

PRISONS IN THAILAND 2011



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Preface

The Union for Civil Liberties (UCL) began its contact with the prison system in Thailand through a fact finding mission on the death penalty carried out in cooperation with the International Federation for Human Rights (FIDH). The mission was given permission to observe the imprisonment conditions in Bang Kwang prison. The mission report reacted strongly to grievous overcrowding which conflicted with the UN Standard Minimum Rules for the Treatment of Prisoners. Strong exception was also taken that all prisoners condemned to death wear leg chains 24 hours a day.

Since the time of the mission at the end of 2004 there have been improvements in Bang Kwang prison. But overcrowding continues to be excessive and prisoners awaiting execution, still wear leg chains.

The most heartening news for UCL is that the Government has now pledged itself in the 2009 to 2013 Second National Human Rights Programme to abolish the death penalty, replacing it with life imprisonment. But reference to 'life imprisonment' again raises our anxiety. In recent years our meetings and interviews with prisoners condemned to death has given us an understanding of what imprisonment in Bang Kwang Prison entails. There are several prisoners who began with a death sentence but, whether by court ruling, or by amnesty, achieved a diminution of sentence to 'life imprisonment' and have emerged from prison after periods of 12 to 14 years. But there is a fear that the abolition of the death penalty may lead to the abominable US practice of life imprisonment, without parole, until the death of the prisoner. In such a case, capital punishment would be the lesser evil. We will campaign strenuously for a more lenient and realistic interpretation of life imprisonment, based on the belief that a prisoner can repent of a crime and reform.

But meanwhile our attention is directed to the wider prison scene and we ask what the conditions for long term imprisonment may entail.

- We begin in Part 1 by proposing a vision in which prison management recognises the principle of humane treatment and rehabilitation as the purpose of prison systems.
- Next, in Part 2, is a study of Bang Kwang prison which has omitted an emphasis on the death penalty in an earlier version.
- Part 3 contains the experiences related in interviews with prisoners and recently released ex prisoners in Bang Kwang prison
- Part 4 give the reactions which we have gathered from women prisoners and those recently released after long prison sentences. Comparison with the experiences of male prisoners related in Part 3 show that the conditions of women in prison are far more deplorable.
- Part 5 presents the reflections of Dr. Veronique Vasseur who was chief medical officer in La Santé prison, the Bang Kwang of France.

In an appendix we include the section of the FIDH-UCL death penalty report of 2005 which deals with prison conditions, in some ways alleviated in the intervening six years, but still valid in most.

This meeting is only one afternoon. While our immediate objective is to reveal the inside of the prison systems to those attending the meeting and other readers, our ultimate aim is, of course, to change it.

Dr.Danthong Dreen
Chairman, Union for Civil Liberty (UCL)

1. Prisons in Thailand

A country is not great because of its military power, or on account of its economic capacity, or even because of the glory of its culture. The grandeur of a country is measured by the freedoms of its people.

Prisons are the antithesis of freedom. If justice serves the security of a state rather than the freedom of its people then the state is neither secure nor stable. The rate of imprisonment is related to poverty, unemployment; the prison population are the miserable ones, half-educated or without education, misfits without the skills to take a place in commercial and industrial life, the landless, those of weak health. They smoke tobacco, drink alcohol, and easily enter the culture and trade of drugs. There are many doors of entry to the prison, stealing what one could never own, violence to achieve advancement by force, trickery, anger, or the drug trade.

Prison is neither a school nor a hospital. It marks the personality of those who pass through it. There are noble prisoners who suffer for a just cause; their metal is tempered by the trials of solitude and imposed violence. They entered the prison by the door of unjust repression. There are others who learn hard lessons, who take themselves in hand and make the best of an adverse experience. But we are concerned with the majority who are lessened by the experience, who are ground down, hurt and damaged for life by the cruelty of imprisonment, who are rejected, as if the old custom of branding criminals on their forehead still persisted. They are enemies of society, the first suspects of police, appearing before the courts not for their protection, but to be ejected from society.

Imprisonment is the curtailment of liberty, the most precious quality of life. In the Thai Code of Criminal Law, imprisonment is listed as a punishment in second place after the death penalty. Its association with the death penalty shows that a rehabilitative effect of imprisonment is not a direct legal objective. Fine words are used to portray prisons as places of rehabilitation and reintegration, but the reality is very different. Prisons are a gulag, a forgotten archipelago, separated and hidden from normal life where those considered a threat to society are isolated with a profound indifference. The statistics of Thai prisons are troubling; 224,292 persons are incarcerated. 331 persons per 100,000 of the Thai population placing Thailand at 25th place in the world table of prison population rates, and second in ASEAN after ultra repressive Singapore. The occupancy level of our prisons is 231%, giving us the 8th most crowded prisons in the world. Following the USA model, is Thailand to build more and more prisons, consigning the unwanted to oblivion, increasing the security and isolation of its prisons and forgetting that prisoners are still members of society with rights of participation in the life of the nation? Any mention of improvement of conditions is met with murmurings comparing prisons to holiday camps!

Prisoners are members of society. They have families, wives, husbands, and children. who depend on the absent parent or partner, and who will be an essential factor in the return of the released prisoner to ordinary life. Visits between families and prisoners should not be shouting matches across wired and glass barriers. They should be able to embrace each other, hold hands and speak softly to each other. Regular opportunity to telephone each other should be available and family letters should not be censored. If it is necessary to open a family letter, it should be done in the presence of the prisoner. Prisoners should have full access to newspapers, radio and television broadcasts so that they are fully aware of events outside the walls of prisons.

The Corrections Department will reply that such laxity is impossible for Thai prisoners who have unique characteristics. Look to the overpopulation of your prisons and the insufficiency of prison guards. These are the conditions that make it impossible for Thai prisons to approach a life for prisoners, which, apart from the deprivation of liberty, is as close as possible to normal life.

Overpopulation of Thai prisons

The key parameter of the Thai prison system which affects all else is the problem of overcrowding. The standard of accommodation is central to the overall quality of life in prison. Overcrowding can be extremely detrimental to the health and mental well-being of prisoners. There is no universally agreed upon minimum standard for cellular space. The European Committee for the Prevention of Torture (CPT) has set four square metres as absolute minimum of living space for every prisoner, but has recommended that single cells with less than six square meters should not be used, remarking that cellular space of nine to ten square metres per prisoner is more desirable. It has heavily criticised the use of large capacity dormitories on account of the inevitable lack of privacy, heightened risk of inter-prisoner violence and the impossibility of individualized treatment. Such prison accommodation is the norm in Thailand.

“Department of Corrections stipulates that each prisoner should have 2.25 sq.m. each.” That would mean a maximum prison population of 108,904 prisoners. The current prison population is 224,292, and the space for each prisoner is 1.09 sq.m.

The cover photograph shows this level of overcrowding:

Infectious diseases spread quickly in such cells, I have met one prisoner who became infected by TB from his proximity to a prisoner in an advanced state of the disease. With the fear of outbreaks of swine or poultry flu, prisons can become harbours of infection which will affect whole populations.

The prison population must be drastically reduced. Otherwise we are on the US path of prisons without end, reduced to depersonalized factories where prisoners are destroyed for lack of human contact, crime policies of zero tolerance which sees removal from the community as the only solution for a virus of crime. It does not and cannot work. Thailand must find other models to carry out penal reform. It is beyond the scope of this afternoon meeting to propose solutions. It is our object to draw attention to prisons that cannot counter the problems of crime and which will collapse under weight of numbers or in bloodbaths of revolt.

Overpopulation is due to:

1. The large numbers in pre-trial detention compounded with the length of legal procedure. When release on bail is not available at a realistically proportionate amount of the accused person's means, the criminal justice system is no longer fair and equitable. Pretrial detention should be the exception not the general rule. Detention periods of two years are too long. In Austria, a period of two months pre trial detention is indicated where there is danger of trial collusion. In any case, pre trial detention should not exceed six months.

2. An increasing severity of sentencing which greatly exceeds general norms.

. “The law shall provide for such punishments only as are strictly and obviously necessary”
Declaration of the Rights of Man, 1789

3. Neglect of alternatives to custodial sentencing such as outlined in the so called ‘Tokyo Rules’ or United Nations Standard Minimum Rules for Non-custodial Measures.

It will do no harm at this point to refer to the project of M. Robert Badinter, French Minister of Justice from 1981 to 1985. Faced with the gross overpopulation of French prisons such as

Fleury-Merogis with 5,500 prisoners in 3,400 places (an occupancy level of 162%), he planned and constructed the first of a new prison system based on an ideal:

“A prison should not contain more than 250 prisoners, not in long corridors of cells but in small living units of about 12 at most. The 12 cells of 9 sq.m would each have toilet and wash basin. Shared showers are located in the unit. Prisoners have keys to their individual cells. Some family units are available in the detention centre for visits.”

When faced with similar overcrowding, UK Prime Minister Margaret Thatcher, a martinet who allowed prisoners on hunger strike to die rather than compromise, introduced a system of “liberation on parole”, releasing 2000 immediately, and a further 12,000 within a year.

Rights in Prison

Prisoners are among the most vulnerable human beings in society having forfeited the most fundamental right, the freedom of personal living; they are powerless and depend on prison authorities for the most basic human needs. The conditions of imprisonment must not aggravate the suffering inherent in this situation. In practice however, unacceptable prison conditions can amount to an added torture, threatening physical and mental health, so that even after release the ex-prisoner can never again return to normal life in the community. While freedom of movement and freedom of peaceful assembly are denied for the period of imprisonment, other rights, including the right to family, privacy and correspondence, the right to education and to work, as well as civil liberties, including freedom of expression, information and religion, the right to vote and to marry should in principle be available to every prisoner. At the very least, such rights must be allowed, in so far as the need to maintain security and good order imply strictly necessary limits in individual circumstances. There are besides, absolute and non-derogable rights, the right to physical and mental integrity, the right to respect of human dignity, the right to be recognised as a person before the law, freedom from discrimination and freedom of thought as well as the right to due legal process. There exists a ‘principle of normalisation’ which means the minimization of differences between prison life and life at liberty. There is too a ‘principle of individualized treatment’ which takes account to the greatest extent possible of the individual needs of every prisoner, tailored to their individual sentence and rehabilitation plan.¹

“There are two conceptions of penal justice: in one, a human being is not defined by a single action, however awful it may have been. Change is possible, perhaps after long years, to become another, who is fit to reenter the community of free people. In the other perspective, certain persons are so perverse and dangerous that they have no place in society and should be banished for ever” (p.188 E&R)

Prison involves a structural contradiction; the imperatives of security have no sense unless, except in rare cases, in the perspective that every prisoner may be prepared for the day of release and eventually reintegrated. In prison the requirements of security lead to a denial of responsibility to the prisoner, while in free society, choice, initiative, and responsibility are everything. How is a prison to be managed so that the dignity of the prisoner is respected and the lessons of reinsertion are provided in an environment of personal freedom which is compatible with security? Different categories of prisoners have different priority of needs, thus

1. For long term prisoners, security is primary
2. Prisoners serving less than a year, have most chance of emerging unscathed from the prison system.

¹ In a recent monitoring visit to prisons in the Republic of Ireland, Council of Europe commissioners asked to inspect such written records for every prisoner in detention.

3. Prisoners serving seven years or more, it is here that preparation for reinsertion is the most important

After overcrowding, the greatest problem of Thai prisoners is the lack of effective release programmes consisting of vocational training for life in the community and continuing support outside the prison.

Article 10.3 ICCPR. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation

For delinquents who lack a living place, a family, and employment, prison can seem a tolerable home. The community too must be ready to receive the reformed offender. The struggle against crime is the duty of all! Action to protect the rights of victims of crime must accompany a respect for the rights of prisoners, one cannot exist without the other.

Prisons systems everywhere require neutral, external monitoring. Such monitoring is made possible by appointed national committees, to oversee the prisons. But there is also available the immense experience of UN special rapporteurs. Unfortunately, their repeated requests to visit Thai prisons have been ignored by the Government, and at best they can come unofficially to exchange their experience with NGOs and academics. An annual publication of the Department of Corrections "Corrections in Thailand 2009" aspires to international recognition for its achievements, "The development of the efficiency of correctional works to gain well recognition from other countries as well as to act properly in response to the changing context brought by the globalization". In a lecture given earlier this year Dr. Manfred Nowak related his experiences of visiting the prisons of 19 countries which had given him full freedom of access, only one was found free of torture. But those nineteen countries had welcomed a neutral observer, manifesting a willingness to learn what changes were needed. The objective comments of such an informed expert would be invaluable in reform of the system, serving the purpose both of the Thai government and of the Corrections Department. What do they fear?

While Thailand has signed the UN Convention against torture, it has yet to sign the "Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". This Protocol gives access to all places of detention, both to the International Committee of the Protocol and to a National Committee appointed within the terms of the Protocol. In this case as in that of other UN Conventions, Thailand avoids any acceptance of voluntary protocols which would test its adherence to the conventions. What is the reason for such reticence, other than to hide any deviations from public knowledge? However, by refusing to sign the voluntary protocols Thailand loses the benefit of immense experience which would be proffered with the genuine intent of promoting the objectives of the conventions, and certainly not in an invasive and destructive criticism.

Finally, one may regret that, unlike in the case of human rights mechanisms of Europe, Africa, and the Americas, which are recognised by the CAT committee as its equivalents, Asia, or even South East Asia, has yet to develop a regional human rights mechanism which exists in more than in name. Let Thailand vaunt its claimed human rights leadership in the ASEAN network by calling for the rapid development of such a mechanism with the power to monitor prison conditions in the region.

2. REPORT ON PRISON CONDITIONS IN BANG KHWANG PRISON ‘บางขวาง’ Human Rights and Thailand

The new Constitution of the Kingdom of Thailand, adopted by referendum in August 2007, affirms in article 4 Thailand's attachment to the protection of the human dignity, rights and liberties of the people. It maintains and reforms the mandate of the National Human Rights Commission, whose new seven members were appointed by the King with the advice of the Senate in June 2009.

Ratification of UN instruments

Thailand has ratified the *Bill of Rights*, the three international instruments of human rights composed of the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Convention on Economic, Social and Cultural Rights (ICESCR).

Thailand ratified the ICCPR on the 29th October 1996, and the ICESCR on the 5th September 1999. However, it did not sign the first optional protocol to the ICCPR allowing for individual complaints.

It ratified the Convention on the Elimination of Discrimination Against Women (CEDAW) on the 9th October 1985, the Convention on the Rights of the Child (CRC) on the 27th March 1992, the International Convention on the Elimination of Racial Discrimination (CERD) on the 28th January 2003, the Convention Against Torture (CAT) on the 2nd October 2007 and the CRPD on the 29th July 2008. The Ministry of Justice has recently made public its willingness to ratify the Convention for the Protection of All Persons from Enforced Disappearances.

Thailand did not make declarations under article 21 and 22 of the CAT allowing the set-up of complaint mechanisms. Thailand signed the Rome Statute of the International Criminal Court in 2000 but has not yet ratified it.

Reports to the Human Rights Committee and responses to Special Procedures

Thailand has so far reported twice on CEDAW and on CRC and once to the Human Rights Committee on ICCPR in 2004. In 2005, the Human Rights Committee, issued its recommendation report to Thailand, where it approves the dispositions of the 1997 Constitution and the creation of a National Human Rights Commission, as well as of the creation of the Department of Rights and Liberties Protection under the Ministry of Justice.

However, the Ministry of Justice is little involved with the process of reporting to the UN. The Ministry of Foreign Affairs is usually in charge of the process of reporting, and the Office of the Attorney General is charged with coordinating the report on the ICCPR.

Also, Thailand never extended any invitations to UN Special Rapporteurs. However, visits were paid by the UN Special Rapporteur on Extrajudicial or Summary Execution, Philip Alstom, and the UN Special Rapporteur on Human Rights Defenders, Hina Gilani. The three of them expressed their concerns over the situation during the War on Drugs and the

government response to the terrorist attacks in the troubled Southern provinces of Thailand. The new UN Special Rapporteur on Human Rights Defenders, Margaret Sekkagaya, made an unofficial visit in 2009 but did not make any public declarations or statements.

The hugely popular ex-prime Minister Thaksin declared in 2003 that “the UN is not my father”².

Indeed, under Thaksin’s rule, the image of Thailand in terms of human rights was severely harmed by two major events, the War on Drugs in 2003 and the death by suffocation in a military truck of 78 Muslims following their arrest on 25 October 2004 in Tak Bai, Narathiwat Province.

However, the new Prime Minister of the Kingdom, M. Abhisit Vejjayija, seems to be willing to change Thailand’s image in this matter. As Thailand is currently assuming the Presidency of ASEAN, the Prime Minister of Thailand is now at the forefront of the movement for the creation of an ASEAN human rights body. On the occasion of the ASEAN foreign ministers meeting he declared, that this human rights body should take the European Court of Human Rights as its reference³, in fact, a most unlikely development.

Despite such declaration of goodwill, no security forces involved in the *War on Drugs* or the *Tak Bai* cases have ever been prosecuted.

The justice system in Thailand is far from being a fully independent, impartial, reliable or efficient institution. As the far-end of the system, the prison system and its death row are significant examples of the lack of reliability of the system.

The justice system in Thailand

The Thai penal system

The Thai judicial system is based on Civil Law inspired by the practice of continental Europe. There are three courts

- provincial courts, or courts of first instance throughout the country
- one Court of Appeal (san uthon or อุทธรณ์) in each of the Kingdom’s nine regions
- a Supreme Court (dika or ศาลฎีกา) in Bangkok, headed by a Chief Justice, regarded as the head of the Judicial Power.

After the first verdict, convicted people can appeal to the Court of Appeal. After the judgment of the second court, they can appeal to the Supreme Court. Once their verdict is final, they have the right to ask for a Royal Pardon (aphay or อภัยโทษ), with the restrictions of one application per prisoner. To gain a Royal Pardon, they have to take classes in the prison, and behave well.

A convicted prisoner can be released on any one of the following three major grounds⁴:

- On expiration of his term of sentence or by order of competent authorities.

² March 2003, in a reply to a reported, quoted in the Nation

³ Speech at the 42nd ASEAN Ministerial Meeting in Phuket on 20 July 2009

⁴ From the website of the Department of Corrections

- On royal pardon (occasionally).
- On parole (after two – thirds of his term of sentence has been served).

Reduction of time served depends variably upon good behavior by classification and the days of working for the public. All prisoners released on parole are subject to a statutory period of parole supervision.

Delays are very long, averaging about more than ten years from arrest to final verdict in the Supreme Court.

The penitentiary system

The Penitentiary system is placed under the authority of the Department of Corrections, Ministry of Justice, since 2002. Prior to that, it came under the direction of the Ministry of Interior.

The department of Corrections affirms its adhesion to the United Nations Standard Minimum Rules for the treatment of prisoners in its mission statement on display on its website⁵ as shown below:

TO PROVIDE PUBLIC PROTECTION BY KEEPING THE OFFENDERS IN CUSTODY AND BY AIDING THE PREVENTION OF RECIDIVISM.

Responsibilities

1. TO PROVIDE A LEVEL OF SUPERVISION AND CUSTODY THAT OFFERS MAXIMUM PROTECTION TO THE COMMUNITY
2. TO REHABILITATE CONVICTED OFFENDERS IN ORDER TO ACHIEVE A SUCCESSFUL ADJUSTMENT UPON THEIR RETURN TO THE SOCIETY
3. TO PROVIDE VARIOUS ALTERNATIVE PROGRAMS FOR CONVICTED OFFENDERS.
4. TO PROVIDE INSTITUTIONAL ENVIROMENT THAT IS CONSISTENT WITH THE UNITED NATION STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS AND RELATED RECOMMENDATIONS SO FAR AS EXISTING CIRCUMSTANCES ALLOW
5. TO REDUCE OVERCROWDING BY ENCOURAGING THE USE OF VARIOUS ALTERNATIVE NON-IMPRISONMENT PROGRAMS FOR OFFENDERS WHO ARE NOT SUITABLE FOR INTITUTIONAL CONFINEMENT.
6. TO PROMOTE THE KNOWLEGE OF CORRECTIONAL TECHNIQUES THROUGH SYSTEMATIC EVALUATION AND RESEARCH.

⁵ Website of the Department of Corrections available at <http://www.correct.go.th/mission.htm>

Prison Population

With an estimated population of 65,9 Million people⁶, Thailand is the 21st most populated country in the world⁷, after Iran and before France. Out of these 65.5 Million, almost 200,000 people are held in prisons throughout the country as of 1st July 2009, while the total capacity of the 143 penitentiary institutions amount to 105,748 prisoners.

Category	Male	Female	Total	Percentage(%)
1.Final Sentence	139,699	23,371	163,070	72.705
2.Case Under Process	50,388	8,886	59,274	26.43
2.1 Appeal–Supreme Court	27,680	4,321	32,001	14.27
2.2 awaiting investigation – awaiting trial	9,504		11,056	4.93
	13,204		16,217	7.23
3. Juvenile	398	23	421	0.19
5. ผู้ต้องกักขัง	1,245	271	1,516	0.68
Total	191,741	32,551	224,292	100

Source Department of Corrections, as of 1st March 2011

According to an ICPS World Prison Brief , in December 2009, the Prison population total (including pre-trial detainees / remand prisoners) was 212,058 which gives an occupancy-level of 212 %.

Number of establishments / Institutions	143 (2008)
Official capacity of prison system	105,748 (February 2008)
Occupancy level (based on official capacity)	212% (February 2008)

Source ICPS World Prison Brief

Based on figures from the Ministry of Justice shown above, the updated occupancy level of Thai prisons is now 230.8 % . To face the overcrowding, the government is planning to build new facilities to host more prisoners. In terms of capacity, the biggest prison of Thailand is the prison of Khlong Prem, in Bangkok, with a population of 4,544, while the prison of Bang Khwang, near Bangkok, the highest security prison, holds 2,925 prisoners.

Today, overcrowding is however not at its highest level in recent history. It peaked during the years 2001-2002 (with more than 250,000 prisoners) before a significant decrease in 2004. Since 2007 it is on the rise again, and seems likely to rejoin the levels of 2001-2002. However, these figures have to be apprehended carefully and linked to the increase of

⁶ Source : World CIA Factbook, mid-2009.

⁷ Source : Nation Master, based on United Nations data

population. That is why it is more relevant to study the trend of the prison population rate, an indicator of how many prisoners there are per 100,000 people in a given country.

Prison population total (including pre-trial detainees / remand prisoners)	224,292 at 2011 (national prison administration)		
Prison population rate (per 100,000 of national population)	331 based on an estimated national population of 65.9 million at mid-2009 (World Factbook)		
Recent prison population trend (year, prison population total, prison population rate)	1992	73,309	(127)
	1995	111,028	(186)
	1998	164,451	(271)
	2001	250,903	(392)
	2004	167,142	(262)
	2009	199,607	(303)

Source ICPS Prison World Brief

Death row inmates

Sentences in Thailand can be extremely heavy. Indeed, about 20 per cent of the penitentiary population whose sentence is final is serving a sentence of more than 10 years; with 1.28 per cent to life imprisonment and 0.08 per cent to the death penalty⁸.

At present, 759 people are condemned to death, out of whom 87 have received final judgments.

	Appeal	Supreme Court	Final Sentence	Total
Male	432	170	74	676
Female	46	24	13	83
Total	478	194	87	759

Source: Department of Corrections, May 2009

The women are in Lat Prao and the men are in Khlong Prem prison.

⁸ Statistics of the Department of Correction, June 2009

I GENERAL CONDITIONS OF DETENTION IN BANG KHWANG

- While acknowledging that the conditions in Bang Khwang improved and that violence remains relatively low, inhumane practices relating to disciplinary measures are still in use, while living standards are still not compliant with International Norms.

The history of Bang Kwang Central Prison can be traced back to the year 1902 when King Rama V arranged to buy a large piece of land in Nonthaburi province in order to construct a prison for all long – term prisoners. However the prison had not yet been built when King Rama V died. The construction started in the reign of King Rama VI (1927) and finished in 1931.

Categories of Prisoners

1. Prisoners whose appeals are pending in the Appeal or the Supreme Court.
2. Convicted Male prisoners whose terms of sentences range from 25 years to life sentence.
3. Death Sentence Prisoners waiting for execution.

The prison is divided into 13 separate sections. Total compound area 80 acres. Intended capacity for Bang Kwang Central Prison was about 4,000 inmates. 25 work shops. One auditorium. One hospital. 11 dormitories and 11 dining halls. Outside walls are 2,406 metres long, 6 metres high and 1 metre beneath the ground equipped with high voltage wires. Inside walls of each section are 1,298 metres long, 6 metres high fitted with barbed wire. Recreation and entertainment facilities, both indoor and outdoor, are available to all inmates. These include library, television, and a football field.

Source : Department of Corrections

A Improvements already achieved

The Legislative and Policy Framework of Corrections

The Penitentiary Act B.E. 2479 (1936) which is the fundamental law for corrections services in Thailand has been revised during the last years by the Committee for Adjusting the Penitentiary Act B.E. 2479 (1936). The Committee has amended 23 articles of the Act which mostly are those concerning the treatment of prisoners such as

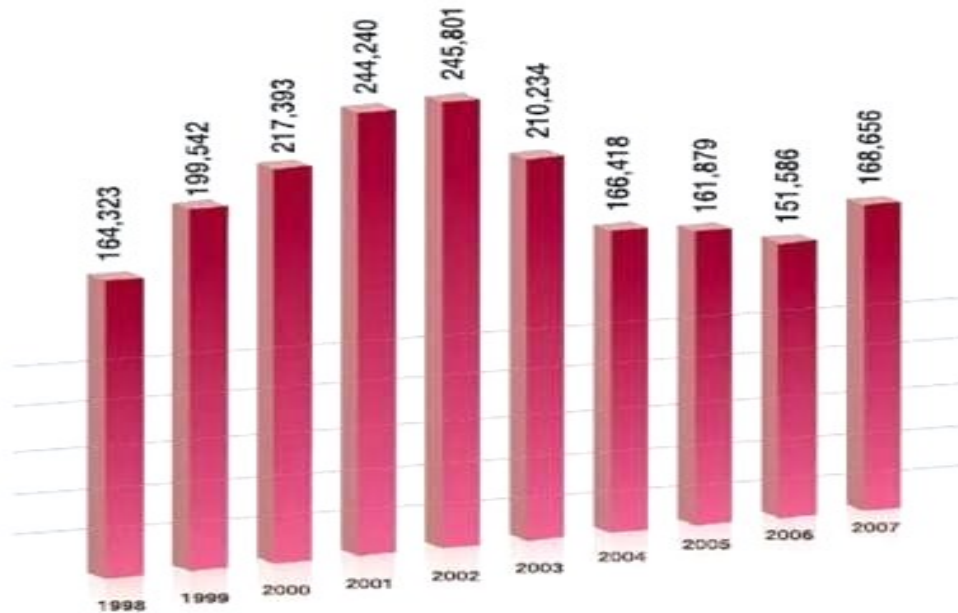
- the transfer of prisoners to other prison facilities,
- the treatment of infected or seriously ill prisoners ,
- the use of instruments of restraint,
- the abolition of dark cell confinement

First of all, the most urgent issue of overcrowding was tackled.

In 2002, the Department of Corrections encountered the worst overcrowding crisis as the prison population reached 254,070, exceeding the overall capacity of penal institutions originally designed to house approximately 100,000 inmates. To decrease the number of inmates, several crucial strategies and measures including the Royal Pardon, the Narcotics Rehabilitation

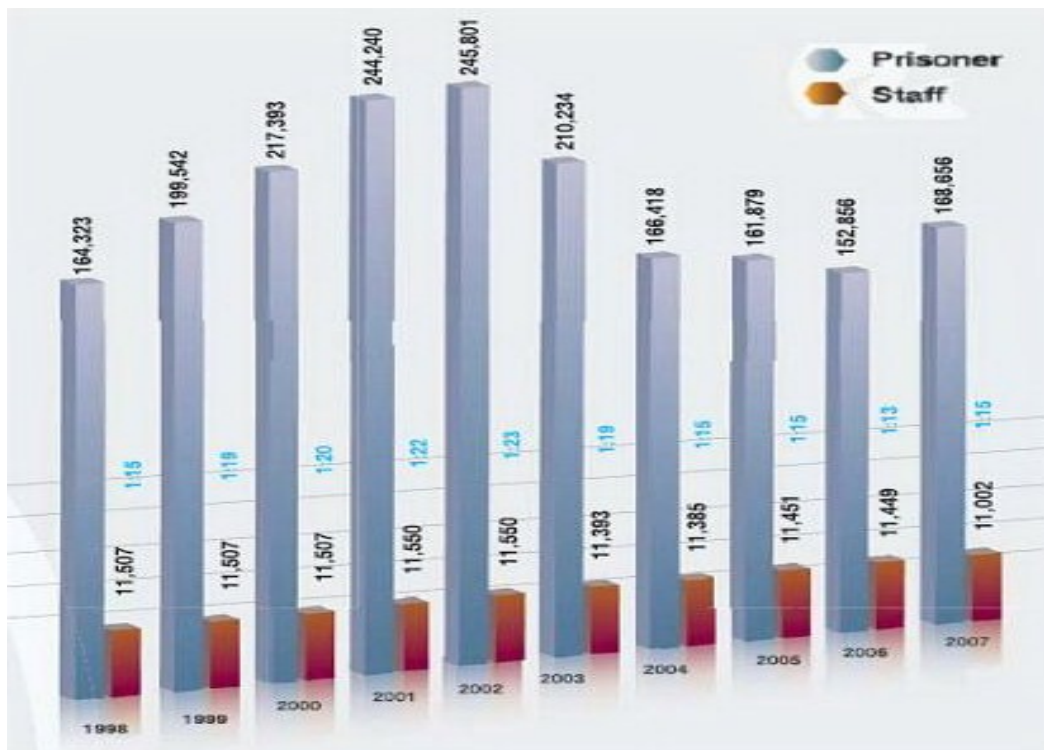
Act 2002 have been taken during the last decade which result in the reduction of prisoners' numbers to 166,338 in 2008 (as of February 2008).

Number of Prisoners during 10 years



Criteria for Selection of the prison staff have been raised, from high school to university level. The staff benefits from regular trainings.

Number of Correctional Manpower and Prisoners during 10 years



Overcrowding has been reduced. Initially built to host about 4,000 prisoners, Bang Khwang prison had about 8,000 inmates during the peak period of 2001- 2002. The number is now down to about 3,000. The prisoner staff ration is now below 16 to 1.

Rights of the prisoners – efforts to comply with the UN Standard Minimum Rules on Prisoners

The New Penitentiary Act provides that the Department of Corrections recognizes its obligation to adopt as practice the UN mechanisms, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners and International Covenant on Civil and Political Right (ICCPR) and Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Besides, to promote and strengthen such mechanisms, the Department has also introduced its own sets of prison standards to ensure appropriate treatment of prisoners in order to uphold their rights. These sets of prison standards include:

- *Prison Transparency Standards*: emphasis is made on the transparency of prison administration and concern management including Standard of Rice, Food, Prisoner’s Work, Welfare Shop and Managerial Administration.
- *Prisoner’s Living Standards*: every prison is required to achieve at least four out of five of these standards, namely Standard of Sleeping Material, Prison Kitchen, Canteen, Medical Centre and Garbage Treatment.
- *Prison Standards*: this set of standards covers ten aspects, namely, Managerial Administration, Qualified Staff, Physical Plants, Prisoner Classification, Custody, Work and Labour Force, Education and Vocational Training, Disciplinary Procedure and Punishment, Prisoners’ Services and Prisoner Activities and Privileges.

The “dark cell” was abolished. Prisoners have access to study, trainings and work. They can study undergraduate programs through the Open University of Thammarirat. The study system, formerly under the administration of the Department of Corrections, now depends on the Ministry of Education.

Several measures were also implemented to prevent the smuggling of drugs in and out of the prison, and an effort put into strategies to catch drug-dealers providing drugs to prisoners. Controls of visitors at the entrance of the prison are more effective than a few years back.

The visiting room has been much improved in 2005 thanks to the set up of a ceiling, walls, fans, glass windows and telephones. An internal complaint mechanism was implemented.

However, if, on the outside, the prison functioning seemed to have changed a lot, inside the walls the daily routine is still the same.

Although the official website of the Bang Khwang prison states that the daily routine is as below

Inmate’s daily routine (except Saturday, Sunday and national holidays)

- 06.00 Hours Breakfast
- 08.30 Hours Attend vocational training or educational programs
- 12.00 Hours Lunch
- 13.00 Hours Attend vocational training or educational programs
- 15.30 Hours Recreation and personal activities
- 16.30 Hours Dinner
- 17.30 Hours Lockup
- 21.00 Hours Prayer and bedtime

this official version does not correspond to reality. There is still an inappropriate lack of transparency about the prison conditions and dispositions of the Penitentiary Act and other regulations of the Ministry of Justice are not yet implemented.

B Current Living Conditions

<u>Treaty</u>	<u>Body</u>	<u>Recommendations</u>	<u>CCPR/CO/84/THA</u>
			<i>8 July 2005 Concluding observations of the Human Rights Committee Thailand</i>
			<i>Par. 16 The Committee is concerned at the overcrowding and general conditions of places of detention, particularly with regard to sanitation and access to health care and adequate food. The Committee is also concerned that the right of detainees of access to lawyers and members of the family is not always observed in practice. The Committee considers the duration of detention before a person is brought before a judge to be incompatible with the requirements of the Covenant. (...)Pretrial detainees frequently are not segregated from convicted prisoners. Furthermore, the Committee is concerned at the significant number of women in the prison population and the fact that juveniles are often held in adult cells</i>
			<i>Internal Rules and daily routine</i>

ACCOMODATION

They are about 15 to 30 per cell. They are provided with one TV by cell. They sleep on the floor, on a cloth sheet. There is one shower and toilets (Turkish) in the cell, not physically separated from the rest of the cell. They are provided with fans in each cell. Light is on 24 hours a day.

DAILY ROUTINE

General Inmate's daily routine (except Saturday, Sunday and national holidays)

06.30 Hours Opening of the cells. Breakfast is served.

06.30 Hours Free time = possibility of attending educational programs, work or do some exercise.

13.30 Hours Lunch is served.

14.00 Hours Free time = possibility of attending educational programs, work, or exercise.

15.30 Hours Lock-up in the cells.

BREAKFAST AND LUNCH Rice and soup.

SANITARY PROVISIONS A bag containing one tooth brush, one shampoo, and one toothpaste is provided on an irregular basis, about every six months.

WATER Prisoners shower as much as they want during the day (usually 5 to 6 times to stay busy and for hygienic reasons due to the dirty state of prisons). During the Bang Khwang night time, from 15.30 pm to 6.30 am, they have access to water from 6.00 am to 06.30 am, from 4 to 5 pm, and from 7 to 10 pm.

LIBRARY Prisoners have access to the library twice to five days a week, for one hour.

CONTACT WITH THE OUTSIDE Prisoners are entitled to 2 visits a week, for a length of 45 minutes each, at 9.30, 10.15 or 1.45 pm. They are authorized two phone calls a week, for a length of 5 minutes each. They can write and receive letters. However, there is a discretionary

delay for writing and receiving letters. They are read by the administrative staff outgoing and incoming. They have no access to Internet. Cell phones are prohibited.

DRUGS AND CORRUPTION Problems of drug-addiction and corruption, linked to one another, are still harming the mission of the penitentiary institution to send rehabilitated persons back to society.

HEALTH CARE Prisoners suffer from the existence of long delays with regard to basic treatments. Most economical solutions are favored over specific treatments for specific needs (widespread use of Paracetamol). Most common consequences of poor health surveillance are losses of teeth (leading to difficulties to eat) and losses of eyesight. A high rate of tuberculosis and AIDS-infected patients are living in close proximity. Dying patients at the hospital are not allowed to have their leg irons removed.

Punishment system

Prisoners whose case is closed are ranked between six categories according to their general behavior in prison. They are either Exceptional, Very Good, Good, Neutral, Bad, or Very Bad. The first time offenders enter the prison with a “good” mark. At the time of the study, at the scale of the entire country, 32 per cent of the prisoners are “intermediate”, and 31 are “exceptional”. Considerations of status are used for the applications for a Royal Pardon, as well as for privileges, such as becoming a “BLUE-SHIRT”. Blue Shirts are prisoners in charge of the order and security of a particular group of other prisoners. In some cases they have the discretionary power of imposing disciplinary punishments and are allowed the use of a stick to beat other prisoners.

Punishments existing in the prison involve

- Restriction of visits
- Degrading in status
- Wearing chains
- Solitary confinement
- Beatings
- Heavy work under the sun

Solitary confinement is a punishment consisting of isolating the prisoner from the other prisoners as well as from the outside world. Depending on the gravity of the breach in discipline, the punishment of solitary confinement can lead to the total cancellation of all visits or their restriction. Solitary confinement automatically implies shackles. Cells in Building 10 are individual, and deprived of basic facilities. Most of the suicides of Bang Khwang occur during a stay in Building 10. The use of solitary confinement is forbidden for more than one month according to Thai regulations of the prison. However, in practice, the restriction is not observed and most inmates experience it for a few months. Beatings, sun and heavy work (under the sun) are prohibited in all circumstances by International Standards as constitutive of an act of torture and inhumane and degrading treatment.

In practice, punishments almost always involve chains. For those who already have chains, the weight of the chains is increased. In total, according to prisoners, one fourth of the population wears shackles. Made of iron, they weigh about 2 to 5 kgs and are fixed to both ankles of the inmates.

As an “entrance punishment”, all new inmates, regardless of their sentence or the status of their case, are forced to wear shackles for a few months. According to the UN Human Rights Council, this systematic practice is also constitutive of an act of torture.

C Proposals for further improvements

Treaty Body Recommendation CCPR/CO/84/THA

8 July 2005 Concluding observations of the Human Rights Committee Thailand

The State party should bring prison conditions into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners as a matter of priority. The State party should guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly with regard to hygienic conditions, access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. The use of shackling and long periods of solitary confinement should be stopped immediately. Special protection should be provided for juveniles, including their compulsory segregation from adults.

Living conditions

To comply with both the UN Standard Minimum Rule for the Treatment of Prisoners and the Rights of the Prisoners according to the Thai Penitentiary Act,

- Provision of sanitary equipment, comprising at least toothpaste, a toothbrush, washing powder, soap and shampoo every one to two months.
- Right to a hot dinner every day
- Later lock-up in the cells, 5.30 pm as described on the Official Bang Khwang Website
- Rehabilitation and Work to be sustained and enhanced
- Better access to library
- Medical treatment and surveillance of drug addicts

Special needs of prisoners

According to the UN Minimum Rules for the Treatment of Prisoners, it is mandatory to separate certain categories of prisoners after their status (convicted and un-convicted prisoners), gender (men and women), age, and, in some cases, religious or cultural criteria in order to ensure a better access to freedom of religion and expression.

Thus,

- Men who fully became women (*ladyboys*) should be moved to the Women Prison.
 - Foreigners, who amount to about 600 of the total population of Bang Khwang, should be also considered and their particular needs addressed, notably
- Access to the Regulations of the Prison and the guidelines for royal pardon available in Thai language to other prisoners
 - Right to phone calls
 - Right to study (for example Thai language classes and English language classes)
 - Newspapers and reading materials in English (such as the Bangkok Post), Burmese, and other languages as much as possible
 - Right to any form of activity appropriate to non-Thai speakers
 - Abolition of the complete separation between death row inmates and regular inmates.

II SPECIFIC CONDITIONS OF DETENTION IN THE DEATH ROW

- Death row prisoners not only endure torture waiting for their eventual programmed death but also suffer from inhumane and degrading treatment such as the compulsory wearing of shackles 24 hours a day and are denied many of the rights granted to ordinary prisoners.

A Improvements already achieved

Thailand on its path towards abolition

The New Constitution of the Kingdom of Thailand, adopted by referendum in August 2007, does not mention the death penalty, unlike its predecessor, the Constitution of 1997.

Many legal dispositions related to death penalty are compliant with the United Nations “Safeguards guaranteeing protection of the rights of those facing death penalty”.

Safeguards guaranteeing protection of the rights of those facing the death penalty

Approved by Economic and Social Council resolution 1984/50 of 25 May 1984

1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.

5. Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital

punishment.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

The death penalty is not imposed on pregnant women, minors at the time of the crime, and mentally ill people. This is compliant with article 3. Thailand already experienced a de facto moratorium between 1987 and 1995, when all death row inmates have been pardoned by the King, complying with article 7.

Since 2514, in accordance with the ICCPR, appeal to the Court of Appeal is automatic in death penalty cases. If the accused does not appeal himself, the Public prosecutor transmits the file to the Court of Appeal, according to article 245 of the Criminal Procedure Code. This procedure also complies with article 6.

About executions

Prior to 1935, beheading was the method of execution. Later, the method was changed to firing squad. It has been used for 315 executions since 1935. In 2003, the method of execution was changed to “death by lethal injection”, believed to be less inhumane, following article 9 of the UN Safeguards. On 12 December 2003, four people were executed by lethal injection.

The prison authority is responsible for making necessary arrangement regarding the execution chamber, acquiring proper injection equipment for injecting lethal substance into the vein of the condemned person. When the time has come, the prison authority arranges for specially chosen security guards to be at all stations and to be on high and full alert to ensure proper and successful execution. When the precautionary measures and security arrangements are put in place, the condemned prisoner is brought to the execution chamber. He lies on a pre-arranged bed and is tied to the bed as a precautionary measure against any physical resistance or violent reaction. The prisoner is given three injections. The first is a sleeping medicine, the second is a muscle relaxant, the third is to stop breathing. It is argued that this method causes less suffering to the condemned⁹.

All executions are to be carried out in Bang Khwang, in building number 11; in an air-conditioned room.

The prisoner is ignorant of the year, month, day and time at which he will be executed. He is informed of his execution at the time when the officers comes to pick him up in his cell.

This practice amounts to cruel and inhumane treatment.

Chaovarat Jaruboon, executioner of Bang Khwang who shot dead dozens of condemned, at the time when the method of execution was by firing squad, testifies in his book, *The Last Executioner*, about this very particular moment.

Extract from the book “The Last Executioner” from Chaovaret Jaruboon.

“The other officers and I went in to Wing 1 to pick up the prisoners. As usual there was a tension in the air as the other death row prisoners wondered if they were to be collected too. I cannot pretend that it is an easy thing to do, to make that walk with my colleagues past frightened faces until we reach the ones whose time has run out. The first two that we picked up looked at us in sheer panic when we stopped outside their cell. They knew that something was up because earlier they had been put in the same cell. We let them say their goodbyes to the other inmates who looked stricken on their behalf.” At that time, death row prisoners

⁹ From FIDH Mission to Thailand on Death Penalty, FIDH, 2005

knew that their death was “up in the air” because they were given lunch an hour before usual. Their execution was decided and carried out on the very day when the response on the application for Royal Pardon arrived from the King. A few years of awaiting the response from the King’s Pardon in the death row either result in an immediate execution or commutation of sentence.

B Current Living Conditions in death row

Treaty Body Recommendations CCPR/CO/84/THA

8 July 2005 Concluding observations of the Human Rights Committee

14. The Committee notes with concern that the death penalty is not restricted to the “most serious crimes” within the meaning of article 6, paragraph 2, and is applicable to drug trafficking. The Committee regrets that, despite the amendment in 2003 of the Penal Code, which prohibits imposition of the death penalty on persons below 18 years of age, the State party has not yet withdrawn its declaration to the Covenant on article 6, paragraph 5 (art. 6).

16. The Committee deplores the continued shackling of death row prisoners and reports of prolonged solitary confinement.

The death row inmates are not permitted to meet with any other non-death row inmate. They are in Building 2 and 5 of the Bang Khwang Prison. They are 746 presently in the death row of Bang Khwang. Their daily routine is meticulously scheduled to prevent any meeting with other prisoners. Indeed, their daily routine is as follows

7.30 Cells open and breakfast is served.

12.30 Lunch is served

14.30 Lock-up for the night.

On visiting days, Tuesdays and Thursdays, they are locked-up in cells half an hour later.

They are allowed seven hours a day outside of their cells.

They cannot work, exercise or study with the others. They cannot benefit from “good marks” and cannot become blue shirts.

They are allowed two visits a week, on Tuesdays and Thursdays, for 45 minutes between 1.00 pm and 1.45 pm.

Shackles are to be worn by all prisoners condemned to death row, permanently. This contravenes Paragraph 33 of the UN Standard Minimum Rules for the Treatment of Prisoners (1977).

‘Instruments of restraint, such as handcuffs, chains, irons, and straitjackets, shall never be applied as punishment. Furthermore, chains or irons shall not be used as restraints.’

C Proposals for further improvements

Treaty Body Recommendations CCPR/CO/84/THA 8 July 2005

Concluding observations of the Human Rights Committee Thailand

14. The State party should review the imposition of the death penalty for offences related to drug trafficking in order to reduce the categories of crime punishable by death. The State party should also consider the withdrawal of its declaration on article 6, paragraph 5, of the Covenant.

16. The Committee deplores the continued shackling of death row prisoners and reports of prolonged solitary confinement.

Over the last three decades, international law progressively condemned the death penalty and seems on a path towards complete prohibition. On 8 December 1977, the UN General Assembly adopted a resolution on capital punishment stating that “the main objective to be

pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment". Thus, beyond the Universal Declaration on Human Rights (1948) and the International Covenant on Civil and Political Rights (1976), many resolutions of the UN General Assembly made the call for the restriction and the abolition of capital punishment.. The 2nd Optional Protocol to the ICCPR prohibiting the death penalty in all circumstances except in wartime was signed in 1989. A resolution on a moratorium on the use of the death penalty, was adopted by the United Nations General Assembly on December 2008.

Removal of shackles and full access to all rights granted to ordinary prisoners

Shackles are to be used according to the Thai law when

- *The prisoner is a threat to another prisoner*
- *The prisoner is a threat to himself*
- *The prisoner is likely to escape.*

Note: woman prisoners are not shackled

Abolition of death penalty for drug offences

Article 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty, "In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences"

The Abolition of the death penalty for drug offences would divide by almost half the number of death row inmates. Indeed, out of the 857 current death row inmates, 390 are drug-offenders. Moreover, 72 per cent of the death row inmates whose case is final are drug-offenders.

Repartition of death row inmates by offense

	Drugs	Murder/ others	Total
Male	284	392	676
Female	69	14	83
Total	353	406	759
%	46.5	53.5	100

Source . Department of Corrections

Whereas popular support for the death penalty in the case of the most heinous crimes such as child molesting can still be popular in countries where the death penalty has been abolished, the death penalty for drug offences seems disproportionate, useless, and cruel.

Most drug offenders are first time offenders and are victims (couriers) rather than great traffickers.

Indeed, Thailand prisons are full of prisoners on drug-charges. They represent about 57 per cent of the total population, which amounts to about 82,000. About one third of them have not yet reached the age of 25¹⁰. These statistics concern only prisoners whose sentence is final. Given the fact that there is a period of a few months after arrest and before trial, then a few

¹⁰ Out of 81,477 prisoners on drug-related charges, whose sentences are final, 24,542 are aged 18-25 years old as of May 2009.

years between the first judgment by the provincial court and the other courts, these statistics are to be read as underestimated.

Testimonials of Bang Khwang prisoners

The torture induced by a life-long waiting for processing of cases

Death row prisoners are usually disadvantaged members of Thai society, uneducated and often poor. Corruption is present at every stage during the process, from arrest to the verdict, and fully operates inside the walls of the prison, what contributes to the disadvantage of uneducated and poor prisoners even further.

The Thai system causes a prisoner recently condemned to the death penalty in the Court of First Instance to fear for his coming execution or hope for his coming release. Indeed, the lottery is total. The whole system of general amnesties, life reductions, royal pardons, give to the execution of sentences a sense of a lottery or a very cruel game.

One of the inmates, J., has been in Bang Khwang for 18 years for drugs. He was first sentenced to death, then his death sentence was changed to life in 1996, in 2000 from life sentence to 40 years, in 2004 from 40 years to 33, in 2006 from 33 to 29 years. If his Royal pardon, requested seven years ago, is accepted, he can emerge as a free man tomorrow. Or not.

The sense of “complete failure of the Judicial System”

The best jurists and lawyers might be the inmates serving very long sentences. Not only do they spend most of their time thinking about their case and making any calculation they can possibly imagine, but they also compare their cases among themselves, study law and read and follow everything that has anything to do with the penal system.

Usually, they all told me at the first visit about the complete incompetency of their lawyer and the state of corruption governing the whole justice system.

In most cases, once the lawyer has defended the accused in the first court, the prisoner writes himself to the courts of appeals and supreme court to defend his case, asking the help of his fellow inmates.

The submission for a Royal Pardon is entirely written by the inmate and his friends.

By comparing their cases, the inmates acquire a real knowledge of the functioning of the Thai penal system and the many absurdities it involves. Mr. T received a 45 year sentence for Z amount of drugs, Mr. H 15 years for X etc. as an example of the random character of the attribution of certain sentences.

In 2007, at the ACCPAA CONFERENCE, officials from the Ministry of Justice publicly showed their lack of trust in their own system. Indeed, the Ministry of Justice offered to assist innocent people behind bars. The Department of Corrections was ordered to make a survey to seek for prisoners who claim to be innocent and who are able to provide essential evidence. After the interview and investigation, a list of innocent prisoners was sent to the Ministry of Justice, awaiting further assistance. There has not been any progress so far.

Drug offences in Bang Khwang

Besides, there is total discrimination privileging murderers and rapists over drug-smugglers. Indeed, many privileges, such as becoming a blue-shirt with the approval of the Department of Corrections, are denied to prisoners on drug charges. This slows their process of sentence reduction. Moreover, general amnesties and royal pardons are either completely refused to prisoners on drug-cases (2004) or are less significant than for other cases (in 2007, the general amnesty was a reduction of one eighth of the sentence for drug cases and one fourth of the

sentence for murder case). Thus, drug offenders are the most severely punished inside the prison.

A current prisoner, J., convicted on drug charges, always says “I wish I had killed someone. I would be out by now”.

In total, 57 per cent of the population of penitentiary institutions is convicted on drug charges.

DRUGS	Male	Female	Total	Percentage
Consumption	702	479	1,181	1.45
Possession	5,873	1,643	7,516	9.22
Consumption and Possession	5,688	1,116	6,804	8.35
Sale	17,508	5,613	23,121	28.38
Possession for sale	35,077	6,704	41,781	51.28
Others	840	234	1,074	1.32
TOTAL	65,688	15,789	81,477	80.97

A certain sense of Freedom

Many prisoners, arriving in Bang Khwang after a stay in another Thai prison or a European prison, express their wishes to stay here. G., who came from the prison for drug-addicts of Bombatt, told me many times “Here, it is like paradise compared to where I come from”. Another one, coming from a prison in Europe, acknowledged ‘Unlike where I come from, here there are trees and we can see the sky, it gives me a sense of hope’.

Bang Khwang has a low rate of suicide, and prisoners who experience other prisons in Thailand or prisons abroad say that the system here allows them to retain some of their inherent human dignity

The usual system common to European prisons is derived from the Panoptic from Bentham which aims at dehumanizing the prisoner and breaking his ego through permanent control and surveillance, using psychological torture rather than physical punishment.

The main component of dehumanization is to break as much as possible the social relations of inmates among themselves, prevent sentiments of trust and friendship, disabling prisoners to feel any solidarity and fraternity towards one another. Here in Thailand, inmates feel less lonely and freer than perhaps is the standard in Europe.

Many liberties, not guaranteed, but tolerated for the trusted and strong inmates, exist. The possibility of doing some commerce, of going for a walk under the palm trees, of growing fruits and vegetables, of playing football on a grass field, music in a band and of chatting with others is not being offered everywhere else.

This is not the case for death row inmates who are confined together and chained 24 hours a day waiting to be freed from their waiting., Either way, the eventuality of an execution or of a commutation of sentence, is unlikely to happen any time soon, as, for reasons of political instability or other factors, the whole process of the Pardon appears to be stalled.

The only possibility to put an end to the sufferings of the 857 people concerned is to commute their sentences to life sentence and to grant them the same rights as their co-inmates while raising the level of compliance of the living conditions in Bang Khwang with the Minimum Standard Rules for the Treatment of Prisoners.

CONCLUSIONS

In many aspects, the prison of Bang Khwang can be seen as a model for the fulfillment of the rights of prisoners and many of its positive aspects and relevant programs should be applicable to provincial prisons. Its system offering relative autonomy to the general prisoner can also be taken as a model for foreign countries.

For the last decade, great improvements have been achieved.

Further improvements cannot be fully realized if considerations of the working conditions of the wardens, including their salary and professional training, are bypassed.

The delivery of 3 meals a day and sufficient packages of sanitary provisions, access to decent work and wages as well as the launch of more educative programs in the view of rehabilitation for all inmates, constitute urgent reforms to be undertaken.

The systematic use of physical and psychological torture on death row inmates should stop.

The permanent wearing of shackles by death row inmates and the use of the shackles as well as of solitary confinement for long periods constitute a grave violation of human rights and is strictly prohibited both by Thai law and by the international and regional instruments such as the UN Minimum Standard Rules for the Treatment of Prisoners.

The death penalty constitutes an infringement of the right to life enshrined in article 3 of the Universal Declaration of Human Rights of December 1948. It should be abolished without condition.

In the context characterized by:

- The current process of Thailand to issue its second report to the ICCPR Treaty Body
- The upcoming Universal Periodic Review of Thailand by the UN Human Rights Committee
- Thai Chairmanship of ASEAN and the creation of an ASEAN Human Rights Body
- The tightening of the links between ASEAN and the European Union (ASEM)
- The high number of non-Nationals in Thai Prisons

Thailand should implement the UN Treaty Body recommendations to Thailand stating that “wearing shackles should be prohibited and the death penalty abolished”. By this move, Thailand would become one of the first ASEAN countries to abolish the death penalty, after the Philippines and Cambodia, and could take the lead, in ASEAN, in the field of human rights, which constitute one of the strongest indicators of the level of development of a nation.

BIBLIOGRAPHY

- Constitution of the Kingdom of Thailand, 2007
- Criminal Code of the Kingdom of Thailand, as of 2008
- Code of Criminal Procedure of the Kingdom of Thailand, as of 2008
- Penitentiary Act B.E
- Narratives

HUGO Victor, *Le Dernier jour d'un condamné*, Flammarion, Paris, 1998

L'Abolition, BADINTER Robert, Fayard, Paris, 2000

Forget you had a daughter, GREGORY Sandra with TIERNEY Michel, AsiaBooks, Bangkok 2002

The Last Executioner, JARUBOON Chavoret with PIERCE Nicola, Maverick House, Thailand 2006

The Angel of Bang Khwang, ALDOUS Susan,

- Handbooks

Making standards work, an international handbook on good prison practice, PENAL REFORM INTERNATIONAL, Netherlands 2001

Manual on Human Rights Training for Prison Officials, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Published by the United Nations, New York and Geneva 2005

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Manual on Human Rights Training for Prison Officials, Published by the United Nations, New York and Geneva 2005

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Human Rights and Prisons, Manual on Human Rights Training for Prison Officials, Published by the United Nations, New York and Geneva 2005

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Human Rights and Prisons, Manual on Human Rights Training for Prison Officials, Published by the United Nations, New York and Geneva 2005

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Human Rights and Prisons, Manual on Human Rights Training for Prison Officials, Published by the United Nations, New York and Geneva 2005

- Reports

The death penalty in Thailand, Federation Internationale des Droits de l'Homme, UCL 2005,

- Articles from the Department of Corrections Website

Contemporary issues in Thai Corrections, 2008, 2007, 2006

Department of Corrections, Prisoner's Rights under the Thai Penitentiary Act.

3. Condition of Prisoners in Bang Kwang Prison

Interviews with twelve prisoners and recently released ex-prisoners who had been condemned to death

Visiting prisoners condemned to death

Prisoners condemned to death may be visited at 13.00 on Tuesdays and Thursdays for forty five minutes, although delays in calling the prisoner may leave only thirty minutes. The visitor and prisoner are separated from each other by a space of one meter, a glass window and wire mesh. Prisoners and visitors are seated in along a long walk way and communicate through telephone sets. Following allegations of some drug smuggling, difficult to visualize given the preventive circumstances, restrictions on visitors to relatives only has been announced. It has become very difficult for others to visit a prisoner.

*Prisoners emphasize the importance of visitors in keeping contact with the outside world. Money deposited by relatives for their use contributes greatly to making life in prison tolerable. At first relatives visit frequently, later they make monthly visits, and finally, perhaps, twice a year. When wives rarely visit their imprisoned husbands, prisoners advise each other to be resigned to the fact that the wife has found a new partner.*¹¹

Overcrowding

A cell of 6 x 8 metres may hold up to 43 persons.

*Each prisoner may occupy 0.7 to 0.8 square metres. He is provided with a blanket and pillow. They sleep in rows, alternately head to foot and leaving slightly larger space in the centre for prisoners who help the warders. Electric lighting is left on at all times for security*¹².

Such overcrowding conflicts with the article 10 of the International Convention on Civil and Political Rights, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Shackling of Prisoners

Prisoners who have been condemned to death are permanently shackled from the day sentence is first passed.

Daily life becomes difficult. The shackles are welded in place. While being welded there are sparks and the majority of prisoners suffer wounds from burns caused by these sparks.

The interviewer believes that as Bang Kwang is already a high security prison, permanent shackling of prisoners is not necessary and that the practice is contrary to Article 4 of the Thai Constitution: "Human dignity, rights, liberty, and equality of the people shall be protected" and to article 10 of ICCPR quoted above.

*"It is funny that a prisoner already detained in a prison cell must, in addition, be chained. To be shackled and obliged further to be locked in a prison cell is even more than is inflicted on animals"*¹³

The divide between a prisoner without relatives and a prisoner with money

Both ex-prisoners and prisoners now imprisoned are agreed that food, drinking water, and contributing to the convenience of life in Bang Kwang prison are at present reasonably good and available but when the interviewer compared the actual living conditions of those having

¹¹ Testimony of a prisoner in Bang Kwang prison for 32 years

¹² Testimony of a prisoner in Bang Kwang prison for 34 years

¹³ Prisoner condemned to death

some money with those having none the divide is as great as that between rich and poor in the outside world. Prisoners with money can ensure a tolerable quality of food and other needs. If they are averse to prison food they can buy food in the convenience store in the prison or buy the ingredients to prepare their own meal. *“My time in jail was not so difficult in the matter of food. Mostly I bought what I needed, also helping others who, not having relatives or money were in need”*¹⁴

Each prisoner has an account of money deposited to his credit. Up to 200 baht a day can be used for purchase of food or toiletries. Those without money offer their services to prisoners with accounts such as laundering or massage.

Most relatives do not understand why those in prison still need money. *“To pay a visit, buy supplies and deposit money for a prisoner can cost up to 2000 baht. If I include the cost of travel it amounts to 5,000 baht. Before, I used to visit my son often. But now for lack of money, I can come only once in six months”*¹⁵

Prison clothing is only used when a prisoner must appear outside. Inside the prison they may wear their own clothing which relatives bring to them, except for long trousers which are forbidden. Prisoners must buy their own soap, tooth paste, shampoo etc. Once a year such items are distributed by a charitable foundation.

While our researchers observe that the system described allows prisoners to have improved quality of life, further injustice is also a consequence for those who have neither money nor relatives to provide for their needs like other prisoners. The quality of food provided is still below requirements set by section 20 of the UN Minimum Standards for treatment of prisoners:

“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.”

Solitary Confinement

There are two kinds of cell for solitary confinement. One is called a ‘red cell’ with a low door in which a single prisoner was punished, but such cells are no longer used. But single cells probably still exist in Building 10. They are in a row and measure one to two metres. They are still used for punishment. The majority of prisoners think that such cells are necessary to deal with prisoners of bad character and who glory in the notoriety of walking about noisily in heavy chains. Nevertheless, solitary confinement must follow international norms.

Hospital Conditions and Care

The problem of Hospital Conditions and Care is that there are not enough doctors. It has happened that two or three of the doctors were themselves prisoners who could cooperate in offering treatment and participate in surgery. But in reality only one was fully capable; the others were medical assistants or could act as dentists. The prison hospital in Bang Kwang prison was dependent on doctors made available by the Department of Corrections Hospital. It was very inconvenient for prisoners to wait the arrival of the doctor or the doctor to wait for a patient. Besides, there was great difficulty if a prisoner was to be taken to an outside hospital. Such a shortage of doctors is a major difficulty. Psychiatric care of which there was great need in the prison was also lacking.

Rehabilitation of Prisoners

¹⁴ Testimony of a prisoner condemned to death, whose sentence was reduced and who was freed after 16 years

¹⁵ The mother in Nakorn Srithammarat province of a prisoner condemned to death

While there is some preparation of prisoners due for release, it is not realistic and most prisoners have to manage themselves as best they can: *“On the day of my release, I sat at the gate of the prison for almost the whole day, not knowing where to go. When I applied for work, the employer knew I had come out of prison; unless I could hide the fact I could not find employment.”* Ex-prisoners who have spent more than twenty or thirty years in prison, often find that their families can no longer accept them, nor can they adapt to their families. At times they must seek out old companions from their prison days to find understanding and help. Prison had become the only ‘home’ they knew. Preparation for release is essential, as is support after their release. It appears that released women prisoners can borrow modest sums of money from government sources to help establish themselves, but men cannot avail of such loans. Society too must understand and learn to accept those who have spent long years in prison. They do not deserve to be outcasts for the rest of their lives.

4. Interviews with women prisoners in Thai prisons

From interviews in March-April 2011

- Four prisoners who had been condemned to death and imprisoned in the central women’s prison. Their sentences were commuted and they served over twenty years before release in the last one to eight years.
- One woman prisoner sentenced to death. She was imprisoned in the Central Prison for Women and later in Chiangrai. Her sentence was remitted, and in the last six months she was released after 20 years
- One woman prisoner pardoned and released a year ago after two years imprisonment in the Central Prison for Women.
- A woman still imprisoned with a long sentence in the Central Prison for Women

The main problem of women’s prisons is the appalling overcrowding. In general cells are of two sizes. Cells of 12x19 metres hold 180 to 200 women, while smaller cells measuring 6x8 metres hold 90 to 100 persons. Prisoners sleep in rows, head to foot, each one having a space slot ranging from one to one and a half feet. Being crowded in such close proximity leads to frequent conflict between prisoners. But, generally, they do not fight in the cell, but contain their anger until the following day. If fighting breaks out in the cell, all the prisoners are punished, such as by switching off the fans which help to control the heat.

Windows in the cell are barred and covered in mosquito netting. Ceiling fans operate but not in sufficient numbers to disperse the heat arising from overcrowding. In addition the fans are often switched off by midnight, to economise on electricity the excuse being given that it is not very warm.

Prisoners are given a light mattress, pillow, and a light blanket, each one being responsible for the cleanliness of their bedding. Those with money can have laundering done, otherwise they must wash the laundry themselves, a very difficult task due to the shortage of water. Drying lines are very limited in number and one must be on the look out for thieves.

Prisoners who help warders in their work, and whose behaviour is good and who do not cause problems are selected to have better living conditions. 15 to 16 persons share a small room, they are given a thicker mattress, need not join the long waiting lines for use of toilet facilities and to be served food, nor are they disturbed by others. Those who enjoy such special treatment are usually some prisoners in the final two to three years of their sentence.

The time of showering is the most tense and stressful part of the day as one must compete with others for a limited water supply. The time to shower is also limited. If water is available in bowls, one is limited to ten bowls. If water is from a PVC tube, bathing time is limited by counting up to 30 – every time there is a struggle to be the one counting and turning on and off the water. One ex-prisoner related that if one were slow in arriving the amount of water in the cement tank was only a little and one could use it only by using a scoop made from an old tin can.

For toilet use water was sufficient, especially in the seven or eight lavatories in various locations outside the cell where prisoners waited their turn each day. There were few lavatories inside the cell; one sometimes had to queue for half an hour to use them. There is no door to the lavatory, other than a two foot high cement step. It takes time for a prisoner to become accustomed to such lack of privacy.

When new cells were added in Chiangrai women's prison to reduce overcrowding, adequate clean lavatories were provided, better than in the central prison for women.

There has been a great improvement in the cleanliness of food. Ten years ago the food was inedible, herring boiled in a black liquid like sewer water. Now, clean white rice is served, but the food lacks flavour and most avoid it. Vegetables are almost rotten and seafood is never provided. Those having money buy their own food. There is a cafeteria in the prison and a shop for health products. But prices are more expensive than outside: 4 tomatoes cost 10 baht, small egg plant 10 baht each, chicken thigh bones cost 30 baht apiece. Other necessities one must buy oneself, although they may be available only once or twice a year at increased prices. Items which should be included with the sale item are not given to the buyer. Prisoners who complain about the service may be transferred elsewhere.

To make purchases, prisoners may use money deposited for them by relatives. Prisoners may withdraw coupons up to a value of 200 baht daily. However, the coupons are valid for only half a day, after which they may no longer be used or returned. Prisoners complain that it should be possible to return coupons which they could not use because of the large number of prisoners making purchases.

Those who do not have accounts established by relatives must work for other prisoners, such as doing laundry or giving a massage.

Prisoners whose court cases are completed can earn money by working in prison factories. Choices for work include stitching, crocheting, or trimming cloth. Payment is low in comparison with the hour of work which coincide with the working hours of government officials, but, at least, it provides money for small expenses. A typical payment was said to be 700 baht for a three month period. Many prisoners firmly believe that the long sentences inflicted in the Thai judicial system are intended to provide a work force for low paid prison production.

By comparison with prisoners whose court cases are still in process, the convicted have little time for exercise. They envy those who can join in aerobic dancing, yoga, or taichi.

In the past punishments included solitary confinement in cramped cells. But since the suicide of a Russian prisoner five or six years ago this punishment has been discontinued. Other punishments in the past involved physical pain inflicted at the whim of gaolers.

The heaviest punishment in present use in the view of those interned is the reduction of prisoner status for minor transgressions such as quarreling. A usual punishment is a reduction in status from 'good' to 'bad' which blocks remission of sentence. Other punishments in current use are cleaning of toilets or drains, sweeping of paths, tidying cells, suspension of visits from relatives. Most used are punishments involving physical effort such as 'squat jumping with hands behind the head' around a yard, a very tiring action.

Regarding giving birth in prison, mother and newly born child are given special lodging. The mother can come to feed her child at midday. A growing child is placed in nursery care and may stay with the mother until the age of 3. The child is then cared for by relatives or placed in government care, in which case the child is brought to visit the mother once a month. There exists a care centre run by Christians who bring the child to visit once a fortnight and provide the mother with extra items, leading to the conversion to Christianity of many mothers. The birth of a child is always registered in the hospital of birth.

Hospital Treatment: In the past hospital staff paid little attention to prisoners, viewing them with contempt and even striking them. Mostly, doctors appear just once a week, leaving nurses to care for patients. Care consisted mainly of distribution of paracetamol tablets. Patients with chronic illness must pay for medicine themselves. The procedure is for the prison to order the medication which the prisoner must consume in the prison hospital, the prisoner not being allowed to keep the medicine and take it herself. To keep even a single tablet would lead to an immediate reduction in prisoner status.

Contact with the outside world used to be extremely difficult. Letters were restricted to 15 lines once a week. At times even three months later, letters were not delivered and prisoners had to right to ask the reason. Sometimes also letters from relatives did not reach prisoners. Control in Chiangrai prison was more relaxed and prisoners could send three letters a week (Mondays, Wednesdays, Fridays).

Visitors or a letter are a major event for a prisoner which they anticipate eagerly. If prisoners could not identify, or wrongly identified, the sender of a letter to them, the letter would be returned to sender. A similar practice is enforced if a prisoner mistakes the name of a visitor. Prisoners become very distressed when visits are not allowed and when they are obliged to sign a note to be shown to the visitor saying that they reject the visitor.

There is also a practice enforced that those imprisoned for serious offenses, such as lese majeste, may be visited by only 5 persons listed by the prisoner herself, to the exclusion of others.

The libraries of women's prisons contained only old books and women's magazines. It is forbidden in the prison to read political works. Likewise media news is not allowed. Television is limited to programmes selected by prison authorities, especially Korean and Thai family dramas.

There are no restrictions on religious observance and participation in the main religious services is allowed.

Interview with long term prisoner currently in Bangkok Central Prison for Women.

The problem of overcrowding in the prison is exacerbated by the imprisonment every day of illegal foreign labourers who are sentenced to 48 days of imprisonment. For example in the recent Thai new year period (Songkran Festival) 20 to 30 prisoners a day were sentenced. To reduce the pressure of numbers about 50 prisoners would be moved out to provincial prisons every 1 to 2 weeks. Such measures are combined with other punishments such as fines and repatriation without passing through the prison system.

80 to 90% of the prisoners are young people and workers who committed minor drug related crimes who should be separated from the general prison population and sent for rehabilitation, fined, or engaged in some useful service to society, rather than being uselessly incarcerated.

The right of prisoners to receive visitors should be respected without imposing the condition of correct naming.

The prices of commodities on sale in the prison should not differ from outside prices.
The library should contain new books. Prisoners should be allowed to read works on social and political themes.

Prisoners should have access to news in newspapers and television broadcasts

The governance of male and female prisons should not differ. In many ways the restrictions on women prisoners are more severe than on men, for example on the screening of names of visitors, on allowing access to news media and television.

5. Extract from the memoir of Veronique Vasseur

Chief Medical Officer of La Santé Prison

“At La Santé, one cannot be lukewarm. Either one is passionate and one goes the whole way, or one becomes indifferent, and performs one’s function very badly. One cannot just maintain a technical and professional attitude. Either you commit yourself, or it is not worth the bother”.

While the extension of medical services in the prisons has reached normal standards, other things are unchanged: hygiene conditions which are precarious and unhealthy, aged locations, laziness, detention without planning, valueless activities, absence of intimacy, promiscuity, absence of affection, endless waiting, hopes which are always frustrated, anger and hopelessness, violence, self mutilation, attempted suicides as well as actual suicides but also security that is sometimes excessive and paranoid, repeated body searches, handcuffs or sometimes leg irons, arbitrary regulations, useless and humiliating teasing, systems of balance which weigh on the most vulnerable, prolonged isolation which can go on for years, medieval disciplinary quarters, and, finally, a total lack of rights in a place meant to represent them.

Dostoyevsky wrote: “We cannot judge the level of civilization of a nation without visiting its prisons”. This, at least, has been well taken care of ...

The findings are overwhelming. A report made by members of parliament and senators bears the heading “Prisons, a Shame for the Republic”.

We are all responsible for this state of affairs. But the immediate question is: are we civilized? I became involved because I had no other moral choice. The code of medical ethics reads; ‘The doctor may not depart from her professional independence in any form whatever’ Article 5. ‘A doctor examining or caring for any person deprived of liberty must neither directly nor indirectly, even by being present, favour or tolerate any action against the physical or mental integrity, or the dignity of the detainee’ Article 10. My Hippocratic oath reminds me that ‘My first duty is to reestablish, to preserve and to promote health in all its aspects... I respect all persons, I will intervene to defend them if they are weak and vulnerable, or when their integrity or dignity are threatened’. My idealism cost me dearly, honesty and respect do not pay.

I regret nothing. I profoundly loved this place and its occupants. I have learned much. I have had moments of despair, but also great joys and much emotion.

A prison is a school of tolerance, of listening and respecting others. It must never be forgotten that a detainee is a citizen who, deprived of liberty during a more or less long intermission, is called to join again the free world.

In February 2000, the President of the French Bar in Paris, announced that there would be a permanent legal representative within the prison to care for the rights of the detainees and to plead on their behalf in court disputes. By an amusing coincidence this practice had already

become a reality in all French prisons. The law of April 2000 established the rights of citizens with regard to the administration. The penal administration, abusively considering itself apart, queried the Council of State, whether it was subject to this regulation. The question is fundamental. Is the penitential administration an administration or not? Is a detainee a citizen? The answer in both cases was yes, and will have considerable effect on the future.

A Commission report in March shows the way for a truly political penitentiary. It affirms the rights of the detainees and calls for the creation of an independent control charged with verifying the application of laws behind bars. At last, rights have found an entry into prisons and lawyers have a foot in the door to stop it being closed again.

I hope that the immense hopes of the year 2000 will not be shattered, a prison is only a transit station, there is a before and an after.

The upheaval in the penal institutes has had repercussions in the whole judicial world. In June 2000, a law on the presumption of innocence foresees a liberty judge who should take a stand on the demand for provisional detention by the judge preparing the case for the courts.

Provisional detention should be the exception; 41% of those arrested being detained and excessively long provisional detentions show that France is no longer the model of human rights it has always wished to be.

Every year, about 1,000 persons are imprisoned by error. Nor should we forget those who should not be there at all. I think especially of illegal immigrants (37% of those in La Santé), their offence being an administrative matter they should not be subject to the penal code. I think too of the drug addicts and small time delinquents, whose treatment should be health and socially based; repressive punishment is ineffectual. I think too of minors, who offend again at a rate of almost 100%. Also the psychically disturbed, who have no place in the prison system. ...I think too of imprisoned women, who sometimes give birth while shackled, and of their babies who suffer psychic and motor disequilibrium.

It appears that we lack imagination. A sole response: prison, prison for all those who derange us, to exclude from society those with whom one does not know what to do.

During my eight years in la Santé, I met with, apart from some exceptions, a marginal population, poor, often without access to care and taking the opportunity of access to prison medical services. Has imprisonment become a mode of treatment of poverty?

We have all, each at her level of responsibility, by our lack of protest, allowed this situation to develop into the habitual routine of our society.

In fact nobody was interested in prisons. Until becoming a fashion this year; if only it could last.

Not only is it that many have no connection with the prison system. The Penal Code must be re-examined, its role in oppressing individuals, breaking down their personalities, making them creatures of response to orders, humiliation being programmed and institutionalized..

Power is exercised by the strongest over the weakest. In effect what is being said, without the hypocrisy, is 'Here, you are no longer anything!'

Such power, in an enclosed area, without any transparency, without external control, can only end in aberration. Such is human nature and the outcome is the same in all closed institutions.

Prison reassures as much as it engenders fantasy. One says to oneself, that is where evil is contained. It is well guarded and we can sleep peacefully in our beds. But the reality is otherwise. The detainee is in a state of intermission and must re-emerge. Even though the goal is security, the objective is that he who has fulfilled his penalty emerges a better person than when he entered the prison, so that he will not re-offend.

The alternative would be for the freed prisoner to emerge in hatred and anger. One must envisage more permissions to leave prison, more anticipated liberations. According to statistics, the more the full penalty is served, the higher the probability of re-offense. If the

penalty is too long, the prisoner is destroyed for ever. In the last fifteen years in France, conditional release has decreased by half...

There are already many alternatives to prison – judicial control, semi-liberty, penal reparation for minors, outside placement, with or without supervision, general works...but these arrangements remain insufficient and justice avails too little of them. One must invent new alternatives. These procedures must be judicial as is wished by lawyers, and with the right to legal assistance at every stage. It is equally necessary that the prison play an educative and social role, one cannot have a social being in an asocial setting... It is only in respecting the detainee that one can hope that he regains self-respect and the respect of others.

A prison consists in the deprivation of liberty. It is useless, and also ineffectual to add humiliation. The judeo-christian tradition which promotes redemption by suffering is oblivious of psychological evidence: suffering and humiliation generate hatred, vengeance, and lead to re-offence. One does not re-establish oneself, make amends for the past, and take a step towards society, in an environment of violence and force.

It is not only in fair new prisons and with benevolent law that change occurs, a profound change in spirit is required.

To have effect, one must be humane, which does not entail laxity. Actually prisons fulfill their function as guardian efficiently, but, paradoxically, with a certain permissiveness which avoids the growth of revolt. The detainee should have a personalized sanction. He should have rights, be able to accomplish tasks, acquire a formation, and serve an apprenticeship. And that not only to re-enter society and avoid re-offense, but also to make reparation to society whose laws have been transgressed.

Budgets for reform of the prison system should not be dedicated only to constructing new prisons but also to the formation of better prison officials without whom no prison reform can be effective. Theirs is a difficult occupation and which requires individual investment so that they are not just carriers of keys... Investment must also be made in alternatives to prison, which, besides, would cost must less than a stay in prison.

I have had enough of prison, of its incoherencies, its administrative loads and, above all, I need to escape this closed milieu. Eight years in confinement is enough. I did not wish to leave this place without saying anything, nor did I wish to write what might have been more acceptable rather than earning condemnation, attack, jealousy, but also immense support. If necessary, I would do it all again...

Appendix: The Death Penalty in Thailand; Prison Conditions
Extract from “The Death Penalty in Thailand”.
 Joint report by FIDH and UCL, March 2005

Correctional Manpower

Year	Prison staff	Total staff	Inmates	staff:inmates ratio
1992	9,127	9,597	73,309	1:8
1993	9,143	9,613	90,307	1:10
1994	8,392	9,230	103,329	1:12
1995	8,499	9,273	111,725	1:13
1996	9,116	9,717	103,202	1:11
1997	9,908	10,460	130,997	1:13
1998	10,955	11,507	170,490	1:15
1999	10,955	11,507	205,340	1:18
2000	10,191	10,832	219,176	1:22
2001	10,008	10,573	247,865	1:25
2002	11,002	11,550	257,196	1:23

Conditions of Detention and of Execution

1. Conditions in Prisons

a. General conditions of detention

Thai prisons are grievously over-crowded: in total, there were about 195,000 inmates in Thai prisons at the time of the mission, excluding juveniles (for whom the corrections department is not responsible). 40,000 of the total were women⁴⁷.

These overcrowded conditions contravene Article 10 of the ICCPR which states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" and para.10 of the UN Standard Minimum Rules for the Treatment of Prisoners⁴⁸ which states that "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation". The FIDH and UCL also recall the "Missions and responsibilities of the Department of Corrections" as set forth on its website⁴⁹, which are, notably: "to provide institutional environment that is consistent with the United Nations Standard Minimum Rules for the Treatment of prisoners and related recommendations so far as existing circumstances allow", "to reduce overcrowding encouraging the use of various alternative non-imprisonment programs for the offenders who are not suitable for institutional confinement".

At the time of the mission, there were 9,000 foreign prisoners in Thai jails, including approx 5,000 Burmese, 2,000 Cambodian, 1,000 Lao, 300 Malaysian, 100 Singaporeans, 300 Nigerians⁵⁰. In total, there were prisoners from 99 countries, reflecting the transitory aspect of Thailand's location and its strategic position in Asia. Many of those foreign prisoners were illegal workers and immigrants. 22 countries have prisoner transfer treaties which activate either 4 or 8 years into sentence, depending on the country. According to the Department of Corrections, the only foreigners on death row at the time of the mission were Burmese.

Officially, the mission was told that there is no problem with violence in prisons as prisoners are on their best behaviour, hoping for early release or royal pardon. The mission was told that where a prisoner misbehaves, he can be punished by being moved to another section. Officially, violence by prison wardens is not encouraged, if for no other reason than a practical one - officers would quickly lose control which would be extremely dangerous in a situation where the prisoners outnumber the officers. They try to use positive methods to encourage good behaviour and release. The mission was told that there are almost no complaints of violence by officers. However, the mission received accounts from prisoners of officers ruling by fear as well as worrying accounts of the use of violence and abuse of prisoners.

Such treatment - if confirmed - is a clear contravention of Article 10 of the ICCPR which states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". The mission was told that there exists a little-used complaints mechanism - a box for letters of complaint - and that it was also open to prisoners to write to NGOs, the Human Rights Commission, MPs, Minister for Justice, or the Ombudsman but that prisoners do not do so, for fear of reprisals from the correctional officers.

Prisoners are entitled to visits three times a week, once each day on the three days assigned for visits. Visits take place in the visiting room, a long corridor, which is divided into sections. There is a net screen between visitors and prisoners which maintains a distance of around 2m between prisoners and visitors and they cannot touch. There is no division between one prisoner with his visitors and the next and both must shout to make themselves heard. The mission witnessed visits in the prison and was struck by the noise and lack of privacy for prisoners receiving family visits, which it deplores. Generally, prisoners wear their own clothes but prison shirts are doled out for visits; however, there are not enough so prisoners are often obliged to don shirts worn by prisoners who had visitors earlier in the day.

Private facilities are available for legal visits and mail to lawyers is not censored although mail to families is. According to prison officials, solitary confinement is not used although there are single cells in most prisons; again, according to the corrections department, many foreigners are in single cells by choice as they prefer to get away from large

numbers of prisoners. In particular, Westerners prefer to be alone. Normally single cells are intended for securing the highest security prisoners. Prisoners held in such cells by choice can come out for eating, exercise and baths. According to one detainee met by the mission, it seems however that sometimes at least, solitary confinement without bedding is used to discipline prisoners.

The mission received information about the sale of drugs in prison by prison wardens and about prisoners found in possession of drugs being punished.

There are "trustee" prisoners in the prisons who have more privileges and freedom than ordinary prisoners. The mission was told that it is possible to purchase a "trusteeship" and that trustees often beat up and chastise other prisoners - a sort of reinforcement for inadequate staffing. The mission also heard reports that in some prisons in the provinces, trustees even carry batons. The mission is of the view that the system of "trustees" contravenes para. 28 (1) of the UN Standard Minimum Rules for the Treatment of Prisoners which states that "no prisoner shall be employed, in the service of the institution, in any disciplinary activity".

In prison in Thailand, money talks. Prisoners pay for everything - bedrolls, lightbulbs, fans, televisions. There is often not enough food for all the prisoners, allegations of theft within the system are rife. The mission heard reports of there not even being enough plates and cutlery to go around. Inmates require money to be sent by their families and the mission received reports of staff pilfering a percentage (between 5% and 20%) of money sent.

Prison food was unanimously reported to be inedible. In most prisons, the wives of the prison wardens cook better food and sell it to those with money. In other prisons, the inmates can buy food in the prison shop and cook it themselves. This contravenes Article 10 of the ICCPR which states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Nor does it comply with para. 20 of the UN Standard Minimum Rules for the Treatment of Prisoners, according to which 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 and drinking water shall be available to every prisoner whenever he needs it.

b. The Bank Kwang Prison

There were 6,386 prisoners in Bang Kwang prison on the day the mission visited it, although the prison's maximum capacity is 4,000. There were 665 foreign prisoners from 44 different countries. All the prisoners are serving long-term sentences, ranging from 30 years to the death penalty. 50% of prisoners are serving sentences for drugs. There are 6 buildings, one for prisoners aged 18-25 years old. The oldest prisoner is 70, there are 138 prisoners aged between 60-70. There are 386 officers. The mission was shown a large cell (20m x 20m) where 43 prisoners sleep head to feet with a small passageway in between. They have approximately 70-80cm² per person. The cells are in raised buildings and have open windows which are barred and covered with mosquito nets. Basic sanitary facilities are in the corner of the cell, one toilet in full view of the other prisoners. There are ceiling fans in the cell. Prisoners are allowed collective showers every day or at least a ration of 5 bowls of water to wash.

The mission noticed a large uncovered mound of grain beside

the kitchen on the ground. Many birds were pecking at it, similarly birds were pecking at what appeared to be an infill of refuse about 200m away. This gives rise to concerns with regard to the health risk involved. The mission was not then surprised to receive reports of the prison rice being poor quality, full of grit and sand.

Building and Facilities⁵²

1. The prison is divided into 13 separate sections.
2. Total compound area 80 acres.
3. Intended capacity for Bang - Kwang Central Prison was about 4,000 inmates.
4. 25 work shops.
5. One auditorium.
6. One hospital.
7. 11 dormitories and 11 dining halls.
8. Outside walls are 2,406 metres long, 6 metres high and 1 metre beneath the ground equipped with high voltage wires.
9. Inside walls of each section are 1,298 metres long, 6 metres high equipped with barbed wires

c. The Central Women Correctional Institution

The Central Women Correctional Institution is one of the women's prisons in Thailand, located in Bangkok. According to Ms Pacharaporn SAROBHAS, Director of Social Welfare Division, Central Women Correctional Institution, 113 of the 116 women sentenced to death in Thailand are detained in this prison. Most were awaiting appeals before the Court of appeal or the Supreme Court while 5 were awaiting royal pardon when the FIDH mission visited the prisons⁵³.

The prison is desperately overcrowded; there is capacity for 3,000 inmates and there were 5,084 inmates on the day of the FIDH visit (10th August, 2004). At the peak of the war on drugs, there were around 8,000 inmates. There are around 141 inmates per big cell, 1 locker each, there is an open shower big enough for 30 inmates at a time, 2 showers a day are allowed. According to Ms Pacharaporn SAROBHAS, the oldest inmate is 83, about 300 inmates are aged over 60. No juveniles are detained there. About 20 inmates are HIV positive.

All the 203 correctional officers are women. There are 1,703 inmates in the reception centre under 19 officers. Video surveillance is used to compensate for staff shortages. According to Ms Pacharaporn SAROBHAS, many of the women just needed money and were consequently driven to perpetrate criminal acts. Most of the women who are in prison for drug dealing are not dealers but are hired by crime organisations and they accept the money in order to keep their families. The elderly inmates often allege that they did not commit any crime, that they lived in slums and a member of the family kept drugs in the house. When the police come, they arrest the owners too, many did not know there were drugs there. Some women are from broken families, or are drug addicts who turn to dealing to feed their own habits.

Buildings and facilities

There are two administration buildings, five dormitories, four workshops for dress making, one dining hall with capacity of 700 inmates, one kitchen, one canteen, an education building with a library, and education school for adults and a hair-dressing training room, a nursing home, with capacity of 30 beds, a laundry factory a control unit, and a visitors reception building.

There are no separate cells in the women's prison, but

collective cells; there are small fences between wings but no big walls.

There is a medical unit under construction, which will have 300 beds. It will contain specialised dormitories for elderly women and pregnant women as well as women with babies. There are prisoners working on the construction of that unit. It has been paid for by donations from Luang Da Mahabua, a popular monk, since there is no Government budget in that regard.

There is some concern regarding registration of births in prison. Women who are due to give birth are escorted to hospital by 4 guards, who are not allowed into the delivery suite, many attempts are made to escape. The new medical centre will cater for mothers recovering from birth but women will continue to attend outside maternity facilities when giving birth. By law, children can be kept for up to 3 years in prison but in practice, children are only kept for one year.

There is a vocational training programme with cooking and baking. Prisoners who are near release run a restaurant not far from the prison. There is also a beauty salon and a traditional Thai massage salon. 50% of profits are returned to the prisoners who work there, who are generally close to release. Some women continue to work there after their release. Half of the women on the vocational training programme are inmates and half are ex-inmates.

The library has education facilities, sewing activities, a library, painting classes, and computers. However, these facilities appeared grossly inadequate for the numbers detained in the prison. There is music therapy, including a choir, garden décor and Buddhist meditation. Classes are held in corridors as there is no space for them. Prisoners are encouraged to work; the mission saw women working at sewing, embroidery, making silk flowers and designing clothes. Again, they were working in desperately overcrowded conditions. Twice a year, their work is sold in a market outside the prison and half the profit for handiwork sold is given back to the prisoner.

Prisoners in the kitchen work in 2 shifts, the first shift works from 2am to cook breakfast for 7am, the second group starts work at 8am to cook lunch and dinner.

In the prison itself, there is a private room for consultations with lawyers, most inmates have Court appointed lawyers. The mission did not see the general visiting area.

d. Prisoners on death row

Prisoners on death row are held in the same general conditions as ordinary prisoners, except that they wear leg chains 24 hours a day. As stated above, at the time of the FIDH mission, there were 971 inmates on death row, 855 males and 116 females. All of the male prisoners on death row are in Bang Kwang prison (877), while women on the death row are detained with ordinary women prisoners. The males are held under strict security, there is a small number of officers in relation to the number of prisoners (20 officers in total).

The prisoners wear leg chains 24 hours a day, their ankles are chained to each other, allowing prisoners to walk. Chains are worn to Court when prisoners carry the chains in their hands. Prisoners believe that the size of the chains relates to the quantity of drugs and that people with money can pay to wear lighter chains. The use of shackles 24 hours a day on death row inmates contravenes para 33 of the UN Standard Minimum Rules for the Treatment of Prisoners according to which "chains or irons shall not be used as restraints". Para. 34 further states that: "the patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary". Moreover, the chains restrict prisoners from proper exercise and sport, in contravention of para. 21 (2) of the UN Standard Minimum Rules for the Treatment of Prisoners which states that "young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise". The FIDH and UCL believe that the use of shackles 24 hours a day amounts to cruel, degrading and inhuman treatment, forbidden by article 7 of the ICCPR. The Human Rights Committee General Comment no. 20 on article 7 specifies that "the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure". Principle 6 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment recalls that "no person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment."

In one big cell, there are around 10 -15 men (5m x 10m), they sleep there and eat outside, there are toilets and washbasins in the cells. They are allowed a shower every day. There is a space for exercise near the canteen where basketball can be played for about 30 minutes every day. In their cell, prisoners play cards and they can watch television.

Death row inmates are allowed out of their cell every day at 8am for breakfast until 2.30pm. Prisoners are then locked in until the next day and are allowed to bring food into the cells if they wish. The maximum outdoor time is 5 hours a day. Prisoners can cook their own food (which can be purchased in the prison shop) or eat prison food.

For prisoners from outside Bangkok, family visits are infrequent, some get no visitors.

The mission received reports of high levels of mental illness and was told that doctors do attend to such prisoners. No information was given however on whether or not mentally insane convicts have been executed in the past.

The mission was also told that freedom of religious practice is respected within the prison

“No one truly knows a nation until one has been inside the jails. A nation should not be judged by how it treats its highest citizens, but its lower ones”

Nelson Mandela

“Lack of resources cannot in principle justify prison conditions which are so poor as to reach the threshold of treatment contrary to Article 3 of the Convention”

nor can they “in any way explain or excuse the poor conditions of detention”

Comment in European Court of Human Rights referring to prisons in Ukraine, Judgment of 29th April 2003. Article 3 of the European Convention of Human Rights declares:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

“National non-governmental organisations (NGOs) also play an important role in undertaking monitoring of detention facilities and/or keeping a watchful eye on the functioning of state monitoring procedures. They possess the necessary local knowledge of the social and political environment, can establish a broad basis in civil society networks and thus identify the best strategies to open up prison conditions to public scrutiny” *“Monitoring Places of Detention: A Practical Guide to NGOs”, Association for the Prevention of Torture, Geneva. 2002*

Rule 85 of European Prison Rules: 85. “Men and women shall be represented in a balanced manner on the prison staff.”

The presence of male and female staff can contribute to the normalization of prison life.