leads to disobedient attitudes of the inmates and sometimes it even leads to hunger strike and to riots in prisons.

## **2. Lack of Understanding by Government**

This is also considered as a cause for impeding the improvement of prison conditions. It is one cause which differs from country to country depending upon the political system of a particular country. If the political system is democratic, then the government is more likely to listen to the voices of the human right activists and give due priority to the improvement of prison conditions. Especially, in a democratic system of government if the government does not have proper understanding about the prison conditions and people are not made to understand about the human rights situation in a prison as well as prison standards, then the people may pressure for the development of sectors other than the prison, which ultimately hinders the improvement of prison conditions. In some countries depending upon the election

system, the politicians are interested in only securing their votes and therefore they pay more attention to own constituencies. Then, prison is not a priority for such politicians. This can also be taken for the lack of understanding by the government as the same politicians are there in the government.

Regardless of the political system, there are cases where the government officials working in prison do not recognize the minimum standard of prisons which should be maintained and they do not report to the higher authority accordingly and the higher authorities do not have sufficient knowledge about prison conditions and these institutions are neglected, similarly due to the lack of understanding by the government about the prison conditions, low priority is given to the prison institutions within the ministry concerned and thereby the prison conditions are not improved. As a result, there are different levels of prison conditions, lack of equipment, lack of medical care and so on, when such problems are in a prison there is a negative influence on the prisoners and they gradually show their dissatisfaction and it leads to disobedient attitude and finally may lead to hunger strike and riots. In such a situation there is no expectation of proper rehabilitation and making a good citizen in a prison.

## **3. Overcrowding**

Overcrowding is one of the main obstacles and causes of the impediment for the improvement of prison conditions. It hinders the realization of the goals of the prison administration. The annual budget for a particular prison is fixed at the beginning of the fiscal year bearing in mind the actual number of the prisoners or the maximum capacity of that prison and the manpower is determined beforehand. But the overcrowding starts somewhere anytime of the year but after the budget

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has been fixed. Due to the limitation of manpower, material resources and technical equipment, prison administrations have to be emerged in coping with daily affairs and correctional programs cannot be effectively carried out.

Overcrowding also impedes the proper implementation of the classification of prisoners. Increasing prison population and limited prison facilities cause different categories of prisoners to be kept mixed. For that reason, in some countries convicted and unconvicted prisoners are also kept together, as a result different kinds of offenders share their crime experiences with each other and cause contamination, overcrowding weakens prison security. Consequently, it makes some inmates' temper worse and some inmates may behave abnormally and even provoke dispute. These matters may escalate violence among the prisoners. Because of overcrowding, there is a possibility of spreading diseases, such as HIV/AIDS, tuberculosis, hepatitis and other epidemics which may take place and ultimately may cause the death of inmates.

#### **4. Insufficient Disclosure of Information to the Public**

In a democratic society, public opinion plays a vital role. The general public are the source of power, therefore, nothing can be done against the people's will. The government is formed by the people and the policies formulated should reflect the public will otherwise the policies cannot be successfully implemented. The participants reach consensus in general that one of the causes of impediment in the improvement of prison conditions is the lack of disclosure of information to the public. Firstly, some prison officers themselves are reluctant to provide information about the actual situation of the prison to the mass media and to the public. Secondly, the mass media does not

publish the real situation of prisons and distorted information is reaching the public. Therefore, the media makes unnecessary exaggeration of the fact, especially the negative incidents in prisons are highlighted and the public cannot have real information about the prison conditions and they think that they have nothing to do with prison.

One of the important facts is that the public in general should be made aware that prisoners are also human beings and they need to be treated as human beings. This is lacked even in the developed countries and the public is often critical of correctional institutions and say that too many facilities are provided for prisoners. However, the reality is different because no countries have provided too many facilities for prisoners. It depends on the level of overall development of a particular country. When the public in general are not informed correctly and they are critical of the management of prison, it definitely impedes the improvement of prison conditions.

#### **5. Lack of Cooperation from Outside**

Our group, in discussing this point, basically observed two views: first - cooperation from the private sector, non-governmental organizations (NGOs) and other volunteer organizations and second - from outside the prisons but within the government institutions. The private sector is reluctant to invest in the operation of factories in prisons which makes it difficult to provide jobs to the inmates who are willing to work and such situations contribute to the impediment of the improvement of prison conditions. In most developing countries, the NGOs and volunteer organizations are not working properly in order to improve prison conditions.

Similarly, the government agencies which are supposed to support the prison administration ( for example- medical officers and other medical facilities from the health department etc.) are also not so eager to provide such facilities to the prisons. In some countries, medical doctors deployed in prisons are not willing to work there. Such cases impede the improvement of prison conditions. Such matters definitely have a negative impact on prisoners. Depression, health deterioration and many other negative consequences arise.

#### **6. Some Prison Officers' Lack of Recognition of Inmates' Rights**

The right of inmates stipulated in each country's legislation that governs the treatment of prisoners must be fully observed by prison officers when carrying out their duties. It must be realized by all prison administrators and staff that the prisoners should be treated as human beings.

Our group has identified that some officers lack the commitment to their work or have a mere ignorance or negligence in performing their work. For instance, prison officers pay inadequate attention to complaints, requests and grievances made by prisoners regarding prison conditions. Also, there are some cases where they provide or demonstrate unfair treatment for prisoners by distributing clothing or food unequally. Those situations increase the dissatisfaction of prisoners with negative attitudes towards the prison authority and discourage their self-motivation of rehabilitation.

Considering the background of prison officers' poor recognition towards prison conditions, two reasons can be imagined; the one is the low level of salary and the lack of chances of promotion for personnel, and the other is an insufficient training system.

#### **7. Lack of Inmates' Positive Attitudes towards Prison Conditions**

It is important that inmates themselves pay more attention to prison conditions to be kept in a good state. Actually, most inmates do not have enough positive attitudes towards prison conditions. Furthermore, some of them even ignore the breakdowns of prison equipment. Such a lack of inmates' positive attitudes can be one of the causes impeding the improvement of prison conditions. Also, in order to cultivate inmates positive attitudes, prison officers themselves should have and show inmates their positive attitude regarding prison conditions.

The causes for impeding the improvement of prison conditions mentioned before are taken from the experiences of the participating countries. There may be other causes which hinder the improvement of prison conditions. Nonetheless, the most important cause impeding the improvement of prison conditions is considered to be the constraint of resources. Similarly, the socio-economic as well as cultural development of a country may also influence the improvement of prison conditions.

### **V. SOME MEASURES TO IMPROVE PRISON CONDITIONS**

Our group first discussed the actual situation of prison conditions and the major impediments to the improvement of prison conditions. Now that these impediments have been explored, it is necessary to suggest some countermeasures to elevate these prison conditions to the desired standard.

#### **1. Measures for Insufficient Budget**

Regarding insufficient budget, although it is very difficult to increase the budget overnight where a country is facing economic problems, systems including a

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proper mechanism for analysis, assessment and submitting reports should be developed. It is not possible to solve all the problems concurrently, therefore, priority should be given to the minimum requirements and this should be non-negotiable and the available budget must be utilized properly. If there is a possibility of reducing any costs, such as use of electricity, telephone calls or any other stationary goods, this should be reduced so that the surplus budget can be used to improve prison conditions. Such strategies have been successful in Fiji which can be used as an example for other countries.

Similarly, some mechanical or electrical devices can also be used and prison staff can be reduced which would be cost effective in the long run. On the other hand, as part of the measures to make up for the insufficiency of the government budget, establishing a mechanism to generate profits inside corrections is recommended. As one possible way to build such a mechanism, activating the business of prison work inside correctional institutions is conceivable.

In addition to these strategies, the actual need of each prison should also be assessed in detail before the allotment of budget so that the budget can be distributed properly among prison institutions.

In countries where the prison buildings were constructed many years back and are located in urban areas, there is an option to sell the land or to utilize such land for other purposes. New prison buildings can then be constructed in a place where the land is cheaper, and thereby the prison conditions could be improved. For this purpose, model site plans for prisons should be devised as a priority to maintain uniformity in terms of architectural design to be based on SMRs. Privatization of some of the prison management aspects, such as

food, clothing, hygiene and so on could also be one of the countermeasures to reduce expenditures. Privatization of prisons has been introduced in Australia and is found to be cost effective. But our group does not propose complete privatization which may have pitfalls including security problems and low quality which have been experienced in some countries.

## **2. Measures for Lack of Understanding by Government**

In order to give the government a clear understanding about prison conditions, prisons should be well managed and sound professional competence of the prison officers should be developed. Prison administrators should take the initiative for making periodical reports to the prison department and Ministry concerned. Another initiative is to invite politicians including ministers and members of Parliament to visit the prison and make them appreciate the urgency of improvement of prison conditions. Similarly, other officials involved in the criminal justice system may be invited from time to time to visit prisons to make them aware of the actual situation in prisons, therefore, the improvement of prison conditions may become a priority of government. To that end, the prison authorities should be very honest and provide adequate information to the mass media as well as to the government.

## **3. Measures for Overcrowding**

Obviously overcrowding causes inadequate prison conditions which have already been mentioned in this paper. General countermeasures to cope with overcrowding are supposed to be discussed in detail by group 1, therefore, our group has dealt with some of the measures to be taken inside the prisons assuming that there is overcrowding in the prisons, particularly those that have a negative impact on prison conditions.

When there is overcrowding in prisons the first problem to overcome is the shortage of space. To overcome this problem, underutilized and obsolete facilities can be adapted into new cell blocks. Other initiatives might include using the space in a cell room more effectively, for example, by making shelves and putting possessions in order. Similarly, use of accommodation of open camps and open prisons could be helpful to overcome this problem. In doing so, a system of proper security risk assessment is required in order to send low risk inmates to such prisons or open camps. Open camp systems in Indonesia and open prison systems in India have been successful. Prison authorities should be encouraged to explore innovative strategies for providing additional accommodation. For example, some devices for increasing beds such as using container type beds, mobile camps and demountable buildings have been used successfully in some countries. Use of bunk type beds (2-3 stories) may also contribute to increasing bed numbers and providing better conditions.

To overcome the shortage of goods for the daily use of the inmates, it would be desirable to insist that inmates themselves purchase some such goods at their own expense and from outside (such as religious groups). Prisons can also be encouraged to become self-sufficient in the production of food stuffs, for example through growing fruits and vegetables on prison property.

To overcome the shortage of resources for rehabilitation programs, proper screening process in rehabilitation of inmates should be carried out. So that budget for programs can be targeted and prioritized. Similarly, the shortage of prison staff due to overcrowding can be overcome by encouraging volunteer activities or through the use of temporary staff system.

#### **4. Measures for Insufficient Disclosure of Information to the Public**

In order to make accurate information about prison conditions available to the mass media, a designated prison officer or public relation section in each prison should be given such responsibility. Depending upon the situation of each prison, meetings with the mass media on a regular basis could be held. The officer in charge of providing such information should follow the news publications and if the news was distorted, the immediate concern should be brought to the attention of the publisher. Corrections to the news should be published with a guarantee of not distorting the information in the future.

Real transparency should be a feature of prison administrations particularly with regard to prison conditions. If there are some reasons why the government cannot allocate more budget, sufficient explanation should also be given to the public. Therefore, they may come up with some solutions and it even helps make indirect pressure on government to draw attention for cooperation from the outside.

Depending upon the size of prison and the existing work load, setting up a separate public relations section is also desirable. Such a section will regularly deal with the public in providing them information about the prison and obtaining public opinion which may help for the better management of prison. Use of internet, where possible, would also be a good method for circulating information to the public and getting public opinion.

#### **5. Measures for Lack of Cooperation from Outside**

In order to attract private sector investment inside the prisons, the government should develop infrastructure and try to attract the private sector. Joint

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investment by government and private enterprise would be an appropriate method to attract the private sectors. Potential NGOs and religious groups should be selected which are really interested in the work and the government can work together with such NGOs and religious groups for the betterment of prison conditions. Similarly, volunteers should be encouraged to work in this field. So far as the cooperation with the government institutions is concerned, the initiative should be taken by prison authorities to get such adequate cooperation from those institutions. In order to facilitate this goal, the Prison Department should get in touch regularly with the institutions concerned and make them understand the seriousness of the situation. In order to pursue educational programs, the Prison Department should correspond to open universities and other educational institutions and get cooperation from them.

**6. Measures for the Lack of Some Prison Officers' Recognition of Inmates' Rights**

Today, human rights of prisoners have taken on a new significance and perspective. Therefore, the prison staff in general and the prison officer in particular should be quite aware of the fact of how human rights of prisoners are to be upheld in prisons. To this end, training about the importance of human rights should be given to all staff from the highest level to the lowest level involved in the prison administration and prison management. To update the knowledge of the prison officers and other staff and to make them able to implement correctional policies in a proper spirit, refresher training and on the job training should be provided in addition to the basic training. Such training will help to update their knowledge and make them able to implement correctional policies in a proper spirit. To ensure that staff are constantly

reminded of their obligations towards prisoners, the appropriate authority should publish information, including procedures and legislation that enshrine basic human rights and disseminate this to staff. This could include the production of handbooks, posters and where possible use of the intranet and internet.

Similarly, prison authorities should be able to afford job satisfaction to its personnel. An officer or staff not satisfied with his/her job may not provide an effective and efficient service and ultimately it leads to the lack of recognition of inmates' rights. In this connection, the attention to the equal opportunities of prison staff who actually deal with the human rights of prisoners should be recognized first and then the principle of reward and punishment should be applied strictly on the basis of performance.

It is important that all prison officers should also have positive attitudes towards the prison conditions. For example minor repairs which can be easily done should be fixed by the prison officers themselves and be an example for the inmates. It contributes to improve prison conditions without involving any extra cost. This will help to improve prison conditions.

**7. Measures for the Lack of Inmates' Positive Attitudes towards Prison Conditions**

The prisoners themselves should play a vital role in improving the prison conditions. Prisoners from different backgrounds need some basic training after their admission to prison, they should be provided with an inmate handbook in order to make them clear about the human rights, expectations and obligations. Forming different committees such as a cleaning committee, maintenance committee, self-management committee, etc. among prisoners can be another way

for cultivating their positive attitudes towards prison conditions. If programs are conducted with the introduction of competition systems, highly evaluated committees are rewarded, and their attitudes can be stimulated and enhanced by those incentives. Good relations between the prison staff and the prisoners can also be expected in the course of such activities to achieve these goals. An environment for self-motivation among prisoners should be created in the prison so that they may develop positive attitudes towards the efforts to improve prison conditions.

## **VI. METHODS AND PROCEDURES TO SECURE THE EFFECTIVENESS OF LEGISLATION REGARDING PRISON CONDITIONS**

Establishing systems such as inspection and reporting systems are considered a key to a success for securing the effectiveness of the legislation regarding prison conditions. In this connection, Rule 55 of the SMRs stipulates as follows:

### *Rule 55*

*There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be, in particular, to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.*

Therefore, our group discussed the inspection and reporting system in each of the participating countries which is as follows:

### **1. Fiji**

The officers in charge of prisons are required to visit all wards, cells, yards, workshop, kitchen and latrines and other

parts of the prison two times a day. Such officers are also required to see all inmates daily, if possible. He shall submit his report to the Supervisor of Prisons for perusal. The Supervisor of Prisons has to inspect all prisons under his control as frequently as possible and as per the direction of the Commissioner of Prisons. A report of his inspection is to be forwarded to the Commissioner of Prisons. The Commissioner of Prisons shall thoroughly and systematically inspect all prisons at least twice a year and submit his report to the Minister of Justice. Similarly, the Visiting Justice shall visit and inspect a prison at least once a week at any time and may inspect all books, papers and records relating to the management and discipline of the prison. He will also report to the Commissioner of Prisons of any matter of interest made through his inspection or visit. There is also a Visiting Committee in Fiji which consists of four or five people nominated by the Minister of Justice. Such Committee shall visit and inspect prisons at least once every three months and make a report to the Commissioner of Prisons and to the Minister of Justice. Other visits like Official Visitors, Ombudsman and Government Officials, Provincial Officials and NGOs are allowed after gaining the Commissioner of Prisons approval.

### **2. India**

In India, the Inspector General of prisons shall inspect all departments of every jail at district headquarters at least once a year and every jail at Sub-Division headquarters at least once in two years. During inspections he shall personally see every prisoner and give reasonable opportunity of making any application or complaint and shall investigate and dispose of such as relate to jail discipline. He shall inspect the yards, wards, cells, worksheds and other enclosures, conservancy arrangements, and the medical administration, shall see the food

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and ascertain that it is of proper quality and quantity and generally satisfy himself that the building and premises are in proper order. He shall satisfy himself that the orders of government regarding the arrangement and periodical destruction of record are observed. Immediately after the inspection the I.G. shall furnish the Superintendent with a memorandum embodying his opinion of the manner in which the jail is administered the extent to which the officers appear familiar with their duties, together with any suggestions or orders for the guidance of the Superintendent.

The Inspector General shall exercise full control over all expenditure in jails submitting annually to government, through a comptroller, a budget of the funds necessary for their maintenance in such a manner and at such time as may be required. All monthly and other bills for jail expenses of every description shall be submitted to and audited by the Accountant General's Office.

### **3. Indonesia**

In Indonesia, the Superintendent of prisons inspects blocks, cells, kitchens, food rooms, etc, every day, except Saturday and Sunday. If the Superintendent of prisons finds any complaint by the inmates, he will discuss such matters with his staff to solve the problem, but if the problem is found to be serious, the Superintendent of prison will form a Committee to investigate the case. The result of investigation should be reported to the head of the branch office of the Department of Law and Legislation and to the Director General of Correction. There are three types of inspection for prison conditions in government, the inspection by Inspector of Department of Law and Legislation, inspection by Director General of Correction and Staff and inspection by Auditor of Development and Finance Agency (every year, at the end

of the fiscal year). Similarly, the members of the House Representatives, the International Committee of Red Cross, Indonesia Branch and other religious groups also visit the prisons. The Red Cross and religious groups often provide food and clothing to the inmates.

### **4. Japan**

In Japan, the prison warden must observe the administration in prisons at any time, and in case of complaints made by inmates, he is ultimately responsible for examining the contents of those complaints and taking any action for the improvement of prison conditions if necessary.

On the other hand, regional correction headquarters and inspecting officers who are designated by the Minister of Justice, alternately visit each prison to inspect and ensure proper administration every year.

In Japan, there are two types of inspection in government. Administration Inspection Bureau as a subordinate department in Administration Affairs in the Prime Minister's Office and Board of Audit, as a kind of independent administrative committee, are supposed to make inspections. Administration Inspection Bureau inspects and ensures the proper administration by each department of government, and the results of inspections are reported to the Cabinet to a regular target.

On the other hand, the Board of Audit inspects and ensures the proper execution of budget in each department of government, and also is obliged to submit the reports to the Diet through Cabinet. Thus, it can be inspected whether or not prison conditions are managed properly from the point of execution of budget.

In Japan, there is no organization out of government which is designed to aim at

only watching correctional institutions. However, many NGOs, such as the Japan Federation of Bar Associations and Amnesty International Japan, function as general human rights observer groups. These groups propose the government progress reformation with perspectives different from government, and submit the reports to the United Nations. These activities take part in the inspection of the management of correctional institutions in Japan.

### **5. Nepal**

There is no regular reporting system as such in Nepal about prison conditions. But the prison officer is required to submit a monthly report to the Chief District Officer. The Chief District Officer should visit the prison on a regular basis and be aware of the prison conditions. Prison officers are also required to submit an annual report about the activities of the whole year at the end of each fiscal year. Non-Governmental Organizations involved in the field of human rights, on their request, are also permitted to visit prisons.

So far as the proper utilization of the budget allocated to the prison is concerned, an internal audit is made by the Comptroller General and final audit is made by the Auditor General. This final report is required to be submitted to parliament. Thus the system of checking balances on the budget is transparent and accountable.

The reporting system in most of the participants' countries is not found to be working properly, therefore, an independent, transparent, impartial and fair body should be set up and the power to visit and inspect every prison should be given to this body which shall report on prison conditions to the Minister concerned. A copy of the report should be sent to the parliament. If the reporting

system functions properly, the prison conditions will be improved.

## **VII. CONCLUSION**

This report was compiled following extensive group discussions, where all members participated, expressing their ideas and bringing useful and relevant perspectives from their own countries. The discussion was augmented by the immense contribution of our two faculty advisors and also Mr. Grant, the visiting expert from Australia.

The paper itself explains measures to improve prison conditions and may not satisfy all readers perceptions or thinking. However, it may help others especially from developing countries to identify the problems of impediment for improving prison conditions that we have outlined in this report and we hope that there will be opportunities to implement some of the solutions or countermeasures that we have outlined.

It is therefore necessary for all correction administrators to work towards one common goal and that is to provide humane treatment to offenders taking into consideration the human rights concept thus helping them successfully to reintegrate back into society.

In this regard well structured, improved prison conditions contribute a lot to the personal development (attitude, behavior, knowledge, skills) to successful integration.