# PRISON CONDITIONS IN POLAND

## An Update

January 1991

A Helsinki Watch Report

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## Human Rights Watch



## The Prison Project

The Prison Project, established in 1988, cuts across the five regional divisions of Human Rights Watch to focus on a single issue: prison conditions worldwide. The Prison Project has investigated conditions for sentenced prisoners, pre-trial detainees and those held in police lockups. It examines prison conditions for all prisoners, not just political prisoners. The work of the Prison Project is guided by the Prison Advisory Committee, whose chairman is Herman Schwartz. Other members are: Nan Aron, Vivien Berger, Haywood Burns, Alejandro Garro, William Hellerstein, Edward Koren, Sheldon Krantz, Benjamin Malcolm, Diane Orentlicher, Norman Rosenberg, David Rothman, Rita Simon, and Clarence Sundram. The director of the Project is Joanna Weschler.

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## PREFACE

Prison reform often seems a quixotic and hopeless enterprise. The names and faces change, but the misery does not.

Astonishing improvements in Polish prisons during the last two years show that it does not have to be that way. If the governing authorities want to, they can make major improvements even when there is little money available to them.

The changes may be summarized as follows:

1. The prison population has fallen from 114,834 in June 1986 to 50,365 as of October 31, 1990.

2. Operation of the prison system was turned over to civilians, first a former judge and now a penologist. Previously, the system was directed by an official of the Ministry of Interior, which also controls the police.

3. The widespread and routine beatings that were common a few years ago have ended. All the inmates that were interviewed, as well as outsiders, agreed there is no evidence that such practices were still going on. Staff attitudes have also changed from abusive to almost always correct. Disruptive searches have also ended.

4. Outsider visits by journalists, legislators, the Ombudsman and others are permitted. There is now an effective Ombudsman, with a staff that takes prison problems seriously.

5. Clothing is no longer a problem; all prisoners we saw were decently clothed.

6. Visits and mail for sentenced and indicted prisoners are no longer interfered with, though there are many delays in pre-trial detainee mail. The mail is still censored in both directions.

7. Religious services and practices are now allowed for

sentenced prisoners.

8. "Blinds" -- closed plexiglas windows -- have been removed, so that air can circulate more freely.

There are continuing problems, however. They include, most importantly:

1. Pre-trial detention.

   (a) A system in which people are kept in prison during the investigative stages for what can be very long periods. During this period, prior to indictment, they are, with rare exceptions, under the complete control of the prosecutor and may get visits from lawyers or family only if he allows it.

   (b) Even after indictment, pretrial detainees may be held in prison pending trial for long periods. They are isolated from one another, and may go for months without seeing anyone other than those in their cell. They usually do not work and are kept locked in their cells (which have solid metal doors) all day except for a boring hour walk in a circle in a small walk-way, and some television a few nights per week. Pretrial detainees suffer more than any other prisoners, despite the presumption of innocence.

2. Crowding. Despite the reduction in the prison population, the cells are still too small, often very crowded, stuffy and hot.

3. Punishment. Isolation (solitary confinement) for up to 6 months was still practiced in some prisons as of July 1989. Solitary confinement up to 6 months is legal under the current regulations.

4. Plumbing is primitive. Toilets are in the cell, often with only a low partition. In some places, buckets are still in use. Many of the prisons are centuries old, and there is probably no money for replacements.

5. Food is monotonous, meager and poor in quality.

6. Work is available for sentenced prisoners, but pay is very low. Some working conditions are dangerous. The economic changes of 1990 and the threat of unemployment in Poland led to the decrease in work opportunities for inmates.

7. Police lockups. The police lockups have improved but are still sometimes cramped unnecessarily, usually dim and lack any beds; in addition, some hold detainees for longer periods than the 48 hours stipulated by a new law.

A few words about the genesis and nature of this study.

In June 1987, on behalf of Helsinki Watch, Herman and Mary Schwartz went to Poland for interviews with recently released prison inmates. Requests to make on-site visits to Polish prisons were ignored at that time by the Polish authorities. A report was issued in the Spring of 1988 by Helsinki Watch severely criticizing the Polish prison system for brutality, gross overcrowding, poor medical care, interference with religious observance, and other inhumane conditions; widespread self-mutilation as a form of protest was also noted.

The report became the basis of a letter in 1988 by several Members of Congress to the Polish government protesting these conditions. In November 1988, the Polish government replied at length. It disputed none of the report's conclusions but instead asserted that major improvements had been undertaken and more would be; a copy of this correspondence is attached to this report in the Appendix.

Following this exchange, Helsinki Watch requested an opportunity to assess the changes by visiting some Polish prisons of our choice to conduct private, in-depth interviews with prison inmates, officials and correctional staff. The prisons included those discussed in the 1988 report, as well as some other prisons. In the Spring of 1989, the Polish government granted the request in every respect. In July, Herman Schwartz and Joanna Weschler of the Human Rights Watch staff visited some 15 prisons and police lock-ups throughout the country from July 24 to August 1, 1989. They talked to more than 150 prisoners. Not only were they allowed to go where they asked and to see whatever they wanted, but they were able to talk with prisoners in complete privacy in the prison cells, outside the hearing of prison staff, and to take pictures. In addition, prison officials, members of the Ministry of Justice, and the Ombudsman and her staff cooperated with us in every way, and were gracious hosts. We wish especially to thank Judge Romuald Soroko, the then-Director of the Polish prison system, and the former Minister of Justice Łukasz Balcer, who were responsible for the invitation and the many courtesies extended to us.

A few days after our 1989 visit, a dramatic political change took place in Poland: the Communists gave up power and the first non-Communist Prime Minister in the post-World War II history of Eastern Europe, Tadeusz Mazowiecki, took office.

The transformations in the entire country affected also the situation in the prisons. Accordingly, before writing this report, we decided to make a follow up visit to Poland. Joanna Weschler undertook this task in September/October 1990.

The new director of the Polish prison system, Dr. Paweł Moczydłowski, who had been appointed in the spring of 1990, authorized our visit and issued a pass allowing visits to all prisons and jails in the country without previous notice. We were able to conduct

completely surprise visits and were allowed to see everything we requested.[1]

We wish to thank Dr. Moczydłowski and his staff for their cooperation in this effort.

We also wish to thank Prof. Dr. Ewa Łętowska, the Ombudsman, for her time and advice, and Dr. Jan Malec, the head prison investigator on the staff of the Ombudsman, for his help.

This report was written by Joanna Weschler, Director of the Prison Project of Human Rights Watch, and Professor Herman Schwartz of the Washington College of Law, the American University, Washington, DC.

[1]We visited the following institutions: In 1989: The Rakowiecka Prison in Warsaw, the Women's Prison at Olszynka Grochowska near Warsaw, the Łęczyca Prison, the Łódź Prison and Investigative Jail, the Wrocław Kłęczkowska Street Prison, the Strzelin Prison, the Fordon Prison, the Grudziądz Prison, the Strzelce Opolskie I and II, the Gdańsk Investigative Jail, Braniewo Prison and Barczewo Prison, and police lockups at the Mostowski Palace, Wola District precinct and Bródno District precinct, all in Warsaw. In 1990, we visited: the Rakowiecka Street Prison in Warsaw, the Łęczyca Prison, the Grudziądz Prison, the investigative Jail in Radom and police lockups at the Mostowski Palace and the Mokotów precinct in Warsaw.

## INTRODUCTION

The 1988 report summarized the Polish prison situation as of 1987 as follows:

> Prison conditions (are) dreadful. Many prisons date from the 19th century. A 1985 report by the Academy of Social Sciences of the Central Committee of the Communist Party found that at fifteen institutions, "there is not satisfactory plumbing... at thirteen, sanitary facilities do not function." The paper urged that seven pretrial detention centers be closed immediately.
>
> Solidarity members who were in prison report that many of the cells are terribly cold in winter, when the temperature outside goes as low as -17 degrees Fahrenheit, and stifling hot in the summer. Clothing is scanty and rarely changed. Windows are often kept shut or opened just a few inches, and ventilation is bad. Some of the cells are directly on wet ground and always damp. Many are badly lit.
>
> The worst places are police lock-ups. The cells...were filthy and overcrowded - up to 14 women in a cell about 13' x 16'. There was no toilet, only a bucket, and no toilet paper. There were no sanitary napkins and menstruating women had to use their own clothing. The food was dreadful and the cells were infested with insects. No exercise was permitted.
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> Overcrowding is a severe problem throughout the Polish prison system. Poland's penal code imposes very long prison sentences[2] and its prisoner to population ratio, between 280 and 320 per 100,000, is one of the highest in Europe and North America....

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[2]According to a January 12, 1988, broadcast on the Polish radio, an official commission that has been discussing guidelines for changes in the Polish penal law found that during the last 15 years penal policy in Poland has become more stringent. The average penalty is two years and three months, whereas a dozen or so years ago it was just over one year. (Reported by Uncensored Poland No. 2/88)

Serious health problems are inevitable. Tuberculosis is common, as are herpes and other skin diseases, and degenerative bone diseases of the back and spine are common because of the lack of exercise, which for most prisoners consists of only a daily half-hour walk, often cut by the guards to 15 minutes. Prison rules forbid lying down during the day.

Women suffer particularly from gynecological ailments and kidney inflammations. Sanitary napkins are scarce everywhere, so women tear out and use the matting from mattresses. Pregnant women have it particularly hard, since there is no running water or toilets in some cells.

The medical staff... was described by one distinguished doctor as indifferent, inadequate in number, and poorly trained. The health problems are compounded by inadequate nutrition. The food lacks vitamins, and efforts to send some in are blocked by officials. There is little meat, and fresh vegetables are almost never seen.

Among the most troublesome features of the Polish prison system is the enormous amount of brutality and other physical abuse. Beating of prisoners appears to be commonplace, particularly during interrogations, and when the guards get drunk, a frequent occurrence on holidays. Clubs, fists, and very large heavy keys are used.... Hunger strikers were force fed in a particularly brutal way... by a tube through the nose.

Punishment cells are particularly severe. The "thermos box" is a very small, hot, badly ventilated, stifling isolation cell in which a prisoner is confined naked. "Hard beds" are another punishment in which prisoners are forced to sleep on wooden slats.

Prisoners have almost no recourse for relief.... The courts are not available. Prison rules setting out the rights and duties of prisoners are kept secret.... The lack of a meaningful remedy has produced a particularly bizarre form of protest, especially among younger and emotionally disturbed criminal prisoners -- self-mutilation. Many observers confirmed that prisoners slash themselves with razors and engage in horrifyingly bizarre forms of self-injury as a protest, or to be transferred out of a particularly brutal place.

In the spring of 1988, a decision was made to reform the Polish prison

system. The reasons for this decision are not clear, with conflicting explanations given to us. Whatever the reason, drastic changes were planned, and as of summer 1989, partially implemented. The most significant change was the implementation of new rules regulating pre-trial detention and the serving of sentences. The new rules went into effect on October 1, 1989, replacing the 1974[3] regulations and significantly liberalizing the regime inside Polish prisons and jails. What is particularly important, however, is the fact that Part 3 of Chapter 1 of the new regulations requires that a copy of the rules be available at every cell at all times. This is a dramatic change from the situation before, when prison rules were secret and were marked "for internal use only" on the cover.

Some elements of the new rules were already being introduced during our summer 1989 visit, although their earlier implementation had been left to the discretion of individual wardens, varying from prison to prison.

In 1990, the new rules were in effect, and copies of the documents could be seen in prison cells (although they seemed to have disappeared from some -- probably taken by an inmate being transferred and not replaced by the administration). The significant improvements resulting from these changes show how much can be accomplished if there is a will to reform conditions, even under strained economic circumstances.

[3]Issued in 1974, these regulations were called "temporary" until replaced in 1989.

## THE PHYSICAL ENVIRONMENT OF POLISH PRISONS

In our 1988 report we wrote:

> The physical environment of many and perhaps most of these institutions is intolerable. They are ancient, overcrowded, damp, stuffy, cold in winter and hot in summer. Sanitary conditions often verge on the indecent.

The physical conditions of prisons is probably the area least affected by the recent changes. The 152 Polish prisons and jails are as old and dilapidated as they were three years ago, with the exception of a few institutions where significant remodeling took place.

The one aspect influenced by recent transformations is overcrowding, which has been among the major problems related to the physical living conditions in Polish prisons. At the time the previous report was written, in 1987, no official statistics regarding the prison population were available, and numbers we received from Polish officials were incomplete. According to the statistics now obtained from the Ministry of Justice, at the time of our first investigation, as of May 30, 1987, there were 97,190 inmates (with 4.1% women and 20.3% pre-trial) in the Polish prison system. By the time of the 1989 visit, the number of inmates in the system had decreased substantially. As of June 30, 1989, there were 59,408 inmates in the country, with pre-trial detainees accounting for 17 per cent and women accounting for less than 3 per cent of the total number.[4]

An amnesty granted by the non-communist government in late 1989 reduced the number to 40,321 as of December 31, 1989, with 33.6% pre-trial and 1.8% women. A total of 12,162 persons left prisons as a result of the amnesty. By the time of our next visit, in the fall of 1990, the numbers had begun to climb

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[4] Informacja statystyczna o populacji osadzonych w aresztach śledczych i zakładach karnych w Polsce w latach 1986 - 1989. Documents obtained from the Polish Ministry of Justice.

again. As of August 31, 1990, there were 46,598 prisoners in Poland, with nearly 35 percent in pre-trial detention. Women accounted for less than 2 per cent. Officials interviewed indicated that they expected these numbers to continue to grow, due to the crime rise[5] in Poland. The stated capacity of Polish prisons and pre-trial institutions is 67,387.

The statistics above indicate that overcrowding has decreased dramatically from the period described in the first report. But visits both in 1989 and in 1990 showed overcrowding as one of the the continuing major problems and only helped us to imagine with horror how intolerable these institutions were at their peak. The new Polish prison rules mandate a minimum of 32.1 square feet of floor space per inmate, both for sentenced prisoners and those in pre-trial detention, with a possibility of reducing this requirement slightly in cases of multiple-inmate cells.[6]

These standards are low compared with other countries. In the U.S., the Federal rules stipulate a minimum of 60 square ft. per inmate in a cell,[7] and the 1981 Standards for Adult Correctional Institutions by the Commission on Accreditation for Corrections require at least 60 sq. feet per inmate when confinement does not exceed 10 hours per day. In Britain, the Minimum Standards for Prison Establishments stipulate 60 ft. of floor space, with daily confinement not exceeding 13 hours.[8]

The 32 sq. ft. per inmate requirements are currently met in Polish

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[5]The rise in crime is being attributed to the 1989 amnesty that released a large number of criminals into the society and to the decrease in the effectiveness of the police forces, which are undergoing major structural changes. It appears that the police are also less eager to pursue their duties, in response to the change in their status brought about by the political transformation.

[6]Regulamin wykonywania kary pozbawienia wolności. Warszawa 1989.

[7]Federal Standards For Prisons And Jails, U.S. Department of Justice, December 16, 1981.

[8]Minimum Standards for Prison Establishments, a NACRO report, London 1984.

prisons, although barely, and even this, with some exceptions.

## Pre-Trial Detention Centers[9]

Several of the facilities visited by Helsinki Watch during both visits held pre-trial detainees in addition to sentenced inmates. In 1989, the main difference in the physical conditions of their confinement was the use of "blinds," plexiglas panes over the cell windows, closing off the windows and letting in little light and little air. These "blinds," it was explained to us, were to prevent the detainees from communicating with the outside and possibly plotting in order to complicate the investigation. By the time of the 1990 visit, all "blinds" were removed.

The needs of the investigation continue to govern the rules regarding pre-trial detention. Detainees are almost always placed under the jurisdiction of the prosecutor, who is in charge of the investigation. To separate them from alleged accomplices, and to prevent any actions that might affect the course of an investigation, for months on end pre-trial detainees see only their cellmates.

During our 1990 trip, we visited one institution holding pre-trial detainees exclusively: the investigative jail in Radom. According to Polish prison experts, including the Ombudsman and the Director of the Prison System, Dr. Paweł Moczydłowski, the Radom jail is physically among the worst institutions.

The facility was built as a convent in 1626 and converted into a jail in 1809. Its stated capacity is 244 and, according to the warden, it constantly holds

[9]Pre-trial detainees are housed either in separate pre-trial facilities, or in separate parts of institutions for sentenced prisoners. In smaller institutions, there are no separate wards for pre-trial detainees; these detainees, however, are always held in separate cells from the sentenced population. The only exception from this rule we have observed is in the maternity/nursery ward of the women's prison in Grudziądz.

about that number of detainees.[10] The building, considered almost unbearable to live in, has actually been designated a historical monument, and is under the supervision of the province's architectural curator. In 1988 construction of a new jail was started, and it was decided not to remodel the old jail further. The construction of the new facility was halted in 1989 due to budget cuts, however, and the half-built facility now sits there, unused, while conditions in the old jail get worse.

Radom jail has no plumbing and no central heating. It is located in the very center of town, where there is no room for expansion, and it is extremely crowded.

## Cell Conditions

In cell 1 there were 15 people, with 21.2 square ft. per inmate. There were double decker metal bunks, with as little as 2 ft. 2 inches between the bottom and the upper bunks. This makes sitting on a bunk very difficult. In another cell we visited, the space per inmate was under 30 sq. ft. There was fungus on the walls of some cells.

Because of the lack of plumbing, prisoners have "sanitary buckets," as these containers are euphemistically called in prison jargon, in their cells for toilets; they are allowed to go to an outside toilet twice a day. In some cells, there was no curtain separating the "sanitary" area from the rest of the cell. Prisoners eat in their cells.

Inmates complained that their cells were cold at the time of our visit, in early October. They also told us that during the warm months, it was extremely hot and stuffy in cells above the ground floor. In addition, the soot coming from the facility's chimney forced them, they said, to keep the windows shut.

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[10]According to the warden, that capacity is insufficient for local needs. The "overflow" is periodically moved to another town, about 50 miles away.

The lighting is poor. Windows are high up and let in little daylight so there is need to have artificial light on at all times. This light, however is insufficient and makes reading difficult. The electric light is on from 6 a.m. to 10 p.m. and is controlled with a switch located outside the cell.

## Facilities for Sentenced Prisoners

### Overcrowding

On both visits most of the institutions we saw were close to or at their stated capacity. Cells were crowded, and usually in poor physical condition.

Among the prisons we visited, Łęczyca prison was among those in the worst physical shape. That prison, located in a former convent built in the fourteenth and fifteenth centuries in a small town in central Poland, houses about 350 recidivists with sentences up to 10 years, and a small group of local pre-trial detainees.

During our 1989 visit the facility was slightly less crowded than in 1990, with about 50 empty spaces, though the cells were crowded even in 1989. The living quarters were all dilapidated and dirty, although some cells, according to inmates, had been painted the day before our visit. On our second visit, the renovation of the first floor of the prison had just been completed, but the rest of the facility looked as bad as before. Even a renovation, however, cannot change the physical facts in a building over 500 years old and not meant to be a prison. During the 1990 visit the facility was filled; in one of the cells we visited, cell 3 on ward 1, the space per inmate was under 27 sq. feet per person, 5 sq. feet less than the required 32 ft. minimum.

In one of the cells visited in the Rakowiecka Street prison in Warsaw the floor space was lower than required (26.73 sq. feet per person). This cell, however, was located in one of the very few wards in the Polish prison system where cells were open during the day (see "Activities").

There may also have been a special effort to thin out the cell population for our visit. For example, when we visited the Grudziądz women's

prison in 1989, we came across a four-person cell that seemed very crowded, though the actual space was slightly over 30 feet per person. We were told, however, that until the day before, five people had lived in that cell and until six months earlier, eight.

### Temperature

We heard complaints from inmates in several prisons about cold temperatures. In Łęczyca the entire first floor, usually housing about 50 inmates, is located two steps below the ground level and is humid and cold in the winter and stuffy in the summer. In addition, prisoners in large cells on the upper floors reported that they were cold during winter. Inmates at Fordon[11] prison told us that their cells were very cold in the winter months. Fordon is located near a river, in a very humid area. The building is old, with parts built in the eighteenth century. Inmates there also told us that after laundering, clothes and sheets are sometimes returned damp, which makes the cold temperature even more difficult to cope with. Prisoners in the Strzelin prison also complained about severe cold in their cells, even though that prison was built in 1979 and was in relatively good physical shape.

Women prisoners in Grudziądz told us during the 1989 visit that the temperature in their cell was always very low, except for very hot days, but on such days it immediately became stuffy.

In Wrocław, male prisoners (the facility also housed female inmates at the time) complained about contamination caused by a nearby exhaust from the boiler. They said that they had to keep their windows constantly shut because otherwise everything in the cell was immediately dirty from soot.

### Plumbing and Sanitary Conditions

Some institutions still lack a plumbing system, though that may be

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[11]Fordon prison was mentioned often in our 1988 report as the place where several women political prisoners served their sentences. In 1988 this facility became a men's institution.

changing. Grudziądz is one example. The women's prison in Grudziądz is the only facility in Poland where pregnant prisoners are being held and where they deliver their babies. The 1988 study reported that the inmates at Grudziądz, including the pregnant women, lived in ancient, dilapidated cells with no running water and with buckets for toilets.

At the time of our 1989 visit, 41 out of 109 cells still had no plumbing. The buckets, which were dirty, old and smelled badly, were supposedly emptied twice a day, though as one inmate put it, "this is the theory, but it really depends on the guard's mood." Pre-trial detainees spent the whole day locked up, except for a half-hour walk. All women, both sentenced and pre-trial, ate in their cells, in the smell of the infamous "sanitary buckets." Grudziądz is currently undergoing radical remodeling. By the time of our 1990 visit, no women at Grudziądz were housed in the buildings without plumbing, though a group of 42 male inmates temporarily brought there to work on the remodeling, were still housed in one of the old buildings.

Most cells in all the institutions we visited had a sink with running water and a toilet behind a curtain or sometimes a partition. (The renovated parts of the Grudziądz prison were the only places where we noticed permanent separate toilets in every cell).

There were complaints about water being frequently disconnected, and toilets breaking easily in some prisons. During the 1990 visit to Łęczyca, some prisoners complained that they had running water only a few minutes every day, and that the toilet frequently broke. Similar complaints were voiced by inmates at the Rakowiecka prison in Warsaw. In both cases, we were told by the officials that these problems were temporary, related to remodeling.

In most institutions, prisoners are allowed one warm shower per week, sometimes two.

In the Strzelin prison inmates complained because the two-showers-per-week rule applied also to those working in extremely dirty conditions, in the quarry.

The lack of toilet paper has always been a source of inmates'

complaints. During the 1990 visit one prison official bitterly remarked that the situation now was worse than ever due to the increased prices of newspapers. Before, he explained, he could at least provide inmates with newsprint.

## Furniture

We found the furniture generally the same in all the prisons, with the exception of the renovated parts of Grudziądz and the maternity/nursery ward there. The new wards in Grudziądz have regular (though narrow) beds and there are separate toilets in each cell. In addition, the nursery/maternity ward has regular rather than prison furniture, and the rooms are bright with big windows and filled with toys.

In the other prisons, inmates sleep on metal bunks that are either double-decker or single. For their private belongings, they have either small cabinets or shelves on the wall. The cells have metal tables with wooden tops and metal stools with wooden tops. Tables and stools are not screwed into the floor. The furniture was almost uniformly old and dirty. In some cells we visited, there were fewer stools than inmates.

In Łęczyca, some of the bunks in the larger cells stood against the neighboring ones, making the inmates' beds into "double beds," an arrangement unwelcome to many. Some of the double-decker bunks in that cell had only 2 ft. 8 3/4 inches between the lower and upper mattresses, making it impossible to sit on the lower bunk. Prisoners spend 23 hours a day in this setting, including all their meals, and frequently work there. (See the "Activities" chapter). In cells with too few stools, they have to sit on their bunks.

Virtually all cells in Polish prisons and jails have solid metal doors with a peep-hole.

## Lighting

At the time of our first report, cell windows were usually protected by plexiglas panes, called "blinds," that blocked out any view and let in little air or light. By the summer of 1989, generally the blinds had been removed from the cells holding sentenced prisoners,

although in Strzelin prison, this was reportedly done just the day before our visit.

Inmates have steadily complained about the poor lighting, which makes it difficult to read and write. In some institutions, daylight is insufficient and artificial light has to be on at all times. For example, in Łęczyca, where the walls are very thick, windows are high above the floor forming a kind of inverted oriel, with the result that the window pane is about three feet away from the inner side of the wall, letting in little light.

## Clothing and Physical Appearance of Inmates

During both visits inmates were usually dressed adequately. The October 1989 regulations made it permissible to wear private sweaters and warm underwear during the cold months. They also authorized wardens to allow more civilian clothing within each institution. Women in particular took advantage of this option and were usually dressed in civilian clothes. They commented to us how important a change for them this has been. In Olszynka Grochowska near Warsaw, which allowed women to wear civilian clothes in 1989, wearing the prison uniform was a disciplinary measure. Women are now also allowed to use make up.

The new regulations prohibit punitive shaving of heads. Facial hair is allowed only with the authorization of the warden. During our 1989 visit to Fordon we interviewed an inmate with a large scar above his upper lip. He told us that the warden had not allowed him to wear a mustache even though the scar made it very difficult for him to shave.

In contrast with the situation before, when prisoners were shaved by a prison barber, they are now allowed to have private shaving equipment in their cells. This decision, we were told by prison officials, originated in a concern about the spread of the HIV virus.

## Police Lockups

In our 1988 report we described police lockups as places with the worst physical conditions among all types of institutions holding inmates. Our 1989 visit confirmed that assessment. We visited three lockups, of which one was the Mostowski Palace in Warsaw, the country's main police lockup, well known to the majority of former political prisoners. Another was the newest and probably the "model" lockup in the Bródno district; and the third was a police precinct in Wola district that experienced inmates told us was fairly average.

All of these institutions, at the time of our visit, were much below their stated capacity. Some cells were quite crowded, however, because detainees were held in one or two cells rather than being distributed more evenly. Except for the "model" Bródno district lockup, where cells were bright and prisoners had separate bunks, the cells were dark -- they were about two feet below street level, and had weak electric bulbs. Reading was out of the question. There were no beds or bunks. Instead, most of the cell was taken up by a slightly raised platform, about 10" above the floor, on which prisoners were sleeping next to one another on dirty bedding distributed in the evening and taken away in the morning. We observed cigarette butts on this "bed" in the Wola police station during our visit. There were toilets in the cells but no sinks, and built-in tables and benches.

Under the law in effect in 1989, inmates could spend up to six months in some of these institutions. On June 28, 1990 a new law went into effect limiting the maximum stay of an inmate in any police lockup to 48 hours. After that, they should be transferred to a jail, and to the jurisdiction of the Ministry of Justice rather than the police.

As part of the 1990 follow-up visit, we decided to see two police lockups in Warsaw. The main police lockup at the Mostowski Palace, which we had visited a year earlier, now serves as a holding place for more than half of the Warsaw police stations, because several lockups are undergoing renovation.[12] In addition to that institution, we visited a district lockup at

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[12]Many fewer police lockup spaces are needed now, because in the past, police lockups frequently held persons detained briefly for political reasons, who were never

Madaliński skiego Street.[13]

In the Mostowski Palace, little had changed. Minutes before going down to the cell block, the officer who was our host during the visit assured us that the lighting had improved since last year. It had not. Lighting was so bad that it was difficult to take notes in some cells.

What is even more distressing is that, among the 15 or so prisoners we interviewed, three had been in that institution for more than the 48 hours allowed under the 1990 law -- two had spent five days there by the time of our visit.

Cells at the Madaliński skiego Street police station were similar to those at the Mostowski Palace, but dirtier. There were two detainees there, both of whom had arrived less than 24 hours before our visit.

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charged and were usually released after 48 hours.

[13]The 1990 police lockup visits were undertaken jointly with Dr. Jan Malec, the head prison investigator of the office of the Ombudsman. In late 1988, the Ombudsman conducted the first study ever made of the police lockups in the country and found them appalling. One of the recommendations made by the Ombudsman was to improve the lighting. (April 18, 1989 report of the Ombudsman)

## HEALTH CONDITIONS

In the previous report, we wrote:

> ...health conditions are very poor among prisoners, and medical care is grossly inadequate, sometimes verging on the criminally negligent.

The quality of medical care is something difficult to assess from prison visits such as those undertaken by us in 1989 and 1990, especially since the Helsinki Watch mission participants did not include a doctor. We did make a few observations, however.

During both visits, we heard complaints from inmates about the inadequacy of the medical care and the attitude of medical staff. Inmates pointed out that they had to wait a long time -- two weeks in some cases -- to be seen by a doctor and that doctors sometimes charged those claiming to be sick with shamming. In one recent case, an inmate at Strzelin prison had been hit in the leg with some machinery while working in the quarry. The prison doctor told him that he must have deliberately caused his injury himself, and refused to excuse him from work until more than a month later. Other inmates in that prison reported that the doctor claimed that a bone that wasn't broken "could not hurt."

An inmate in Fordon said, "the medical examination is only verbal. Everybody here is considered a cheater... [According to the doctor,] nobody is ever seriously sick." Nevertheless, inmates with greater prison experience admitted that the medical situation had improved. Thus, a woman at Wrocław prison, who had served a sentence there in 1986, said of the prison nurse, nicknamed "Wieśka the Pill," "she is now quite bearable, and before she was terribly bad."

Other medical problems we heard about included:

- women at both Grudziądz and the Klęczkowska street prison in Wrocław complained to us in 1989 about not having separate wash basins, to avoid infections.
- At Olszynka Grochowska near Warsaw, women complained

that the prison did not provide sanitary napkins and the inmates had to buy them from the commissary. (All inmates at that prison worked and earned some money.)

- An elderly man, visibly unwell, who claimed to have a heart condition had been held by the time of our visit for eight months in the dilapidated pre-trial facility in Radom (see "Physical Conditions").

During the 1989 visit at Grudziądz, we came across an 8-months pregnant pre-trial detainee held in the part of the facility that lacked plumbing (see "Physical Conditions"), even though the better modern nursery/maternity section was not full.

During the 1989 visit we went to a police lockup cell where three prisoners were held. All had bruises and bleeding cuts from fights. One inmate claimed he had the HIV virus, and the two others told us they were scared to be in the same cell and forced to sleep practically in the same bed with him (see "Physical Environment - Police Lockups").

We reported our observations and concerns to police and prison officials at the end of the 1989 visit. This may have some effect because by 1990, the Warsaw police lockups had separate cells for HIV carriers, though they were not in use when we visited.

The quality of food is a steady source of complaints. In some institutions inmates said that food was often spoiled and made them sick. In the Wrocław Kępczkowska prison, a female prisoner who was getting a special diet for health reasons, showed us a dirty piece of cardboard on which this "diet" meal had been served to her.

## PHYSICAL AND OTHER ABUSES

### Beatings

#### Sentenced prisoners and prisoners held in pre-trial detention

The most dramatic changes in the Polish prison system have taken place with respect to beating and other abuses. The 1988 report found that

> many Polish prisoners are subjected to systematic or random beatings, brutal punishment cells, cruelly administered forced feedings and other physical abuses.

In virtually all our interviews with inmates we asked about treatment by prison personnel in general, and about physical abuses in particular, and everywhere we received virtually the same answer: there were no beatings. When inmates did mention beating incidents, further probing invariably revealed that they meant instances that had occurred in 1986 or earlier.

A female pre-trial detainee interviewed at Grudziądz prison, who previously served a sentence there, was astonished at the change. "When I came here this time, I couldn't recognize this place. The attitude has changed."

There has been one serious exception to this rule: the treatment of participants in 1989 prison riots. A few words of background are needed here. As mentioned before, in 1989 Poland underwent the most dramatic political changes in its post-World-War II history. In early April an agreement was reached between the opposition and the Communist government, as a result of which a parliamentary election was held in June. The election produced a crushing defeat for the Communists, who were unable to form a government and, as a result, Tadeusz Mazowiecki, a pro-Solidarity intellectual, became Prime Minister. These stunning events were being closely monitored by the prison population which, due to the changes introduced earlier that year by the prison authority, now had unrestricted access to press and television. Polish media, on their part, became free and uncensored as never before in the past fifty years.

During previous political thaws in Poland, prison riots and other organized forms of protest by inmates increased. But the wave that took place in 1989 was unprecedented. From June through December 1989, 99 prisons experienced protest actions, some of them repeatedly; conservative estimates put the total number of protest actions at 300 in that period. Most of the protests were related to the low pay for inmate work. The demands included improvements in living conditions, better medical care, changes in the Penal Code and better food. Prisoners also demanded reduction of sentences meted out during the 1980s, when Polish sentencing rules were particularly harsh. Some of these demands were met and some were automatically taken care of by the October 1989 rules.

Soon after it took power, the new government announced plans for an amnesty. The amnesty law, however, lingered in the Parliament for many weeks because of discussions about its scope. The main question was whether recidivists should be included. The discussions were broadcast live on radio and TV and inmates followed the developments closely. As a result, tensions grew and when, on December 7, 1989, an amnesty law excluding recidivists was announced, violent riots broke out in prisons at Goleniów, Nowogard and Czarne. Seven inmates lost their lives, about 400 inmates and several dozen prison guards were injured, and the three prisons were severely damaged, with one almost completely destroyed by fire.

After these riots had been quelled, mass beatings of inmates by prison personnel took place. The beatings continued even after riot participants had been transferred to different locations. These beatings were extremely brutal, and there is evidence that several of those doing the beating were under the influence of alcohol.[14]

Of the seven inmates killed, one was certainly killed by fellow inmates, three died of gunshot wounds, and thus were necessarily killed by the

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[14]Reports by the Ombudsman and the 1989 Report of the Polish Helsinki Committee: Prawa człowieka w Polsce 1989, Warszawa 1990.

authorities, and the cause of death of the remaining three is unknown.[15]

The brutality following the riots was investigated by the appropriate district prosecutors, the Ombudsman and an independent commission of experts. Disciplinary or criminal charges were brought against 110 prison staff members. As of this writing, disciplinary measures have been taken against 21 persons. 69 criminal investigations are still underway. In April 1990, a new Prison System Director was appointed.

The commission of experts was critical of the way the prison administration had handled the wave of protests immediately before the most serious violence erupted, accusing the administration of too much leniency and lack of decisiveness at a stage when the situation could still have been controlled without bloodshed. The commission emphasized, however, that the tragic prison riots of December 1989 should not slow down prison reform, and that the review of the particularly harsh sentences for recidivists imposed during the 1980s should continue. It also emphasized the importance of maintaining the openness of the prison system, and of contacts between the prison and outside populations.[16]

## Police lockups

The previous report found that

> the most systematic torture and other abuses are in connection with interrogation, usually at detention centers and police lockups.

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[15] Ombudsman: Informacja zbiorcza o stopniu naruszania praw współwięźniów w czasie buntów w zakładach karnych w: Czarnem, Goleniowie i Nowogardzie. Warszawa, March 11, 1990.

[16] The Report of the Independent Commission on Prison Riots p. 17 et seq. The 11-member Commission was composed of human rights activists, lawyers, prison experts, journalists and members of Parliament.

Polish police have undergone some very profound changes, including several important personnel shifts. Also, the number of persons held in police lockups as well as the length of their stay, has decreased dramatically. In our 1989 visits, we received no allegations of physical abuse in police lockups.[17]

But in 1990, however, we conducted surprise police lockup visits. This time two out of some twenty inmates alleged being beaten by police. The two inmates later filed formal complaints with the representative of the Ombudsman's office with whom we conducted our visits.

One of the practices frequently described by former prisoners in earlier years was planting sentenced prisoners in police lockups to serve as informers. That was true especially for those lockups where pre-trial detainees were held for a long time. Selected, trusted sentenced prisoners were "borrowed" by police from the prison system and held for up to six months in police lockups where they were supposed to gain the trust of their cell mates and obtain details of their crime from them. Once a week, they were supposed to write reports "upstairs." This practice has been described by the Ombudsman,[18] and apparently still continued as of our 1989 visit to the lockups, where we received testimony confirming these reports.

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[17]These police lockup visits in 1989 differed from prison visits. While we were allowed virtually all we asked for in prisons, in police lockups our movements were much more closely controlled. We were not shown the facilities we asked to see, for example, on the grounds that they had been closed for renovation. We learned that they were indeed closed down, but only a few days before our visit. The fact that we did not learn of physical abuses during our interviews is thus not proof of their absence.

[18]"Informacja w sprawie wydzielonych oddziałów w niektórych aresztach śledczych." Ombudsman, September 1, 1989.

## Disciplinary Measures

The 1988 report described many cruel disciplinary measures:

> Prisoners in the Polish prison system are punished not only with the conventional loss of such privileges as mail and visits, or segregation from the regular prison population, but by being subjected to painful tortures that verge on the medieval. The punishment cells are often intolerable.

The most frequent form of physical punishment described to us by former inmates at the time of writing that report was the "hard bed," where an inmate slept only on wooden slats. That punishment was sometimes used in conjunction with isolation.

By the time of our 1989 visit, the prison administration had issued a recommendation not to use the "hard bed" for women. At the Olszynka Grochowska prison, however, that punishment had been used 19 times in 1989 by the time of our July visit, and out of that number, 11 times for the maximum period of 14 days. The 1989 regulations did not abolish this type of punishment. Other penalties range from deprivation of some privileges to six months isolation.

The "hard bed" is a severe punishment. A Braniewo inmate who served a 14-day sentence in June 1989 told us in early August 1989 that he couldn't sleep because his back and neck still hurt. "After you've done your 14 days," the inmate said, "you wind up with continuing neck pains that the doctors just ignore." The Braniewo "hard bed" cell itself was an ordinary cell except that the toilet in it was especially filthy.

One common hard-bed offense is "offending a guard." The Braniewo inmate who had served the 14-day sentence in June 1989 had quarrelled with a guard over turning on a light. (Many inmates said guards were quick to write up an inmate if he criticized them in letters.)

The isolation penalty, which may last six months, is very drastic and is used surprisingly often in some prisons. Between January and July 1989, two

people had been in isolation at Braniewo for 21 and 10 days, respectively; in Barczewo prison, six people were in seven isolation cells in July 1989, several of whom had been there for more than three months in virtual isolation. Inmates who had been there for several months talked about their fears of "losing my mind." One who had been in isolation for over two and a half months when we saw him said "I get depressed very easily and stupid thoughts come to mind, like suicide." Another said "I'm beginning to feel crazy; I get no mail, cigarettes or visits." The only exercise is a walk in an area about 20 yards long, and the walk is done in complete isolation.

Isolation is served in punishment cells, which are smaller and more sparsely furnished than regular cells. In some prisons, punishment cells do not have running water and toilets, even though the rest of the facility's cells have them.

The new regulations now require that isolation be imposed only with a judge's approval, and that the prisoner be evaluated by a doctor and a psychologist. Nevertheless, such lengthy isolation is still too dangerous to an inmate's mental health.

All the institutions we visited have sound-proof cells. They are usually small empty rooms with no window or with a window separated from the cell by a plexiglas pane. They are separated from the main hall of the ward by a small entry area, and the cell and the entry area each have thick, solid metal doors.

Only in one institution did we see a camera to monitor the inmate locked inside. Otherwise, the inmate is monitored through a peep-hole. The guard is usually outside, in the main hallway. Some cells have bells to summon the guard in case of need, but since an inmate who is particularly troublesome is put into a strait jacket he would obviously find using the bell impossible.

In the past, these cells were used for the most brutal abuses. There is no reason to believe that this continues. Prison administrators say that these cells are now used to subdue particularly violent or distressed inmates, as well as those who temporarily pose a danger to themselves. They are supposed to be used for a maximum of 24 hours at a time. These cells do not seem safe for violent or distressed inmates, however. Because the cells are soundproof and

separated from the main area, there is no way an inmate can summon help in case of an emergency and they are sporadically monitored. Confinement of emotionally unbalanced inmates in such cells may thus create a serious danger to their health.

## Treatment by the Staff

Veteran inmates repeatedly expressed their astonishment at the change in the attitude of prison staff. Even individual guards who used to be vulgar or abusive have improved. This is one of many indications that some prison problems can be corrected without spending a great deal of money.

Some habits are difficult to get rid of, though. According to the 1989 rules, prison staff are supposed to address inmates in a formal way rather than using the familiar "you." In Polish the use of "you" is limited to contacts between close relatives and friends, and any other use is very rude and unacceptable. We observed both forms being used, though inmates generally stated that members of the prison staff were polite. In our 1990 Mostowski Palace visit, however, we heard a policeman addressing a young woman rudely and using the "you" form. When we asked the policeman whether he was on a first-name-basis with the inmate, he admitted that he wasn't and claimed that he hadn't even noticed that he used the familiar form.

One other particularly revealing example of how old habits die hard: in our 1988 report, the senior authorities at Barczewo prison were singled out as particularly cruel. They are still in charge, but seem to have improved considerably. Nevertheless one small instance of what seems like blatant and arbitrary harassment came to light in our 1989 visit: a prisoner sentenced to 3 1/2 years who had some ten letters from his wife in his cell that he had received during his two years in prison was told he could not keep them and they were all taken away. When we asked the reason for this, the major with us "explained" that "ten is too many" and that the warden had the authority for this. No other reason was given. We protested, and the

letters were returned, though we later heard that it was "recommended" that he send them home.[19]

[19]When we reported these events to officials in Warsaw, we were assured the inmate would be allowed to keep his letters.

## ACTIVITIES

The 1988 report concluded that

> other than work, there are few organized activities for Polish prisoners, since recreational and educational opportunities are negligible. Particularly troubling in a nation where religion plays a very important role, most prison administrations discourage and interfere with religious observances.

The first part of this statement is unfortunately still valid: there are few non-work activities for inmates in Polish prisons. There has been, however, a complete reversal in the attitude towards prisoners' religious practices. Prisoners are now allowed to practice their religion freely and the new prison system Director, Dr. Paweł Moczydłowski, encourages volunteer work by members of religious organizations on behalf of prisoners.[20]

### Work

Under the law, sentenced prisoners are supposed to work. At the time of our 1989 visit, most inmates were indeed working and the low pay was among the complaints most frequently voiced. In addition, work in some prisons took place under particularly bad conditions.

At Łęczyca about one third of the inmates were employed in assembling lamp parts for a nearby plant. Prisoners worked in their already crowded cells, in bad light and bad ventilation. Because there were not enough

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[20]The situation in the women's prison in Grudziądz is symbolic of the changes experienced by Poland. That prison is located in a former convent. Under the prior prison regime, the convent's church became the prison's auditorium. When masses started being celebrated in the prison, that auditorium served as the church and thus made a full circle, returning to its original role.

stools in some cells, or enough room at the table, some prisoners had to sit on their double-decker bunks, which were too low to sit on without stooping. In Olszynka Grochowska women prisoners complained about having to perform work in a poultry slaughter house that was too physically demanding for women.

In Strzelin, most inmates were employed by a quarry. Several complained about the bad working conditions and numerous accidents. One inmate described the work as very hard and unhealthy because of the physical strain and large quantities of fine dust. To wash themselves after work, inmates had to use cold water in the summer and snow in the winter. Protective masks were issued to inmates, he reported, only when prison officials expected an inspection from higher authorities.

Another inmate who had worked for four years in the quarry described the many accidents that occurred there. The majority of those he personally witnessed were broken limbs and bruises. He once saw an accident in which one man's leg was "almost completely cut off." Two weeks before our visit, his cellmate had been hit with a splinter in his eye, and had his eye-ball cut. He said inmates didn't know what happened to those injured, because they were usually taken to a hospital and did not return to that prison.

At Fordon, inmates complained about the dangerous conditions in a brick factory. A man who had been there for eleven months at the time of the interview told us that there were about 3-4 accidents per month in the brick factory. He also said that the factory management had threatened inmates with disciplinary measures to force them to work on Sundays. At the time of our visit, this had been stopped by the warden.

By 1990, the situation had changed. Inmates were still supposed to work, but in many places there was no work for them. Poland is experiencing austerity measures and the whole country had been facing unemployment. In several localities, unions had forced local factories to cancel contracts with prisoners in order to preserve civilian jobs. Thus, during our 1990 visit to Łęczyca prison, only 10 percent of the inmates were employed, as opposed to 100 per cent of those working a year earlier. According to prison officials, the situation is the same in many other institutions.

The absence of work obviously eliminates work-related problems, such as those mentioned earlier. Inmates are now worse off, however, than when they worked, because they have nothing else to do and make no money. In 1990, idleness was among the chief complaints.

## Educational, Cultural and Recreational Opportunities

Polish prisons continue to offer very limited educational, cultural and recreational opportunities. In several facilities, these opportunities consist of a few hours a week spent in a "day room" with only a television set and sometimes a ping-pong table.

There are hardly any sports facilities in the prisons we visited. One of the exceptions was a volleyball field at Fordon. When we visited the prison in 1989, we asked the warden how often the inmates had access to the field. His answer was "Every day, except for Monday and Tuesday, because I want the field to rest." Inmates later told us that in addition to that absurd rule, the field had been available to them only for the month preceding our visit.

Other than the occasional sports field, outdoor recreation consisted of walking around a very small fenced area in the prison yard. The 1989 regulations extended the mandatory time outdoors from 30 minutes to 1 hour a day, both for sentenced and pre-trial detainees. In most facilities visited in 1990, this requirement was fulfilled, according to inmates. In police lockups, however, nobody was allowed a walk outside, even though it is required by law.

Other than the duration of the walk, little has improved, and in some places, the situation is worse than a year ago. In Łęczyca, for example, where only a handful of inmates now have work, the majority spend 23 hours a day locked in their cells, with nothing to do. Inmates inevitably complained of boredom. In one cell, inmates complained that their one hour outside was scheduled for 7 a.m., which not only did not provide an interruption in the daily routine, but in an almost perverse way, forced them to hurry in the morning, only to leave the time from 8 a.m. until lights out for total idleness.

When there was work to do, inmates who used to work outside the facility had their cells open during part of the day because it was assumed that they were not a security risk. Now nobody in Łęczyca, for example, works outside. All cells are therefore locked the whole day for security reasons, according to officials. But inmates have not changed, only the work situation in town, and the inmates are now triply penalized: they have no work, therefore no money, and they are kept in locked cells all day.

Łeczyca is typical, for in only a few men's institutions are cell wards open during most or some hours during the day, and there it is considered "experimental." Being locked in crowded cells is obviously hard on inmates. Polish prisons don't have dining rooms and inmates thus cannot even get out for a meal.

The situation in women's prisons is better. Since early 1989 cells have been open several hours a day. Women prisons also offer more opportunities for inmate activities, such as kitchens and sewing rooms. Grudziądz will also soon be the first (and only) facility in Poland with dining rooms.

Since early 1989, the prison authorities started permitting private TV sets in cells. We saw them in many cells on both visits. Watching television constitutes the chief activity in those cells where there is a set. Not many prisoners, however, can afford the luxury of a TV set. At Grudziądz, for example, there was not a single private TV set.

## CONTACTS WITH OTHERS

Contacts with those outside were severely limited in previous years. The liberalizing tendencies introduced early in 1989 and reaffirmed by the October 1989 rules have alleviated the situation, but not enough.

### Sentenced Prisoners

#### Visits and Furloughs

Under current regulations, an inmate is entitled to two visits per month, each of 60 minutes.[21] The visit is limited to two adults but there is no limit on the number of children. The warden may (but does not have to) extend the time of the visit. An inmate may use both visits per month in one day. Visits are held in a visiting room, at a table, with a guard usually supervising from the side of the room. As a punishment, this may be changed to more closely supervised visits, or to no-contact visits involving telephone communication through a plexiglas window. Inmates may be deprived of visits as a punishment for periods of up to three months, and for someone in isolation, for up to six months.

These measures are harsh on inmates and their relatives, especially for those inmates serving their sentences far from their homes. Cars are still a luxury in Poland and most visitors have to rely on public transportation, which is grossly inadequate. A trip of one hundred miles can take many hours, and is expensive for most Poles. A sixty-minute limit on each visit thus seems unduly harsh.

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[21]There are, according to the law, three regimes under which a sentence is served. The above regulations apply to the "basic" regime. There is a more severe, punitive regime, which limits visits to one per month, and a lenient regime for unintentional offenders that is also used as a reward for others, with three visits per month.

Furloughs for up to five days are granted to the most trusted prisoners and are considered the highest prize. To be eligible, an inmate is first tested with a 24-hour furlough during which he or she must be supervised by a close relative. Some prisoners complained that this was unfair to those with no immediate family to supervise them.[22]

## Correspondence

Prior to 1989, inmates' correspondence was limited both by system-wide regulations and by the local prison administration. Inmates were allowed to correspond routinely only with members of their immediate family; for any other correspondents, they had to obtain the warden's permission. Individual prisons kept "correspondence cards" for each inmate, and letters to and from someone not on these cards were not delivered or mailed. Mail was frequently held for weeks by the prison administration, and bureaucratic obstacles were often created by the administration to delay or inhibit the exchange of mail between inmates and their relatives. The number of letters each inmate was allowed to mail within the above rules was also limited, according to the severity of the regime under which the sentence was served.

By mid-1989, limits on the number of letters and the number of correspondents had been abolished in some prisons, though not in all. The limits were formally banned in all prisons by the October 1989 regulations.

The October 1989 regulations also banned censorship of inmates' correspondence to government and judicial bodies. Private mail, however, continues to be censored in both directions. Also, an illegible letter or a letter to an inmate without the writer's return address, will not be delivered. There is also a vague provision that a letter may not be delivered "if it is advisable from the educational point of view."

Prior to 1989, inmates without any money could receive one stamp and one envelope per month; the new regulations raise this number to four stamps

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[22]The Polish Justice Ministry explained to us that under the law the 24-hour "test" visit with a relative is not necessary, but that wardens indeed often use this in practice.

and envelopes per month.

## Women

The regulations on contacts with those outside by women inmates differ in some respects. All female prisoners not being punished are entitled to three visits per month. Women who have very young children or who deliver a baby while in prison are allowed to keep their children until they are three years old.

Poland currently has three prisons for women: Grudziądz, where all "prison babies" are delivered and live, Krzywaniec, where children between six months and three years of age stay with their mothers, and an institution in Lubliniec. Grudziądz and Krzywaniec serve the entire country for inmates who are pregnant or have children (Grudziądz also holds all the pregnant pre-trial detainees). Thus, only a small number of the female inmates are close to home, and many women are visited rarely or never. For example, one pregnant pre-trial detainee at Grudziądz had been there for six months without a visit because her town was located in a distant part of Poland, and it was too costly and difficult for her relatives to visit her. "Men here are lucky," she commented, "because they are so close to home." (A group of men working at remodeling the prison, like most male prisoners, were "locals.")

Grudziądz prison will have a capacity of 600 after the remodeling is finished. There is a tendency today to limit the length and number of sentences for women. Officials indicated that if these sentencing trends continue, Grudziądz may become the only women's prison in the country. This will have an adverse effect on the imprisoned women. Even though Grudziądz is located near the center of the country, it is poorly connected with other cities. Even from Warsaw, it is virtually impossible to make a day-trip to Grudziądz by mass transit. Relatives would not only have to travel for hours, but pay for lodging as well. Many inmates would thus be deprived of visits.

For these reasons, women are also less likely than men to take advantage of furloughs. It is often difficult for relatives to arrange to "check them out" for the 24-hour initial furloughs, and the prisoners therefore can have difficulties in obtaining the longer periods of liberty.

## Pre-Trial Detainees

Pre-trial detainees are under the prosecutor's jurisdiction and all contacts with those outside must be authorized by him. The prosecutor also censors correspondence, and there are many complaints about prosecutors holding letters for weeks on end. The one improvement under the new regulations is that the number of letters is no longer limited.

Visits, however, continue to be severely restricted. According to the law, visits are held "in a way making direct contact with the visiting person impossible and last no longer than 60 minutes."[23] The prosecutor must authorize every visit, and frequently refuses to do so. We interviewed prisoners who spent months without seeing their relatives. Pre-trial detention can be very long in Poland and there is no legal limit on it; even now, when courts are supposed to oversee cases of pre-trial detention of over three months, as of August 31, 1990, 42 prisoners had been in pre-trial detention for more than two years, and 249 prisoners for between one and two years.[24]

Non-contact visits are conducted with telephones and booths with plexiglas windows. We tested some of these devices, and found that some phones were not working, and that the quality of sound was often poor. In the Wrocław Klęczkowska Street prison, for example,

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[23]Regulamin wykonywania tymczasowego aresztowania, Warszawa 1989.

[24]Teodor Bulenda, Zbigniew Hołda, Andrzej Rzepliński, Prawa człowieka a zatrzymanie tymczasowe w prawie i praktyce polskiej. A paper presented at an international seminar "Pre-Trial Detention and Human Rights," in Kazimierz, Poland, September 24-28, 1990.

one of the phones did not work at all during our visit, and the quality of sound was poor in others.

## REMEDIES

### elp From Outside the Prison

In many societies, interest in prisoners develops when there are political prisoners. There are three reasons for this: those likely to undertake human rights activity are usually from the middle class. First, political prisoners tend to have middle class backgrounds, so human rights activists identify with them, which rarely happens with most criminal prisoners. Second, a segment of the population may sympathize with the causes of political prisoners or object to their imprisonment on grounds of principle. Third, political prisoners are usually better educated, more articulate and more likely to promote their own cause.

Poland and other countries in Eastern Europe have had political prisoners for many years and so concern about the rights of prisoners had been relatively high among the general public. Now that there are no political prisoners, however, there is a danger that the question of prisoners' rights will be dropped from the public agenda. Also, because the liberalization and the decreased police presence have increased the crime rate in several East European countries, a get-tough attitude toward the ordinary criminal prisoner is likely.

In Poland today, there are several officially recognized human rights organizations, most of which are interested in prisoners' rights. General interest in these issues, however, has diminished. Zofia Romaszewska, one of Poland's leading human rights activists, a former political prisoner herself who was quoted frequently in our previous report, and currently the Director of the Senate's Intervention Commission, commented during our 1990 visit that public involvement in public interest activities generally has also declined. She attributed this to economic deterioration and to the fact that everybody was much busier trying to survive financially than before. Also, many of those previously engaged in public interest activities have now found outlets for their creative energy in the new possibilities created by the market economy and the public sector, now freed of Communist domination.

It is thus particularly important to encourage local groups to keep a close eye on prison conditions in the countries that recently regained democracy.

## Legal Reform

In Poland, Communist criminal law was extremely punitive, with repeat offenders, in particular, treated very harshly. Thus Article 60 of the Polish Penal Code provides that "if a person who has been convicted of a felony commits a similar felony within five years after having served at least six months in prison, the court should impose a prison sentence between twice the minimum sentence for this type of crime to one and a half time the maximum sentence." The law triples the penalty for offenders who commit the same crime more than twice. If a crime is committed in an area where a formerly convicted person who committed a similar crime lives, that person is likely to become an automatic suspect ("round up the usual suspects," as Captain Louis Renault put it in the film "Casablanca"), which of course happens everywhere. In Poland, however, since the original sentences were high to begin with, this leads to draconian lengths of imprisonment, prison overcrowding, and situations whereby someone may spend more than half his life behind bars, without ever having committed a violent crime.

The Penal Code is currently being amended and the new version may reduce the penalties for recidivism.

## Reform of the Prison System

Many changes have already taken place and according to Dr. Moczydłowski, the new prison system director, many more are planned. There is also a great deal of legislative activity aimed at reforming the major legal codes relevant to prisons. Some of the continuing problems which will be very difficult are staff alcoholism and under-staffing, especially in the larger cities.

As described above, one of the most serious human rights problems is the prolonged pre-trial detention of suspects. Polish law is based on the presumption of innocence - accused persons are "innocent until proven guilty" -- and yet these presumptively innocent individuals are frequently subjected to prolonged detention under conditions worse than those for convicted criminals. Although the situation has improved somewhat, as noted above, as of August 31, 1990, 42 individuals were being held in pre-trial detention for more than two years (as compared to 245 in 1986).

The regulations are all designed to serve the prosecutor. He decides about visits, for example, and may insist on being present during all meeting between the suspect and counsel during the investigative phase. This complete control of pretrial detention conditions also raises the possibility and indeed the high probability of serious abuses. Not only is the prosecutor tempted to manipulate those conditions to further the prosecution by, for example, using visiting privileges to pressure the detainee into "cooperating," but the system encourages this. Yet visits and other "privileges" are basic elements of decent treatment and should not be exploited for such partisan purpose.

Some of the current prison regulations themselves also seem too harsh. These include

- the law allowing for isolation for up to 6 months;
- the continuing use of the "hard bed";
- the severe limit on visits;
- two-way censorship of correspondence, and the seizure of "illegible" correspondence for "important educational reasons." Any handwritten letter may be deemed "illegible," and "important educational reasons" is too vague to be meaningful. In practice, these rules are an invitation for prison officials to abuse particular prisoners.

The treatment of prisoners by the staff could be further improved by

requiring prison personnel to wear badges with their names. Dr. Moczydlowski has promised to implement this requirement in institutions under his jurisdiction.[25]

The changes in the Polish prison system are many, and they have improved conditions enormously. But the job of creating a decent penal environment has only begun, and much still remains to be done.

[25]This innovation is certain to encounter resistance among those required to wear such visible identification. Very few institutions in Poland use ID badges and employees in various spheres of the economy are unwilling to identify themselves. During the 1990 visit we observed, for example, that the Polish employees of the U.S. embassy wore their ID tags in such a way that their names were completely invisible.

# APPENDIX A

## Summer 1988 letters to General Jaruzelski by Members of US Congress

# APPENDIX B

## Response by Polish authorities

## APPENDIX C

### Letter by Members of US Congress requesting access to prisons for Helsinki Watch