

CURRENT ISSUES IN CORRECTIONAL TREATMENT AND EFFECTIVE COUNTERMEASURES

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I. INTRODUCTION

It is the general consensus that the fundamental objective of corrections is rehabilitation, whether such institutions are prisons, juvenile centers and other types of correctional institutions. Like many other countries, Malaysia has been strongly influenced by the so-called treatment and rehabilitation concepts, and strongly believe in the possibility of being able to treat and rehabilitate offenders. The treatment process within the prisons is clearly directed towards the preparation for an eventual return to the community as law abiding and socially productive citizens. Their treatment should spell out principles of legality and humanity, and this conforms in almost every aspect to the United Nations Standard Minimum Rules (Treatment of Offenders) 1954 and the Prison Rules.

A reasonably high economic growth sustained by our country for the last several years has furnished and coloured the prisons population. Drastic social and economic changes has created a great impact on the annual admission of correctional institutions. The steady flow of foreign workers besides providing and fulfilling our manpower needs for the country's growth and also contributed significantly and has been a continued upward pressure in the prison population. This issue of over crowding has always been the priority agenda in our prison reformation. The sudden influx of HIV/AIDS infected prisoners have pressured the management to accommodate some

changes in policies of prisoner daily management.

Some major contemporary issues resulting from these social, economic and environmental changes facing correctional administrators include the changing trend in prison population, overcrowding in correctional facilities, improvement of prison conditions, increase of drug-related offenders, shortage of effective treatment programmes and the small issues that can easily be resolved by prison management.

II. RELATIONSHIPS BETWEEN THE CRIMINAL JUSTICE AGENCIES IN MALAYSIA

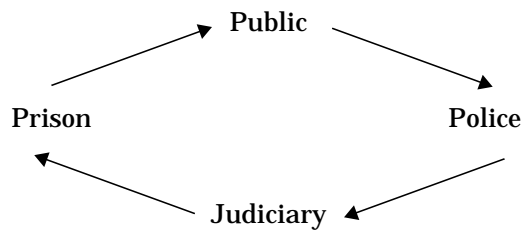
The administration of criminal justice in Malaysia is enforced and administrated by three different agencies, that is the Police (Investigation & Prosecution), the Judiciary (Criminal Justice Process) and the Prisons (Correctional Center for Offenders). These agencies are separated in the sense of administration and jurisdiction, but they are related in their functions. This relationship can be seen whenever there are reported crimes; it becomes the responsibility of the police. When the police make an arrest, a decision is made on whether or not to seek formal charges against the arrest suspects. The police may release a suspect without charges if they consider their evidence insufficient or admissible; or if the suspect has established an alibi; if the suspect agreed to be an informant; if the victim or key witnesses show reluctance to follow through on prosecution; or for other reasons. When the police do seek formal charges, the prosecutor must decide

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whether to issue an information or seek a bill of inducement from a grand jury. When a case is prosecuted, the guilt or innocence of the defendant must be determined. A preliminary hearing of some sorts is usually held first, where the probable cause supporting the charges is reviewed and defense motions concerning the admissibility of the prosecution evidence are considered.

When a person is sentenced, additional decisions determine whether that sentence will be served in prison or a rehabilitation center. Decisions are also made about what kinds of treatments the convicted person should undergo. In the case of a person sentenced to prison important initial decision concerns the kind of institution to which he will be sent. The principal distinction is among minimum, medium and maximum-security prisons. Generally, the higher degree of security, the less comfortable the accommodation and the more limited the freedom enjoyed by inmates. The prison administration within the framework of its penal legislation classifies the prisoners and determines the treatment program for them. Therefore, we can summarize that the enforcement and the administration of the criminal justice system in essence are to arrest, sentence and rehabilitate the same offender. The objectives of the Criminal Justice System in Malaysia in relation to law-breakers are that it removes dangerous persons from the community, it prevents others from criminal behavior, and it offers the society an opportunity to attempt to transform law-breakers into law-abiding citizens. As said earlier, these objectives are achieved by a close working relationship between the Police, the Judiciary, and the Prisons.

III. THE ROTATION OF THE CRIMINAL JUSTICE PROCESS



A. The Malaysian Judiciary

The Malaysian Constitution provides for the exercise of power by the legislature, the executive and the judiciary. The judiciary plays an important role in this balance of power. It has the power to hear and determine civil and criminal matters, and to pronounce on the Legislative and Executive Act. To enable it to perform its judicial functions, impartially, the judiciary is relatively independent.

The judicial power of the country is vested in the Federal Court, the High Courts and the Subordinate Courts. The Head of Judiciary is the Lord President of the Federal Court. He has direct supervision over all courts, which are headed by an administrative head, that is the Chief Registrar.

B. The Malaysian Police Force

The Malaysian Police Force headed by the Inspector General of Police is charged with the responsibility of not only preventing crimes but also performing a variety of general duties for the protection of the general welfare of the people. They are also responsible for investigating crimes, detecting and identifying offenders and prosecuting criminals in courts. Besides all those, the police also have to perform other duties including patrolling coastal water and rivers, jungle operation, tracking down undesirable elements, investigating the smuggling of drugs, arms and other protected items through the

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borders ensuring the safety of passengers traveling in the nations railway and airline system.

C. The Malaysian Prison Service on the Treatment and Rehabilitation of Offenders and Juvenile Delinquents

a. Background

In Malaysia before the Second World War, the penal establishments in various Malay States, Straits Settlement (Penang, Singapore and Malacca) and Sabah and Sarawak were directly under the responsibility of the respective states and settlements. Each of which had its own prison regulations. The policy in all prisons was basically punitive in nature, i.e., making the life of the prisoner hard and unpleasant. It was hoped that such conditions would operate as a deterrent to crime. In 1949, a centralized administration was set up and a Commissioner of Prisons appointed to exercise control over the administration of all prisons. From the year 1950 onwards, in keeping with modern trends of penal development the deterrent theory of punishments was replaced by the reformatory theory and this had an important impact on the department. In 1953, there was a repeal of the seven separate and different prison enactments which were replaced by prison ordinance and prison rules, which were based on the modern concept of human treatment of prisoners and juvenile delinquents. The replacement by the new legislation does not cover the states of Sabah and Sarawak. These two states still practiced their own ordinance and rules until the year 1995, when the Prison Ordinance 1952 was replaced with the new legislation called the Prison Act 1995. This new piece of legislation is a landmark in the development of the penal system in the country. For the first time, it became possible to apply uniform penal methods

throughout the country and to ensure consistency of administration in all the penal establishments in all the states.

The Prison Department is responsible for the administration and management of 39 penal establishments in Malaysia including the Prisons Rehabilitations' Centers, Drug Rehabilitation Centers and Advanced Approved Schools for juvenile delinquents. The Minister of Home Affairs is the central and final authority for policy making and administration relating to the treatment of offenders in Malaysia.

INSTITUTION	TOTAL
Headquarters	3
Prisons	25
Rehabilitation Centers	3
Detention Centers	1
Advance Approved Schools	5
Prison Colleges	2
Total	39

The Director General of Prison is responsible to the ministry for the direction, supervision and overall control of all penal establishments in Malaysia. At the Prison Headquarters in Kajang, Selangor, the Director General is assisted by a Deputy Director General and various head divisions at the regional level, each penal institution is headed by a Director or Senior Superintendent of Prison depending on the size and inmates population of that particular prison. They are responsible to the Director General of Prison with regard to the administration, security of institution as well as the rehabilitation programmes of the inmates.

b. Roles and Functions of Malaysian Prison

The purpose and objectives of this paper are to enlighten the role of Malaysian Prison as a main correctional body in the Criminal Justice System. Generally the objective and functions of the Malaysian

Prison Department are:

- i) To protect the public by segregating the offenders from the community as ordered by the courts.
- ii) To effectuate judicial decisions by holding prisoners in custody until their actual times of release.
- iii) To provide a secure, orderly and humane treatment environment for offenders in department custody, and
- iv) To rehabilitate offenders so that they may regain their self-respect and self-identity and thus eventually return to their community as law-abiding and socially productive citizens.

In order to ensure these objectives and functions being successfully achieved, various steps have been taken by the institution. In other word, this is where the Prison Department plays their role.

The main principles in treatment of the prisoners are as follows:

- i) Discipline and order shall be maintained with fairness but firmness, and with no more restriction than is required for safe custody and to ensure a well ordered community life.
- ii) In the control of prisoners, prison officers should seek to influence them, through their own example and leadership so as to enlist their willing co-operation; and
- iii) At all times the treatment of convicted prisoners shall be such as to encourage their self-respect and a sense of personal responsibility; so as to rebuild their morale, to inculcate in them habits of good citizenship and hard work, to encourage them to lead good and useful life on discharge and to fit them to do so.

In Malaysia, particular attention is paid

to the treatment of prisoners with the objective that persons deprived of liberty should be treated humanely, and enjoy basic rights and as far as possible, conditions of living in accordance with the dignity of a free man outside the prison wall. To prove this, upon admission to prison, a great deal of trouble is taken over each individual prisoner whereby each of them is documented and a dossier is opened for him.

Information about him, like social background, antecedents, physical appearance, offense, sentence, etc. is recorded in the dossier, admission registry and other books. After being medically examined, the Reception Board headed by the Officer-in-Charge or his Deputy interviews the inmates, ascertains their interests, classifies them and assigns them an appropriate form of treatment which is deemed best suited to them.

c. Vocational Training

Rule 74, Prison Rules 1953 stated that, "Every prisoner shall be required to engage in useful work, all of which so far as practicable, shall be spent in associated or their work outside the cells, and no prisoner shall be employed on any work unless he has been certified as fit for that type of work by the medical officer."

In the Correctional System of Malaysia, prison industry forms an integrated part of the programm of rehabilitation of offenders as well as an important instrument for providing employment for inmates. The objectives of this trade are:

- i) To provide the offender vocational training with a level of training and skills appropriate to his aptitude and capacity that would enable him to compete for related and satisfying employment after release.
- ii) To give the offender confidence,

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satisfaction and self-respect so that he may adjust easily to normal society after release.

- iii) To cultivate good working habits among offenders.

Carpentry, tailoring, metal work, laundry, handicraft, rattan-work, printing, engine-repairs are some trades taught in prison. Besides practicing this trade, in 1981, Malaysian Prison Department moved to a new concept of vocational training called "Joint-Venture Scheme." Under this scheme, the Prison Department supplies a selected number of inmates and workmanship premises (within the prison) and the private companies involved provide machinery, raw materials, trade instructors, expertise and are also responsible for the marketing and sale of the products.

The participating firms are also required to pay for the rental of the prison workshops, water and electricity bills, insurance coverage for inmates and regular salaries to inmates who participate in the scheme.

The objectives of this new approach are:

- i) Reduce government expenditure and increase revenue.
- ii) Provide inmates the opportunity to be trained in the use of modern

machinery and acquire the technical know-how.

- iii) Reduce technical training instructors and administrative work.
- iv) Non-involvement in marketing.
- v) Increase the earning of inmates.
- vi) Provide more vocational training facilities for the increasing prison population.

Industries pursued under the Joint-Venture Scheme are wood-cane, furniture, and knitting of sweaters for export, electronic gadgets, carpet inlays and others. Since its introduction, the Joint Venture approached has proved to be a success and inmates have benefited tremendously from it. For this reason, the Prison Department is planning to expand this scheme to all prisons.

IV. TRENDS IN PRISON POPULATION

A. Prison Capacity

There should be a balance between the number of prisoners and the facilities to accommodate them. Any imbalance will create severe impacts on the total rehabilitation program. Currently we have 34 penal institutions with a comfortable capacity of 23,884 prisoners. However the prisoner population as per 2 March 2000 was 25,029 (9.54%) that is above the comfortable capacity.

Total Number of Prisoners as per 2 March 2000

Institutions	Total No. of Prisoners	Comfortable Capacity
Prison	22,176	20,755
Rehabilitation Center	1,884	2,030
Detention Center	29	369
Advance Approved School	940	730
Total	25,029	23,884

Excess number of prisoners certainly creates some problems for the administrator on the mundane tasks of transportation, feeding and bedding. And more importantly it undermines internal social control, creates high potential for conflict and can negatively influence the relationships between staff and inmates.

The central problem in prison management here is its lack of control over the increasing number of inmates. Its workload is entirely at the mercy of magistrates and judges who have no structural involvement in the management of the prison system and no responsibility for allocating resources thereto.

B. Prisoners Awaiting-Trial

**Remand Prisoners as per 2
March 2000**

Type	Total of Remand Prisoners
High Court	392
Session Court	873
Lower Court	5,161
Foreigners	924
Others	4
Total	7,353

Another factor adding to the prison capacity is the high incidence of prisoners awaiting-trial or remand prisoners in prison. As the above chart clearly shows, over 29.38% of all prisoners held on March 2, 2000 were awaiting trial. This is largely due to a considerable proportion of mainly 'lower socio-economy' class of accused being unrepresented in court or unable to meet bail or bail requirements. We strongly feel that the high percentage can be reduced in the following ways.

- a) The introduction of an easier and more accessible legal aid system.

Apart from representing an accused in court, this would entail a system whereby lawyers are 'on call' so that they may consult with a defendant as soon as possible after arrest. It is timely to introduce a 'duty solicitor' whose service is paid by Judiciary Department under their legal aid scheme.

- b) Shortening the period between admission and judgement or sentence.
- c) Introducing a holistic approach in sentencing. The prison system should be seen as, and should operate as an integral part of an administration of justice. The courts should be confronted with the reality that their decisions have resources consequences and impact on the prison regime. The court should be informed that resources do not permit more than a pre-determined number of persons in prison - meaning that either fewer offenders be incarcerated or some be released. Allocation of scarce resources (i.e. places in prison) would be only for the most deserving cases.

C. Foreign Prisoners

**Foreign Prisoners as per 2
March 2000**

Institution	Total of Remand Prisoners
Prison	5,036
Rehabilitation Center	15
Detention Center	2
Advanced Approved Schools	15
Total	5,068

Besides the increasing number of prisoners awaiting trial, the influx of foreign prisoners has also changed the prison population trend. Currently almost

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20.29% (5,068 as per March 2, 2000) of the prisoners in all our penal institutions are foreigners. Although they do not create a physical threat towards discipline or security, however their sudden and ever increasing number will generate negative responses in terms of prison regime. It has caused ineffective communication between staff and prisoners (language barrier) and also a rise in various contagious diseases (i.e. conjunctivitis, scabies, and diarrhea).

Furthermore, exceeding capacity will ultimately cause a serious degraded ability to manage education and recreation spaces which are turned into sleeping quarters, leading to a lack of services and activities which quickly translates into boredom, restlessness and tension among prisoners and between the prisoners and staff. Prisoners gain more control as morale among the staff is depreciated and there begins 'a vicious circle of diminished control'. This causes a substantial number of prisoners to leave the prison more embittered and hostile to society than when they arrived. They leave prison therefore in a state of mind where they are more likely to reoffend.

The number of inmates held in a prison should be determined NOT by the number of beds that can be crammed in but by the facilities available to contain people decently and provide them with out of cell activity.

D. Overcrowding

Prison overcrowding is a pressing problem of the Criminal Justice Administration. The Prison Department of Malaysia is perplexed to a certain degree by the explosion of the population.

a. Causes of Overcrowding

- i) The increasing number of social problems faced by the country due to changes in social economical and

political conditions. The abrupt migration process and the flow of foreign nationals to meet the demand of manpower.

- ii) Excessively dependent on imprisonment. The criminal justice system imposes a great deal of importance to imprisonment as a major means of deterring crime and defending society. It is also seen as a primary method of punishment. Therefore more offenders are imprisoned than is necessary due to the lack of alternatives.
- iii) An increase of drug-related offenses and long-termers. The number of drugs-related offenses has doubled in the last ten years. This category of prisoner serves a longer term of sentence. Furthermore, serious drug-related cases (39B - Dangerous Drug Act 1985) spend an average of 2-3 years in Remand Centers before actually being sentenced or acquitted.
- iv) Prison facilities unable to keep pace with the prison population influx.

b. Implication of Overcrowding in Prison

- i) Intolerable strain on staff, budgets and the running of programmes. The alarming ratio between staff and prisoners results in a high degree of stress among officers. They are unable to carry out their duties effectively and efficiently which indirectly effects their morale. The lack of space facilities, resources and technical equipment have hindered the prison department to provide prisoners with a full range of training, work and educational opportunities when they have too many prisoners to cater for properly.
- ii) Prison overcrowding impedes our department to effectively implement international standards in particular. The United Nations Standard

Minimum Rules (Treatment of Offenders). The poor living conditions thereby causes tension and stress for both inmates and officers.

- iii) Due to this acute problem we are unable to categorize prisoners specifically to undergo a designed program. Prisoners from various categories mix and this creates various stressful situations.

c. Present Strategy to Overcome Overcrowding

The trickling down effects of this overcrowding problem is perceived by our department very seriously. Short-term solutions are as below:

- i) **Mobilizing Prisoners**
Prisoners from an over populated institution are moved to another which are able to accommodate them. Multiple variables are considered prior to allocation of these prisoners. The process of mobilizing prisoners causes severe strains on escorting / security personnel and financial control. Prisoners being placed hundreds of miles away from their homes, with adverse effects upon their ability to maintain contact with their families and plan for their future. Critics claim that this strategy hinders society for playing a vital role in molding the deviant behavior of the prisoners and preparing them to become an integral part of society. This strategy enables every inmate to have a comfortable living space and to ensure the rehabilitation program is run effectively.
- ii) **Cell Expansion Programmes**
Several out-dated buildings were identified and reconstructed to accommodate the increase of

prisoners. Besides living quarters, expansion of other facilities was also done simultaneously.

- iii) **Building New Blocks in the Existing Prison**

New additional accommodation has been built in several prisons such as in Penor Prison, Pengkalan Chepa Prison and Kemunting Camp. Building a new block with facilities will help to overcome overcrowded prisons.

- iv) **Co-operation with Other Agencies**

Our department holds an average of 4,500 to 6,000 of foreign prisoners (18-25% of total population) at any one time. Besides space and language obstacles, a huge amount of financial resources is spent annually for their upkeep, about RM30.00 a day. Periodic meetings are held with the immigration and members of consulate offices to expedite repatriation and deportation.

d. Long-Term Strategy to Overcome Overcrowding

- i) **Building New Prison**

The most direct solution to prison overcrowding is constructing more prison facilities. For example: The Pudu Prison which was built in the so-called suburbs in 1895 to cater for 600 prisoners, currently situated near the K.L's golden triangle. Therefore it has been relocated at Sungai Buluh with the capacity of 2,500 prisoners. In the seventh Malaysia Plan our department has proposed several new prisons to be built and operationalized. After several rounds of negotiations an agreement was reached between the central government and the department that some colonial and pre-war prisons shall be replaced

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with high-tech and modern facilities to meet the projected demand into the next century.

Extremely high costs in building these institutions has forced all concerned parties to seek alternatives. In principle the Economics Planning Unit has agreed and awarded several projects to private companies. The involvement of the private sector has sparked new ideas in design and construction with cost-efficiency in mind.

A proposal of a new prison has been made to build an additional prison in several places such as in Pokok Sena, Central Prison of Kuching, Temerloh, Perlis, Raub, Gombak, Kuala Kangsar, Seberang Prai, Jeli and Bintulu.

ii) Alternatives to Imprisonment

Courts usually impose custodial sentences (i.e. imprisonment) when it is thought to meet one or more of the perceived aims of sentencing viz., retribution, deterrence, protection of the public and rehabilitation. One major factor which influences a court to impose a prison sentence is the lack of suitable alternatives such as non-custodial sentences including fines, whipping, binding certain offenders over, discharges (absolute and conditional), probation, police supervision and some fairly little utilized provisions for compensation.

Research has shown that first-time offenders that are imprisoned for offenses are more likely to later embrace criminality than offenders given alternative sanctions. Therefore the Prison Department with the assistance and blessing of

the Ministry of Home Affairs has made recommendations to the Judiciary for new avenues in sentencing i.e. introduction of a parole system and community service orders. It is timely that the Compulsory Attendance Act 1954 be revised and utilized extensively.

V. THE PROVISION OF FOOD AND HEALTH SERVICES IN PRISONS

A number of issues relating to prison health services have been discussed in the previous conference and it is not proposed the same discussion be repeated here. Hence, the emphasis on this occasion will be particularly on the following: -

1. Food Services
2. Health Services

a. Provision of Food in Prisons

- i) There is great dissatisfaction with the times for serving prison meals, particularly when the evening meal is served very early to precede the nightly lock-up. The Director-General of Prisons, Malaysia has recently issued a Standing Order to all prison institutions to serve evening meals to all categories of prisoners after 6 p.m.
- ii) To ensure that all prisoners receive reasonable levels of nourishment while they are in custody.

Prisons Rule 61 states, "The food of a prisoner shall be in accordance with the diet scales set out in the First Schedule hereto, or such other diet scales as may from time to time be approved by the Minister of Home Affairs on the recommendation of the Minister of Health."

Prisons Rule 62 states, "Debtors,

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prisoners awaiting trial, prisoners on remand, and all others committed for safe custody who do not elect to provide their own food shall be supplied with the same diet scales as prisoners undergoing sentence.”

Prisons Rule 64 states, “No prisoner shall receive or have in his possession any food other than that authorised by the diet scales, except; (a) with the authority of the Officer-in-Charge in special circumstances, or (b) with the authority of the medical officer if a variation of diet is desirable on medical grounds for an individual prisoner.”

Prisons Rule 66 states, “Care shall be taken that all provisions supplied to prisoners be of proper quality and weight, and in all cases food shall be given to prisoners before the day’s work begins. Scales and standard weights and measures shall be provided for weighing the food supplied to them.”

iii) To ensure that the health standards of prisoners are maintained.

Prisons Rule 7 states, “In every prison, an infirmary or proper place for the reception of sick prisoners shall be provided.”

Prisons Rule 18 states, (1) “Every prisoner shall as soon as possible after this admission be separately examined by the medical officer, who shall enter on the prisoner’s record particulars of the state of health of the prisoner; whether or not he has been vaccinated, or had smallpox; whether he has been on opium.”

Consumer, and to what degree; and any other information which it may

seem desirable to record; (2) “No prisoner shall be put to labour until the medical officer has certified that he is fit for such labour, and the medical officer shall certify whether a prisoner may be employed to do hard labour or light labour”; (3) “Every prisoner shall be examined by the medical officer before being discharged or removed to another prison and no prisoner shall be removed to another prison unless the medical officer certifies that the prisoner is fit for removal.”; (4) “A prisoner due for discharge who is suffering from any acute or dangerous illness shall be transferred to a government hospital.”

Prisons Rule 19 states, “A prisoner may be vaccinated or re-vaccinated at the direction of the medical officer.”

Prisons Rule 20 states, “If a prisoner shall be found to be suffering from any infectious or contagious disease, or to be in a verminous condition, steps shall at once be taken to treat the condition and to prevent it from spreading to other prisoners.”

Prisons Rule 58 states, “Every prisoner shall be supplied with bedding adequate for warmth and health in accordance with a scale approved by the Director-General. Additional bedding may be supplied in special circumstances on the recommendation of the medical officer.”

Prisons Rule 59 states, “The clothes of a prisoner shall be changed and washed weekly, and bedclothes shall be aired and washed as often as the officer-in-charge may direct. The prison clothing discarded by a prisoner on discharge shall be

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thoroughly washed, dried and disinfected before being returned to store or re-issued.”

Prisons Rule 69 states, “Arrangements shall be made so far as practicable for every prisoner, unless excused by the medical officer on medical grounds, to take exercise and physical recreation daily.”

Prisons Rule 75 states, “A prisoner certified not to be fit for hard labour by the medical officer may be employed in one or more of the following forms of light labour: - sewing, gardening, laundry work, cleaning and white-washing the prison, conservancy, and any such similar services as the officer-in-charge may from time to time direct.”

Prisons Rule 184 states, “A prisoner on remand or awaiting trial shall, if necessary for the purposes of his defence, be allowed to see a registered medical practitioner appointed by himself or by his relatives or friends or legal adviser on any week day at a reasonable hour, in the sight, but not in the hearing, of the officer-in-charge or an officer detailed by him.”

Prisons Rule 185 states, “When an unconvicted prisoner wears his own clothing in prison the medical officer, may, for the purpose of preventing the introduction or spread of infectious disease, order that the clothing be disinfected, and during the process of disinfection the prisoner shall be allowed to wear prison clothing.”

b. Dietary Restrictions

The United Nations' Standard Minimum Rules for the Treatment of Prisoners does not prohibit the use of dietary punishments but requires medical supervision. Many

nations have prohibited the use of dietary restrictions as a form of punishment and control. However, the Prisons Department of Malaysia still mobilises “Half Rations” / “Bread and Water” as management strategy for recalcitrant or troublesome prisoners and prisoners who committed serious offenses, such as assaulting staff or repeated attempts to escape. “Punishment by close confinement or reduction diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.” Rule 32 (1) U.N.S.M.R.

Prisons Rule 122 states, “An Officer-in-Charge, if a Chief Officer or Principal Officer Grade 1, may punish any prisoner, found after due enquiry to be guilty of a minor offence, by ordering him to undergo ‘confinement in a punishment cell for a period not exceeding three days on the punishment diet prescribed in the First Schedule hereto’.”

Prisons Rule 124 states, “An officer-in-charge, if of or above the rank of superintendent, may punish a prisoner found, after due enquiry, to be guilty of a minor offence, by ordering him to undergo ‘confinement in a punishment cell for a term not exceeding seven days on the punishment diet prescribed in the First Schedule hereto’.”

Prisons Rule 125 states, “An officer-in-charge, if of or above the rank of superintendent may punish a prisoner found, after due enquiry, to be guilty of an aggravated prison offence by ordering him to undergo (a) corporal punishment not exceeding twelve strokes with a rattan, (b) confinement in a punishment cell for a term not exceeding seven days on the punishment diet prescribed in the First Schedule hereto.”

Prisons Rule 126 (3) states, "The Visiting Justice shall, upon receipt of the report where a prisoner is accused of an aggravated prison offence, attend at the prison without undue delay and investigate the charge, and may punish a prisoner whom after due enquiry upon oath he or they may find guilty of such offence with (a) confinement in a punishment cell for a term not exceeding thirty days upon the punishment diet prescribed in the First Schedule hereto; (b) corporal punishment not exceeding 24 strokes with a rattan."

Prisons Rule 127 states, "Every prisoner sentenced to dietary or corporal punishment shall be sent to the medical officer for examination, and a certificate that its infliction is not likely to produce any serious or permanent injury shall be obtained by the officer-in-charge before it is carried out."

Prisons Rule 128 states, "A prisoner undergoing punishment shall be supplied with such clothing and bedding as may be certified as essential by the medical officer."

Prisons Rule 129 states, "Whenever a prisoner is sentenced to undergo close confinement in a punishment cell for a period exceeding three days on a punishment diet, he shall be given full diet on every fourth day."

Prisons Rule 130 states, "Confinement in the punishment cells shall not exceed an aggregate of ninety days in a year for any one prisoner, and the execution of any two consecutive sentences shall be separated by a period not shorter than the longer of such sentence."

Prisons Rule 131 states, "A prisoner sentenced to confinement in the punishment cells shall see no one other than prison officers in the execution of their duty, a Minister of Religion and the Medical

Officer, and shall have only such out-door exercise as the latter certifies is absolutely necessary for health. Every prisoner confined in a punishment cell or subjected to restricted diet shall be visited at least once a day by the Officer-in-Charge and the Medical Officer, and if he is confined in a punishment cell he shall be visited by the appointed prison officer at intervals of not more than three hours during the day and night."

c. Provision of Food and Water

- i) "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," Rule 20 (1) U.N.S.M.R.
- ii) "Drinking water shall be available to every prisoner whenever he needs it," Rule 20 (2) U.N.S.M.R.
- iii) Food services to meet the needs of minority groups.
 - (a) Members of particular religious groups in prison may have very specific dietary requirements and prohibitions which they regard as essential to their well being.
 - (b) Other minorities with particular dietary needs:
 - foreigners
 - women who are pregnant
 - prisoners who are unwell
 - (c) Special needs or privileges for unconvicted or remand prisoners, even though in some nations they comprise the majority of all prisoners. Historically, in some systems, remands have been allowed to have their meals sent in rather than being required to eat the prison food.
 - (d) Provision of professional advice and supervision by dietitians to ensure that the nutritional value and scheduled variety of prison

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food is maintained.

- (e) Privatization of all food services to a prison or even prison system. The cost-effectiveness of this venture of entering into contracts with private business organizations for the supply of all food services.

VI. PROVISION OF HEALTH SERVICES

The objectives of health services are to provide proper medical services to prisoners to provide first aid services to the needy and to handle emergency cases that need immediate medical attention.

Doctors, medical assistants and nurses are the employees directly employed or transferred from other government departments of the Malaysian prison system. At present, the prison medical unit consists of (1) medical officer, (19) medical assistants and (1) staff nurse. They are all full time employees of the Prisoner Department operating 27 prison clinics throughout the country. There are (17) institutions with sick-bags that can each accommodate (15) beds at any one time. Prison clinics and sick-bags cater only for minor cases. All the serious and major cases are referred immediately to the District Hospital outside.

The challenge received by the health service in prison began when four prisoners were identified as HIV carriers in 1989 through blood screening done by the Ministry of Health group. The number of HIV positive inmates kept on increasing every year. Steps should be taken to overcome this problem if not this situation will effect the credibility of the prison health service. To prevent HIV cases from spreading in prisons the management take further steps and a have close rapport with the Ministry of Health.

Guidelines given by the Ministry of Health regarding precautions and managing the spread of HIV will be followed strictly. Prison staff that will be involved in controlling HIV prisoners have to attend seminars, courses, lectures which gives them knowledge about HIV and AIDS.

The Malaysian Prison Department has to maintain the health of all prisoners and also to prevent HIV from spreading within the prison wall, so in order to make sure this is done, screening by the team from hospitals and prison counselor have to be done with new prisoners. From these results, all the HIV positive inmates will be placed in one building. Even though they stay in HIV blocks they are still involved in every activity that other prisoners have, such as playing games, working in workshops together and being involved in other rehabilitation programmes. To make sure that these HIV prisoners get proper treatment, they will be placed in certain prisons that have enough medical facilities and every year more allocations will be given to that prison to buy more medicine and give better treatment.

The Prison Department also has counselors dealing with HIV/AIDS, as we know that since 1991 it has spread widely around the world including Malaysia. At present, we have quite a number of prisoners involved in drugs. Among them, those who have been affected by HIV/AIDS could have practiced risky behavior and lifestyles such as individuals with multiple sexual partners, drug abusers who share needles, prostitution etc.

A. Objectives of HIV/AIDS Counseling

HIV/AIDS counseling is done to achieve various objectives. Among them are: -

- a. Prevention of infection through promotion of healthy life styles, behavior, moral and spiritual values.
- b. Prevention of transmission through modification of risky lifestyles and behaviors.
- c. Provision of psychosocial support to those infected and / or affected by HIV/AIDS to achieve optimum levels of functioning and a satisfactory quality of life.
- d. To complement health education and correct misconceptions or myths about HIV/AIDS.

For the prisoner that cannot accept that he is HIV positive the prison counselor will play their role until this prisoner can accept the reality. To maintain the health of the HIV prisoners the prison officer will make sure the medicine given to them will follow the schedule and the follow up at hospital will be arranged depending on the due date in the treatment card.

When HIV prisoners are released, letters to the nearest hospital will be sent and a copy to the prisoners to ensure that further treatment will be had by him. Prison counselors also take this opportunity to give advice to them to follow the hospital precautions to prevent the spread of HIV outside.

The question on the provision of health services by a private organization needs serious consideration at this moment due to the difficulties in employing medical professionals and the high cost maintenance.

VII. INCREASE OF DRUG RELATED OFFENDERS

The increase of drug-related offenders was also an important issue that shall be considered by the prison management. The increase of these prisoners will make us

think how to treat them within the prison walls. It is not that easy to make them change their lifestyle to be a normal person.

In the year 1981, the Malaysian Prison Department first introduced a rehabilitation program where it started with an integrated approach, which also involves other rehabilitation agencies in and outside of prison. Counselors were trained in skills and techniques of counseling. Now we have 150 posts for the counseling officer and we have filled 125 of them and when we compare the ratio with the prisoners the difference is still very high. The ratio that has been suggested by the Public Service Department is 1:30 but the ratio in the Malaysia Prison Department is 1:90.

The duty of the counseling officer is not meant to be for drug-related prisoners only but they have to cover other types of prisoners also. In short term strategy, our department tries to fill in the post that we have and in long term strategy, the post will be restructured and should have at least 400 posts comprised of the ranks of superintendent, deputy superintendent and assistant superintendent.

The integrated approach program will include

1. Vocational Training
2. Religious Education / Morale
3. Academic
4. Marching
5. Spots / Recreation
6. Activities in Libraries, Music, TV and etc.

On February 1992, the prison based Therapeutic Community (TC) program was introduced where basic training in therapeutic community was given to the counselors as well as the inmates.

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A. Prison-Based TC Programmes

On 2 September 1992, one pilot project of the TC rehabilitation programme was implemented in the Drug Rehabilitation Center, Kajang Prison. From that programme we achieve success and this TC programme has been introduced and expanded to other prisons such as:

1. 1 December 1994 - Henry Gurney School, Telok Mas, Melaka
2. 27 July 1996 - Drug Rehabilitation Institution, Jelebu, Negeri, Sembilan
3. 1 August 1999 - Womens Prison, Kajang
4. 1 October 1999 - Marang Prison, Terengganu
5. 7 July 1999 - Henry Gurney School Kota Kinabalu
6. 1 October 1999 - Seremban Prison, Negeri Sembilan
7. 1 November 1999 - Sibul Prison, Sarawak

The expansion of this TC programme is still going on and will be implemented to other prisons.

a. Objective of the TC Programmes

- i) To provide long term residential treatment programmes for drug-free and productive lifestyles and become good Malaysian citizens.
- ii) To utilize concepts / peer support and review progress in conjunction with professionally structured therapy programmes.
- iii) To say no to drugs and abstain from drug abuse.

b. Strength of the TC Programmes

The Therapeutic Community (TC) Program has its own modality aim unlike other drug rehabilitation programmes. This concentrates on:

- i) More than 90% on physical rehabilitation
- ii) Love and caring attitudes
- iii) Family oriented

B. Religious Activities

Religion is a main subject in a human life no matter what race he/she comes from because every religion carries good teaching and good faith. It provides a guide to be an honest citizen, decent and honest living. Malaysia is a multi-racial society and prisoners of different races and religion are committed to custody. Freedom of religious worship is allowed for all prisoners. Religious instructors and teachers from various faiths provide religious guidance in all penal institutions. By doing so, it is hoped that each prisoner realizes his mistakes and sins of the past and try to change into a good well-matured human being. Religion alone can be a strong medicine for rehabilitating a prisoner, which carries a very strong impact upon their release.

Besides visits from family members, visits by religious groups and volunteer agencies will help prisoners connect with some religious beliefs and have a better understanding of the outside world and perhaps their future. These visits will, in one way or another, encourage prisoners to have a better out-look on life. This religious influence may entice this category of prisoners to spend some of their time praying or reading religious scriptures.

The rehabilitation programme that has been introduced and exposed to the offenders in prison as an institutional treatment is hoping to be a starting point for them to change their future undertakings. Without public participation the process of changes will stop half way. What we hope is that, the prisoners or offenders that are ready to change or repent will play their role after release. After

release, these offenders will go back to society and become part of society. With the changes made by these ex-offenders this will at least prevent them from being involved in drugs outside and follow religious activities.

C. Reformation Programmes - Message from Prison

One of the new rehabilitation programs that is useful for prisoners involved in drug or drug-related offences is the reformation programmes - message from prison. This program is a teamwork program between the Prison Department of Malaysia and the Education Department of Malaysia. This program was launched on 1 April 1999 as an alternative to fight against social illness or problems among teenagers, mainly students. With this cooperation, the Prison Department has taken steps in choosing inmates, trained them, made them involved, exposed them to the community and let them share their experience and background up until their involvement in criminal offences and the results of being sentenced to prison. Their backgrounds, the hardship faced by inmates and repenting following the prison rehabilitation program will be shared among their inmates, students and also parents.

From this program the inmate will feel that they are also important and can give their support to the government and realize that the community can also appreciate them. The program will also encourage them to change their life and have a sense of personal responsibility. Also this program will rebuild their morale and formulate habits of good citizenship and hard work, to lead a good and useful life.

VIII. INTERNATIONAL TRANSFER OF PRISONERS

International cooperation is generally defined as mutual assistance between countries; where all parties gain mutual benefits. Beneficial in terms of the exchange of information, ideas, materials and resources. It is undeniable that with the vast technological innovations in the world today people are more mobile and travel time is short. However such speed and freedom cannot be applied to prisoners serving in nations other than their homeland as treaties for the transfer of prisoners from one country to another have yet to be established in most nations.

International transfer treaties are beneficial if established as the positively contribute to the rehabilitation process of the prisoner in terms of being in a suitable environment where family relations and friends may provide moral support.

Familiar atmospheres additionally assist in elevating mental stress experienced by prisoners serving terms in a country foreign to them.

As of 2 March 2000 there were a total of 5,068 foreign prisoners in Malaysian prisons. The number accounts for 20.29% of the total number of prisoners. Therefore if transfers of prisoners are made possible, the congestion of Malaysian prisons may be alleviated by 22.95%. This will not only lesson the congestion but also avoid problems such as hunger strikes which are often sparked by the wish to return to their homeland, linguistic differences, remand costs, etc.

However, although the international transfer programs carry benefits complications arise due to the differences in form and length of sentences, prison administration and legal system

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incompatibilities.

The difference in sentences above mentioned is primarily for countries which carry out corporal punishment, hanging and death by firing squads whereas judicial differences in terms of the penalty for drug trafficking can sometimes be a mandatory death sentence but in other countries traffickers receive a lesser sentence.

Administrative differences may involve instances where a prisoner loses the benefit of pardons in countries which practice parole or pardons due to national celebration days.

In Malaysia, the international transfer of prisoners is not a norm as there are as yet no treaties with other countries and furthermore, in Malaysia decisions for such policies are addressed to and tabled by the Ministry of Home Affairs. All applications or requests for the transfer of prisoners must be directly forwarded to the Ministry of Home Affairs. The Prison Department supplies all relevant information pertaining to the cases requested and act upon receiving instructions from the ministry.

**IX. SPECIAL ISSUES RELATING TO
THE MANAGEMENT OF FEMALE
OFFENDERS**

As of 2 March 2000 there were 1,365 female prisoners held in prisons throughout Malaysia. Of this number, 881 were at Kajang Female Prison (largest female prison) while the rest were in the female sections of several regional prisons throughout the country.

Female inmates in prisons come from different races and backgrounds and the crimes they are convicted of are also of various types. For every crime committed, the imprisonment sentence is no different

to that of the male inmates.

In Malaysia, female inmates are segregated from the male inmates. In respect of accommodation, the Prison Rules 1953 provides for the following:

“Male and female prisoners shall be kept absolutely separate from each other and shall be confined in different buildings. The wards, cell and yards where women prisoners are confined shall if possible, be secured by locks different from those securing the wards, cell and yards allotted to male prisoners. Women prisoners shall in all cases be attended by women prison officers. A male prison officer shall not enter a prison or part of a prison appropriate to women prisoners except on duty or unless accompanied by a women officer.”

Although the number of female inmates is small, the rehabilitation programs that are being run by the female prisons are similar to those at the male prisons. The programs are geared towards the preparation of inmates for their eventual return to the community as law-abiding citizens and socially productive persons.

The rehabilitation program encompasses the following:

- a) Vocational training
- b) Spiritual welfare
- c) Recreation
- d) Counseling

a) Vocational Training

Convicted female inmates are provided with opportunities to equip themselves with a form of skill or trade. The following trades are normally available:

- i) Tailoring

- ii) Handicraft
- iii) Hairdressing
- iv) Laundry
- v) Domestic Science
- vi) Vegetable Gardening

b) Spiritual Welfare

It is recognised that religion can function as an important agent in rehabilitation. With this in view, religious teachers of various faiths visit the prison to impart religious instruction to the inmates.

c) Recreation

Recreational and extra mural activities not only contribute towards physical and mental well being but also provide constructive means of spending leisure time and assist to relieve tensions, anxieties and monotony. In female prisons, several recreational facilities are made available and singing and cultural activities are also encouraged.

d) Counseling

In all female prisons, counseling is always made available to them. They are more susceptible to feelings of pressures, anxieties and worries - very often worries about their parents, husbands and children who are in the outside world. For this reason, counseling occupies an important place in the prison rehabilitation program.

Woman can become infected by HIV in exactly the same way as men. It is often useful for an HIV positive individual to receive specialised counseling and support during their sentence. In this way the prisoner has the chance to learn about her situation, ask questions and express emotion and learn to cope more effectively and responsibly with their condition.

Female inmates that conceived during their imprisonment period will be given a special diet based on the recommendation of the doctor. During their early stage of

pregnancy, they will be frequently checked by the doctor in the prison. However, during the latter stage they will be sent to the hospital for weekly check ups. They are always encouraged to give birth at the hospital in order to ensure the good health of both the mother and the child. Under the Prison Rules 1953, female inmates are permitted to keep their children who are under 3 years of age with them while they are in prison.

The Prison Department of Malaysia maintains good relations with the public. Non-Government Organizations (NGO) have contributed much to the inmate rehabilitation program. It is very important that prisoners have some contact with outside agencies before release, so that problems such as accommodation, counseling and job placement can be worked out in advance.

With respect to aftercare assistance and job placement, organizations such as Selangor Discharged Prisoners Aid Society (DPAS), Malaysian Care. PENGASIH, PINK Triangle and Narcotics Anonymous have rendered meaningful assistance. All the organizations can offer support and advice to the prisoners. In this way the problems of losing contact with the prisoners can be minimized.

X. CONCLUSION

In respect of implementing prison sentences and the treatment of offenders, the Prison Department of Malaysia subscribes to the concept of human treatment that stresses a fair and firm approach when dealing with prisoners. It also conforms in almost nearly every aspect with those of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

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There are so many issues which arise in the Malaysia Prison Department but only the big and vital issues as above have been highlighted and the countermeasures taken by the management of the prisons.

In this era of rapid change and development, the Malaysia Prisons Department realises the fact that it cannot remain complacent with its present achievements but continuously seeks to be on the move seeking new innovations such as the progress of computerisation that will bring a greater efficiency in penal administrations as well as keep it abreast of modern trends in penology.