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HONG KONG

PRISON CONDITIONS IN 1997

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PREFACE

Sometime before July 1, 1997, the framed portraits of Queen Elizabeth II that decorate the administrative offices of Hong Kong's prisons will be taken down. A small but symbolic change, like the removal of the crown insignia from prison guards' uniforms, it represents the end of British colonial rule and the beginning of Hong Kong's administration as a Special Administrative Region (SAR) of the People's Republic of China.

How Hong Kong will function under Chinese sovereignty and, in particular, how the territory's prisons will be administered, is not yet clear. Few if any groups are more vulnerable to the impact of political change than prisoners. Given China's notoriously poor prison conditions and its frequent use of capital punishment, it comes as no surprise that Hong Kong prisoners have already expressed grave apprehensions regarding their treatment under Chinese rule.¹

Because of these considerations, Human Rights Watch and the Hong Kong Human Rights Monitor decided in 1996 to investigate the human rights conditions of the territory's prisons. The purpose of the investigation was to establish a benchmark of prison conditions prior to the changeover. It was also meant to establish a precedent of independent monitoring of Hong Kong's prison conditions, to encourage future monitoring. Indeed, our inspections of the territory's prisons, which took place in March and April 1997, are to our knowledge the first full inspections of the facilities ever conducted by independent nongovernmental organizations.

This report, which is based primarily on information gathered during these inspections, describes and evaluates the treatment of prisoners confined in Hong Kong prisons under the authority of the Hong Kong Correctional Services Department (CSD). It does not address conditions in police holding cells, where prisoners are generally held after arrest and prior to transfer into the prison system. As in other reports published by Human Rights Watch and the Hong Kong Human Rights Monitor, this report assesses the government's practices with reference to the relevant provisions of international human rights treaties binding on the territory, and to other authoritative international standards, in particular the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Context

¹The Human Rights Watch/Hong Kong Human Rights Monitor delegation saw one Hong Kong prisoner, for example, with a warning outside his cell stating that he "would take every chance to escape as he strongly believed that he would be executed when the Chinese Government takes over sovereignty in 1997." Other prisoners expressed fear that prison conditions would deteriorate under Chinese rule. For a description of prison conditions in China, see, for example, Asia Watch, *Anthems of Defeat: Crackdown in Hunan Province, 1989-92* (New York: Human Rights Watch, 1992), pp. 74-111; Hongda Harry Wu, *Laogai—The Chinese Gulag* (Westview Press: Boulder, 1992).

Endowed with a healthy economy, high per capita incomes, and a substantial proportion of the world's trade, Hong Kong has long been renowned for its prosperity and its status as an international financial center. Although colonial rule did not, for many years, permit the development of democratic processes or guarantee sufficient protection for the human rights of the territory's residents, Britain's last-gasp effort to remedy these defects has been in large part successful.² At present, Hong Kong residents enjoy a lively if imperfect legislature and a comprehensive Bill of Rights.³ Moreover, to an enviable degree, the territory is free of the social and fiscal pressures that tend to encourage poor prison conditions: it has a low rate of violent crime, a large government budget surplus, and substantial fiscal reserves.

It is far from clear, however, to what extent Hong Kong's reversion to Chinese sovereignty will alter the territory's economic, social and political landscape. On paper, the protections against undue Chinese interference are substantial. The 1984 Joint Declaration, a legally binding bilateral treaty registered at the United Nations, declares that the Chinese government will grant Hong Kong "a high degree of autonomy" and that the territory's "capitalist system and way of life shall remain unchanged for 50 years."⁴ The Basic Law, promulgated by China in 1990 to set out the basic policies governing the territory, codifies the principle of "one country, two systems" and provides that, with the exception of laws relating to defense and foreign affairs, China's national laws will not apply in Hong Kong.⁵ Instead, as both documents affirm, the laws in force in Hong Kong prior to its reversion to China will be preserved, subject to later amendment by the territorial legislature, and the "rights and freedoms" enjoyed by Hong Kong's inhabitants will be maintained.

Besides these formal legal guarantees, observers have speculated that Hong Kong's economic success provides another, perhaps more potent form of protection against inappropriate Chinese intervention. According to this view, because China's own economic development is to a large extent dependent on the continued infusion of knowledge, expertise and investment from Hong Kong, China would be reluctant to tamper with Hong Kong's recipe for success.

Yet recent developments suggest that China believes it can intervene in Hong Kong's legal and political affairs without affecting its economic prosperity. The Chinese government has decided to disband the elected legislature and replace it with a provisional appointed body, which is expected to tighten controls over political parties and demonstrations, and introduce laws on secession and subversion. Shipping magnate Tung Chee-hwa, the chief executive-designate appointed by China, has already initiated an inauspicious series of legislative proposals that would, among other things, restrict peaceful public demonstrations in post-reversion Hong Kong.

These developments raise questions as to the autonomy from China of the future Hong Kong government and whether Hong Kong residents will continue to enjoy the rights and freedoms they do currently. It goes without saying that the territory's prisons may not be immune from future changes.

² See generally Py Lo, "Hong Kong Human Rights Monitor Briefing Paper for the United Nations Human Rights Committee, October 1996 (available on the website of the Hong Kong Human Rights Monitor: <http://members.hknet.com/~hkhrm/>).

³ Yet, notably, only twenty of sixty seats in Hong Kong's Legislative Council are subject to direct popular election. The Human Rights Committee, the U.N. organ responsible for supervising the implementation of the International Covenant on Civil and Political Rights (ICCPR), has concluded that the Hong Kong electoral system, which designates many seats via elections restricted to "functional constituencies," unjustly discriminates among voters on the basis of property and functions. Human Rights Committee, Comments on United Kingdom of Great Britain and Northern Ireland (Hong Kong), U.N. Doc. CCPR/C/79/Add.57 (1995).

⁴ Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, signed December 19, 1984, entered into force May 27, 1985.

⁵ The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, adopted on June 4, 1990 by the Seventh National People's Congress of the People's Republic of China at its Third Session.

Of course, the legal and political ramifications of Hong Kong's reversion to China are not the only variables that may have an impact on the territory's prisons. Other important factors include the widening poverty gap and the continuing increase in immigration from mainland Chinese. Although average incomes are high in Hong Kong, the territory's affluence is unevenly distributed. A 1995 World Bank study showed that while the wealthiest 20 percent of the Hong Kong population enjoy over 50 percent of the territory's total income, the poorest 20 percent make do with only 4.3 percent of it.⁶ The poverty gap continues to widen, but the government continues to resist allocating more funds to social welfare programs to benefit the territory's poor and needy. The growth of an impoverished underclass may, at some point, jeopardize Hong Kong's low rate of crime.

Increases in illegal Chinese immigration are also particularly relevant, since in 1988 Hong Kong began relying on incarceration as a deterrent for immigration offenses. In 1995, Hong Kong increased the number of Chinese immigrants allowed in the territory from 105 to 150 arrivals per day; however, this increase has been far from sufficient to meet the demand. Despite vigilant police patrols and a high steel fence to mark the border with China, undocumented immigrants arrive daily. Many who are discovered working illegally end up in the prison system. The possibility that such immigration will swell after July 1997, as some observers contend, may have severe consequences for prison overcrowding.

Methodology

This report is based on inspections of twelve of Hong Kong's twenty-two penal facilities (excluding police lock-ups and half-way houses) as well as its largest closed detention camp for screened-out Vietnamese migrants. Included among the facilities visited, all of which are operated by the Correctional Services Department (CSD), were two women's prisons, a psychiatric center, a drug addiction treatment center, and a detention center for juveniles.⁷ The Human Rights Watch/Hong Kong Human Rights Monitor delegation spent a full day at nearly every prison we visited, viewing the entire facility, including disciplinary segregation units and other segregation areas, the infirmary, the kitchen, the recreation areas, the bathrooms, and, of course, the prisoners' living quarters. Besides inspecting the facilities, members of the delegation also met Gov. Chris Patten, then in his last hundred days in office, and representatives of nongovernmental organizations, lawyers, former prisoners, prison chaplains, the deputy ombudsman, representatives of unions of prison employees, and numerous high-level CSD staff, including the commissioner of the CSD.

Human Rights Watch normally undertakes prison visits only when its investigators, not the authorities, can choose the institutions to be visited; when the investigators can gain access to the entire facility to be examined; and when the investigators can be confident that they will be allowed to talk privately with inmates of their choice. The purpose of these rules is to avoid being shown model institutions or their most presentable areas, and to avoid speaking to "model prisoners" or prisoners who feel constrained in discussing their treatment. In Hong Kong, however, we were unable to gain access in accordance with the last of these terms: the authorities refused to allow us private conversations with prisoners. Even though this limitation constituted a departure from our usual policy, the delegation decided that inspections of the prisons would still provide us with valuable information that could be supplemented from other sources, and that the importance of conducting as full an investigation as possible at this time weighed in favor of accepting these terms.

⁶Oxfam Hong Kong, Submission to the Panel on Home Affairs, Legislative Council, on the Implementation of the ICESCR, July 6, 1996, p. 1.

⁷During a three-week period in March and April 1997, the delegation visited Stanley Prison, Shek Pik Prison, Lai Chi Kok Reception Centre, Siu Lam Psychiatric Centre, Ma Po Ping Prison, Victoria Prison, Tong Fuk Centre, Sha Tsui Detention Centre, Pik Uk Correctional Institution, Tai Lam Centre for Women, Tai Tam Gap Correctional Institution, Hei Ling Chau Addiction Treatment Centre, and High Island Detention Centre.

Except for this one significant limitation, Hong Kong officials and, in particular, CSD staff, greatly facilitated our investigation. They granted us full and free access to each of the prisons we wished to visit, provided us with helpful documentary and statistical information, and made themselves available for extended meetings. On the whole, it should be emphasized, the investigation benefitted from the cooperation, assistance and responsiveness of the Hong Kong correctional authorities.

International Human Rights Standards Governing the Treatment of Prisoners

The chief international human rights documents applicable in Hong Kong clearly protect the human rights of prisoners. The International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the Torture Convention) both prohibit torture and cruel, inhuman, or degrading treatment or punishment, without exception or derogation.⁸ Article 10 of the ICCPR, in addition, mandates that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”⁹ It also requires that “the reform and social readaptation of prisoners” be an “essential aim” of imprisonment.¹⁰

Several additional international documents flesh out the human rights of persons deprived of liberty, providing guidance as to how governments may comply with their international legal obligations. The most comprehensive such guidelines are the United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter, Standard Minimum Rules), adopted by the Economic and Social Council in 1957. It should be noted that although the Standard Minimum Rules are not a treaty, they constitute an authoritative guide to binding treaty standards. Indeed, recognizing the authority of these guidelines with regard to compliance with Article 10 of the ICCPR, the Hong Kong government specifically noted in its fourth periodic report under the ICCPR that the territory’s prison rules “take full account” of the Standard Minimum Rules.¹¹

Other documents relevant to an evaluation of prison conditions include the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, the Basic Principles for the Treatment of Prisoners, and, with regard to juvenile prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (known as the “Beijing Rules”). Like the SMRs, these instruments are binding on governments to the extent that the norms set out in them explicate the broader standards contained in human rights treaties.

These documents clearly reaffirm the tenet that prisoners retain fundamental human rights. As the most recent of these documents, the Basic Principles for the Treatment of Prisoners, declares:

Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.¹²

⁸ICCPR, Article 7; Torture Convention, Articles 2 and 16.

⁹ICCPR, Article 10(1).

¹⁰ICCPR, Article 10(3).

¹¹*Fourth Periodic Report by Hong Kong under Article 40 of the International Covenant on Civil and Political Rights*, U.N. Doc. CCPR/C/95/Add.5 (1995), p. 90.

¹²Basic Principles for the Treatment of Prisoners, Article 5.

Endorsing this philosophy in 1992, the United Nations Human Rights Committee explained that states have “a positive obligation toward persons who are particularly vulnerable because of their status as persons deprived of liberty” and stated:

[N]ot only may persons deprived of their liberty not be subjected to [torture or other cruel, inhuman or degrading treatment or punishment], including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the [ICCPR], subject to the restrictions that are unavoidable in a closed environment.¹³

It should be noted, however, that on ratifying the ICCPR the United Kingdom entered a reservation stating that prisoners would still be subject to those laws and procedures deemed necessary for “the preservation of . . . custodial discipline.” This reservation was later echoed in the Hong Kong’s 1991 Bill of Rights Ordinance, the legislation which incorporated the protections of the ICCPR into Hong Kong’s local law.¹⁴ Notably, no such reservation was entered with respect to the Torture Convention.

The application of the ICCPR in Hong Kong after its reversion to China is complicated by the fact that China is not a party to the treaty.¹⁵ Nonetheless, the Sino-British Joint Declaration states that the provisions of ICCPR will remain in force in Hong Kong after the territory’s reversion to China.¹⁶ The U.N. Human Rights Committee, commenting on the treaty’s future application in the territory, has stated that human rights treaties devolve with territory and that, in particular, the people of Hong Kong will continue to be protected under the ICCPR after July 1, 1997.¹⁷

I. SUMMARY AND RECOMMENDATIONS

While showing the strains of overcrowding and, in some facilities, understaffing, the Hong Kong prison system has much to recommend it. To begin with, the territory’s prisons are administered by an extremely competent and professional corps of correctional officers. Under their vigilance, the prisons are relatively safe and secure, and serious physical violence is a rare occurrence. The physical infrastructure of the prison system is, with the exception of a couple of facilities, in very good shape. The Prison Rules that regulate the operation of the prisons, particularly after their recent amendment, reflect a healthy concern for prisoners’ fundamental rights: among other provisions, they do not

¹³U.N. Human Rights Committee, General Comment 21, paragraph 3. The Human Rights Committee provides authoritative interpretations of the ICCPR through the periodic issuance of General Comments.

¹⁴Hong Kong Bill of Rights Ordinance, Section 9. *See also Chim Shing Chung v. Commissioner for Correctional Services*, 6 HKPLR 313, 323 (Ct. App. 1996) (interpreting the savings clause broadly to nullify any protections on prisoners’ rights).

¹⁵China is party to the Torture Convention.

¹⁶Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong, § XIII. The Basic Law, which establishes the framework for China’s relations with Hong Kong, includes a similar guarantee.

¹⁷Human Rights Committee, Comments on United Kingdom of Great Britain and Northern Ireland (Hong Kong), U.N. Doc. CCPR/C/79/Add.57 (1995) (statement by the chairperson on behalf of the Human Rights Committee); Human Rights Committee, Comments on United Kingdom of Great Britain and Northern Ireland (Hong Kong), U.N. Doc. CCPR/C/79/Add.69 (1996).

allow corporal punishment; they carefully limit the use of mechanical restraints, and they specifically enumerate the types of conduct that constitute disciplinary offenses and the ways in which such offenses may be punished.

The Prison Rules set high aspirations for the prisons' operation. They declare, as a guiding precept, that prison officers should "be firm in maintaining order and discipline," while, at the same time, treating prisoners "with kindness and humanity." The high degree of order and regimentation that the Human Rights Watch/Hong Kong Human Rights Monitor observed in Hong Kong's penal institutions leaves no doubt that the first injunction is obeyed. It is largely with regard to the second rule—which, stated in the broader terms of international human rights norms, means that a prison system should accord due respect for the dignity and humanity of the persons confined within it—that the delegation had some concerns.

With respect to a few important factors, the Hong Kong prison system is less than exemplary, even though it is generally in compliance with international standards. Overcrowding, which is a problem now and, according to official estimates, will be continue to be problem for the foreseeable future, has stretched the system's resources. Cells that were designed for one prisoner often hold two, and, during times of particularly high congestion, even three prisoners. Dormitories are crowded.

Even though the Hong Kong prison system does a generally good job of keeping inmates occupied, overcrowding means that activities are fewer and less meaningful. Cotton ball and envelope-making, for example, tasks that the delegation observed in several facilities, hardly equip inmates with the skills necessary to find employment upon release. The combination of greater overcrowding and less meaningful ways of passing the time also aggravates the tensions which result in outbursts of inmate-on-inmate violence.

These strains are particularly evident with regard to unconvicted prisoners—prisoners who are presumed innocent and are supposed to be treated as such. In particular, the unremitting idleness of such prisoners, a problem that the delegation observed in every facility that houses them, is of serious concern.

The prison system's focus on discipline and control, which may even be exacerbated under the pressures of overcrowding, is not an unmitigated blessing. On the positive side, the whole of the prisons, including prisoners' living areas, are exceptionally clean and orderly. The generally good standards of sanitation and hygiene (except for a couple of facilities that lack in-cell toilets) manifest a respect for prisoners' dignity and self-worth. On the other hand, prisoners enjoy little privacy and few opportunities for personal expression. Because of a series of restrictions on personal items and their use, the living accommodations are rather sterile.

More importantly, the prison system still maintains unnecessarily stringent controls over inmates' contacts with the outside world. Among their adverse effects, these restrictions bode poorly for prisoners' future readjustment back into society, when they will need the social connection of family and friends. For many prisoners, visits are too infrequent and too short. Moreover, prisoners in higher security facilities, who are only allowed "closed" visits, are separated from their visitors by a plexiglass barrier and must speak to them via a telephone/intercom system. The resulting ban on all personal contact does have the intended effect of keeping out drugs and other contraband, which are at the root of many serious problems in other prison systems, but it exacts a high cost, particularly in relations between parents and their children.

Another obstacle to the maintenance of good family relations is the lack of regular access to telephones. This is a particularly important issue for foreign prisoners—who are numerous in Hong Kong—and for those whose family members, because of illness, old age, or other reasons, cannot easily travel to the prisons.

Fortunately, some restrictions on prisoners' contacts with outsiders have been greatly relaxed in the past few years. Most recently, in a detailed set of amendments, improvements with regard to prisoners' correspondence and the censorship of incoming materials were formally incorporated into the Prison Rules. Among other reforms, prisoners can now write unlimited letters and can contact representatives of the media and outside organizations.

These are welcome developments, raising hopes that other similar improvements will be instituted in the future. But even now, it should be emphasized, the Human Rights Watch/Hong Kong Human Rights Monitor delegation was favorably impressed with the functioning of Hong Kong's penal facilities. The filth, corruption, extreme violence, lack of adequate food and medical care, and corporal punishments that afflict the great majority of the world's prisoners are not an issue in the Hong Kong prison system. The U.N. Standard Minimum Rules for the Treatment of Prisoners are, to a notable degree, respected.

Unfortunately, the generally good conditions and treatment that characterize the territory's penal facilities were not, in the view of the delegation, equally in evidence at the High Island Detention Centre, a closed camp for Vietnamese asylum-seekers. The prison authorities emphasized to the delegation that Vietnamese detainees are not treated like ordinary prisoners: they are not subject to prison discipline; they are not made to work, and they are allowed to live in mixed-sex family groups. Other aspects of the distinction drawn between the Vietnamese and persons held for penal reasons are, however, less defensible. In contrast to the excellent maintenance of most prisons, the High Island camp was in serious need of repairs. Many mechanical objects were broken and, most notably, the sanitary facilities—located in filthy, smelly, dark, and bug-infested shipping containers—were barely functioning.

The problems at High Island, as well as the inevitable uncertainty about future changes, militate in favor of establishing an inspectorate charged with providing outside oversight of conditions in Hong Kong's penal and detention facilities. Although there is a superficial profusion of prison monitoring bodies in the territory—including the CSD's internal bodies, visiting justices of the peace, and the ombudsman—the protection provided by these bodies is incomplete. At present, there is no group or institution with full and unrestricted access to the prisons that has the freedom to criticize and, if necessary, to draw public attention to abuses. Because of the pressing need for transparency and accountability in the operation of prisons, an inspectorate would be a great asset to the prison system.

Recommendations

- Steps should be taken to ease overcrowding throughout the prison system.
- Following the model of the United Kingdom, the Hong Kong government should establish an independent prisons inspectorate with a broad mandate to investigate conditions in the territory's penal facilities; report its findings to the responsible governmental authorities, to the legislature, and to the public; and make recommendations for reform.
- As is common in prisons around the world, remand prisoners in Hong Kong are subject to the worst conditions. The CSD should take immediate steps to improve their treatment by alleviating overcrowding at the Lai Chi Kok Reception Centre and at Tai Lam Centre for Women, by allowing prisoners out of their day rooms more frequently, and by making greater work, recreational and educational opportunities available to them.
- The Hong Kong government should take immediate steps to improve the conditions of its Vietnamese detention centers.
- The CSD should increase the numbers of security staff in several facilities, including Lai Chi Kok and Pik Uk Correctional Institution.
- The CSD should take urgent steps to recruit and train the necessary quota of psychiatric nurses to staff Siu Lam Psychiatric Centre. In the meantime, it should employ its existing staff resources more effectively by assigning all qualified nurses to nursing rather than non-nursing duties.
- The CSD should take care to ensure that administrative segregation under Prison Rule 68B is not employed as a punitive measure. Greater due process safeguards in the application of Rule 68B should be instituted, particularly in cases of long-term involuntary segregation.

- Consistent with the practice in other highly industrialized countries, the CSD should expand prisoners' access to telephones by installing telephones in areas accessible to prisoners and establishing appropriate rules for their use. A telephone conversation should not, however, be counted as a visit.
- The CSD should routinely allow prisoners—especially prisoners whose relatives must travel long distances to see them, or whose relatives, because of age or disability, have difficulty traveling—visits of at least an hour.
- The CSD should expand its use of open visits. In particular, prisoners who have not been found guilty of engaging in contraband smuggling or in drug use within the prison should, subject to appropriate security rules, routinely be granted open visits.
- Qualified outsiders, including academics, members of the media, and representatives of human rights organizations should be allowed to inspect the prisons and to interview prisoners out of the earshot of guards.
- Because prisoners' ability to find work upon release into the community is an important determinant of their likelihood to commit future crimes, the CSD should take greater care to provide work opportunities that help prisoners gain marketable skills.
- Because education is a key ingredient of rehabilitation, the CSD should expand the educational opportunities provided to adult prisoners.
- In order to provide Hong Kong prisoners with a much needed outlet for self-expression, the CSD should offer a program of arts and crafts in the prisons.
- The CSD should make its unpublished Standing Orders easily available on request. Only those Standing Orders whose dissemination could reasonably be deemed a threat to prison security should be exempted from this general rule.
- In accordance with the Standard Minimum Rules and with the more general notion that remand prisoners should be treated in a manner reflecting their unconvicted status, the CSD should allow unconvicted prisoners to wear their own clothing.
- Because sexual contact between prisoners is likely to occur in any prison system, the CSD should consider distributing condoms to prisoners.
- In order to lessen the adverse effect of imprisonment on family relations, the CSD should consider establishing a system of conjugal visits.

II. AN OVERVIEW OF THE PRISON SYSTEM

The Hong Kong prison system held 12,302 prisoners as of March 27, 1997. With a prisoner-to-population ratio of about 200 per 100,000, Hong Kong has a higher rate of incarceration than found in the United Kingdom, the colonial power that established the territory's prison system, and a relatively high rate for Asia.¹⁸

¹⁸The U.K. incarcerates some 110 people per 100,000 population, a fairly high rate in comparison with other countries in Europe, but not terribly high internationally. Many Asian countries, however, have extremely low incarceration rates. India, for example, confines approximately twenty-four prisoners per 100,000 population; Japan confines approximately thirty-eight prisoners per 100,000 population. The United States, among countries at the other extreme, confines some 615 prisoners per 100,000 population. Statistics on file with Human Rights Watch.

Hong Kong's twenty-two penal facilities, which are administered by the Hong Kong Correctional Services Department (CSD), have a total certified capacity of 10,442 inmates. These facilities include adult prisons—minimum, medium and maximum security—juvenile institutions, a remand facility for male prisoners awaiting trial, a psychiatric center, and mandatory drug addiction treatment centers.¹⁹ Some facilities serve more than one purpose. Although the prison population is unevenly distributed among them, more than half of these institutions are overcrowded.

Besides operating Hong Kong's penal facilities, the CSD is also responsible for managing detention centers for Vietnamese migrants. For many years, the population of these camps far outnumbered the penal population, threatening to overwhelm the CSD's staff resources.²⁰ However, with the vigorous implementation of Hong Kong's repatriation program, the number of Vietnamese held in these camps has shrunk dramatically.

Relevant Laws and Regulations

Several pieces of legislation regulate the CSD's operation of the territory's penal facilities: the Prisons Ordinance (Cap. 234), the Detention Centres Ordinance (Cap. 239), the Training Centres Ordinance (Cap. 280), and the Drug Addiction Treatment Centres Ordinance (Cap. 244). As their names suggest, these laws correspond to the various types of facilities that make up the Hong Kong correctional system. Statutory authorization for the detention of Vietnamese migrants is found in the Immigration Ordinance (Cap. 115).

The Prisons Ordinance, originally enacted in 1954 but amended numerous times since, is the oldest of these laws. It provides the basis for the Prison Rules, a much more detailed set of provisions that was also enacted in 1954 but that has since been amended dozens of times.²¹ Together, these documents set out the basic groundrules of Hong Kong's correctional system. The other ordinances, and their subsidiary regulations, include additional provisions tailored to the institutions under their purview; otherwise they largely incorporate the Prisons Ordinance and the Prison Rules.²²

¹⁹The CSD calls some of its facilities "prisons" and others "correctional institutions," but this semantic distinction is not relevant for the purposes of this report. As noted above, the CSD also operates facilities known as training, treatment, psychiatric, and detention centers. However, unless otherwise specified, this report uses the term "prison" generically to refer to all penal facilities.

²⁰In 1991, for example, the Vietnamese migrant population was 34,297, more than triple the penal population.

²¹The Hong Kong Prison Rules contain numerous provisions analogous to provisions of the U.K. Prison Rules, often employing almost the exact same language. Where relevant, this report will note such provisions.

²²Subsidiary regulations include the Training Centre Regulations, the Drug Addiction Treatment Centres Regulations, and the Detention Centres Regulations.

At the time of the visit to Hong Kong of the Human Rights Watch/Hong Kong Human Rights Monitor delegation, an important set of amendments to the Prison Rules was being negotiated by the Legislative Council (Legco) and the CSD. The amendments, which passed in May 1997, loosened restrictions on prisoners' exercise of several rights.²³ They included, for example, important reforms regarding prisoners' right to communicate with the outside world. The stated purpose of the amendments was to "ensure that the Prison Rules are consistent with the Bill of Rights Ordinance."²⁴

Besides the applicable rules and ordinances, which are published documents, the CSD has also promulgated numerous unpublished Standing Orders to govern the management of the territory's penal facilities. These have in some instances been difficult for prisoners to obtain, leaving them ignorant about policies that may affect their lives in significant ways.²⁵ Finally, within each individual institution, internal rules and policies may apply.²⁶

The Prison Population

The vast majority of Hong Kong prisoners are ethnic Chinese, and an increasingly large number of them are from mainland China. In their interviews with the Human Rights Watch/Hong Kong Human Rights Monitor delegation, the Hong Kong prison authorities consistently attributed the territory's prison overcrowding to the illegal Chinese immigrant population. (In Hong Kong, such persons are universally referred to as IIs.) Indeed, mainland Chinese constitute some 20 percent of the prison population, approximating the level of overcrowding, although it seems somewhat arbitrary to blame them for overcrowding, instead of the much larger numbers of local prisoners.

Because they are deported back to China immediately after they have served their criminal sentences, making post-release supervision impossible, prisoners from mainland China are ineligible for several alternative confinement regimes offered to local prisoners. Specifically, they are barred from the drug addiction treatment program, the training center program, and the detention center program (described below). These programs place strong emphasis on rehabilitation while the training center program, in addition, stresses the acquisition of useful skills; the disqualification of mainland Chinese is thus to their detriment.

Besides mainland Chinese, there are some 800 foreign prisoners in Hong Kong. The largest nationalities represented are the Vietnamese, Filipinos, Pakistanis, and Thais. As of March 27, 1997, they were 365, 230, sixty-six,

²³The precise chronology of the amendment process was somewhat complicated. In their first incarnation (the Prison (Amendment) Rules 1996), the amended rules were introduced in July 1996, and were to come into effect on November 1, 1996. Before they could come into effect, however, they were repealed. After negotiations between the CDC and the Legco, the Prison (Amendment) Rules 1997 were introduced in May 1997 by Law Notice 275 of 1997. The new rules will come into operation on a day to be appointed by the Secretary for Security.

²⁴Secretariat Press Office (Security and Constitutional Affairs), "Prison (Amendment) Rules 1997 gazetted," May 23, 1997.

²⁵Indeed, in the course of recent litigation, a solicitor representing a prisoner challenging newspaper censorship requested a copy of the Standing Order relevant to such censorship. Although the CSD claimed that the Standing Order provided the legal basis for the censorship, it denied the solicitor's request to see the document. The CSD's inflexibility on the issue led the court to point out that "[i]t is rather alarming that a person who says his rights are infringed is not told why." *Chim Shing Chung v. Commissioner of Correctional Services*, 5 HKPLR 570, 577 (1995).

Particularly in light of this history, the delegation is pleased to report that the CSD provided it with a near-complete set of Standing Orders (minus a few dozen that the CSD concluded would prejudice security, efficiency or similar concerns).

²⁶The delegation encountered a particularly idiosyncratic example of such rules during its visit to the Lai Chi Kok Reception Centre. Posted prominently was a notice stating that prisoners were absolutely prohibited from sleeping without their underwear on, as such a habit was deemed disgusting.

and forty prisoners, respectively, from these countries. The Human Rights Watch/Hong Kong Human Rights Monitor delegation also met prisoners from Australia, Colombia, Great Britain, Ireland, and Nigeria.

Unconvicted inmates (those awaiting trial or in the midst of trial proceedings) make up a small minority of the Hong Kong prison population.²⁷

²⁷As of December 31, 1996, for example, 8.6 percent of prisoners were unsentenced. Letter from Bonnie Wong, CSD, to Joyce Wan, Human Rights Watch/Asia, March 27, 1997. In addition, the Social Welfare Department operates detention facilities for unsentenced juveniles up to age 16.

Although their exact proportion is unclear, sizeable numbers of prisoners enter the system with drug problems.²⁸ In addition, many prisoners are affiliated with Hong Kong's criminal gangs, known as triads. Although official statistics are more conservative, former prisoners have stated that the large majority of male prisoners are triad members.²⁹ While the CSD acknowledges that it cannot stop prisoners from belonging to triads, it claims to have succeeded in controlling the triads' influence within the prison system.

Juveniles may enter the penal system as young as age fourteen. As in most prison systems, the large majority of prisoners are males between twenty and forty.³⁰

Sentences

Persons sentenced to imprisonment receive fixed sentences that are normally subject to up to one-third remission for good behavior. In addition, a Release Under Supervision scheme was instituted in 1988, allowing certain prisoners to serve even less of their sentences.

Persons sentenced to drug addiction treatment centers, training centers, or detention centers—alternative sentencing options within the discretion of the court in many cases—receive partially indeterminant sentences followed by mandatory terms of post-release supervision. Drug addiction treatment centers hold inmates from two to twelve months. Training centers hold inmates from six months to three years. Detention centers hold inmates who are between fourteen and twenty years old from one month to six months, and hold those who are between twenty-one and twenty-four years old from three months to twelve months.

Prisoner Classification and the Various Types of Institutions

Hong Kong's prisons follow strict inmate classification rules. Prisoners are separated according to sex, age, security level, and status as sentenced or unsentenced prisoners, among other things. They are also divided into categories, ranging from A to D, based primarily on the seriousness of their crimes. (Murder and other very serious crimes, mostly those punishable with at least twelve years' imprisonment, place prisoners in category A; minor offenses carrying less than six months' imprisonment land them in category D.) Category A prisoners are generally separated from other categories of prisoners. Finally, sentenced prisoners are either classified as "star prisoners"—first offenders—or "ordinary prisoners"—recidivists.

These segregation rules comply with international standards, which require the separation of men and women, of juveniles and adults, and of sentenced and unsentenced prisoners.³¹

²⁸The Human Rights Watch/Hong Kong Human Rights Monitor delegation heard varying CSD estimates of the percentage of incoming drug users, ranging from 50 to 70 percent of all new prisoners. E.g., interview, Bonnie Wong, CSD, March 17, 1997; interview, Chan Chun Yan, superintendent, Lai Chi Kok Reception Centre, March 21, 1997. A survey conducted by the CSD in April 1996 found that 34.2 percent of incoming inmates were drug dependent. Letter from Au Siu-hau, CSD, to the Hong Kong Human Rights Monitor, April 7, 1997. An academic source, though its figures are now somewhat dated, said that less than one-quarter of incoming inmates in 1990 were drug addicted. Jon Vagg, "The Correctional Services Department," in *Introduction to the Hong Kong Criminal Justice System* (M. Gaylord and H. Traver, eds., 1994), p. 155.

²⁹By the official count, approximately 14 percent of prisoners were affiliated with triads or triad-related gangs in 1990. *Ibid.*, p. 153. A former prisoner, however, told the Human Rights Watch/Hong Kong Human Rights Monitor delegation that only those prisoners convicted of, in his words, "civilian crimes" such as fraud, are not affiliated with triads, while almost everyone convicted of robbery, assault, drug crimes, intimidation, etc., has a triad background. Interview, March 28, 1997.

³⁰Correctional Services Department, "Annual Statistical Tables 1995," pp. 3-7.

³¹See ICCPR, Article 10; Convention on the Rights of the Child (CRC), Article 37(c); Standard Minimum Rules, Article 8. The ICCPR and the Standard Minimum Rules, while requiring the separation of juvenile and adult prisoners, do not state at what age the line is drawn between the two categories. The CRC, in contrast, draws this line at age eighteen—so that juveniles seventeen and under must be separated from persons older than that—with an exception made for countries whose domestic law

sets a younger age. CRC, Article 1.

In Hong Kong, for the purposes of the prison system, juvenile offenders are defined as those under the age of twenty-one (most likely a legacy from the time when Hong Kong's age of majority was twenty-one). Thus, to the extent that twenty-year-old prisoners are, for example, mixed together with fourteen- to seventeen-year-olds, Hong Kong's practice is inconsistent with the above protections. In most of the territory's penal facilities, nonetheless, juveniles under eighteen are separated from those who are age eighteen and over. *See also* Reservations, Declarations, Notifications and Objections Relating to the International Covenant on Civil and Political Rights and the Optional Protocols Thereto, U.N. Doc. CCPR/C/2/Rev.4 (UK reservation allowing derogations from bar on mixing juvenile and adult prisoners); Bill of Rights Ordinance, Section 10 (stating that the mixing of juvenile and adult prisoners is permissible if a shortage of facilities prevents their separation).

The Human Rights Watch/Hong Kong Human Rights Monitor delegation did, however, find a more serious violation of these rules at Tai Lam Centre for Women. In that facility, a seventeen-year-old girl charged with murder is held together with adult Category A prisoners.

Adult male inmates are held in ten prisons, a remand facility and a psychiatric center. The remand facility, the Lai Chi Kok Reception Centre, is convenient to the Hong Kong courts. Besides unsentenced prisoners, Lai Chi Kok also holds a small number of prisoners appealing their convictions or their sentences, and newly convicted prisoners pending transfer to other institutions.

Hong Kong's two maximum security men's prisons are Stanley Prison, built in 1937, and Shek Pik Prison. Stanley, the territory's largest facility, holds prisoners serving life or long-term sentences, most of whom are classified as ordinary prisoners. Shek Pik, which holds mostly star prisoners, was originally designed to hold only Category A (maximum security) prisoners; because of overcrowding, however, it now holds over 500 Category B and Category C prisoners as well.

In addition, four medium security institutions and four minimum security institutions house adult male prisoners.³² Victoria Prison, one of the medium security facilities, presently serves the rather unusual purpose of housing short-term detainees awaiting deportation back to their home countries.³³ Ma Hang Prison, one of the minimum security institutions, includes a section restricted to elderly prisoners, generally those over the age of sixty. In addition to these facilities, Siu Lam Psychiatric Centre, a maximum security institution, houses mentally ill prisoners, as well as certain protected witnesses and prisoners considered a threat to the orderly functioning of other institutions. Male drug addicts are held at the Hei Ling Chau Addiction Treatment Centre, which includes a separate section for those under twenty-one.

Besides those in the drug addiction program at Hei Ling Chau, young male offenders are divided among juvenile prisons, training centers, and a detention center. These are Cape Collinson Correctional Institution, Lai Sun Correctional Institution, Pik Uk Correctional Institution, Lai King Training Centre, and Sha Tsui Detention Centre.

There are four institutions for women prisoners. Tai Lam Centre for Women, which has a maximum security rating, functions as a remand facility and a prison for adult women. Chi Ma Wan Correctional Institution on Lantau Island is a medium security prison for female adult prisoners. Adjacent to it is the Chi Ma Wan Treatment Centre, a drug addiction treatment center for women. Tai Tam Gap Correctional Institution houses young female offenders under the age of twenty-one. It includes separate living areas for training center inmates, drug addiction treatment center inmates, young prisoners and girls on remand. Female inmates requiring psychiatric assessment or treatment are detained in the women's unit of Siu Lam Psychiatric Centre.

³²The medium security facilities are Ma Po Ping Prison, Hei Ling Chau Correctional Institution, Victoria Prison and Tung Tau Correctional Institution. The minimum security facilities are Tong Fuk Centre, Ma Hang Prison, Pik Uk Prison, and Tai Lam Correctional Institution.

³³Some of these prisoners are held for unnecessarily long periods there, demonstrating the need for closer coordination between the CSD and the immigration authorities with regard to their cases.

Vietnamese Detention Camps³⁴

The largest remaining “closed camp” for Vietnamese migrants is the High Island Detention Centre, which houses persons whose applications for refugee status have previously been rejected.³⁵ Many of the detainees confined at High Island have been confined for several years, some since June 1998.

The Hong Kong government’s official position is that everyone in detention should return to Vietnam, and it is actively enforcing a mandatory repatriation program that offers partial assurance against persecution by the Vietnamese government, as well as reintegration assistance.³⁶ When the Human Rights Watch/Hong Kong Human Rights Monitor delegation met Gov. Chris Patten, in fact, he stated that by July 1997 there should be only a few hundred ethnic Chinese, whom Vietnam refuses to accept, left in detention.³⁷ Other estimates, however, are larger.³⁸

Although the closed camps are governed by the Immigration Ordinance rather than the Prisons Ordinance, they are in many ways comparable to prisons. Most fundamentally, detainees cannot leave the camps: they live confined within high double walls topped with barbed wire.

Within the facilities, however, detainees live in family groups—men, women, and children intermingled—and, rather than being locked in cells, are free to circulate around within the living areas and the large outside yards. Detainees are not subject to prison discipline; indeed, the prison authorities insist that “they are treated as ordinary citizens.”³⁹

CSD Staff

With over 7,000 staff, nearly 4,000 of whom are custodial staff working in the prisons, the CSD approaches the size of the prison population it manages. It is a quasi-military force, with uniforms, ranks, and military discipline.

Unlike the military, however, the only weapons that CSD officers carry are wooden batons, and these are only carried in the men’s prisons. All prison staff wear name tags.

³⁴For an extended discussion of the historical background to Hong Kong’s refugee situation, the legal status of the Vietnamese in Hong Kong, their treatment in the camps, and other related issues, see Human Rights Watch/Asia, “Hong Kong: Abuses Against Vietnamese Asylum Seekers in the Final Days of the Comprehensive Plan of Action,” *A Human Rights Watch Short Report*, Vol. 9, No. 2, March 1997.

As will be described in more detail later in this report, conditions and treatment of the Vietnamese detainees are quite different from those of regular prisoners. Accordingly, the overall conclusions set out in this report are not meant to apply to the particular situation of the Vietnamese detainees; to the extent their situation is covered, it will be specifically mentioned.

³⁵Whitehead Detention Centre was officially closed on January 3, 1997, but at the time of the delegation’s visit it still held those Vietnamese who fled to China prior to arrival in Hong Kong. Arriving Vietnamese migrants are placed in detention at the Green Island Reception Centre, also under the authority of the CSD. Successful asylum applicants are transferred to one of the territory’s open camps.

³⁶The repatriation program purports to guarantee that returnees will not be punished for having departed the country in violation of Vietnamese law. It does not, however, protect returnees from persecution for any other reason. Letter from Rob Brook, attorney, to Joanne Mariner, Human Rights Watch, May 22, 1997.

³⁷Interview, April 3, 1997.

³⁸In early May 1997, Assistant U.N. High Commissioner for Refugees Sergio Vieira de Mello reportedly predicted that 500 Vietnamese migrants, including a large number of ethnic Chinese, would remain after the handover. See Emma Batha and Sharon Cheung, “HK may be urged to keep boat people,” *South China Morning Post*, May 3, 1997. At the end of May, with the last repatriation flights to Vietnam, an estimated 800 migrants remained. Greg Torode, “Vietnam sticks to migrant deadline,” *South China Morning Post*, May 29, 1997.

³⁹Interview, Kenneth Au-Yeung, acting superintendent, High Island Detention Centre, March 26, 1997.

CSD custodial staff are trained at the CSD's Staff Training Institute before commencing their duties in the penal system. Officers and assistant officers undergo a twenty-six-week and twenty-three-week recruit training course, respectively, which cover self-defense, first aid, counseling, and management skills, among other things, and include field placement to prisons. The "temporary staff" hired to accommodate the increased need for CSD personnel in the Vietnamese detention camps receive two weeks' training regarding the "basic know-how" needed for working in those facilities.⁴⁰

CSD officers working in contact positions in the penal facilities are of the same sex as the prisoners under their authority.⁴¹

III. PHYSICAL CIRCUMSTANCES

Overcrowding is placing a heavy burden on Hong Kong's penal institutions. The majority of the territory's prisons have exceeded their certified capacities, some by a substantial margin. Yet, despite the strains caused by overcrowding, the facilities generally meet minimum international standards. Indeed, with regard to several important factors, including physical maintenance, cleanliness, and the provision of food, their performance is impressive. The good conditions in the prisons, however, contrast strikingly with the poor conditions found in the closed camps for Vietnamese refugees.

Conditions of Penal Facilities

Consistent with the preference expressed in the Standard Minimum Rules, most of Hong Kong's penal facilities house fewer than 500 prisoners.⁴² While there are still several facilities housing between 500 and 1,000 prisoners, only two facilities—Lai Chi Kok Reception Center and Stanley Prison—house more than 1,000 prisoners.

Overcrowding

The Hong Kong prison population has risen substantially in the past decade, going from 8,361 inmates in 1987 to its current population of over 12,000.⁴³ At the time of the visit of the Human Rights Watch/Hong Kong Human Rights Monitor delegation, the prisons held 18 percent more prisoners than they were certified to hold, while at some points within the past two years they have been up to 37 percent overcrowded. It should be noted as well that normally prisons filled at 100 percent of capacity are overcrowded because, in practice, at any given time some cells are under repair, or are used for storage, or are unavailable for other reasons.⁴⁴

Because of overcrowding, many cells designed for one prisoner now hold two and in some cases three prisoners. Dormitories are also crowded, with bunk beds pushed close together in many institutions.

⁴⁰Ibid.

⁴¹See Prison Rules 5A, 6, and 7.

⁴²Standard Minimum Rules, Article 63(3).

⁴³Letter from Au Siu-hau, CSD, to the Hong Kong Human Rights Monitor, April 7, 1997. See also Appendix (setting out prisons' actual and certified capacities).

⁴⁴At Stanley Prison, for example, a large number of cells were being renovated, exacerbating overcrowding.

Three new penal facilities are currently under construction. All of these will hold male Category C and Category D prisoners (those convicted of less serious offenses).⁴⁵ Their total capacity will be 832 prisoners, insufficient to remedy the existing deficit, and far less than necessary to cope with the numbers of future prisoners that are expected. According to estimates provided by the CSD, the Hong Kong prison population is predicted to reach 15,000 by the year 2000, putting the prisons at 27 percent over planned capacity.⁴⁶

Cells and Dormitories

Hong Kong prisons employ both cellular and dormitory accommodations. Cells are mostly found in men's maximum security facilities, while the remainder of Hong Kong's prisons have dormitories.⁴⁷ Cells generally range in size from sixty to ninety square feet. Except for cells holding male Category A prisoners—who, because of their greater perceived dangerousness, are always held in individual cells—they often hold more than one prisoner. Cells in newer facilities such as Shek Pik have barred fronts, providing an unobstructed view of the interior, while those in older facilities such as Stanley have solid front walls interrupted by barred doors or by solid doors with barred openings. The dormitories are of various sizes and generally hold between ten and sixty prisoners.

Cells and dormitories, like the prisons generally, are exceptionally clean and orderly. Due to strict controls, clutter is almost non-existent. This is particularly true in dormitories, where prisoners' few personal belongings are kept locked away in cubbyholes. Personal belongings are somewhat more in evidence in cells, particularly at Shek Pik, but they are still surprisingly sparse and very tidily arranged. Televisions are not allowed in the living areas, although radios and cassette players are (for use with headphones). Overall, there are strict limits on the number and type of personal items a prisoner may keep in his cell, and in no prison are inmates allowed to attach posters or other decorations to the walls of their living areas. Because of such restrictions, the living accommodations are on the whole rather impersonal. Particularly in the dormitory accommodations, inmates have little if any opportunity for privacy or personal expression.

Cell furniture is standardized. Dormitories are generally furnished with rows of metal-framed bunk beds, a set of cubbyholes for prisoners' belongings, and little if anything else. Cells have a more complete set of furnishings, all of which are generally made of molded white fiberglass. A typical cell holds two low beds, a very small triangular-shaped table, and a stool with no back support.

⁴⁵One of them, the Lo Wu Correctional Institution, is scheduled to open in July 1997; the other two should open in October 1997 and November 1998. Letter from Au Siu-hau, CSD, to the Hong Kong Human Rights Monitor, April 7, 1997. The CSD has also been exploring the possibility of building an additional prison on Lantau Island. Stella Lee and Oliver Poole, "Jail planned for Lantau green belt," *Sunday Morning Post*, April 20, 1997.

⁴⁶Ibid.

⁴⁷Stanley and Shek Pik prison, which are maximum security, employ cellular accommodation exclusively. Lai Chi Kok, which is rated maximum security but which is the territory's only facility for pretrial detainees, employs a mix of cells and dormitories. Most other prisons use dormitories except in their segregated housing units.

Most cells and dormitories include sinks and toilets, either of the sit-down or hole-in-the-floor variety. However, Hong Kong's two oldest prisons—Stanley and Victoria—lack in-cell toilets, forcing prisoners into the unpleasant alternative of defecating in buckets. With many prisoners being double-celled and locked in their cells from mid-evening until early morning, two prisoners are often forced to spend many hours with a foul stench in an extremely confined space. In Stanley Prison, at least, this state of affairs will not last much longer: the facility is currently undergoing comprehensive renovation and have a toilet installed in each cell before the end of 1998.⁴⁸ Such renovations are unfortunately not an option for Victoria Prison; it is registered as a historical monument, and the addition of toilets would entail impermissible structural alterations to its buildings.⁴⁹

Particularly in cells holding more than one prisoner, the use of buckets as a substitute for adequate sanitary facilities—as was done until recently in some prisons in England—violates the Standard Minimum Rules. In particular, it is inconsistent with the requirement that sanitary facilities “be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.”⁵⁰

Cells used for disciplinary and administrative segregation generally contain the same furnishings as other cells. At Lai Chi Kok Reception Centre, the beds are taken out of such cells during the day to prevent prisoners from lying down on them.

Hong Kong becomes very hot and humid in the summer, and fairly cold in the winter. Nonetheless, prisoners' living accommodations are not well protected from extremes in temperature. Most living areas are equipped with fans and nothing else: no heating in the winter and no air conditioning in the summer (this is also typical of many homes in Hong Kong). The delegation only found air conditioning and heating installed in prison infirmaries and in computer workshops. Prisons using cells are generally equipped with fans in the corridors along the cells, although Stanley Prison does not even have this basic concession to prisoners' comfort. During the winter, prisoners are supplied with extra blankets, to a maximum of five.

Particular Facilities

In the view of the Human Rights Watch/Hong Kong Human Rights Monitor delegation, efforts should be made to reduce overcrowding in all of the facilities currently over capacity. The delegation also believes that the following institutions are in particular need of improvement:

Victoria Prison. The oldest of Hong Kong's penal facilities, Victoria Prison was built in 1841. It is in many ways a museum piece, and would be more appropriately used as a museum than a prison. Some prisoners, including the Vietnamese transferred from High Island, live in dark basements, others live in dimly lit rooms in the main building. In B-block, a very old three-story building, six-by-ten-foot cells with no toilet sometimes accommodate two prisoners.

Lai Chi Kok Reception Centre. This facility is in absolute numbers the most overcrowded in Hong Kong. Certified to accommodate a population of 960, it held 1,356 inmates on the day of our visit and was bursting at the seams. As described in Section V, it is also seriously understaffed.

Ma Po Ping Prison and Tong Fuk Centre. The sanitary facilities at Ma Po Ping and Tong Fuk were in urgent need of repair. The toilets were broken; instead of flushing, inmates poured buckets of water down them, but the strong smell of sewage remained. More generally, moderate upkeep was needed: the paint on some of the walls was peeling,

⁴⁸Interview, Chan Kong-sang, chief superintendent, Stanley Prison, March 24, 1997.

⁴⁹Interview, Leung Kam-po, superintendent, Victoria Prison, March 20, 1997.

⁵⁰Standard Minimum Rules, Article 12.

and parts of the ceilings showed leaks. (The facility is located in an area of extreme humidity, and constant maintenance is required.)

Bedding and Clothing

Prisoners are supplied with clean clothes, shoes, blankets, pillows, towels, and undergarments, which are laundered at frequent intervals.

As mentioned previously, cells normally contain low beds of molded white fiberglass, while dormitories have metal-framed bunk beds with wood planks for prisoners to sleep on. The beds are not equipped with mattresses; instead, the prisoner uses a thin reed mat. Every morning, the prisoner must fold his or her blankets into a neat regulation form—roughly a cube—and place it at the head of the bed.

All prisoners, including pretrial detainees, wear prison-supplied clothing.⁵¹ Unsentenced prisoners are allowed to wear their own clothes to court, however. In prisons containing different groups of prisoners—for example, young prisoners, training center inmates, and remands—each group wears a somewhat different style and color of clothing.

Personal Hygiene

Prisoners are allowed to shower regularly, usually every day. They must keep their hair clean and trimmed fairly short.

Food and Drink

Prisoners everywhere complain of prison food, but they have little to complain of in Hong Kong's penal facilities.⁵² Meals, which are designed by dietitians, are ample, well-balanced and varied. Vegetables, fruit, meat and fish are provided in sufficient amounts, and the kitchen areas are clean. CSD officers taste the food before each meal is served, recording their reactions in a log book. (The delegations examined several of these log books, which included row after row of the word "good," although occasionally comments such as "too cold" were noted.)

In order to accommodate prisoners' culturally based dietary preferences, the prisons provide different diets for different ethnic groups. They offer, in particular, an "Asian" (Chinese) diet, a vegetarian diet (to accommodate Buddhist religious beliefs), an Indian/Pakistani diet, and a European diet.⁵³ In addition, prisoners needing special diets for medical reasons, such as diabetes, are also accommodated.

Food is generally served in the prison dining halls. At Lai Chi Kok Reception Centre, Category A prisoners eat in their cells.

Remand prisoners at Lai Chi Kok have the option of eating food delivered from the outside, rather than eating prison food.⁵⁴ About fifty prisoners exercise this option. They can also order in beer or wine, although not, the superintendent emphasized, in excessive amounts.⁵⁵

⁵¹The Standard Minimum Rules state that unconvicted prisoners should be permitted to wear their own clothes. Standard Minimum Rules, Article 88(1).

⁵²It is worth noting that many prisoners seemed primarily concerned about whether the quality of the food might fall after China's resumption of sovereignty.

⁵³At Lai Chi Kok, for example, at the time of our visit 973 prisoners received an Asian (Chinese) diet, 284 prisoners received a vegetarian diet, twenty-four prisoners received an Indian diet, and twenty prisoners received a European diet.

⁵⁴Prison Rule 192.

⁵⁵Interview, Chan Chun Wan, senior superintendent, March 21, 1997.

Smoking is permitted in the prisons, although during the workday smoking is usually limited to specified times.

Medical Treatment and Disease Prevention

Because the Human Rights Watch/Hong Kong Human Rights Monitor delegation did not include a medical doctor, we were not able to conduct an in-depth and expert examination of the medical care provided in the prisons. Nonetheless, we did tour the infirmaries and speak with medical staff. Our overall impression is that the medical care provided is adequate and professional.

Every facility visited had a sickbay, medical staff, including qualified doctors, and an array of medicines.⁵⁶ Upon entry to the prison system, all persons receive a comprehensive physical examination. Prisoners suffering the symptoms of drug withdrawal are held in a detoxification ward; they are not given methadone, but are given pain relievers to ease the most severe effects of withdrawal.

Doctors stated that to their knowledge only a small percentage of prisoners have tested positive for the AIDS virus. Consistent with international standards, there is no mandatory HIV testing and prisoners known to be HIV-positive are not separated from the general prison population.⁵⁷ Prisoners' HIV status is kept confidential from custodial staff.⁵⁸ The Human Rights Watch/Hong Kong Human Rights Monitor delegation was pleased to see posters recommending condom use in a couple of facilities, but disappointed to learn that condoms are not available to prisoners.

Prison officials in every facility vehemently denied that homosexual contact occurred between prisoners, insisting that close supervision prevented such activity. (Some made the additional argument that homosexuality was "not Chinese.") They acknowledged, nonetheless, that custodial staff are not posted within prisoners' living areas at night but instead make rounds of inspection at fifteen-minute intervals. Fifteen minutes is obviously plenty of time to engage in sexual activity.

It is well known in other correctional systems that, in addition to prisoners whose preference is same-sex sexual activity, many prisoners who are not by preference homosexual engage in "situational" homosexual behavior while in prison. There is no reason why Hong Kong prisoners would be an exception to this rule. Significantly, although the lack of access to condoms is unlikely to prevent sexually active juveniles and adults from engaging in sexual activity, it certainly increases the odds of HIV transmission. Given this danger, the Human Rights Watch/Hong Kong Human Rights Monitor delegation recommends that Hong Kong review the HIV/AIDS prevention policies of many other industrialized countries, including Britain, and relax its no-condom policy.⁵⁹

Conditions for Vietnamese Asylum-Seekers

⁵⁶When specialist medical care is required, prisoners are referred to visiting consultants or transferred to outside medical facilities.

⁵⁷See WHO Guidelines on HIV Infection and AIDS in Prisons (1993); Guideline 4(e), U.N. Guidelines on HIV/AIDS and Human Rights, U.N. Doc. E/CN.4/1997/37 (1997).

⁵⁸See *ibid.*

⁵⁹See WHO Guidelines on HIV Infection and AIDS in Prisons; Guideline 4(e), U.N. Guidelines on HIV/AIDS and Human Rights; HM Prison Service of England and Wales, AIDS Advisory Committee, "Review of HIV and AIDS in Prison," 1995; Correctional Service of Canada, Expert Committee on AIDS and Prisons, "HIV/AIDS in Prisons," 1994; T.W. Harding and G. Schaller, "HIV/AIDS and Prisons: Updating and Policy Review—A Survey Covering 55 Prison Systems in 31 Countries," June 1992, p. 12 (condoms available in thirty-two prison systems in twenty countries).

Conditions for Vietnamese asylum-seekers held at the High Island Detention Centre are strikingly different from those in the prisons. Although the camp is prison-like in that access to it is strictly controlled and detainees are not free to leave, its living areas are far more crowded than those in the prisons, its sanitary conditions are much worse, and the food provided appeared to be inferior. Notably, these poor conditions are a long-standing problem that numerous local and international groups have already called to the attention of the Hong Kong government.⁶⁰

When the Human Rights Watch/Hong Kong Human Rights Monitor delegation visited High Island it held approximately 2,700 Vietnamese detainees, including 759 children under fifteen.⁶¹ A total of 236 CSD staff working in four shifts manned the camps, although only about thirty staff were on duty each night. CSD staff do not carry weapons in the camps.

The High Island camp is divided into two main sections. Because of past clashes between detainees from the north and south of Vietnam, the two groups are held separately. In addition to these areas, it also contains a security unit, built after the 1996 rioting at the Whitehead Detention Centre, which holds detainees targeted for imminent return to Vietnam.⁶² Finally, it contains a small special unit of twenty-seven cells holding detainees undergoing punishment, a temporary accommodation unit holding a couple of families who sought protection from the main population, and an administrative area with offices, legal visit rooms, etc. A seventeen-foot-high double wall, topped with fourteen guard towers, surrounds the camp.

The two main detention sections are known as South Camp and North Camp. Each area contains large Quonset (Nissen) huts—six occupied huts in the South Camp and five in the North Camp—that serve as the living quarters for up to 300 detainees each. Even though the occupied huts were overcrowded, other huts were unoccupied.⁶³ The huts, which are extremely tall, are divided into three tiers. Each tier is separated into cubicles—approximately six-by-eight-foot spaces with an open front—to which families of up to four people are normally assigned to live.

⁶⁰For example, in its 1996 observations regarding the situation in Hong Kong, the U.N. Committee on the Elimination of Racial Discrimination stated:

In connection with Vietnamese asylum-seekers in Hong Kong, there are serious indications that the conditions to which these persons are subjected during their often prolonged detention in refugee centres constitute a violation of their human rights and require urgent attention. Of principal concern is the absence of educational facilities for the children in these centres.

Concluding observations of the Committee on the Elimination of Racial Discrimination United Kingdom of Great Britain and Northern Ireland, Forty-eighth session, 26 February - 15 March 1996. *See also* Hong Kong Human Rights Monitor, "Briefing Paper for the U.N. Committee on the Elimination of Racial Discrimination," May 1996; Human Rights Watch/Asia, "Hong Kong: Abuses Against Vietnamese Asylum Seekers."

⁶¹Interview, Kenneth Au-yeung, acting superintendent, March 26, 1997.

⁶²On March 26, 1997, when the Human Rights Watch/Hong Kong Human Rights Monitor delegation visited, this unit held 125 detainees.

⁶³CSD staff told the delegation that the Vietnamese detainees preferred to stay together in the crowded huts, but detainees with whom we spoke denied this. Interviews, High Island Detention Centre, March 26, 1997.

Since detainees are not ordinary prisoners and are not subject to the Prison Rules, the CSD does not enforce regular prison discipline. Unlike in the prisons, detainees live in mixed-sex family groups, they wear their own clothes, and they move around freely within the facility. Detainees do not have to work, although about 10 percent of the camp population is employed by the CSD in some capacity: working in the kitchen, etc. The majority of the population is idle, however, which creates social problems. The CSD manages food distribution via "hut representatives" who are selected by the detainees themselves.⁶⁴

In other ways, the camp is very much like a prison. Besides the fact that detainees cannot leave, visits are strictly regulated, with detainees being allowed one thirty-minute open (contact) visit per week. Searches are conducted routinely, although their object is not drugs but weapons. While discipline is only lightly enforced and there is very little supervision, detainees who are found to be "trouble-makers" may be transferred to Victoria Prison "for administrative reasons"; they are normally kept there for three to four months.⁶⁵ Such transfers are not technically deemed punishment, but it is obvious that Victoria is a prison with all of the restrictive aspects that prison entails.

The detainees made a number of complaints about conditions in the camp and about their treatment. They stated that the huts become unbearably hot during the summer; that the huts leak when it rains; that not enough food is provided; that the male guards watch the female detainees shower from their guard towers; that the CSD is extremely slow to repair things, such as fans, lights, faucets, etc.; and that there is no hot water in the winter.

The Human Rights Watch/Hong Kong Human Rights Monitor delegation noted several significant deficiencies in camp conditions. Most notably, the sanitary facilities were barely functioning and were filthy, smelly, dark, and bug-infested. Worse, because many detainees quite reasonably avoided using these facilities, the showers had become a de facto second toilet. In the showers, which were in small shipping containers some distance away from the huts, most of the spigots were broken, so that some 900 people in one section were forced to share seven spigots.

The delegation was relieved to see that some educational programs were being provided to the hundreds of children confined in the camp, but concluded that the programs were woefully insufficient. While we saw some small children attending classes, most children and juveniles were idle.

⁶⁴In the past, there have been allegations that the CSD has relied on gang members, known as big brothers or dai goh, to oversee food distribution and control the camps. *See, for example*, Palpal-latoc, "Viet Gang Lords 'Control Camps,'" *Hong Kong Standard*, September 9, 1996. The Human Rights Watch/Hong Kong Human Rights Monitor delegation was unable to verify the continuing existence of the problem during its visit. In 1996, however, staff of Human Rights Watch and the Hong Kong Human Rights Monitor interviewed a CSD officer who acknowledged previous CSD reliance on big brothers, but who stressed that the practice had been discontinued. Human Rights Watch/Asia, "Hong Kong: Abuses Against Vietnamese Asylum Seekers," p. 9.

⁶⁵Interview, Kenneth Au-yeung, acting superintendent, March 26, 1997. Such transfers occur frequently. For example, over 250 Vietnamese detainees were transferred from High Island to Victoria in the past year. Letter from Tong Shui-kwong, superintendent, High Island Detention Center, to the Hong Kong Human Rights Monitor, April 10, 1997 (citing statistics for transfers between March 27, 1996 and March 26, 1997).

Despite the large numbers of detainees held at High Island, the camp has no regular infirmary, only an out-patient clinic, and people with infectious diseases are not normally segregated. The camp doctor, one of three working at High Island, told the delegation that he is barred from making rounds alone within the detainees' living areas.⁶⁶ Instead, about 5 percent of the camp population comes out to get medical treatment on an average day.⁶⁷ Upper respiratory tract infections are common among the detainees, who also suffer regular outbreaks of gastro-enteritis, usually the viral type, but occasionally the more serious bacterial type. Skin problems are also not uncommon.

Besides disease, injuries resulting from violent incidents also occur. According to statistics provided by the CSD, there were between one and four homicides per year at High Island from 1992 to 1996, and an average of twenty-four woundings.⁶⁸

IV. "GOOD ORDER," DISCIPLINE, AND PUNISHMENT

By all accounts, the Hong Kong prison system of the early 1970s was out of control: violence was endemic; guard corruption was widespread; drug-trafficking was rampant. The present system, in marked contrast, displays a high degree of order and regimentation. Despite its large population of drug addicts, it is apparently drug-free; despite the abundance of triad members, it is relatively safe and secure. As knowledgeable observers have suggested, the system's past lawlessness may to a large extent explain its current preoccupation with discipline and control.⁶⁹ Having suffered prison riots and disruption in the past, the Hong Kong correctional authorities are determined not to let things fall apart again.

The correctional authorities are to be particularly congratulated for the low level of violence found in the Hong Kong prison system, both in terms of staff-on-prisoner abuse and—what is an even more serious problem in many prison systems—prisoner-on-prisoner abuse. Although overcrowding has taken its toll, and staff shortages are a problem in some facilities, the prisons remain firmly under CSD control.

Overall, the Human Rights Watch/Hong Kong Human Rights Monitor delegation was impressed with the discipline, professionalism—and even, it appears, idealism—with which CSD staff approach their prison duties. Nonetheless, the delegation is worried that in some instances the CSD's focus on discipline and control is excessive. In particular, the lack of safeguards with regard to placement in administrative segregation and with regard to the deprivation of sentence remission is of concern.

Drugs, Gambling, Intimidation and Violence

The CSD goes to extraordinary lengths to keep drugs out of the prison system, relying on frequent searches, drug testing, sanctions for drug possession, and closed visits. To a striking degree, these strategies appear to be successful. Gambling, in contrast, is a vice that the prison authorities seem unable to eradicate. A multitude of different sources—even those who refused to acknowledge any other possible problem in the prisons—agreed that gambling is endemic to the territory's penal facilities.⁷⁰ "The inmates bet on everything," explained one CSD officer.

⁶⁶Interview, camp doctor, March 26, 1997. The CSD insists that he be escorted by a camp official; the doctor, however, believes that confidential visits are more appropriate.

⁶⁷Dental care is also provided on a regular basis. Ibid.

⁶⁸Letter from Tong Shui-kwong, superintendent, High Island Detention Center, to the Hong Kong Human Rights Monitor, April 10, 1997.

⁶⁹See Vagg, "The Correctional Services Department," p. 146. Interestingly, the current commissioner of corrections, Raymond Lai, played a key role in investigating and prosecuting inmates and staff after rioting broke out in 1973.

⁷⁰E.g., Interview, Nicholas Fry, civil secretary, CSD, March 20, 1997.

“They’ll bet on whether the next person who walks into the dormitory has glasses or not. But they especially love the horses.”⁷¹

⁷¹Interview, Stanley Prison, March 24, 1997.

The prevalence of gambling becomes evident when a visitor to the prisons sees the large number of inmates who are held in segregation “for their own protection” because of unpaid gambling debts. The Human Rights Watch/Hong Kong Human Rights Monitor delegation met prisoners who owed HK \$20,000, \$30,000, even \$100,000 (approximately US \$2,500 to \$13,000).⁷² Lacking the means to pay these debts, and fearing retaliation, such prisoners confess to gambling and request placement in segregation. In Shek Pik, Stanley, and Lai Chi Kok, the delegation saw several unlucky gamblers who had lived in segregation for over a year out of fear of returning to the general population of the prison.

As these prisoners can attest, violence and intimidation are not entirely alien to the prison system. Indeed, the delegation saw a number of prisoners held in segregation for active involvement in fighting, some of which involved weapons. At Stanley, for example, one prisoner had spent two months in administrative segregation because he had “used a home-made sharpened weapon to attack [another prisoner] in the Main Dining Hall on 19-1-97.”⁷³ Another prisoner “was suspected by other prisoners to have been involved in an assault case [that] happened in the workshop on 8.8.96 and [was] thus afraid of being retaliated [against].”⁷⁴ Members of the delegation spoke to an inmate held at Lai Chi Kok who had been held in segregation for his own protection for nearly a year; he had been attacked by a group of inmates at Stanley Prison and hurt so badly that he had to go to an outside hospital, followed by a week in the Stanley Prison hospital.⁷⁵ His attackers have used sharpened steel rulers, chairs, and a pair of scissors. Former prisoners described similar outbreaks of violence, including both gang fights and one-on-one disputes, but said that serious incidents were relatively rare and that CSD staff responded quickly to them.⁷⁶

Gambling is not, of course, the only cause of prison violence. More mundane, but equally commonplace, are the tensions which arise from overcrowding, particularly when two prisoners are held together in a cell designed for one.⁷⁷ Understaffing, which tends to accompany overcrowding and which is a problem in some Hong Kong facilities, begets lapses in supervision that facilitate violence. Some prisoners, in addition—particularly those who have testified on behalf of the prosecution in a criminal trial or who have been convicted of sex offenses—are despised by the general prison population and thus targeted for abuse. CSD officers said that disputes between prisoners are more common in the summer, when the hot weather makes tempers fray.

⁷²The de facto currency of the prisons is cigarettes, which are valued at many times their outside price. Thus, prisoners typically calculate the money they owe in packs of cigarettes, with six to seven packs of cigarettes equivalent to HK \$1,000 (US \$75).

⁷³Quote excerpted from CSD information card displayed outside the prisoner's cell.

⁷⁴Quote excerpted from CSD information card displayed outside the prisoner's cell, Shek Pik Prison. Shek Pik reported thirty incidents of prisoner-on-prisoner assaults from April 1996 through March 1997. Letter from Wai Heung-wing, superintendent, to Law Yuk-kai, director, Hong Kong Human Rights Monitor, April 2, 1997.

⁷⁵Interview, Lai Chi Kok Reception Centre, March 21, 1997. He told members of the delegation that he had “lots of enemies” and was afraid of being attacked again.

⁷⁶Interviews, March 28, 1997.

⁷⁷A prisoner in segregation at Stanley, for example, explained that he snores, a habit that annoyed his much younger, much bigger cellmate. After several days of quarrelling, the first prisoner finally refused to enter his cell, fearing that his cellmate would hurt him. This refusal landed him in disciplinary segregation. Interview, Stanley Prison, March 24, 1997.

The most serious recent assault on a prisoner occurred in April 1996, when a new inmate at Lai Chi Kok Reception Centre was beaten to death by a group of longer-term inmates. The prisoner was found lying under his bed, dying of internal injuries, when CSD staff unlocked the dormitory in the morning.⁷⁸ As described in further detail in Section III, Lai Chi Kok is one of Hong Kong's most overcrowded penal facilities.

Severely aggravating the problems caused by overcrowding at Lai Chi Kok is the serious understaffing of the facility. At the time that the delegation visited Lai Chi Kok, it had only seventy-five custodial staff per day shift and twenty-five per night shift—a number that, as the superintendent acknowledged, is definitely insufficient for managing over 1,300 prisoners.⁷⁹ The combination of overcrowding, understaffing and, as Section VII describes in more detail, prisoner idleness, means that fights break out nearly every day at Lai Chi Kok.⁸⁰

Ethnic tensions have also plagued Hong Kong's prisons, as local prisoners become embroiled in violent disputes with the mainland Chinese and, more frequently, with the Vietnamese. This is particularly true of Hong Kong's maximum security prisons, which hold the territory's more dangerous prisoners. On June 23, 1995, for example, "three separate groups of local Chinese prisoners launched assaults simultaneously on some Vietnamese prisoners at different locations of Shek Pik."⁸¹ At Stanley, the delegation met one prisoner accused of being "the instigator of a group fight between local and Vietnamese prisoners" that took place in the dining hall in February 1997.⁸² Similar reports of ethnic violence have surfaced in the press.⁸³

Assaults on staff, although they occasionally occur in maximum security facilities, are much more infrequent. The authorities at Shek Pik reported that three staff members had been assaulted by prisoners in the past year.⁸⁴ Stanley Prison tends to be the most dangerous for staff. In June 1996, two staff members there were stabbed with the sharpened handle of a toilet brush by a mainland Chinese prisoner, the third such attack in less than a week.⁸⁵

⁷⁸Niall Fraser, "Prisoner Died Slow Death," *Eastern Express*, May 1, 1997. Pending a death inquest, five inmates were charged with assault for their role in the crime. After a hearing on February 4, 1997, the case was adjourned until May 19, 1997. Letter from Au Siu-hau, CSD, to the Hong Kong Human Rights Monitor, April 7, 1997. News reports indicate that three prisoners, who "had been given unofficial responsibility for maintaining order in the cell," are being tried for manslaughter for their role in the crime. Charlotte Parsons, "Guard assured deadly beating was just play," *South China Morning Post*, May 28, 1997.

⁷⁹Interview, Chan Chun Yan, senior superintendent, Lai Chi Kok Reception Centre, April 21, 1997. The facility employed a total of 569 staff members, but many of them were not custodial staff, and the custodial staff were divided among four shifts.

⁸⁰Ibid.

⁸¹Log book of justice of the peace comments, Shek Pik Prison, September 12, 1995.

⁸²Quote excerpted from CSD information card displayed outside the prisoner's cell.

⁸³See Clifford Lo, "Violence Erupts at Pik Uk Prison," *South China Morning Post*, May 10, 1996 (fight between local and mainland prisoners resulting in four injured); Jonathan Hill, "Prison Staff on Red Alert after Fights," *South China Morning Post*, April 11, 1996 (twenty local inmates attacked Vietnamese inmates in prison workshop at Stanley Prison).

⁸⁴Interview, Wai Heung-wing, senior superintendent, Shek Pik Prison, April 1, 1997.

⁸⁵Yonden Lhatoo, "Jail Guards Stabbed by Inmate," *Hong Kong Standard*, June 25, 1996.

It is well established that prison authorities' duty of care extends to providing prisoners with reasonable protection against assaults from other prisoners.⁸⁶ Despite occasional violent incidents, the Hong Kong prison authorities appear generally to comply with this obligation. The overall level of prison violence in Hong Kong is low, and the CSD takes effective measures to respond to it. Particularly in lower security institutions, prisoners who do not owe money or have another particular reason to be targeted are assured of their safety, a state of affairs which, unfortunately, does not exist in many prison systems.

Disciplinary Offenses and Punishments

The Prison Rules include a comprehensive list of disciplinary offenses and punishments.⁸⁷ The enumerated acts range from assault, which falls within the realm of the criminal law, to many offenses that are extremely prison-specific, and some which are quite vague.⁸⁸ A prisoner who "in any way offends good order and discipline," for example, is guilty of a disciplinary offense.⁸⁹

A wide range of potential punishments is available, including disciplinary segregation (called "separate confinement") of up to twenty-eight days, forfeiture of remission of up to one month, forfeiture of privileges (such as ability to buy items from the prison canteen)⁹⁰ for up to three months, and deprivation of prison earnings.⁹¹ Previously, correspondence was deemed a "privilege" and, as a form of punishment, it could be terminated for up to three months. With the goal of bringing the Prison Rules into consistency with the Bill of Rights Ordinance, this rule was recently modified, and now even prisoners under punishment have the right to send at least one letter per week and to receive unlimited letters.⁹² Corporal punishment is no longer permitted; it was officially abolished in 1981.

⁸⁶See, for example, *Report to the Finnish Government on the Visit to Finland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 20 May 1992*, pp. 26-27.

⁸⁷Rule 29 of the Standard Minimum Rules requires that prison laws or regulations describe what conduct constitutes a disciplinary offense, what types and duration of punishments may be inflicted, and what authorities are competent to inflict such punishments. This rule is fully satisfied in the Hong Kong system. In addition, Rule 35 requires that prisoners be informed of these and other relevant rules; this rule too is at least partially satisfied. Upon arrival to prison, inmates are supposed to be supplied with a booklet that describes the functioning of the institution and other relevant information. While many prisoners told the delegation that they had obtained the booklet, others—particularly remands—had never seen it.

In addition, since the booklet is only available in complex Chinese characters (as opposed to the simplified characters prevalent in mainland China) and in English, some prisoners cannot read it.

⁸⁸See Prison Rule 61. Numerous offenses were deleted in the recent amendments to the Prison Rules, however.

⁸⁹Prison Rule 61(p).

⁹⁰In Standing Order 380, privileges are specifically enumerated to include: canteen purchases; books, periodicals, notebooks and newspapers; theater, concerts and films; sports; recreation; leaves of absence; and participation in public competition.

⁹¹See Prison Rule 63. In a welcome development, the recent amendments to the Prison Rules lowered the maximum amount of forfeiture of remission from two months to one month. In special cases, the commissioner can order up to three months' loss of remission (previously six months).

⁹²Prison Rule 47(7)(a). Moreover, their right to send letters to their legal counsel, as well as to legislators, justices of the peace, and various other governmental authorities, cannot be restricted. Prison Rule 47(7)(b).

The Human Rights Watch/Hong Kong Human Rights Monitor delegation found that Hong Kong prison authorities used the full array of punishments at their disposal, although loss of remission was the most frequently applied.⁹³

Inmates placed in disciplinary segregation are normally transferred to individual cells in the facility's "special unit." They are held in their cells approximately twenty-three hours per day, leaving the cells only for exercise and for showers (meals are taken in the cells). Because disciplinary segregation is invariably accompanied by a loss of privileges, inmates temporarily lose their radios, cassette players, and non-academic reading materials. They are also not allowed to smoke. While in segregation, nonetheless, they continue to enjoy visiting rights. Convicted prisoners, in addition, are still required to work.⁹⁴

When accused of disciplinary offenses, prisoners are given hearings and have the right to appeal adverse decisions to the commissioner. The vast majority of disciplinary reports result in punishment, however, and few appeals are granted.⁹⁵ Although the Human Rights Watch/Hong Kong Human Rights Monitor delegation was unable confidently to gauge the value of the due process guarantees accorded in prison disciplinary proceedings, the high "conviction" rates, combined with the vagueness of the offenses and the seriousness of the potential penalties, do raise concerns. Imposing forfeiture of remission is essentially equivalent to imposing a longer criminal sentence; accordingly, due process concerns are paramount.

An examination of the 563 breach of discipline cases reported at Shek Pik during 1996, as an example of actual prison practice, reinforces these concerns. A full 170 of these cases—the largest number adjudicated under any single subsection of Prison Rule 61—involved prisoners who in some way "offend[ed] good order and discipline." The most liberally used punishment was loss of remission: a total of 4,747 days forfeited, compared to a total of 2,146 days of separate confinement and loss of privileges, and a total of 2,814 days of lost earnings.⁹⁶

In many prison systems, of course, abuses occur not in the application of legitimate penalties but in use of unauthorized punishments—most frequently, brute force. While the Human Rights Watch/Hong Kong Human Rights Monitor did receive a few allegations of unjustified beatings by CSD officers, we were unable to confirm their validity.⁹⁷ Complaints of verbal abuse were much more frequent: prisoners stated that lower-ranking CSD officers constantly swore at and insulted them.

Administrative Segregation (Prison Rule 68B)

⁹³The following are representative cases: At Shek Pik Prison, a prisoner found guilty of gambling received twenty-eight days' loss of remission, twenty-eight days' loss of privileges, and twenty-eight days' separate confinement. At Victoria Prison, a prisoner found guilty of verbally abusing CSD staff received fourteen days' loss of remission, fourteen days' loss of privileges, and fourteen days' separate confinement.

⁹⁴Because they cannot go to workshops with the other prisoners, prisoners in separate confinement normally do only the most trivial and rote tasks, such as making envelopes and cotton-balls.

⁹⁵At Shek Pik Prison, for example, out of 563 breach of discipline cases reported during 1996, only twenty-nine were dismissed, and another two were dismissed after appeal to the Commissioner. Letter from Wai Heung-wing, superintendent, to Law Yuk-kai, director, Hong Kong Human Rights Monitor, April 2, 1997.

⁹⁶*Ibid.*

⁹⁷Anytime a CSD officer uses force against a prisoner he must write up a use of force report describing the circumstances of incident, the amount of force used, and any injuries sustained by the prisoner. A copy of this report is forwarded to the Commissioner's office. The European Committee for the Prevention of Torture (CPT), which monitors conditions in European prisons, strongly recommends such record-keeping as a safeguard against abuse. CPT, "2nd General Report on the CPT's Activities," April 1992, p. 15.

The “special units” of Hong Kong’s prisons, besides housing prisoners assigned to disciplinary segregation, also house prisoners placed in administrative segregation. Prison Rule 68B, which is closely modeled on the U.K.’s Prison Rule 43, authorizes such segregation “for the maintenance of good order or discipline” or for prisoners’ own protection.

Rule 68B provides in relevant part that:

(1) Where the Superintendent has reasonable grounds for believing it is desirable, for the maintenance of good order or discipline or in the interests of a prisoner, that such prisoner should not associate with other prisoners, either generally, or for particular purposes, he may order the removal of such prisoner from association for a period of not more than 72 hours.

It further states, in subsection (5), that the commissioner may, for the same reasons, order the further removal of the prisoner for a month, and that he may continue to extend the prisoners’ term of removal from association on a month-to-month basis. Each time that the commissioner decides to prolong the prisoner’s segregation, the prisoner has to be told the reasons for his continued segregation, and he must be permitted to write something in his own defense. The commissioner must review the prisoner’s submission, as well as other relevant materials, in making the decision as to further segregation.⁹⁸

Prisoners in Rule 68B administrative segregation are subject to essentially the same conditions as prisoners in disciplinary segregation—twenty-three hours a day of cell time, deprivation of privileges—but with an important difference: many of them endure these conditions for much longer lengths of time. The Human Rights Watch/Hong Kong Human Rights Monitor delegation met many prisoners who had spent several months in administrative segregation, and some who had spent years there.⁹⁹ Separate confinement of this length is always a matter of concern.¹⁰⁰

There are, to be precise, three distinct types of Rule 68B segregation. The first type covers prisoners who require protection from other prisoners because of who they are (normally, ex-policemen) or because they provided testimony for the prosecution in a criminal proceeding. These prisoners, many of whom stay in Rule 68B segregation during all or most of their time in prison, are not denied privileges while in segregation. They are also often held two per cell, and normally exercise in groups.

The second type of Rule 68B segregation is for prisoners who request protection for specific reasons, usually because they are in debt to other prisoners or because they, for another such reason, believe that other prisoners will try to hurt them. These prisoners are denied privileges unless they stay in segregation for a year; after the first year has passed they are permitted their radios, etc.

⁹⁸Rule 68B is of relatively recent origin, although administrative segregation was practiced even prior to its promulgation. It was added to the Prison Rules in 1992 in order to reverse the High Court’s judgment in the case of Sakchai Suwannapeng. That case involved a prisoner held in administrative segregation who argued in court that no provision in the Prison Rules authorized such segregation. The court agreed with the inmate that the CSD, under the then-current rules, could only segregate inmates for disciplinary reasons or for their own protection. High Court Miscellaneous Proceedings No. 157 of 1990 (Jan. 23, 1990).

⁹⁹At Stanley Prison, for example, the delegation saw a prisoner who had been held in segregation under Rule 68B for his own protection since June 1990, and another prison who had been held in involuntary Rule 68B segregation since June 1996.

¹⁰⁰An international consensus has developed against prolonged segregation of prisoners. In situations akin to solitary confinement, particularly where all opportunities for social interaction are limited, such segregation may have severe adverse effects on the mental health of the segregated prisoners. *See, for example*, Basic Principles for the Treatment of Prisoners, Article 7. Because of this concern, the CPT “pays particular attention to prisoners held, for whatever reason (for disciplinary purposes; as a result of their ‘dangerousness’ or their ‘troublesome’ behavior; in the interests of a criminal investigation; at their own request), under conditions akin to solitary confinement.” CPT, “2nd General Report,” p. 15.

The final type of Rule 68B segregation—that which covers prisoners deemed to be “violent and influential characters”—is the most problematic. Prisoners of this type are segregated from the general prison population because prison officials fear that they would cause disruption, either through their own actions or through influencing other prisoners. Often, prisoners who have been placed in disciplinary confinement for a set amount of time will subsequently be placed in Rule 68B administrative confinement for an indefinite period of time. Although this type of Rule 68B confinement is technically not punishment, it is no different from punishment when viewed from the prisoner’s perspective. The fact that it is technically not punishment, however, means that the prisoner is deprived of the right of a disciplinary hearing and that the segregation can be extended over and over again for an indefinite period.

Stanley Prison has the largest number of prisoners held in Rule 68B segregation of any penal facility in Hong Kong. It has two separate special units: one for Category A prisoners, and the other for Category B, C, and D prisoners. On the day that the Human Rights Watch/Hong Kong Human Rights Monitor visited, a total of 126 prisoners were being held under Rule 68B—far outnumbering the fifteen inmates held in disciplinary segregation. Twenty-one of these prisoners were “violent and influential characters” who, according to the superintendent, were typically held in segregation for three to four months.¹⁰¹

The following were among the Rule 68B cases observed by the delegation:

- A Vietnamese prisoner who had been in segregation at Shek Pik since June 1996 was “removed from association [because] he assaulted staff in Victoria Prison.”¹⁰²
- Another prisoner at Shek Pik was placed in segregation nearly three months prior to the delegation’s visit because he “actively instigated other local/I.I. prisoners to launch a group assault against Vietnamese prisoners.”
- A prisoner at Stanley who had violently attacked another prisoner served ten days of disciplinary segregation and was then placed in administrative segregation, where he had stayed for two months by the date of the delegation’s visit.
- At Pik Uk Correctional Institution, the maximum security institution for male juveniles, a nineteen-year-old was held in segregation for two months “in view of his manipulative and violent [sic] prone character.”
- The prisoner seen by the delegation who had served the longest time in Rule 68B segregation was a “manufacturer and distributor” of gambling items; he had been in separate confinement at Stanley Prison since October 1995.

As the above cases illustrate, there is considerable overlap between reasons for disciplinary segregation and those for Rule 68B administrative segregation. Given the lesser due process protections with regard to the application of Rule 68B, and thus the greater possibility that prisoners will be wrongly accused of disorderly or violent acts—and, equally important, given the much longer periods of segregation available under Rule 68B—this phenomenon is troubling. Of course, prison officials have a legitimate interest in maintaining order in their facilities and, in some instances, temporary segregation of a dangerous prisoner may be a reasonable way to protect that interest. The Human Rights Watch/Hong Kong Human Rights Monitor delegation believes, nonetheless, that it would be much preferable to allow the prisoner to defend himself at a hearing any time segregation of this magnitude is possible. Also, as should be

¹⁰¹Shek Pik Prison, the territory’s other maximum security men’s prison, held twenty-eight prisoners under Rule 68B on the day of the delegation’s visit. Twelve of them were segregated for their own protection because of their former job or their testimony for the prosecution; nine had requested protection because of gambling debts or similar problems; and seven were “violent and influential characters.” One of the former police officers had been in segregation since 1994.

¹⁰²This and subsequent such quotes are excerpted from the CSD information cards displayed outside the prisoners’ cell.
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clear, the use of such segregation should be strictly limited to exigent circumstances, and the affected prisoner should be returned back to his normal housing unit as quickly as is reasonably possible.

Transfer to Other Facilities

From what the delegation observed, the use of Rule 68B segregation is much less frequent in lower security facilities. In fact, Ma Po Ping Prison and Tong Fuk Centre, the medium and minimum security men's facilities that the delegation visited, held no prisoners under Rule 68B.¹⁰³

Lower security prisons do, however, have another quasi-punitive technique for handling difficult inmates, which is transfer to a higher security institution. Particularly given the overcrowding prevalent in the Hong Kong prison system, many Category B and C prisoners are held at Shek Pik, where conditions are notably more restrictive than in lower security institutions. As the superintendent of that facility explained to the delegation, it is the "troublemakers" who are transferred there.¹⁰⁴

The Human Rights Watch/Hong Kong Human Rights Monitor delegation learned of one prisoner who was transferred from Ma Po Ping Prison to Shek Pik in what appears to be a likely case of retaliation for complaining. The delegation learned of the case by reading the log kept at Ma Po Ping by visiting justices of the peace (JPs). The log's first relevant entry was in mid-December 1996; it stated that the inmate, a Pakistani, was in administrative segregation but complained to the JP that he was being wrongly punished. The CSD response to the entry, also included in the log, was that the Pakistani had been removed from association under Rule 68B because "he had intimidated fellow prisoners to jointly sign on a letter in order to protest against the allegedly poor quality of food provided to prisoners of other nationalities."¹⁰⁵

On each subsequent JP visit from December 1996 through February 1997, the prisoner reiterated his complaint of unfair treatment. During this time, his placement in Rule 68B segregation was extended twice. Finally, in late February, the CSD transferred him to maximum security Shek Pik Prison. When the Human Rights Watch/Hong Kong Human Rights Monitor inquired into the reasons for this transfer, the superintendent of Ma Po Ping stated bluntly that the inmate "had been making frequent requests to see the VJs [visiting justices of the peace] and the ombudsman."¹⁰⁶

¹⁰³Nor did Tai Tam Gap Correctional Institution (which holds girls). Tai Lam Centre for Women held one woman under Rule 68B, a foreign prisoner who had allegedly attacked CSD staff at another facility; the superintendent said that he was going to release her in a few days.

¹⁰⁴Interview, Wai Heung Wing, senior superintendent, Shek Pik Prison, April 1, 1997.

¹⁰⁵Letter from the CSD to the justices of the peace, January 28, 1997.

¹⁰⁶Interview, Rick Ying, senior superintendent, Ma Po Ping, April 2, 1997.

The ultimate transfer possibility for difficult inmates is assignment to the Behavior Adjustment Unit (BAU) at Siu Lam Psychiatric Centre. Inmates who have had "behavioral problems" in other institutions are placed in this unit, although, as the superintendent at Siu Lam acknowledged, none of these prisoners are mentally ill.¹⁰⁷ Prisoners who are involuntarily transferred to Siu Lam for behavioral reasons typically spend six months in the BAU program; they may receive psychological counseling but no psychiatric treatment. One such prisoner told members of the Human Rights Watch/Hong Kong Human Rights Monitor delegation that he was transferred to Siu Lam because he had filed a complaint with the police regarding a serious beating he had received from a guard.¹⁰⁸ A Siu Lam staff member stated, similarly, that prisoners who "make a lot of complaints" and are "not cooperative" end up getting transferred to the facility because officers "want to adjust their behavior."¹⁰⁹

V. CONTACTS WITH THE OUTSIDE

The fact that prisoners are physically isolated from their family and friends while incarcerated promotes the loss of contact and the breakup of relationships. Besides the adverse affect that this has on prisoners' psychological well-being while confined, it also bodes poorly for their future readjustment to life outside. Because imprisonment naturally strains family ties and friendships, it is critical that the prison system not further exacerbate prisoners' isolation by creating impediments to prisoners' contacts with outsiders.¹¹⁰

One of the major concerns of the Human Rights Watch/Hong Kong Human Rights Monitor delegation with regard to the Hong Kong prison system involves the restrictions placed on prisoners' outside contacts. On this issue, however, it should be noted that significant improvements have recently been made. The Human Rights Watch/Hong Kong Human Rights Monitor delegation applauds these developments. In our view, it is critical to continue the process of lifting unnecessary restrictions on prisoners' outside contacts.

Restrictions on Visits

The Prison Rules contain significant restrictions on the frequency, length and character of prison visits. To begin with, under existing rules only relatives and friends of prisoners are authorized to visit.¹¹¹ In addition, visits are unnecessarily short and, for convicted prisoners, too infrequent. Finally, the CSD's excessive reliance on closed visits is a subject of concern.

¹⁰⁷Interview, Wong Wai-man, superintendent, Siu Lam Psychiatric Centre, March 27, 1997.

¹⁰⁸Interview, prisoner, Siu Lam Psychiatric Centre, March 27, 1997.

¹⁰⁹Interview, medical officer, Siu Lam Psychiatric Centre, March 27, 1997. Finally, one prisoner, not in the BAU program but simply classified as "Other: 1" on the Siu Lam inmate roster, was deemed a management problem and involuntarily transferred to Siu Lam because his brother had sent offensive and threatening mail to government officials. Although BAU prisoners normally stay six months at Siu Lam, this prisoner has been there three years.

¹¹⁰See Article 23 of the ICCPR, which states: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State"; *see also* Article 79 of the Standard Minimum Rules, which states: "Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both." Placing particular emphasis on this point, the CPT has explained that:

It is very important for prisoners to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.
CPT, "2nd General Report," April 1992, p. 14.

¹¹¹Prison Rule 48 (stating that "[n]o persons, other than the relatives and friends of a prisoner, shall be allowed to visit him except by special authority").

On the positive side, conditions in prison visiting areas are pleasant. Visiting rooms and visitors' waiting rooms are air-conditioned, and waiting rooms normally have televisions, phones, and, often, vending machines. They are also replete with helpful information regarding what kinds of articles may allowably be given to prisoners, prisoners' rights, and complaint procedures.

Length and Frequency of Visits

Unconvicted prisoners are permitted daily fifteen-minute visits with up to two people at a time.¹¹² Convicted prisoners in most facilities are permitted two thirty-minute visits per month with up to three people at a time.¹¹³ In some facilities they are allowed up to four visits per month.¹¹⁴ Although these rules may be relaxed in special cases, they still constitute an important restraint on prisoners' ability to maintain close relationships with family and friends.

The detrimental effect of short visits is particularly evident with regard to prisoners held in Hong Kong's more remote penal facilities. Hei Ling Chau Island, for example, which is at least one-and-a-half to two hours by boat from Hong Kong Island, shelters three separate facilities which among them hold over 1,700 prisoners. Relatives of many prisoners have to travel an additional hour or so to reach Hong Kong Island, meaning that their total travel time is routinely four to six hours. It obviously burdens family ties to require relatives to spend so much time traveling for only a half-hour visit.

Open versus Closed Visits

The Hong Kong prison system has two types of visits, open and closed. With closed visits, known in some prison systems as non-contact visits, prisoners and their visitors are separated from each other by a glass or plexiglass screen. Not only does this entirely prevent physical contact, but communications must be done via a telephone/intercom system.¹¹⁵ The overall effect is very impersonal and, as prisoners and their family members complained, emotionally unsatisfying.

¹¹²Prison Rule 203. In "special cases," or, in a few facilities, on a more regular basis, they are allowed additional visitors.

¹¹³Prison Rule 48.

¹¹⁴At Stanley Prison, for example, convicted prisoners are allowed two additional visits per month by their next of kin. At Pik Uk Correctional Institution, a maximum security juvenile facility, convicted prisoners are normally permitted four visits per month. Variation on these rules apply at Victoria and Shek Pik. Finally, young prisoners at Tai Tam Gap (which holds girls under twenty-one) are permitted one thirty-minute visit per week, while girls in the training center program are permitted daily thirty-minute visits. Interview, Eric Law, superintendent, Tai Tam Gap, March 18, 1997.

¹¹⁵The visitor speaks through a telephone and the prisoner uses an intercom. Although even open visits may be monitored by CSD staff, the use of electronic communication devices increases visitors' and prisoners' sense that their conversations are not private. Indeed, notices are prominently posted warning visitors that monitoring occurs. Moreover, in at least one maximum security prison, conversations between certain prisoners and their visitors are recorded. Letter from Wai Heung-wing, superintendent, Shek Pik Prison, to Law Yuk-kai, director, Hong Kong Human Rights Monitor, April 2, 1997 (stating that sixty-eight visits were recorded at Shek Pik from April 1996 through March 1997).

With open visits, also known as contact visits, visitors and prisoners speak to each other directly and enjoy a limited degree of physical contact.¹¹⁶ "Simple touching," for example, shaking hands, is allowed; kissing is not.¹¹⁷ Conjugal visits have never been permitted. Most open visits in Hong Kong take place in rooms equipped with a long table that is divided down the middle by a short plexiglass partition that reaches almost to eye-level. Prisoners sit in a row on one side of the table; visitors sit on the other side.

Closed visits are the rule in institutions for Category A and B prisoners (the higher security levels).¹¹⁸ Because this restriction is based on security level, not age or other considerations, even many juveniles are limited to closed visits, meaning that they may be barred from touching their parents and siblings for years.

One mother told the Human Rights Watch/Hong Kong Human Rights Monitor delegation:

My son has been in prison since age fourteen and a half. I've only touched him twice in fifteen years. Twice he's gotten a certificate for his studies, and when that's happened we've gotten an open day, a thirty-minute visit. It happened in 1993 and again in 1994.¹¹⁹

The rule of closed visits also affects numerous Category C and D prisoners who are held in high security institutions. Although they would otherwise be permitted open visits, the institutions in which they are held make no provision for such visits. This is an especial problem at the Lai Chi Kok Reception Centre, which holds all adult male remand prisoners, regardless of their crime. Yet other maximum security prisons, including Shek Pik and Stanley, also hold Category C prisoners.¹²⁰

It should be emphasized that Hong Kong's restrictions on open visits are not without justification. Large numbers of prisoners are drug users. Drugs may be smuggled into prison during open visits and, indeed, in many prison systems in which open visits are the rule, such smuggling is a serious problem. European, Latin American, and U.S. prisons, for example, are often ridden with drugs. Besides the obvious health concerns, an influx of drugs into the prisons often leads to prisoner-on-prisoner intimidation and violence.¹²¹

¹¹⁶The Human Rights Watch/Hong Kong Human Rights Monitor delegation found open visits at Ma Po Ping Prison, Tong Fuk Centre, Tai Lam Center for Women, and Tai Tam Gap.

¹¹⁷Interview, superintendent, Eric Law, Tai Tam Gap, March 18, 1997.

¹¹⁸The Human Rights Watch/Hong Kong Human Rights Monitor delegation found closed visits at Stanley Prison, Shek Pik Prison, Lai Chi Kok Reception Centre (the main remand facility), Siu Lam Psychiatric Centre, Pik Uk Correctional Institution (for boys under 21), and Victoria Prison. In addition, Category A and B prisoners at Tai Lam Centre for Women and Tai Tam Gap Correctional Institution (for girls under twenty-one) are limited to closed visits.

¹¹⁹Interview with the mother of a prisoner held "at Her Majesty's pleasure" since 1982, March 22, 1997. Her son is currently held at Stanley Prison and was previously held at Pik Uk. At she indicated, Stanley Prison, like certain other prisons, has a special day once a year on which those prisoners who obtain certificates for having successfully passed a course of study are allowed contact visits.

¹²⁰When the Human Rights Watch/Hong Kong Human Rights Monitor delegation visited Shek Pik Prison on April 1, 1997, for example, it held 303 Category C prisoners.

¹²¹In a recent report, the U.K.'s Advisory Council on the Misuse of Drugs described the negative impact of drugs in U.K. prisons, depicting a situation common to many prison systems:

[D]rugs were seen as the cause of significant problems. We heard evidence that there are many organised drug gangs operating inside prisons, with the gang leaders employing other prisoners to do the dealing for them. Bullying and violence often accompany the actual dealing.

Advisory Council on the Misuse of Drugs, *Drug Misusers and the Prison System—An Integrated Approach* (London: HMSO, 1996), p. 14.

While the CSD's success in keeping drugs out of the prison system is to be applauded, the Human Rights Watch/Hong Kong Human Rights Monitor delegation would encourage reliance on alternative means of achieving this objective—means which are less damaging to prisoners' social bonds.¹²² Indeed, the CSD acknowledges that the use of closed visits is but one element of a multifaceted anti-drug strategy. Because other techniques such as searches have also proved effective, drugs are not a problem even in the many facilities which employ open visits.¹²³

The CSD has already shown some flexibility regarding closed versus open visits. In an important innovation, maximum security Shek Pik Prison has been offering open visits to prisoners whose sentences are longer than four years. This pilot program, which only applies to visits from close family members, is strictly regulated: prisoners must make a special application to be considered for it; they must have gone twelve months without a disciplinary report; and they cannot have any past history of drug use in prison.

The open visit program was initiated three years ago, and since that time it has operated without a hitch.¹²⁴ Indeed, in the year prior to April 1997, over 1,000 open visits were held at Shek Pik.¹²⁵

Visits from Members of the Prisoners' Friends Society

Whatever the reason—whether they are foreigners whose families live too far away to visit or whether they are local prisoners whose relations with their families and friends have deteriorated—a full one-quarter of Hong Kong prisoners receive no visits at all.¹²⁶ The goal of the Prisoners' Friends' Association (PFA), a voluntary organization, is to offer much-needed friendship and social connection to such prisoners.

PFA members consist of pen friends and prison visitors. Pen friends, as the name suggests, correspond with prisoners. Prison visitors, after they have been reviewed by the CSD, are permitted approximately forty-minute visits with inmates in the legal visit rooms of the prisons. Such visitors normally establish a stable relationship with individual prisoners, visiting one person over a long period of time, sometimes years. Unfortunately, since PFA members are only allowed to visit prisoners who have no other outside contacts, if that prisoner receives even a single visit, then he or she is barred from further PFA visits. About one hundred PFA members are prison visitors; a handful of others only write letters.¹²⁷

¹²²In its analysis of the problem, the Advisory Council on the Misuse of Drugs reached similar conclusions:

A humane visiting system is an integral part of the Prison Service's objectives of maintaining links with the community and looking after prisoners with humanity. One of the main purposes of imprisonment is to help prisoners lead law-abiding lives in custody and after their release, and the maintenance and strengthening of family relationships is a crucial ingredient in this aim Recent research commissioned by the Home Office found that closed visits often had a detrimental effect on prisoners' children. We believe the right of a prisoner to open visits should only be removed for those of exceptionally high security risk and those proved to have received drugs through visits. Closed visits should not necessarily be imposed on prisoners failing a mandatory drug test, unless there is clear evidence that the drugs taken were actually passed during a visit. [Ibid. at 46.]

¹²³Visitors themselves are not subject to search, but they pass through metal detectors upon entrance to the prisons, and their belongings are searched.

¹²⁴Interview, Wai Heung-wing, superintendent, Shek Pik Prison, April 1, 1997.

¹²⁵Letter from Wai Heung-wing to the Hong Kong Human Rights Monitor, April 2, 1997.

¹²⁶Jane Crawley, *Jail-Breakthrough: A Guide for Prison Visitors in Hong Kong*, Prisoners' Friends' Association Hong Kong, March 1995, p. 3.

¹²⁷Interview, Pauline Deary, Prisoners' Friends' Association, March 24, 1997.

Restrictions on Correspondence

Until the recently passed Prison Rules amendments went into effect, the Hong Kong prison system imposed significant restrictions on prisoners' correspondence with outsiders. The restrictions pertained to the number of letters that could be sent, the permissible addressees, and the letters' content.

The new amendments, passed in May 1997, greatly relaxed these curbs on correspondence. Whereas convicted prisoners were previously limited to sending out a single letter per week, they are now allowed to send out an unlimited number.¹²⁸ One letter per week is subsidized by the government, while the prisoner must generally pay for additional letters out of his prison earnings. In addition, under certain circumstances—for example, if the prisoner is held in a detention center, an addiction treatment center, or a training center, or is under twenty-one—the government will bear the cost of such additional letters.¹²⁹ Finally, as under the previous rules, unlimited incoming correspondence is allowed, subject to a couple of specific limitations.¹³⁰

In another significant improvement, prisoners may now correspond with anyone, instead of being limited to corresponding with their friends and relatives.¹³¹ What this means, notably, is that prisoners may now send letters to the media and to outside organizations with an interest in prison issues, such as human rights organizations.

The rules regarding censorship have also been greatly modified, although content restrictions on correspondence have not been entirely lifted. Previously, any incoming or outgoing letter that the prison authorities deemed "objectionable" could be banned, giving officials broad discretion to censor inmates' correspondence.¹³² At present, the prison authorities' power to control the content of inmates' correspondence is regulated by a detailed set of rules. Only letters to or from prisoners in maximum security institutions may routinely be read (although letters to all prisoners may be checked for contraband), while letters to or from prisoners in other facilities may be read under certain circumstances. However, one of the enumerated circumstances is when, in the view of the superintendent, "the reading would be in the best interests of the prisoner"—a vague and obviously malleable criterion.¹³³

Prison Rule 47A, which regulates the reading of correspondence and censorship, now sets out nine specific classes of letters for which censorship is justified, in contrast to the previous blanket category of objectionable material. It allows CSD staff to bar letters that, among other things, contain information on escape plots; threats, extortion, obscenity, or "gratuitous profanity"; messages in code; information that would infringe upon the privacy of other prisoners or of CSD staff; and "any material that by its nature or content poses a threat to any individual's personal safety or to the security, good order and discipline of the prison." The last category is somewhat vague, although it is still an unquestionable improvement upon the previous standard.

¹²⁸Prison Rule 47(1). Under a previously-existing rule, unsentenced prisoners may send out letters "at all reasonable times." Prison Rule 206. The restrictions on the correspondence of convicted prisoners had already been informally relaxed to some extent at the time of the delegation's visit to Hong Kong. Prisoners who wanted to send out more than one letter per week could request permission to do so and, according to CSD staff, these requests were routinely granted.

¹²⁹See Prison Rule 47. Prisoners who, in the view of the superintendent, have "a genuine need to write and send additional letters," and who lack the funds to pay for such letters, may also send them at public expense.

¹³⁰For example, prisoners cannot receive letters from other prisoners except with the superintendent's approval. Prison Rule 47(6)(a)(i).

¹³¹Prison Rule 47 previously stated that "[n]o persons, other than the relatives and friends of a prisoner, shall be allowed to communicate in writing with him except by special authority."

¹³²Prison Rule 47(b) (prior to amendment). This restriction followed the U.K.'s Prison Rule 33(3).

¹³³Prison Rule 47A(4)(d).

Subcategory (g) of Prison Rule 47A, however, is of concern in that it imposes a particular restriction on material directed to the media. It bars prisoners from sending letters “intended for publication or for broadcast by radio or television” that refer to other prisoners or to CSD staff “in such a way that they may be identified.” In other words, if a prisoner were to attempt to report a particular prison abuse to the media—such as an unjustified beating by guards—and he or she named the guilty parties, then the letter could be barred even if the superintendent knew that the incident was accurately described and even if the public had a strong interest in learning of the situation. In the view of the Human Rights Watch/Hong Kong Human Rights Monitor delegation, it is important that this restriction be repealed.

Lack of Access to Telephones

Prisoners do not have regular access to telephones. There are no telephones in the day rooms of the prisons or in other areas where prisoners congregate. Prison officials told us, nonetheless, that prisoners may request to make collect phone calls from the administrative areas of the prison. Although they said that such requests are generally granted when prisoners have “a compelling reason”—or, in the words of other officials, “a strong justification”—the officials appear to have untrammelled discretion to grant or deny such requests.¹³⁴ Legitimate justifications for making a phone call, we were told, include sick family members or pressing legal matters.¹³⁵ Most prisoners told us that they had never made a phone call from the prison. The delegation did meet a Vietnamese prisoner, however, who stated that he had received permission to call home three months prior to our visit and had been allowed to make such calls once a month.

The Human Rights Watch/Hong Kong Human Rights Monitor delegation encourages the CSD to follow what is common practice in other industrialized countries, and regularize prisoners’ access to telephones. Particularly for illiterate prisoners—a not-insignificant proportion of the Hong Kong prison population—as well as for foreign prisoners whose relatives are rarely able to visit, more generous telephone rules would be of great benefit.

Visits and Communications with Legal Counsel

To facilitate communications regarding their criminal cases and other legal matters, prisoners are permitted contact visits with their lawyers. These visits take place “in the sight but not in the hearing” of CSD officers, normally in small offices in the visiting areas of the prisons.¹³⁶ The Human Rights Watch/Hong Kong Human Rights Monitor delegation visited a number of the offices set apart for such visits and found all of them to be quite satisfactory.

In addition to visits, prisoners may send confidential letters to their legal counsel.¹³⁷

Restrictions on Reading Materials

¹³⁴E.g., interview, Eric Law, superintendent, Tai Tam Gap Correctional Institution, March 18, 1997.

¹³⁵At Tai Lam Centre for Women, the superintendent admitted that such calls were “very rare.” Interview, Poon Yin-wang, superintendent, March 25, 1997.

¹³⁶Prison Rule 52.

¹³⁷Prison Rules 47B and 206(2).

Until the recent amendments were passed, the legal provision covering prisoners' reading materials contained no explicit standards by which to determine whether a given book or periodical might be kept out of the prison. The present rule, in contrast, sets out five categories of reading materials that the superintendent may bar: those which contain information on manufacturing weapons, dangerous drugs, and similar items; those which describe or encourage prison violence or prison escapes; those which "facilitate gambling" or are "detrimental to [any prisoner's] rehabilitation"; those which encourage criminal or disciplinary offenses; and those which "pose a threat to any individual's personal safety or to the security, good order and discipline of the prison."¹³⁸ As with the rule regarding censorship of prisoners' correspondence, these categories have an obvious degree of vagueness and malleability, but they do at least provide greater guidance than in the past.

Moreover, even prior to the new rules, it appears that censorship of reading materials had become relatively unintrusive in recent years. The prison officials who spoke to the Human Rights Watch/Hong Kong Human Rights Monitor delegation uniformly stated that they practiced very minimal censorship of prisoners' reading materials, mostly limited to barring explicit sexual material, the special racing supplement, and descriptions of crime. Otherwise, prisoners freely subscribe to a variety of newspapers and magazines, and may receive other reading materials from visitors. For security reasons, certain prisons will not accept hardcover books.

Routine censorship of prisoners' reading materials was practiced in the past, however, and certain traces of it have not entirely disappeared. At Tai Tam Gap Correctional Institution, the Human Rights Watch/Hong Kong Human Rights Monitor delegation found a notice posted in the visitors' waiting room describing which types of books would be banned as "objectionable." It listed seven such categories, including "books containing political doctrine or dogma and anti-government propaganda," "medical books," and "law or books of a legal nature."¹³⁹ The superintendent of the facility assured the Human Rights Watch/Hong Kong Human Rights Monitor delegation, however, that the notice was obsolete and the rules it stated were not enforced. At Hei Ling Chau Addiction Treatment Centre, a notice in the visitors' waiting room stated that any book that "discusses or criticises the administration of justice" would be banned. The Human Rights Watch/Hong Kong Human Rights Monitor delegation sees no justification for prohibiting any of the above categories of books, and strongly urges the CSD to remove these notices.

Recently, a more defensible instance of CSD censorship was challenged in court by an inmate held at Stanley Prison. Because gambling is a serious problem in the prisons, the CSD decided in May 1995 to remove the special racing supplements from the newspapers that many prisoners received. A prisoner who claimed to be a horse racing fan challenged this ban on several grounds, among them, that the ban violated the Bill of Rights' protections on the right to receive information; he prevailed in the High Court in late 1995.¹⁴⁰ Reviewing this ruling the following year, the Court of Appeal reversed it.

¹³⁸Prison Rule 56.

¹³⁹The delegation found another such notice at the Sha Tsui Detention Centre, and a notice banning law books and medical books at Ma Po Ping Prison.

¹⁴⁰*Chim Shing Chung v. Commissioner for Correctional Services*, 5 HKPLR 570 (High Ct. 1995), *rev'd*, 6 HKPLR 313, 323 (Ct. App. 1996).

Although the Human Rights Watch/Hong Kong Human Rights Monitor delegation understands the CSD's strong interest in removing the racing supplements from prisoners' newspapers and, accordingly, is not overly concerned as to this narrow issue, we find the underlying reasoning of the Court of Appeal's decision extremely disturbing. Relying on a saving clause in Part III of the Hong Kong Bill of Rights, the Court of Appeal essentially stated that prisoners are beyond the reach of the the Bill of Rights' substantive protections.¹⁴¹ Such a miserly reading of the Bill of Rights leaves prisoners entirely unprotected from abuse and is at odds with the document's basic purpose. Moreover, as an indication of the judiciary's approach to interpreting the Bill of Rights, it bodes poorly for the protection of the fundamental rights of all Hong Kong residents.

VI. WORK AND OTHER ACTIVITIES

Idleness—which leads to boredom, tensions, and violence—is the bane of the prison environment. In Hong Kong, unlike in many countries, most prisoners are kept occupied. Convicted prisoners work; juvenile prisoners are given education and vocational training; only remand prisoners have little to do. The emphasis on work, education, and training in the Hong Kong correctional system evidences the happy fact that rehabilitation is still regarded as one of the goals of imprisonment.

Work

All convicted prisoners in Hong Kong are obliged to work unless they are excused for medical or other good reasons.¹⁴² Unconvicted prisoners do not work. Under the Prison Rules, they are supposed to have the option of working,¹⁴³ but—largely because overcrowding has stretched the system's resources—this option exists on paper only.

Prison labor is employed through the Correctional Services Industries (CSI), which, according to the CSD, produced HK \$431 million worth of goods and services in 1996, an increase of HK \$33 million over the previous year.¹⁴⁴ CSI operates nearly 150 industrial workshops in the prisons. As the CSD explains:

The industries cover a wide range of trades, including laundry, garment making, silk screening, carpentry, fibreglass, precast concrete, metal work, knitting, shoe making and leather work, envelope making, printing and book-binding. Apart from industrial production, inmates are employed for general domestic services, construction and maintenance work as well as community environmental improvement work.¹⁴⁵

However, some goods made in the prisons, the Human Rights Watch/Hong Kong Human Rights Monitor delegation found, are the product of such simple and rote labor that mastering their production can be hardly be deemed a "trade." The most glaring example of this, which the delegation saw in several prisons, was cotton-ball making: inmates sitting at tables covered with piles of cotton, twirling them into little balls.

¹⁴¹The savings clause at issue provides, in relevant part, that "persons lawfully detained in penal establishments . . . are subject to such restrictions as may from time to time be authorized by law for the preservation of . . . custodial discipline." Bill of Rights Ordinance, Section 9. Citing that provision, the court stated bluntly that, with regard to prisoners, "[t]he Bill of Rights is simply not engaged." *Chim Shing Chung v. Commissioner for Correctional Services*, 6 HKPLR 313, 323 (Ct. App. 1996).

¹⁴²See Prison Rule 38. To the extent that juvenile prisoners receive education and training, this is counted as work. Prison Rule 38A. The Standard Minimum Rules also require that prisoners work. Standard Minimum Rules, Article 71(2).

¹⁴³Prison Rule 201.

¹⁴⁴Hong Kong Government web page, <http://www.info.gov.hk/info/fcsd.htm>, April 1997; David Biles and Raymond Lai Ming-kee, "Hong Kong Prisons Before the Handover," *Overcrowded Times*, Vol. 8, No. 2 (April 1997).

¹⁴⁵*Ibid.*

As the cotton balls exemplify, not all prison labor equips inmates with meaningful skills, even if it does have the benefit of keeping them busy while incarcerated. Moreover, even with those tasks that might be considered as a possible vocation, such as garment making, the Human Rights Watch/Hong Kong Human Rights Monitor delegation noticed that overcrowding has to some extent overwhelmed the workshops, with one result being that there may be two or three inmates assigned to a machine for which only one is needed.

The final benefit to prisoners of being employed while incarcerated is, of course, the possibility of earning money. In accordance with international standards, the Hong Kong prison authorities pay inmates for their labor.¹⁴⁶ The pay offered is minimal, however, though it varies a great deal depending upon the work involved and the inmate's experience.¹⁴⁷ Out of the salary received, inmates must save a mandatory 10 percent; the rest can be spent on canteen items.

Education

All young offenders, with the exception of those held at the Hei Ling Chau Addiction Treatment Centre and the Sha Tsui Detention Centre, receive a half-day of education per day.¹⁴⁸ Particularly useful educational offerings, such as computer training, are provided to training center inmates, who receive a half-day of vocational training in addition to the half-day of education. The Human Rights Watch/Hong Kong Human Rights Monitor delegation visited several classes at the juvenile facilities it inspected, finding that class sizes were reasonable and class facilities were well maintained. Several teachers, however, informed the delegation that because of insufficient numbers of custodial staff to post in the classrooms, security was often quite lax and violent outbursts occasionally occurred.¹⁴⁹ They described a January 1997 incident at Pik Uk as a case in point: eight Vietnamese prisoners fought in a classroom, using tables and chairs as weapons, and one sustained injuries serious enough to require a hospital visit. Since teachers working in the prisons lack the security training provided to correctional officers, they feel ill-equipped to deal with such dangers.

Despite these problems, the emphasis placed on educating inmates under twenty-one is to be commended. In contrast to the emphasis placed on juvenile education, adult education gets fairly short shrift. Classes are given to adult prisoners in the evenings on a voluntary basis.

Almost all of the facilities visited by the Human Rights Watch/Hong Kong Human Rights Monitor delegation had ample, well-stocked libraries. The two libraries at Hei Ling Chau Addiction Treatment Centre, however, had just a few cabinets of books; the CSD might want to consider expanding it.

Idle Remands

The exception to the general rule of inmate activity is the situation of unsentenced, or remand prisoners. At Lai Chi Kok Reception Centre, Tai Lam Centre for Women, and Pik Uk Correctional Institution, the Human Rights Watch/Hong Kong Human Rights Monitor delegation found that unsentenced prisoners have little or nothing to do besides sit and watch television, play board games, or read the newspaper.¹⁵⁰ Women at Tai Lam, in fact, were

¹⁴⁶See Standard Minimum Rules, Article 76(1).

¹⁴⁷Under the Inmate Earning Scheme, bottom-level detention center and training center inmates may earn as little as HK \$4.05 a week (US \$0.52), while skilled adult prisoners may earn up to HK \$89.28 a week (US \$11.53). Correctional Services Department, "Inmate Earning Scheme" (on file with Human Rights Watch).

¹⁴⁸The educational offerings at Hei Ling Chau and Sha Tsui are extremely limited.

¹⁴⁹Interview, members of the Hong Kong Chinese Civil Servants' Association, March 28, 1997.

¹⁵⁰At Pik Uk, we were informed that janitorial duties were available to unsentenced prisoners who chose to work, but we were unable to confirm this. Interview, Hung Wai Cheung, senior superintendent, Pik Uk Correctional Institution, March 19, 1997.

assigned to tables and required to sit at them all day, only getting up for meals, exercise, and when they had permission to use the bathroom. This level of discipline seems unjustifiably high for prisoners who are, after all, presumed innocent.

Religion

The CSD employs two full-time chaplains who are responsible for coordinating the activities of all faiths within the prison. All other religious work in the prisons is done on a volunteer basis.

The Human Rights Watch/Hong Kong Human Rights Monitor delegation heard no allegations of a lack of religious freedom in the prisons. Chaplains stated that the CSD is extremely cooperative and in no way interferes with their work with prisoners.¹⁵¹ Further accommodation of prisoners' religious beliefs is evidenced in the Prison Rules, which make special provision for the requirements of different religions, including Islam and Judaism.¹⁵²

Still, given that the vast majority of the prison population consists of ethnic Chinese, many of whom may well ascribe to the Buddhist, Taoist or Confucian tradition, there is a marked lack of traditional Chinese religious activity in the prisons. The two official chaplains are Christian, as are many of the volunteers. In only one prison did the Human Rights Watch/Hong Kong Human Rights Monitor delegation see that prisoners are allowed to make small Chinese shrines, which are otherwise so commonly found in the streets, shops, and homes of Hong Kong.

Recreation

CSD policy, in accordance with the Standard Minimum Rules, is that prisoners receive at least one hour of outdoor exercise per day. Because of the strains caused by overcrowding, we heard that this hour has been somewhat eroded at certain facilities, verging on forty minutes.

VII. SPECIAL CATEGORIES OF PRISONERS

Women

Like prison populations everywhere, the Hong Kong prison population is largely male. Women prisoners do, however, account for 12 percent of the prison population, a far higher proportion than found in most prison systems. It should also be noted that the women's prison population has grown at a tremendous rate in recent years, tripling since 1985.

The rise in the women's prison population, much more so than the men's prison population, is mainly due to the influx of mainland Chinese into the prison system. A significant proportion of these women are sex workers who have been prosecuted for immigration violations, usually working without an employment visa. Nearly half of the inmate population at Tai Tam Gap Correctional Institution, for example, is made up of mainland Chinese.¹⁵³ The other significant factor in the growth of the women's prison population is the larger numbers of female drug addicts entering the penal system.

¹⁵¹Interview, Father Sean Burke, prison chaplain, April 8, 1997; interview, Father Rob Gillion, prison chaplain, March 20, 1997.

¹⁵²See Prison Rules 41, 44 and 15.

¹⁵³Interview, Eric Law, superintendent, Tai Tam Gap Correctional Institution, March 18, 1997.

In the past two years, in order to cope with this rapid growth, the CSD opened both a medium security women's prison and drug addiction treatment center at Chi Ma Wan, converting a former Vietnamese detention camp. Prior to the inauguration of these facilities, the two existing women's facilities suffered from extremely acute overcrowding. Tai Lam Centre for Women, for example, once held 817 prisoners in space designed for 278.¹⁵⁴ Still, even with the new facilities, three out of four women's institutions remain markedly overcrowded. Nonetheless, no new prisons for women are planned.

The Prison Rules specify that women prisoners must be supervised by women guards.¹⁵⁵ In compliance with this rule—and with international standards¹⁵⁶—very few male staff members work in the women's prisons, and those that do are accompanied by a female officer when they come into contact with prisoners.¹⁵⁷ Notably, however, all four of Hong Kong's women institutions are run by male superintendents.¹⁵⁸

Under the Prison Rules, incarcerated women have the right to keep their babies with them in prison until the babies reach nine months old, with the additional possibility of keeping them until age three.¹⁵⁹ At Tai Lam Centre for Women, when the delegation visited, eight women inmates had infants with them. Mothers with babies stay in special nursery area. In addition, the facility has a very pleasant play room, full of toys, for children up to age six who are visiting their incarcerated mothers. At the mothers' request, the children are allowed half-day contact visits with them up to once a week.

Juveniles

Hong Kong has five institutions for juvenile offenders: four for males and one for females. In addition, some male juveniles are held in a separate section of the Hei Ling Chau Addiction Treatment Centre.¹⁶⁰

The Hong Kong prison authorities espouse a strongly rehabilitative ethic in their treatment of juvenile prisoners. Reflecting this emphasis, facilities for juveniles include not just prisons but also "training centers" and, for

¹⁵⁴Interview, Poon Yin-wang, superintendent, Tai Lam Centre for Women, March 25, 1997.

¹⁵⁵Prison Rule 7. Moreover, Prison Rule 5A provides that "[n]o officer of the Correctional Services Department or other person employed in a prison shall enter a cell or dormitory allocated to a prisoner of the opposite sex unless accompanied by another officer or another person employed in the prison who is of the same sex as the prisoner."

¹⁵⁶Article 53(3) of the Standard Minimum Rules states that:

Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

In the same vein, Article 53(2) of the Standard Minimum Rules bars male staff members from entering women's facilities or sections outside of the presence of a female officer.

¹⁵⁷For example, Tai Lam Centre for Women had only two male staff members in contact positions with women prisoners, the superintendent and a technical instructor; Tai Tam Gap Correctional Institution, which houses young women under twenty-one, had only a male superintendent and schoolmaster.

Even with such few male staff, incidents of abuse have occurred. In May 1989 a boiler room instructor at Tai Tam Gap sexually assaulted a female inmate. He was later convicted of two counts of indecent assault and was sentenced to thirty months' imprisonment. Letter from Au Siu-hau, CSD, to the Hong Kong Human Rights Monitor, April 7, 1997.

¹⁵⁸The Human Rights Watch/Hong Kong Human Rights Monitor delegation was told that in the past there had been two women superintendents. Interview, Poon Yin-wang, superintendent, Tai Lam Centre for Women, March 25, 1997.

¹⁵⁹Prison Rule 21.

¹⁶⁰As mentioned above, Category A girl prisoners, as well as other girl prisoners who are found to be unmanageable at the juvenile facility, are also held at Tai Lam Centre for Women, an adult women's facility. Accordingly, at the time of the delegation's visit, a seventeen-year-old girl charged with murder was being housed there.

males, a detention center. While employing different approaches, both of these types of facilities are meant to make juvenile inmates more apt to lead a law-abiding life upon release. This forward-looking focus is further reinforced by the mandatory post-release supervision that training center and detention center inmates must undergo. Nearly half of all juveniles sentenced to terms of imprisonment were placed in either training center or detention center programs.

The primary purpose of training centers is to equip juveniles with useful skills.¹⁶¹ To that goal, all training center inmates are given half-day education classes and half-day vocational training. At Pik Uk Correctional Institution and Tai Tam Gap, the Human Rights Watch/Hong Kong Human Rights Monitor delegation saw training center inmates receiving computer and language instruction.

Young males may also be sent to Sha Tsui Detention Centre, a medium security facility that administers a high intensity quasi-military program (descriptively named "short sharp shock"). Sha Tsui includes two separate groups, one consisting of detainees between fourteen and twenty years old, and the other of those between twenty-one and twenty-four. The stated purpose of the detention center program, an ambitious one, is "to instil in young male detainees a respect for the law, to create self-respect and an awareness of neglected capabilities in legitimate pursuits as well as an ability to live with other people in harmony."¹⁶²

The primary means by which the detention center program seeks to achieve these ends is through strict discipline. Where prisoners at other Hong Kong correctional facilities are orderly, juveniles at Sha Tsui are rigidly controlled. In their cells, for example, almost all personal items are banned (no radios and no cassette players, for example), and the few personal items allowed—such as a toothbrush, a book, a comb—must be kept in precise places. Their shoes must be neatly placed in a specific spot under the bed, and their clothes must be precisely folded. Besides an emphasis on physical labor—grass cutting, maintenance and construction¹⁶³—inmates are subject to a substantial amount of drilling. Staff at Sha Tsui, we were told, perceive themselves as instructors rather than guards, and the grounds of the facility are filled with inmates marching around shouting "left, right, left, right," and following these instructors' commands.

¹⁶¹Three facilities for male juveniles administer a training center program. Cape Collinson Correctional Institution is a training center for fourteen to seventeen year olds. Lai King Training Centre houses inmates between eighteen and twenty years old. Pik Uk Correctional Institution, a maximum security facility holding inmates between fourteen and twenty years old, operates as a remand center, a training center and a prison. The three groups are kept separate from each other.

The training center for female juveniles is located at Tai Tam Gap Correctional Institution.

¹⁶²Correctional Services Department, *Hong Kong Correctional Services Annual Review 1995* (Hong Kong: Government Printer, 1996), p. 7.

¹⁶³Prior to a critical 1992 review, which was provoked by the death of a detention center inmate in questionable circumstances, the work program included rock-breaking. Interview, Choy Tin Bo, acting senior superintendent, Sha Tsui Detention Centre, April 12, 1997. On the recommendation of the working group responsible for the 1992 report, that aspect of the program was dropped.

Another change, perhaps more telling, involved the facility's name. As the 1992 report stated: "[T]he Chinese name of STDC connotes the meaning of enslavement. It is recommended to rename it."

The CSD has impressive statistics to bolster its assertions that the detention center program's effectiveness is proved by its graduates' low recidivism rates.¹⁶⁴ Academics have challenged these statistics, however, arguing that the methods used to calculate recidivism are faulty.¹⁶⁵ Regardless of whether the program results in low recidivism, the lack of privacy, autonomy, and individual expression permitted detention center inmates is of concern to the Human Rights Watch/Hong Kong Human Rights Monitor delegation. On the other hand, we were impressed with the facility's emphasis on parent-inmate relations, reflected in, among other things, the superintendent's blanket approval of daily contact visits.

Foreign Prisoners

Besides local prisoners and mainland Chinese, the Hong Kong prisons house some 800 foreign prisoners from a variety of countries. Many of these prisoners have expressed concerns about the impending transfer of sovereignty.¹⁶⁶

On July 1, 1997, all previously existing prisoner transfer treaties, by which prisoners may arrange to serve out their sentences in their home countries, will lapse.¹⁶⁷ Some prisoners have reportedly been making hurried last-ditch efforts to effect a transfer before this deadline.¹⁶⁸ In addition, the Hong Kong authorities are in the midst of negotiations with several countries to work out new transfer arrangements.

Foreign prisoners told the Human Rights Watch/Hong Kong Human Rights Monitor delegation of encountering frustrating language difficulties in their relations with CSD staff. One Nigerian prisoner also described racial discrimination and, in particular, guards' use of racial slurs.¹⁶⁹

The Mentally Ill

Inmates with mental problems are housed at the Siu Lam Psychiatric Centre.¹⁷⁰ In appearance, the facility is quite pleasant: its rooms and corridors are spacious, airy, and painted in soothing colors. It also possesses attractive gardens with flowers, fish, and birds, tended by some of the inmates. As the facility is located on the side of a hill, inmates held there enjoy rather dramatic views of the surrounding area.

The majority of the psychiatric patients held at Siu Lam are schizophrenic, but there are also inmates suffering from clinical depression, manias, and severe mental deficiencies.¹⁷¹ (Since no member of the Human Rights

¹⁶⁴The Human Rights Watch/Hong Kong Human Rights Monitor delegation was told that two years after the expiration of the one-year supervision order, 80 percent of inmates have not re-offended. Ibid.

¹⁶⁵See Jon Vagg, "Corrections," in *Crime and Justice in Hong Kong* (Traver and Vagg, eds., Hong Kong, 1991), pp. 147-50; R.G. Broadhurst, "The Hong Kong Penal System and the Convention Against Torture and Related International Human Rights Instruments," in Paul Byrne ed., *The Hong Kong Penal System: Compliance with U.N. Standards in Hong Kong and the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Centre for Comparative and Public Law, and Faculty of Law, Hong Kong University, December 1995, p. 59.

¹⁶⁶Interviews, Lai Chi Kok Reception Centre, March 21, 1997; Tai Lam Centre for Women, March 25, 1997.

¹⁶⁷Through the extension of treaties to which Britain is a party, Hong Kong has prisoner transfer arrangements with twenty-four countries.

¹⁶⁸Wanda Szeto and Stella Lee, "Nervous Prisoners Seek Transfers," *South China Morning Post*, March 9, 1997.

¹⁶⁹Interview, Lai Chi Kok Reception Centre, March 21, 1997.

¹⁷⁰Not all of the inmates held at Siu Lam are mentally disturbed. The facility also has a security unit for prisoners who have testified for the prosecution in criminal cases, and, as discussed in Section IV, a behavior adjustment unit for inmates who present management problems. On the date of our visit, approximately four-fifths of the 235 prisoners at the facility were there for mental health reasons.

¹⁷¹Interview, medical officer, Siu Lam Psychiatric Centre, March 27, 1997.

Watch/Hong Kong Human Rights Monitor delegation has medical training, we did not independently assess inmates' mental conditions.) Siu Lam's psychiatric team, who divide their time between Siu Lam and a local hospital, consists of two consulting psychiatrists, a senior registrar, an acting senior medical officer, and two medical officers.

Britain's Royal College of Psychiatrists (RCP) visited Siu Lam in late 1995 and apparently issued a report of its findings in 1996. The Human Rights Watch/Hong Kong Human Rights Monitor delegation was unable to obtain a copy of the report, but newspaper accounts stated that the RCP team expressed concerns over the "outdated" conditions and methods used at the facility.¹⁷² When questioned about the report, the superintendent at Siu Lam claimed not to have read it, though he added that "big improvements" had been made at the facility.¹⁷³

The most obvious deficiency at Siu Lam is its severe shortage of qualified psychiatric nurses. Although according to a recent CSD report the facility should have ninety-seven nurses, it has almost precisely half that figure.¹⁷⁴ Exacerbating this deficiency, many nurses, who also trained CSD security staff, are assigned non-nursing duties such as manning the guard towers.¹⁷⁵ Nurses explained that, as a result, they had little time to provide the individualized treatment that patients needed—little time, in fact, even to open patients' files. In their view, many of the problems at Siu Lam arose from its hybrid status as both a prison and a mental institution.¹⁷⁶ In general, the CSD's natural focus on security worked to the detriment of serving prisoners' mental health needs.

Besides Siu Lam, several other institutions have padded cells (called protected rooms) in which to temporarily place prisoners who have become violent or unmanageable. On inquiring about these rooms, the Human Rights Watch/Hong Kong Human Rights Monitor delegation found that corrections staff generally could not even remember when they were last used; in one facility, in fact, the room was used for storage. Mechanical restraints, similarly, appear to be rarely used within the prisons (although they are used in the outside transport of certain prisoners).

The Drug Addicted

As mentioned previously, a large proportion of the Hong Kong penal population consists of drug addicts, primarily heroin addicts. Because of the severity of these drug problems, the CSD operates two drug addition treatment centers for inmates sentenced by the courts to mandatory treatment: one at Hei Ling Chau, for men, and one at Chi Ma Wan, for women. The focus of these centers—as with juvenile detention centers—is on discipline and open-air exercise. Methadone treatment, although it is regularly employed outside of the penal context in Hong Kong, is not available in the centers.

¹⁷²Niall Fraser, "Hospital Not Jail Plea for Insane," *Eastern Express*, May 1, 1996.

¹⁷³Interview, Wong Wai Man, superintendent, Siu Lam Psychiatric Centre, March 27, 1997.

¹⁷⁴At the time of our visit, there were thirty-four registered nurses (who have three years' nursing training) and fourteen enrolled nurses (who have two years' nursing training) employed at Siu Lam. The superintendent stated that almost thirty nurses were undergoing training, and he expected them to remedy the deficit to some extent. *Ibid.*

¹⁷⁵Interview, members of Hong Kong Chinese Civil Servants' Association, Correctional Service Officers (Psychiatric Nurse) Branch, March 28, 1997.

¹⁷⁶*Ibid.*

Besides those held in treatment centers, many drug addicts are found in the regular prisons. In all of these facilities, obligatory urine tests (EMIT tests) are regularly administered to inmates. Indeed, in some facilities one-quarter of the inmate population is tested each month, without any requirement of either a particularized or generalized suspicion of drug use.¹⁷⁷ Contact visits and trips to court give rise to additional drug tests. To be sure, the high incidence of drug use among the penal population and the adverse impact of drugs within the prison environment may justify the intrusion on inmates' privacy interests represented by drug testing.¹⁷⁸ Nonetheless, in the delegation's view, the CSD should consider adopting a more nuanced drug testing policy, which takes into account whether there is evidence of drug use either by a particular prisoner or in a particular institution.

VIII. MONITORING OF TREATMENT AND CONDITIONS

One of the tests of a good prison system is the extent to which it has effective mechanisms in place to monitor conditions and report abuses.¹⁷⁹ In Hong Kong, there is a superficial profusion of prison monitoring bodies. Prisoners' grievances may, in principle, be aired before a variety of audiences, including the CSD's internal bodies, visiting justices of the peace, the office of the ombudsman, and the courts. Undoubtedly, the oversight provided by these bodies aids in preventing abuses and keeping the system in good shape. The Human Rights Watch/Hong Kong Human Rights Monitor delegation found, however, that for a number of reasons the protection provided by these bodies is incomplete.

Although the existing system with regard to monitoring falls short of the ideal, it does have some extremely praiseworthy aspects. Most notably, all of the territory's penal facilities are replete with announcements informing prisoners of their right to complain. These announcements are found in all areas of the prisons, including punishment cells, and are translated into languages spoken by almost all prisoners (English, Chinese, and Vietnamese).¹⁸⁰ In the delegation's view, these announcements are a healthy reminder to both prisoners and staff that the prisons are not closed to outside scrutiny.

Another important innovation is the newly enacted rule by which all correspondence between prisoners and "specified persons"—which include legislators, justices of the peace, the ombudsman, and various other governmental authorities—cannot be read by CSD staff, and cannot even be opened to check for contraband except in the presence of the prisoner.¹⁸¹

Internal CSD Monitoring

¹⁷⁷See Prison Rule 34A.

¹⁷⁸See *A.B. v. Switzerland*, App. No. 20872/92, 80-B Eur. Comm'n H.R. Dec. & Rep. 66 (1995) (dismissing complaint filed by inmate challenging prison urine testing).

¹⁷⁹See Standard Minimum Rules, Article 55 (mandating that "qualified and experienced inspectors" regularly review conditions in the prisons).

¹⁸⁰There was more than one standard announcement, but the following one, which was titled "Channels of Complaint," is typical:

If you have any complaint, you can approach the Superintendent or any staff on duty in the institution. Also, you may approach any Senior Officer visiting the institution or, if you wish, direct your complaint to the Complaints Investigation Unit of this department, the Office of the Ombudsman or the Office of Members of the Legislative Council.

¹⁸¹Prison Rule 47C.

The CSD has two monitoring bodies within its Inspectorate and Management Services Division. The Inspection Unit (IU) is responsible for monitoring departmental compliance with the relevant ordinances, rules and departmental policies; it conducts regular and ad hoc inspections of penal facilities. In 1995, it conducted a total of forty-six inspections.¹⁸² The Complaints Investigation Unit (CIU), which consists of nine investigators and two supervisory staff, is responsible, among other things, for investigating prisoners' complaints of abuse or mistreatment. It received 181 complaints from prisoners in 1996, but found only four to have merit.¹⁸³ Although without more information it is impossible for the Human Rights Watch/Hong Kong Human Rights Monitor delegation to reach any conclusions about the validity of the particular cases that were dismissed, we note that four out of 181 cases is a very low substantiation rate. The record from past years is comparable.¹⁸⁴

Regardless of the seriousness with which these bodies approach their responsibilities, our experience convinces us that internal departmental monitoring of prison conditions is inherently insufficient. First, fearing retaliation, prisoners often hesitate to complain to internal bodies of mistreatment by prison staff. Given the adversarial atmosphere that tends to reign in the prison context, they assume that such bodies are biased in favor of departmental staff. Second, whether the problems found are serious or relatively trivial, outside bodies are freer to criticize and, if necessary, to draw public attention to abuses. The pressing need for transparency and accountability in the operation of prisons militates in favor of outside oversight.¹⁸⁵

Justices of the Peace

Justices of the peace (JPs) are counted as the primary mechanism for outside monitoring of Hong Kong's prisons. Appointed by the Governor, JPs enjoy an array of formal powers, although their main practical function is to visit prisons and other institutions.¹⁸⁶ The job of JP is not a full-time occupation, but rather more of an honorary post. JPs include both government officials, known as official JPs, and members of the public, known as unofficial JPs.

According to the Prison Rules, each prison is to be visited by two justices of the peace (one official and one unofficial) every fifteen days.¹⁸⁷ Training centers, detention centers, and drug addiction treatment centers, in contrast, receive JP visits once a month. Within this prescribed period, JPs have considerable flexibility to choose the date and time of their visits, and they can arrive without giving prior notice. JPs normally receive a fifteen-minute to half-hour orientation from the facility's superintendent, then they tour the facility in the company of the superintendent or a high-ranking officer. Although the amount of time spent at the facility varies according to its size and the JPs' preferences, they normally spend between one and a half to three hours per visit.

¹⁸²Correctional Services Department, *Hong Kong Correctional Services Annual Review 1995* (Hong Kong: Government Printer, 1996), p. 25.

¹⁸³Letter from Au Siu-hau, CSD, to the Hong Kong Human Rights Monitor, April 7, 1997.

¹⁸⁴According to official CSD figures, nine out of 171 inmate complaints were found to be substantiated in 1995; eleven out of 154 were found to be substantiated in 1994, and seven out of ninety-five were found to be substantiated in 1993. Correctional Services Department, *Hong Kong Correctional Services Annual Review 1995*, Appendix 12.

¹⁸⁵With regard to the possibility of publicly reporting abuses, a recent amendment to Prison Rule 76 is notable. The rule previously barred CSD officers from whistle-blowing; indeed, it barred them from communicating with anyone about the prisons or about prisoners. Recently, a new, much narrower rule went into effect that only prevents CSD officers from divulging information that would interfere with a prisoner's privacy or affect prison security.

¹⁸⁶Most of their formal powers, which reportedly include the power to issue arrest warrants, may soon be stripped if a pending bill is passed. See Gren Manuel, "JPs No Longer Swear Allegiance to Queen," *South China Morning Post*, March 8, 1997.

¹⁸⁷Prison Rule 222(1). JPs also inspect the detention centers holding Vietnamese asylum-seekers.

The Human Rights Watch/Hong Kong Human Rights Monitor delegation found serious defects in the approach and methodology of Hong Kong's system of JP visits. To begin with, because JPs have no specific training or experience in prison matters, they are ill-prepared to delve beneath the surface in investigating conditions. In addition, their visits are largely overseen by the prison authorities. One knowledgeable observer, commenting on this problem, described the JPs' prison tours as "staged visits."¹⁸⁸ Indeed, the Prison Rules specifically mandate that a high-ranking officer accompany the JPs around the prison and "bring before them" any prisoners wishing to speak to them.¹⁸⁹ Although a few prison officials stated, when pressed on this point, that the JPs might if they preferred speak with prisoners privately, it is quite clear that the normal practice is for JPs to speak with prisoners in the presence of prison officials.¹⁹⁰

The lack of confidential communications between prisoners and JPs flies in the face of the requirements of the Standard Minimum Rules, which state that during prison inspections, "[t]he prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director [of the prison] or other members of the [prison] staff being present."¹⁹¹ While many prison officials seem not to have contemplated the possibility that prisoners and JPs might speak to each other privately, others are openly hostile to the idea. One superintendent, when asked why this is not the normal practice, stated bluntly that "it has to do with who is running the prison. The VJ [visiting justice of the peace] is not running the prison."¹⁹²

At the close of their visit, the JPs write up their comments in a log book, describing their impressions of the prison and any complaints made to them. The Human Rights Watch/Hong Kong Human Rights Monitor viewed these comments at every facility that we visited. We found them to be brief and almost uniformly uncritical. At High Island Detention Centre, for example, a facility that the delegation found to be in serious need of improvement, we read with surprise the JPs' comments of only one month earlier. In what, to the delegation, was an enormous understatement, the JP noted: "The sanitary conditions were not entirely satisfactory . . . [but] overall, the centre was in good order."¹⁹³

Finally, the JP system suffers from a serious lack of continuity and follow-through. Instead of repeat visits by the same inspector over a period of time, which would permit that person to evaluate whether conditions were improving and recommended improvements were being implemented, every fifteen days a different set of JPs visits.

Office of the Ombudsman

¹⁸⁸Interview, prison chaplain, April 3, 1997.

¹⁸⁹Prison Rule 117.

¹⁹⁰Judging from comments written in the JP's log books, few JPs view this lack of privacy as a problem (further evidencing their lack of prison experience). One JP touring a juvenile detention center did note, however, that "in such a highly disciplined environment it is unlikely that inmates would request to speak to a JP at attention and under the eyes of staff." Comment written in JP log, Sha Tsui Detention Centre, May 25, 1995.

The announcements posted in the prisons do mention the possibility of private interviews with JPs. They say, however, that such interviews "can be arranged by the Superintendent." To request the superintendent to arrange a private interview would, of course, draw great attention to the prisoner. Given this fact, it is unsurprising that public interviews are the standard procedure.

¹⁹¹Standard Minimum Rules, Article 36(2).

¹⁹²Interview, Rick Wing, senior superintendent, Ma Po Ping Prison, April 2, 1997.

¹⁹³Comment written in JP log, High Island Detention Centre, February 28, 1997. Earlier comments had been even more laudatory. One said: "We were impressed by the orderliness, cleanliness and the general conditions in which the centre is being kept, and also by the centre staffs' sense of commitment, despite that the centre is in a winding down situation." Comment written in JP log, High Island Detention Centre, December 19, 1996.

The Office of the Ombudsman is charged with “redressing grievances and addressing issues arising from maladministration in the public sector.”¹⁹⁴ This monitoring and investigative body has existed for some time, but it only quite recently became active in the prisons. While the ombudsman had received scattered complaints from prisoners in the past—from July 1995 to June 1996, for example, he received sixty-six prisoners’ complaints—the number of complaints received rose significantly after July 1996, when he initiated a campaign to increase inmates’ awareness and access to the office. At that time the CSD, acting on the ombudsman’s suggestion, began posting announcements in the prisons informing inmates of their right to lodge complaints with the ombudsman, and making confidential aerograms available to them for this purpose.¹⁹⁵

At our meeting with the deputy ombudsman, the Human Rights Watch/Hong Kong Human Rights Monitor delegation was informed that the ombudsman’s office had received some 200 complaints from prisoners since July 1996.¹⁹⁶ With a prison team of five investigators, the ombudsman has the power of direct investigation, and can even demand official statements under oath. The ombudsman has a limited mandate to hear complaints: most notably, they cannot involve a crime (thus no cases of excessive force by guards), and they must be submitted by the prisoners themselves, not by relatives.

The deputy ombudsman was unable to give the delegation any details regarding the 200 cases received, but he did describe the procedures for handling cases.¹⁹⁷ After ascertaining whether the complaint falls within the office’s jurisdiction, it is normally referred to the CSD through an internal complaint handling procedure. Attempts are made—usually successfully—to resolve the complaint at this level.¹⁹⁸ If, however, the complaint cannot be satisfactorily resolved and it appears that an injustice has occurred, then the ombudsman’s office undertakes an in-depth investigation that culminates in a judgment and recommendations. If these recommendations are not acted upon, the ombudsman may submit a report to the governor.

The Human Rights Watch/Hong Kong Human Rights Monitor delegation welcomes the ombudsman’s increased prison activity. We note, nonetheless, that the ombudsman’s mandate is extremely complaint-specific and reactive: he does not conduct broad investigations or formulate broad recommendations for improving the prison system. In addition, although a few representative cases are described to the public in the ombudsman’s monthly reports, and a summary of the ombudsman’s work is provided in his annual reports, neither the focus nor the effect of the ombudsman’s work is to inform the public about prison conditions.

Judicial Oversight

¹⁹⁴“The Eighth Annual Report of the Commissioner for Administrative Complaints Hong Kong,” June 1996. (The Office of the Commissioner for Administrative Complaints was subsequently renamed the Office of the Ombudsman.)

¹⁹⁵The ombudsman also wanted to install a telephone hotline in the prisons, a proposal rejected by the CSD. Interview, Chan Ying-lun, deputy ombudsman, March 25, 1997.

¹⁹⁶Ibid.

¹⁹⁷He stated that the ombudsman would be releasing his annual report in mid-summer, which would contain statistical information regarding complaints received and their outcomes. Ibid.

¹⁹⁸The deputy ombudsman complimented the CSD on its handling of this procedure, stating that the department responded rapidly to the ombudsman’s queries and conducted very thorough investigations. Ibid.

As evidenced by the legal cases described in previous chapters of this report, prisoners occasionally go to court to challenge their treatment. These cases are extremely important because of the judiciary's broad power to protect the rights of Hong Kong residents and, in particular, to enforce the protections contained in Bill of Rights. It should be emphasized, however, that few prisoners have the financial resources necessary to litigate cases involving prison abuses.¹⁹⁹ In addition, the Court of Appeal's recent decision in *Chim Shing Chung*, discussed above, discourages hopes that the courts will take any kind of a leading role in protecting prisoners' rights.

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¹⁹⁹Besides their own lawyer's fees, which may obviously be substantial, under Hong Kong law the losing parties may be assessed the entire costs of the case. Thus Chim Shing-chung, the plaintiff in the newspaper censorship challenge, not only lost his case in the end, he was also ordered to pay several hundred thousand dollars in costs (tens of thousand of U.S. dollars). Neil Western, James Kelly and Ella Lee, "Convicts Lose their Chance for a Flutter," *Hong Kong Standard*, August 1, 1996. It may be possible for prisoners to obtain free legal services under the Legal Aid scheme in some instances, but to do so is not easy.

Human Rights Watch/Asia

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Hong Kong Human Rights Monitor

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Web Site Address: <http://members.hknet.com/~hkhrm/>

APPENDIX

The following table compares the certified capacities and the actual populations of Hong Kong's twenty-two correctional facilities as of March 27, 1997.

Prison	Certified Capacity	Population as of March 27, 1997
Cape Collinson Correctional Institution	230	166
Chi Ma Wan Treatment Centre	250	205
Chi Ma Wan Correctional Institution	364	572
Hei Ling Chau Addiction Treatment Centre	964	823
Hei Ling Chau Correctional Institution	532	705
Lai Chi Kok Reception Centre	960	1,347
Lai King Training Centre	260	234
Lai Sun Correctional Institution	326	259
Ma Hang Prison	220	203
Ma Po Ping Prison	650	759

Prison	Certified Capacity	Population as of March 27, 1997
Pik Uk Correctional Institution	385	460
Pik Uk Prison	600	661
Sha Tsui Detention Centre	231	190
Shek Pik Prison	450	766
Siu Lam Psychiatric Centre	270	237
Stanley Prison	1,584	1,947
Tai Lam Centre for Women	278	525
Tai Lam Correctional Institution	590	676
Tai Tam Gap Correctional Institution	160	229
Tong Fuk Centre	400	396
Tung Tau Correctional Institution	300	455
Victoria Prison	438	487

Previous Human Rights Watch Reports on Prison Conditions and the Treatment of Prisoners

The Human Rights Watch Global Report on Prisons, 1993
Prison Massacre in Sao Paulo (Brazil), 1992
Prison Conditions in Brazil (Available in Portuguese), 1989
Prison Labor in China, 1991
Yao Yongzhan: A Year in a Chinese Jail, 1990
Prison Conditions in Czechoslovakia: An Update, 1991
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Prison Conditions in Romania, 1992
Prison Conditions in South Africa, 1994
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Prison Conditions in Turkey, 1989
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Prison Conditions in Puerto Rico, 1991
Prison Conditions in the Soviet Union, 1991
Punishment Before Trial: Prison Conditions in Venezuela, 1997
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