

**REHABILITATION FOR PRISONERS UNDER SENTENCE OF DEATH
IN A HUMAN RIGHTS PERSPECTIVE
A CASE STUDY OF BANG KHWANG CENTRAL PRISON**

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โดยปกติแล้วนักโทษประหารในประเทศไทยมักต้องรอเป็นเวลาสิบปีโดยเฉลี่ยกว่ากระบวนการพิจารณาคดีของศาลจะสิ้นสุดลงซึ่งเป็นเวลาที่พวกเขาจะสามารถยื่นฎีกาขอพระราชทานอภัยโทษได้ หลังจากการอภัยโทษ พวกเขาจะได้รับ การลดโทษให้เหลือจำคุกตลอดชีวิต ซึ่งหากได้รับการพิจารณาพระราชทานอภัยโทษอีก ระยะเวลาการจำคุกก็จะลดน้อยลงเรื่อยๆ และได้รับการปล่อยตัวในที่สุด จากเหตุผลดังกล่าว การปฏิบัติต่อนักโทษประหารตามหลักสิทธิมนุษยชนเพื่อการแก้ไขฟื้นฟูพฤติกรรมเสียของพวกเขาตามวิสัยทัศน์ของกรมราชทัณฑ์หลังจากได้รับคำพิพากษาจากศาลสูงสุดจึงเป็นเรื่องที่สำคัญมาก

งานวิจัยนี้มีขึ้นเพื่อตอบคำถามว่า ประเทศไทยได้ยึดถือและปฏิบัติตามหลักสิทธิมนุษยชนในแง่มุมใดบ้างเพื่อการแก้ไขฟื้นฟูนักโทษประหารที่มีประสิทธิภาพก่อนที่พวกเขาจะได้รับ การพระราชทานอภัยโทษ โดยถือเอาเรือนจำกลางบางขวางเป็นกรณีศึกษา เนื่องจากเป็นเรือนจำแห่งเดียวในประเทศไทยที่มีนักโทษประหารซึ่งเป็นกลุ่มตัวอย่างของการวิจัย การวิจัยนี้ทำการศึกษาโดยแบ่งข้อมูลออกเป็นสามส่วนคือ สภาพภายในเรือนจำ หลักสูตรการแก้ไขฟื้นฟูและพัฒนาผู้ต้องขังของเรือนจำ และการสนับสนุนจากปัจจัยภายนอก ข้อมูลในการวิจัยในครั้งนี้แบ่งได้เป็นสองส่วนคือ ส่วนที่มาจากแหล่งที่มีข้อมูลอยู่ก่อนแล้ว และส่วนของข้อมูลที่ได้มาจากการสัมภาษณ์นักโทษ เจ้าหน้าที่เรือนจำ และผู้เกี่ยวข้อง การวิจัยข้อมูลเกิดขึ้นบนหลักสิทธิมนุษยชนสากล

จากงานวิจัย พบว่า การปฏิบัติต่อนักโทษประหารที่เรือนจำกลางบางขวางยังไม่เป็นไปตามหลักสิทธิมนุษยชนสากล มีการละเมิดสิทธิมนุษยชนจากสภาพการณ์ภายในเรือนจำที่ไม่เคารพความเป็นส่วนตัวของนักโทษและมีผลต่อสุขภาพอนามัยของนักโทษ เรือนจำไม่มีหลักสูตรเพื่อการแก้ไขฟื้นฟูและพัฒนาผู้ต้องขังและการติดต่อกับครอบครัวยังคงมีอุปสรรคด้วยกฎของเรือนจำ งานวิจัยได้สรุปว่า เรือนจำควรปรับปรุงวิธีการปฏิบัติต่อนักโทษประหารให้เป็นไปตามหลักสิทธิมนุษยชนสากลเพื่อการแก้ไขฟื้นฟูและพัฒนาที่มีประสิทธิภาพ การตั้งกฎต่างๆ ในเรือนจำควรคำนึงถึงสิทธิมนุษยชนและการให้เกียรติเพื่อนมนุษย์ด้วยกันควบคู่ไปกับนโยบายด้านความปลอดภัย เพื่อให้ให้นักโทษสามารถใช้ชีวิตได้อย่างปกติหลังจากกลับคืนสู่สังคม

สาขาวิชา: การพัฒนาระหว่างประเทศ.....ลายมือชื่อนิสิต

ปีการศึกษา 2555.....ลายมือชื่อ อ.ที่ปรึกษาวิทยานิพนธ์หลัก.....

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SENTENCE

SUTAWAN CHANPRASERT: REHABILITATION FOR PRISONERS
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ADVISOR: PROFESSOR VITIT MUNTARBHORN. CO-ADVISOR:
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Prisoners under sentence of death in Thailand usually wait approximately a decade for completion of legal process of their cases, before they become eligible for Royal Pardon. Thereupon, they are eventually released after an amount of time. This outcome and the long time involved makes rehabilitation a highly important issue.

The research is concerned with the extent to which Thailand complies with international human rights standards on rehabilitation for prisoners under sentence of death. In particular, it examines the issue of rehabilitation for prisoners under sentence of death at Bang Khwang Central Prison, based on three significant themes, namely, living conditions, rehabilitation programs, and external support systems. The information was obtained through secondary information and field research before being analyzed according to the international human rights framework.

The findings show that the rehabilitation for prisoners under sentence of death is unsatisfactory. There are human rights violations on all the three themes. The research further proposes improvements that should be made in order to meet the human rights standards. Prison authorities should treat prisoners under sentence of death with more respect and dignity.

Field of Study: International Development Studies Student's Signature

Academic Year: 2012..... Advisor's Signature.....

Co-Advisor's Signature.....

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ABBREVIATIONS

ABE	Adult Basic Education
BPT	Basic Principles for the Treatment of Prisoners
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment
GED	General Equivalence Diploma
KCPE	Kenya Certificate of Primary Education
ICRC	International Committee of the Red Cross
ICESCR Rights	International Covenant on Economic, Social and Cultural
ICCPR	International Covenant on Civil and Political Rights
NGO	Non-Governmental Organization
SMR Prisoners	United Nations Standard Minimum Rules for the Treatment of
UCL	Union for Civil Liberty
UN	United Nations
UNDHR	Universal Declaration of Human Rights
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organization

CHAPTER I

INTRODUCTION

1.1 Statement of Problems

“Prisoners are persons whom most of us would rather not think about... It is thus easy to think of prisoners as members of a separate netherworld... Nothing can change the fact, however, the society that these prisoners inhabit is our own”-William J. Brennan, Jr. (1987)

Human rights principles are universal and egalitarian, and apply to every human being regardless of race, gender, class or religion. Article 1 of the Universal Declaration of Human Rights (UDHR) states, *“all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”*

Thus, according to the principles of human rights, no person is excluded, even if he/she has committed a heinous crime and is titled as a prisoner under sentence of death. No matter if they are murderers, rapists, drug dealers, gunmen, and/or terrorists, their human rights still remain with them, though this fact is often forgotten by society due to their past actions. These people are vulnerable as their rights can be easily violated.

According to information dated June 19, 2012 as provided by the Department of Corrections, 325 prisoners under sentence of death have been executed since the first recorded execution in B.E. 2478 (1935). In the last thirteen years, the numbers of individuals that were executed are shown in the table below:

Table 1.1: Numbers of Individuals Executed from 2000-2012¹

Year	Individuals Executed
2000	1
2001	11
2002	11
2003	4
2004	0
2005	0
2006	0
2007	0
2008	0
2009	2
2010	0
2011	0
2012	0

Table 1.2: Numbers of Convicts under Sentence of Death from Feb 2012- Mar2013

Date	Convicts		
	Male	Female	Total
June 8, 2009	104	11	115
August 16, 2010	53	12	65
March 30, 2011	15	1	16
13 February, 2012	88	0	88
19 June, 2012	52	6	58
26 October, 2012 ²	21	0	21
December, 2012 ³	27	0	27
21 March, 2013	44	4	48

Source: Department of Corrections

¹The information is gathered from the press release of Amnesty International Thailand when there was an execution in 2009 (2003-2009) and the Reply of the Kingdom of Thailand on the List of Issues To be taken up by the Human Rights Committee in Connection with the Consideration of the Initial Report of Thailand under Article 40 of the International Covenant on Civil and Political Rights (ICCPR) (12) (2000-2004)

²Due to the Royal Pardon of August 2012, the number dropped from 58 in June 2012 to 21 in October the same year.

³There is no specific date.

These numbers indicate that executions in Thailand are carried out infrequently, with an average of four executions a year. The majority of prisoners under sentence of death have their sentences commuted in the courts or benefit from amnesties and remissions. However, according to the Union for Civil Liberty (2011: 9-10), reduction of sentences is a very long process. It generally takes more than ten years from an arrest to a final verdict in the Supreme Court as there are delays throughout the whole process. It takes one to two years between an arrest and the First Court of Instance's decision. It takes two to three years after that to get to the Court of Appeal, and four to five years from the Court of Appeal to make it to the Supreme Court. After that, prisoners have the right to ask for the Royal Pardon, but no one can guarantee when it will be granted or if it will be granted at all. Waiting times can range from one year to a decade.

After receiving the final verdict from the Supreme Court, waiting for the Royal Pardon might be the most stressful period for the prisoners as the execution can be carried out if the application for the pardon is turned down. Before reaching the Supreme Court, an accused person can still hope that the courts might acquit the case. After the final verdict from the Supreme Court though, begins the period in which an accused person, who is now titled as a prisoner under sentence of death, can only wait.

During this period, it is important for them to maintain their physical and mental health, as Article 12 of International Covenant on Economic and Social and Cultural (ICESCR) states "the enjoyment of the highest attainable standard of physical and mental health is a human right." Having the highest attainable standard of physical and mental health can lead to successful rehabilitation, as it is the first step to prepare prisoners under sentence of death to be ready for said rehabilitation. Maintaining strong physical and mental health also helps prisoners to focus on the rehabilitation. Thus, rehabilitation plays a significant role as it helps prisoners to maintain this right. There is a greater chance for them to be a law-abiding citizen upon release.

The current challenges for Thai prisons to implement effective rehabilitation for prisoners under the sentence of death contain various factors that occur from the very beginning step of criminal justice to the post-release programs. The thesis will focus on three main factors which link to successful rehabilitation according to a human rights perspective. The three factors are prison conditions, the rehabilitation programs themselves, and external supports.

By examining the international standards that Thailand has followed, namely the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (Specialists of the Department of Corrections, 2008); the research tries to emphasize the current rehabilitation conditions for Thailand by comparing Thai law, regulations and practices with the international standards above.

The ICCPR, as a legal-binding international human rights treaty, compels governments to take administrative, judicial and legislative measures in order to protect the rights enshrined in the treaty and provide an effective remedy. The ICCPR was ratified by accession on October 29, 1996, and came into force on January 30, 1997. CAT, which is also a legal-binding instrument in Thailand, was acceded on October 2, 2007.

In the case of the SMR, it is a non-legal binding instrument; however, as a member state of the United Nations, the rules act as the guidelines for international and domestic laws regarding people who are held in prisons and other forms of custody. The SMR set out what is generally accepted as good principle and practice for prisoners and the management of penal institutions.

This thesis will look at the prison conditions, rehabilitation programs, and external supports from a human rights perspective. It will compare Thai law, regulations, and practices with the international human rights standards that the country has followed before examining what the reasons behind the current situation are, and if there is any gap that should be filled in order for the country's penitentiary system, regarding the rehabilitation for prisoners under sentence of death, to follow the international human rights standards. The improvements that should be made will be clearly identified along with the barriers that hinder their progress.

As the most effective rehabilitation can only be achieved with the abrogation of the death sentence and the removal of the indeterminate length of a sentence, this thesis will only provide solutions given present conditions in which Thailand still imposes the death sentence and lifetime imprisonment. At present, conditions for prisoners under sentence of death can be improved to meet the requirements of international standards that the country has agreed upon.

This research aims to answer the question of to what extent does Thailand follow the international human rights standards on rehabilitation for prisoners under the sentence of death before receiving the royal pardon. This research takes Bang Khwang Central Prison, which holds all of the male prisoners under sentence of death in Thailand who have received their final verdicts from the Supreme Court, as a case study.

This thesis starts with the Introduction (Chapter 1), and Literature Review (Chapter 2), and is then followed by the research findings in Chapter 3, 4, and 5. The conclusion is in Chapter 6. Chapter 3 provides information that was obtained through field research on Living Conditions of prisoners under sentence of death. Chapter 4 contains information on Rehabilitation Programs that Bang Khwang Central Prison provides to prisoners under sentence of death. Chapter 5 discusses the External Support System which includes supports from third parties such as families, embassies and NGOs. The last chapter is the Conclusion and Summary. Chapter 3, 4, and 5 are based on the three themes that are considered to be the three main factors leading to successful rehabilitation for prisoners under sentence of death.

1.2 Main Research Question

To what extent does Thailand follow the international human rights standards on rehabilitation for prisoners under sentence of death before receiving the royal pardon?

The answer to the main research question can be achieved through investigating three sub-research questions relating to three factors that have significant relationships to successful rehabilitation, namely living conditions, rehabilitation programs, and external supports. Each question is linked to each factor, and is examined according to the human rights perspective.

- 2.1 Does Thailand follow the international human rights standards on living conditions, which are directly conducive to successful rehabilitation?
- 2.2 In terms of rehabilitation programs, from a human right perspective, are the current rehabilitation programs implemented according to the international human rights standards?
- 2.3 To what extent does Thailand follow international human rights standards in terms of external support systems, which play a significant role in successful and effective rehabilitation?

1.3 Main Research Objective

To determine to what extent that Thailand follows the international human rights standards on rehabilitation for prisoners under sentence of death before receiving the royal pardon.

The main research objective can be achieved through three sub-objectives below

- 3.1 To identify whether Thailand follows the international human rights standards on living conditions, which are directly conducive to successful rehabilitation.
- 3.2 To determine whether the current rehabilitation programs are implemented according to international human rights standards.
- 3.3 To evaluate whether the permitted external supports to prisoners under the death sentence follow international human rights standards and are thereby conducive to successful and effective rehabilitation.

1.4 Conceptual Framework

The conceptual framework of this thesis draws on an international human rights framework in order to answer the main research question that asks: “to what extent does Thailand follow the international human rights standards on rehabilitation for prisoners under the sentence of death before receiving the royal pardon?”

As Thailand has become a member of the United Nations, the country has followed the SMR, ICCPR, and CAT, each of which have significant provisions for rehabilitation of prisoners under the sentence of death. This thesis will compare these international human rights standards against the current condition of the penitentiary system in Thailand on rehabilitation for prisoners under the sentence of death, focusing on three inter-related themes, namely: living conditions; rehabilitation programs; and external support systems.

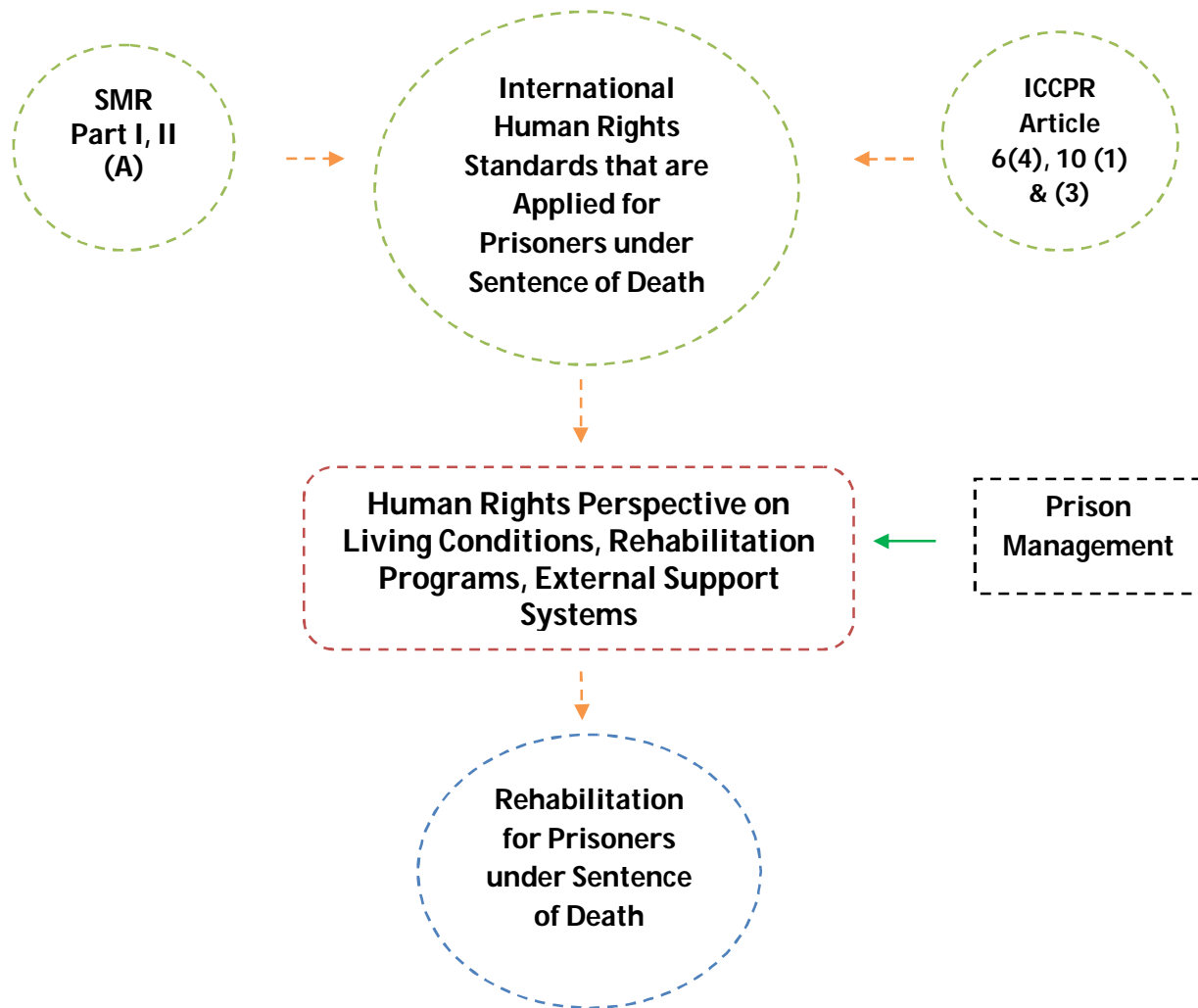
The thesis primarily relies on articles 10(1) and (3) of the ICCPR which states, “*all person deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person*” and “*The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.*” As the issue is about the prisoners under the sentence of death before being granted the royal pardon,

article 6(4) of the ICCPR is also relevant to the conceptual framework, which states, “*anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases*”

Apart from that, Part I and II (A) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR) will also be the international standards that this thesis is based on. Part I, according to Rule 4 of the SMR, is described as “*the rules that cover the general management of institutions and is applicable to all categories of prisoners.*” Part I; as the rules of general application; consists of basic principle; registration; separation of categories; accommodation; personal hygiene; clothing and bedding; food; exercise and sport; medical services; discipline and punishment; instruments of restraint; information and complaints by prisoners; contact with outside world; books; religion; retention of prisoners’ property; notification of death, illness, transfer, removal of prisoners; institutional personnel; and inspection. Part II (A) is the rules that are applicable to special categories for prisoners under sentence. It basically describes the standards on treating prisoners under sentence with directly involved factors on the rehabilitation of prisoners and links to those stated in the literature review. It consists of general principles, classification and individualization, privileges, work, education and recreation, and social relations and after-care.

All the three themes, living conditions, rehabilitation programs, and external support systems, are considered to be dependent on the prison management. Part I and II (A) of SMR are applied to the management, and together provide a formula for the successful rehabilitation of prisoners.

Figure 1.1: Flow Diagram of the Conceptual Framework



1.5 Research Methodology

This research is qualitative research relying primarily on secondary information and field research. The details are explained below:

1.5.1 Secondary Information

The document research was obtained through various sources of information; including the United Nations, Department of Corrections, and NGOs. The information in the literature review section was obtained through reports, textbooks, books, and journals. It also includes the information that has been added to support the analysis section as footnotes which are from the

response of the UN documents on SMR and Thailand's human right issues in which some are responded to by the national bodies, Universal Periodic Review (UPR), comments from the United Nations Special Rapporteur, reports from the Union for Civil Liberty (UCL) and International Federation of Human Rights (FIDH), and books that are written by prisoners. The secondary information focuses on the international human rights standards, current rehabilitation and treatment programs for prisoners, and recommendations on the programs according to the conceptual framework.

1.5.2 Field Research

The information from the field research was gathered through various sources of informants including officers of Bang Khwang Central Prison, NGOs, and former and current prisoners under the sentence of death.

The officers at the Bang Khwang Central Prison who gave the information for the field research include the Director of the Prisoner Custody Division, the Director of Penological Operations, the Director of the Medical Center, the Director of the Rehabilitation Division, and the Director of the Prison Welfare Division. The researcher also had informal conversations with other prison guards, which are stated as Researcher's Observation throughout the research.

Prisoners under sentence of death are located in Building 2 and Building 5. Both buildings have convicts and those awaiting trial⁴. Five prisoners from each building were selected to be interviewed. The group consisted of both Thai and foreign prisoners. The permission to interview was given to the researcher according to the prisoners' own choice after being contacted by the prison staff. The letter of agreement was provided to the prisoners prior to the interview to inform them about their rights. The identity of each prisoner cannot be revealed in the research for security reasons, both for current and former prisoners.

⁴United Nations Standard Minimum Rules for the Treatment of Prisoners states "persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, are referred as "untried prisoners". Those who live in the same dormitories with prisoners under sentence of death at Bang Khwang Central Prison are people who usually have received the sentence of death from the Appeal Court on their cases.

The interviews were primarily carried out in Thai and translated and transcribed into English. A few exceptions occurred as there were some foreign prisoners who could not speak Thai or understand English, and in these cases a translator was provided.

Apart from the prison officers and the current prisoners were the key informants. The supporting informants were comprised of Non-Governmental Organizations, former prisoners, and the Deputy Director for Medical Service of the Galya Rajanagarindra Institute.

Non-Governmental Organizations (NGOs) who have expressed their concerns about prisoners' rights such as Amnesty International Thailand and the Jesuit Foundation were the informants in this case. Former prisoners were interviewed about their past experiences on the three themes that the research is based on. Two of them were under sentence of death, and one of them was under life sentence and worked as a volunteer for the medical service for prisoners under sentence of death.

The Deputy Director for Medical Service of the Galya Rajanagarindra Institute, Dr. Duangta Kraipassapong, was a supporting informant who has done research about the psychological health of prisoners in Thai prisons. She has also visited prisons for psychological service occasionally.

Last but not least, an external person who was a long-term volunteer at Bang Khwang Prison was a supporting informant who gave information about the rehabilitation at Bang Khwang based on her time as a volunteer.

Table 1.3: Summary of the Interviewees

Key Informants	Supporting Informants
Officers of Bang Khwang Central Prison 1.1 Director of the Prisoner Custody Division 1.2 Director of Penological Operations 1.3 Director of the Medical Center 1.4 Director of the Rehabilitation Division 1.5 Director of the Prisoner Welfare Division	1. Two Former Prisoners under Sentence of Death 2. One Former Life Imprisonment Prisoner 3. Non-Governmental Organizations (NGOs) 3.1 Amnesty International Thailand 3.2 Jesuit Foundation 4. Deputy Director for Medical Service of the GalyaRajanagarindra Institute, Dr.DuangtaKraipassapong 5. One external person who was a long-term volunteer at Bang Khwang Prison
Current Prisoners under Sentence 1. Five prisoners at Building 5 2. Four prisoners at Building 2 3. A prisoner from Building 12 (Medical Center)	

Table 1.4: Reference Table⁵

Code	Person	Place	Date of the Interview
P1	Prisoner, Building 5	Bang Khwang Central Prison	20/11/2012
P2	Prisoner, Building 5	Bang Khwang Central Prison	20/11/2012
P3	Prisoner, Building 5	Bang Khwang Central Prison	21/11/2012
P4	Prisoner, Building 5	Bang Khwang Central Prison	21/11/2012
P5	Prisoner, Building 5	Bang Khwang Central Prison	21/11/2012
P6	Prisoner, Building 2	Bang Khwang Central Prison	22/11/2012
P7	Prisoner, Building 2	Bang Khwang Central Prison	22/11/2012
P8	Prisoner, Building 2	Bang Khwang Central Prison	22/11/2012
P9	Prisoner, Building 2	Bang Khwang Central Prison	22/11/2012
P10	Prisoner, Building 12	Bang Khwang Central Prison	23/11/2012
PA1	Prison Authorities	Bang Khwang Central Prison	23/11/2012
PA2	Prison Authorities	Bang Khwang Central Prison	11/12/2012
PA3	Prison Authorities	Bang Khwang Central Prison	12/12/2012
PA4	Prison Authorities	Bang Khwang Central Prison	12/12/2012
PA5	Prison Authorities	Bang Khwang Central Prison	14/12/2012
EP	External Person		05/12/2012
FP1	Former Prisoner		08/2012
FP2	Former Prisoner		08/2012
FP3	Former Prisoner		08/2012

⁵The reference table is used for anonymity and for the safety of the informants.

1.5.3 Data Analysis

As stated in the conceptual framework, the research relies primarily on article 6(4), 10(1) and (3) of the ICCPR, and Part I and II(A) of the SMR, which are concerned with three main themes, namely prison conditions, rehabilitation programs and external supports. These concepts, under the international standards which Thailand has followed, are compared to Thai law, regulations, and practices in terms of rehabilitation for prisoners under sentence of death. In this research, Thailand's constitution, laws and penitentiary are compared with the international standards. The reality inside of the prison, based on information obtained through the in-depth interviews with key informants, will be examined as to whether or not it meets with the laws and regulations that the country has set, as well as the international human rights standards.

After the comparison, the next step will be to explain the reasons why Thailand is at its current condition in terms of the factors that relate to rehabilitation. In the case that there is any gap between the international standards and the country's law, regulations, and reality, the reasons will be stated clearly in the research findings and discussion section of the thesis. The analysis will focus on the three sub-objectives of the study, namely: prison conditions; rehabilitation programs; and external support systems. The analysis will be followed by the identification of improvements that should be made at the national level to meet the international standards and address the recommendations and concerns of the experts and the informants.

1.6 Significance of the Research

Jaruboon and Sereemongkonpol (2010) state in their book, *A Secret History of the Bangkok Hilton*, that "prisons remain an almost unholy topic and one that we Thais rarely discuss. It has never been an issue that could make or break an election campaign, hence the inadequate funding for the maintenance and development of prisons." Bang Khwang Central Prison is considered to be the place that holds the most dangerous men in Thailand. The prisoners under sentence of death can be considered as the most vulnerable group of people in the society. They are deprived of their liberty and have to spend a decade under sentence of death, which has extremely negative effects on their physical and mental health. Their human rights are easily violated as the title gives them little or no power of negotiation. Having humane and effective rehabilitation and treatment for them during the time that they are under sentence

of death will help them cope with the negative conditions which may occur the most during the time of waiting for the royal pardon.

The research aims to provide a better understanding regarding the condition of rehabilitation and treatment for prisoners under sentence of death that follows the international standards and agreements that Thailand has agreed to and ratified. It also aims to promote the human rights of the prisoners under the category and to provide suggestions to all the institutions involved. Finally, it seeks to improve the overall conditions of the rehabilitation and treatment for prisoners under sentence of death.

1.7 Ethical Issues

As the case of prisoner's right is very sensitive, the information that can reveal who they are is confidential and their personal identities must remain anonymous. This research is very concerned about the human rights of the interviewees, especially the current and former prisoners. The words that are used in the interview questions are carefully selected to prevent any negative effects that would result from the interview. The current prisoners have been provided with the letter of agreement as stated in the research methodology to provide the clear understanding that their information will only be used for the thesis under this topic and that their identity will remain confidential. In the case of foreign prisoners, the letter was translated into a language that they could understand by themselves without someone having to interpret or translate it for them. Prisoners have been allowed to refuse to answer any interview question according to their wishes, and the permission to be interviewed was given of their own free will after being contacted by prison officers.

Additionally, a letter was issued to Bang Khwang Central Prison regarding the objective and the aim of this research. This was necessary since the number of outsiders that are allowed to get inside the prison apart from visiting hours has been set by the prison's rules and is extremely limited. It was clear in the letter that the thesis is based on an academic perspective and thus cannot be biased.

1.8 Research Limitations

As Bang Khwang Central Prison is a male prison, the author could not observe some specific issues directly as access to where prisoners under sentence of death live (Building 2 and Building 5) was restricted. Such issues included accommodations, bathing areas, laundry areas, food storage and preparation areas, as well as how prison guards really treat prisoners. Therefore, some of the information in those areas came from prisoners and prison authorities without direct observation. However, in other area such as medical services, the author received permission to visit the medical center and observed directly. Because certain areas in this thesis could not be observed directly, questions might arise over the genuineness of the information. Therefore, throughout the research, there are parts that prisoners and prison authorities stated differently, such as the quality of food that the prison provides to prisoners and the degrading treatment that might happen. The information that was agreed upon by both prisoners and prison officers has been triangulated to be read easier.

CHAPTER II

LITERATURE REVIEW

The literature review is divided into three parts: (2.1) general concepts and international scope and (2.2) the national level and (2.3) Bang Khwang Central Prison. The literature review discusses the past work on the issue in a broad sense first before scoping down to the national level (Thailand) and finally to Bang Khwang Central Prison. The literature review mainly focuses on three themes: living conditions, rehabilitation programs, and external support systems.

2.1 General Concepts and International Scope

This general concept section provides the definition of the key words that are stated in the title of the thesis and those that are significantly applied to the concept of rehabilitation for prisoners under sentence of death before receiving the Royal Pardon under three themes: prison conditions, rehabilitation programs, and external supports. This section describes the words and the concepts under the international scope by involving the international standards and recommendations on the issue of rehabilitation for prisoners under sentence of death starting with (Section 2.1.1) Definition and Scope of Rehabilitation, (Section 2.1.2) Defining Death Sentence or Sentence of Death, (Section 2.1.3) Prisoners under Sentence of Death, and ends with (Section 2.1.4) International Human Rights on Rehabilitation for Prisoners under Sentence of Death.

2.1.1 Definition and Scope of Rehabilitation

According to the American Heritage Dictionary, rehabilitation means “*to restore to good health or useful life, as through therapy and education.*” Webster’s Unabridged Dictionary says rehabilitate means “*to put back in good condition; to reestablish on a firm, sound basis.*” Campbell (2004), stated in the Encyclopedia of Prisons & Correctional Facilities that the term means the process of helping a person to readapt to society or to restore someone to a former position or rank. The term was defined in the Criminal Justice Encyclopedia by Assoc. Prof. Nick Smith of the University of New Hampshire as a form of punishment that is aimed to reform a convict so that a prisoner can lead a productive life free from crime (Smith, 2005).

The concept of rehabilitation has had many different meanings over the years. Campbell (2004) stated that it started with silence, isolation, labor, and punishment and moved onto medically based interventions including drugs and psychosurgery. Educational, vocational, psychologically based programs; and specialized services for specific problems have also been invented to rehabilitate prisoners. However, the idea of silence, isolation, labor, and punishment is no longer acceptable under the international standards on the rights of prisoners, as implied in both SMR and ICCPR.

Some skeptics argue that rehabilitate means “*to return something to its prior state*” which, in this case, means people who want to rehabilitate offenders simply to put them back in society the way he or she was before being arrested. This latter group of people tries to dismiss the concept of rehabilitation by simply rejecting a word (Reichel, 2001).

In addition to the problems associated with the meaning of rehabilitation, there are some people who do not accept rehabilitation because they disagree that it is a form of punishment, with the reason being that it does not seem right to think of efforts to “*restore someone to good health*” as being a type of punishment. However, Weihofen (1971 cited in Reichel, 2001) argues that any measure that deprives people of their liberty against their will is essentially punitive in nature; no matter how well-intentioned the authorities administering the measure.

C.S. Lewis shares Weihofen’s thoughts. He disagrees with the idea that rehabilitation is not a form of punishment. In his own words, he wrote:

“to be taken without consent from my home and friends; to lose my liberty; to undergo all those assaults on my personality; ... [and] to know that this process will never end until either my captors have succeeded or I grow wise enough to cheat them with apparent success – who cares whether this is called Punishment or not [since] it includes most of the elements for which any punishment is feared – shame, exile, bondage (Lewis, 1971: 304 cited in Reichel, 2001).”

Both Weihofen and Lewis’s ideas mean that if a person is deprived of his or her liberty, as when being placed in prison or even on probation, that person is being punished. Even if the prison experience includes educational and vocational training, substance abuse classes, or any entertainment, the convicted have lost their liberty and are being punished.

The ultimate goal of rehabilitation is to produce a socially responsible and law-abiding citizen, but this is a challenging task as few offenders have been properly socialized and even fewer have the skills, education, or training needed to obtain and maintain profitable employment upon release. The ability of a person after his/her release to make a living beyond mere subsistence is considered the key to personal reform and social integration (Blakely, 2007: 13) A prison is where people expect to change and provide the offenders with the skills necessary to ensure a law-abiding lifestyle after being released. Profitable employment will provide the offenders income and at the same time effectively gain the attention of former prisoners to focus on work and other productive activities. Inadequate preparation for post-release employment will increase the chance that offenders will revert to negative habits and self-destructive behaviors. According to Blakely (ibid), rehabilitation aims to prevent this and is based upon the following beliefs:

- *People are able to change,*
- *Offenders and non-offenders are not different, especially in their motivations and desires,*
- *Offenders exercise free will based in part on available opportunities,*
- *Many offenders do not possess the skills or education necessary to receive gainful employment,*
- *Education and vocational training provide the knowledge and skills important for gainful employment,*
- *Treatment and counseling help offenders confront and overcome self-destructive behaviors,*
- *Rehabilitation is a process that is most effective when it is based upon free and open participation, and*
- *Reform will happen only through a system that recognizes and values it.*

Success in the rehabilitation is measured by the ability of ex-offenders to lead a law-abiding life style after their release. This endeavor provides reduced crime rates, healthier communities, and reductions in correctional expenditures. As a consequence, rehabilitative ideology is to improve both the person and society. The initiatives of inmate reform are designed to create a meaningful and productive prison experience.

Silverman (2001:26) stated that contemporary research on rehabilitation has introduced a new set of principles that reflect the new reformation approach. The principles are as follows:

- *Treat only those human deficits that are directly related to the propensity to commit crimes. These factors may include attitudes directly related to the commission of crime, criminal associates, impulsivity, weak socialization, and below average intelligence.*
- *Treat all deficits simultaneously if an offender has multiple deficits that increase the likelihood that he or she will reoffend.*
- *Match offenders' learning styles to particular teaching styles; that is, programs must fit the specific needs of and learning styles of their participants.*
- *Use the highest level of treatment intensity for those clients who are predicted to be the most likely to recidivate.*
- *Use programs that teach clients skills that enable them to understand and resist antisocial behavior. This means that we may need to use effective social learning principles to model and shape socially acceptable behavior.*
- *Treat offenders in well-supported programs. The best intervention will fail with insufficient funding or lack of commitment from treatment staff, administrators, or support staff. This can be a problem in facilities that are primarily designed for custody purposes.*
- *Use treatment that involves research in both the design and the evaluation of the program. Use high doses of intervention, because this method is related to lower recidivism rates.*

The 1977 United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR) strongly focuses on the reintegration and rehabilitation of prisoners back into the community setting as one of the underlying principles. For example, to work toward a gradual return to community life, differences between life “inside” and “outside” must be limited. This principle is established in Rule 60.

(1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

(2) Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

2.1.2 Defining Death Sentence or Sentence of Death

Throughout the research, the term “sentence of death” is used for prisoners who received a death penalty from the Supreme Court as “prisoners under sentence of death.” However, the word “death sentence” is widely used in dictionaries which means the same as “sentence of death.”

The Merriam-Webster dictionary defines death sentence as *“a sentence condemning a convicted defendant to death.”* Macmillan Dictionary states it as *“a judge’s official statement ordering someone to be punished by death”*

Death Penalty, another word for death sentence is defined by the American Heritage Dictionary as a sentence of punishment by execution. The Unabridged Collins English Dictionary refers to death penalty as capital punishment. Under the legal definition, the death penalty is the most severe form of corporal punishment as it requires law enforcement officers to kill (to cause the death of, to end the life of) the convicted offender.

2.1.3 Prisoners under Sentence of Death

According to the United Nations (2009), the term *“sentence of death”* is used in its Handbook on Prisoners with Special Needs referring to the death penalty or capital punishment. That is, the UN specifically labeled prisoners under sentence of death as a group of prisoners with special needs. It gives the definition of prisoners under sentence of death in the quotation below:

“The term [,] prisoners under sentence of death [,] covers all prisoners who have been sentenced to death by a court of law and who are held in prison awaiting execution, pending a decision by the higher courts confirming or commuting the sentence, or pending a decision by

legislators to abolish the death penalty. Such prisoners include those who are awaiting the decision of an appeals court, those who are awaiting the result of an application for pardon or commutation and those who are being held in prison due to a moratorium on executions in the country of imprisonment.”

The United Nations Office on Drugs and Crime (UNODC) (2009) states the reason for putting a prisoner under sentence of death in a special category is because they have to spend over a decade awaiting execution. Some of them will never be executed, due to moratoria, and eventual abolition of the death sentence. Therefore, the prisoners have special needs due to the most extreme form of sentence which they are under, which renders access to legal assistance and the diligent application of legal safeguards absolutely fundamental. The prisoners also have special needs due to the length of time they usually spend in prison and the anguish suffered during the years of imprisonment, awaiting execution. The UNODC also provides a suggestion for the countries which still impose the death sentence that prison authorities need to put in place management policies and strategies that protect the human rights of this vulnerable group of prisoners. Such policies and strategies should guarantee and facilitate their access to legal assistance, as well as ensure that all the legal safeguards they are entitled to are in place and that the prisoners are held in conditions which comply with the SMR, similar to all other prisoners.

The International Standards that are directly applicable to prisoners under the sentence of death are Article 6 of the ICCPR; The Second Optional Protocol to the International Covenant on Civil and Political Rights; Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty; United Nations Commission on Human Rights resolution 2005/59, adopted on 20 April 2005 under 5 (a) (b), 7 (a) (b) (c) (d) (e) (f) (i) (j), 8, 9, 10; Social and Economic Council Resolution 1996/15 dated 23 July 1996 (3); and the World Medical Association Resolution on Physician Participation in Capital Punishment, which states that it is unethical for physicians to participate in capital punishment, in any way, or during any step of the execution process.

2.1.4 International Human Rights Standards on Rehabilitation for Prisoners under Sentence of Death

Article 10.1 of the ICCPR states “*All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person*”⁶.

Principles 5 of the UN Basic Principles for the Treatment of Prisoners (BPT) states “... *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.*”

Even though prisoners are the group of people who are deprived of their liberty, they still have absolute or non-derogable rights such as the right to physical and mental integrity, the right to respect human dignity, the right to be recognized as a person before the law, freedom from discrimination and freedom of thought as well as the right to due legal process (Union for Civil Liberty, 2011: 3).

Rule 57 of SMR states, “*Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore, the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.*” Imprisonment is a negative experience by its nature. It is not the task of the prison authority to aggravate the suffering which this involves by the imposition of excessive discipline or forms of segregation. It is also important that a prison should be a place that provides prisoners with opportunities to develop in ways that will enable them to lead law abiding lives on release as stated in Rule 58 of SMR that “*the purpose and*

⁶ Compatible with Principle 4 and 5 of the UN Basic Principles for the Treatment of Prisoners (BPT):

(4) *The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State’s other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.*

(5) *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 UDHR, and, where the State concerned is a party, the ICESCR, and the ICCPR, and the Optional Protocol thereto, as well as such other rights as are set out in other UN covenants.*

justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.”

This Rule 58 is supported by Article 10.3 of the ICCPR which states “*the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.*”

Successful rehabilitation requires many factors. General management and prison services are a few of the factors that can make it work. Rule 8 and 67-69 of SMR state clearly that the separation and classification of prisoners should be carefully done. All of the rules can be applied to prisoners under sentence of death.

The effective and efficient classification and separation of prisoners can help identify the appropriate treatment for each prisoner for rehabilitation programs. Prisoners should be divided into classes in order to facilitate their treatment with a view to their social rehabilitation. Those who may be a bad influence on others should be separated from the general population. Prisoners under sentence of death should be assessed as all other prisoners and accommodated according to the risk they pose to others, with access to activities in prisons, in line with their classification (UNODC, 2009). Their social and criminal history, personal temperament, and physical and mental capacities must be taken into account according to the SMR. The treatment should encourage their self-respect and develop their sense of responsibility.

Rule 65 and 66 discusses the treatment for prisoners under sentence as stated in SMR Part II (A). This applies to prisoners under sentence of death in terms of the appropriate treatment they should receive starting once they are on a death row.

Rule 65 and 66 (1) of SMR claim the purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after their release. If we view these rules from the perspective of the three themes leading to successful rehabilitation programs (prison conditions, rehabilitation programs and external support systems); they can be clearly stated as follows:

2.1.4.1 Living Conditions

Living conditions should honor the basic humanity of those confined, prohibit torture and other cruel, inhuman or degrading treatment or punishment, and set rehabilitation as a primary goal of incarceration (Fellner, 2012).

Living conditions in prisons are significant in terms of fostering successful rehabilitation as it creates the appropriate environment that supports well-being of prisoners in both physical and mental health. Miller (1978) states “*rehabilitation programs that are conducted within an environment that is essentially punitive and/or anonymously authoritative are doomed to failure.*” Article 25 of UDHR and article 11 of ICESCR state that all persons deprived of their liberty shall have the right to an adequate standard of living, including adequate food, drinking water, accommodation, clothing and bedding. UNODC (2009) states that in countries where a death sentence is still imposed, prisoners under sentence of death are often held in extremely poor conditions, with inadequate space. In some cases, natural light, ventilation, and sanitary facilities are not provided. They can be held in some form of solitary confinement which can result in “*death row phenomenon*”, bleak isolation and years of uncertainty as to the time of execution, which can result in psychological effects called “*death row syndrome.*” Additional restrictions, such as limits on food, are also present in some countries which add extra-suffering to the prisoners.

These prisoners should be assessed as all other prisoners and accommodated according to the risk they pose to others, with access to activities in prisons, in line with their classification. The accommodation of prisoners under sentence of death should not be inferior in any way to that of other prisoners. They should enjoy the same rights as others, with regards to access to space, fresh air, natural and artificial light, heating, ventilation and sanitary facilities (UNODC, 2009). Pregnant women, women with infants and breastfeeding mothers who receive a death sentence should not be put in solitary confinement at all according to the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (22). A medical doctor should not certify any prisoners to undergo solitary confinement.

Prisoners under sentence of death should be able to lie down to sleep, move around freely within their cells or dormitories, and have space for their personal effects, the same as regular

prisoners. Prisoners in unsystematic prisons usually face serious problems with the prison conditions as there is often not enough space, and limited access to water, sanitary facilities and opportunities for physical exercise. Technical problems in terms of waste-water disposal, ventilation, and lighting are also considered to have adverse effects on prisoners.

According to the Article 7 of the ICCPR, *“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”* Placing prisoners in a dark cell and treating them with cruel, inhuman or degrading treatment or punishment is prohibited as punishments for disciplinary offences as stated in Rule 31 of the SMR. UN Human Right Committee (5), General Comment No.20 adds that *“the prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee’s view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure”*

Violence is a common feature of prison life (Bowker, 1980; Irwin, 1980; Johnson, 1987 cited in Wolff et al., 2007). It is the leading by-product of prisons as thousands of people with antisocial tendencies or behaviors are aggregated and confined in close and frequently overcrowded quarters characterized by material and social deprivation (Bowker, 1980; Toch, 1985; Wolfgang and Ferracuti, 1976; cited in Wolff et al., 2007). The prison environment can bring out the worst human nature (Wolf et al., 2007). Physical abuse, psychological abuse, and sexual abuse are likely to be found in prisons. Any type of abuse seriously violates the human rights of the victims regarding the article 5 of the UNDHR and article 7 of the ICCPR and CAT, which state that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Prison officers should always pay close attention to prevent any kind of abuse that can occur within prisons.

Hayton (2007) promoted a vision of a health-promoting prison based on a balanced approach recognizing that prisons should be safe, secure, reforming and health promoting and grounded in the concept of decency and respect for human rights. This vision is detailed in the report of the World Health Organization (WHO), Health in Prisons, under the Protecting and Promoting Health in Prison: A Setting.

He further states that *“human rights and decency are important foundations for promoting health because they underpin all aspects of prison life.”* Prison authorities should provide treatment for prisoners that respect the law, maintain facilities that are clean and properly equipped, provide prompt attention to prisoners’ proper concerns, protect prisoners from harm, provide prisoners with a regime that makes imprisonment bearable, and provide fair and consistent treatment by staff. This is also supported by the article 12 of the ICESCR which states *“the enjoyment of the highest attainable standard of physical and mental health is a human right”* and rule 22 (1) and (2) of SMR that states *“prisoners and all detained persons have the right to the highest attainable standard of physical and mental health.”*

Good air circulation in living quarters allows prisoners to breathe normally and gets rid of body odor. Apart from that, water consumption must be carefully managed to ensure that all the prisoners have enough water to meet their physiological needs and to maintain a minimum level of personal hygiene for the good health of all prisoners. Laundry and latrines should be available for prisoners at all times. Waste water and refuse disposal systems should be well-managed, as sanitation is the most intractable problem in places of detention. However, prisoners themselves should also be required to keep the prison clean at all times and prison officers should ensure that the facilities are kept clean in order to support this aim.

The food provided for prisoners must be of adequate quality and must be purchased in sufficient quantities at a frequency which ensures that there are no shortages and that the quality of the food remains satisfactory until it is consumed. The prison kitchens must be capable of preparing meals for the entire prison population every day and in the proper conditions. In many countries, these kitchens reflect the conditions prevailing in the rest of the prison. They are antiquated, dilapidated and inadequate to provide for the number of prisoners (Nembrini, 2005).

The conditions in which meals are prepared should receive close attention with regard not only to hygiene and equipment but also to the working conditions of the people assigned to this task (ibid).

Good prison conditions should provide enough space for exercise and sports. Physical exercise is important for prisoners to maintain good health. Thus, prison conditions should allow for access to exercise yards or any other place in the open air during the day (ibid).

Apart from that, prisons are places that are conducive to the proliferation of ectoparasites. Insects which feed on blood are not only a nuisance because of their stings or bites; they are able to transmit epidemic diseases. Other insects which do not feed on blood are also involved in the cycle of disease transmission. Lice, fleas, bedbugs, and flies are often found in overpopulated prisons. In prisons where hygiene is poor, many prisoners may become infected with scabies. Prisons can also be a harbor of cockroaches which feed on waste and decomposing organic matter. They come into contact with excrement and other pathogenic agents and deposit them on the prisoners' food. As a result, vector-control programs should be considered in order to make the environment unfavorable for the development and survival of the vector and therefore minimize the number of vectors potentially capable of transmitting a disease or creating a nuisance. It should promote passive protective measures and prevent prisoners from coming into contact with environments where transmission can occur (ibid).

In terms of medical services, UNODC (2009) states that prisoners under death sentence have the same rights as other prisoners to health care, which should be equivalent to that available to the general public⁷. They must undergo a full medical screening upon entry to prison and should receive adequate nutrition and exercise and regular access to a medical practitioner, the same as all other prisoners.

A qualified medical officer and a qualified dental officer should be provided to prisoners⁸. Generally, the health profile of prisoners is poor due to the irregular previous lifestyle or other personal factors. Conditions relating to mental illness, drug or alcohol problems, HIV or AIDS are very common. Women prisoners who are pregnant or are nursing, juveniles, and elders require special attention for their particular health needs. Poor prison conditions can cause deterioration in the health of prisoners, and prison authorities need to be careful in these circumstances.

⁷Article 12.1 of the ICESCR states "*the State Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*" The BPT (9) also states "*prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.*"

⁸The term "qualified" indicates that such staff should hold a valid health qualification which is officially recognized by the Ministry of Health and should be licensed to practice in the community outside prison.

Health care officers who work in prisons must always remember that their first duty to any prisoner who is their patient is clinical⁹. The responsibility is underlined in the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁰.

Ministry of Health and other national health authorities should have responsibility for the delivery of health services to prisoners. All norms, standards, guidelines, and monitoring systems used in the general public shall be applied to health facilities, staffing, diagnosis, and therapeutic guidelines in prisons. All health care interventions, such as diagnostic and treatment procedures shall also be given with the informed consent of the patient.

An accurate and up-to-date medical file should be maintained on all patients. It should also be confidential, i.e. access to these records should be limited to health care staff. All patients must have access to their file and receive copies of parts or all of the records upon request. To ensure continuity of care, a copy of the file should accompany the patient upon transfer and/or release. Admission to a prison health facility or bed designated as a specialized medical bed, such as an infirmary or hospital, should only be made upon an order from a qualified health professional. Assignment to such beds should not be made by prison staff or used for non-health

⁹In 1979 the International Council of Prison Medical Services approved an ethical code known as the Oath of Athens, according to which they pledged: “... *in keeping with the spirit of the Oath of Hippocrates, that we shall endeavour to provide the best possible health care for those who are incarcerated in prisons for whatever reasons, without prejudice and within our respective professional ethnics. We recognize the right of the incarcerated individuals to receive the best possible health care. We undertake: (1) To abstain from authorizing or approving any physical punishment. (2) To abstain from participating in any form of torture (3) Not to engage in any form of human experimentation amongst incarcerated individuals without their informed consent (4) To respect the confidentiality of any information obtained in the course of our professional relationships with incarcerated persons. (5) That our medical judgements be based on the needs of our patients and take priority over any non-medical matters.*”

¹⁰Principle 1: *Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.* Principle 3: *It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.* The implication of Principle 3 is that health personnel should not have any involvement in the management of prisoners or in security matters, except in so far as they concern the health needs of prisoners. This is further discussed below in respect of Rule 32: *(1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it. (2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31. (3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.*

related purposes. A patient should not remain in prison if he/she has health needs which cannot be adequately addressed in the prison due to lack of facilities, resources, or staff in the prison. Medical officers have responsibilities to use their professional expertise to inspect and report on all those conditions which may affect the health and hygiene of prisoners.

Those who have terminal illness should not be separated from other prisoners due to management reasons but solely on clinical grounds. Their right to medical confidentiality should also not be violated. Additionally, specialist care such as psychiatric needs of prisoners and dental care should be provided to prisoners.

This is highly significant as prisoners under the sentence of death are more likely than regular prisoners to develop mental health problems. They should receive regular psychological and/or psychiatric care from civil health services specialists.

Other things that should be taken into account are discipline, punishment and instruments of restraint. In accordance with Article 10 of the ICCPR, Member States have to ensure that prisons are secure, safe and well-ordered but are not run in an oppressive or brutal manner. It is the duty of the prison authorities to implement the sentence of the court but not to impose additional punishment. The use of unnecessary force should never be imposed.

Searches should be imposed in manners that are clearly defined by regulation¹¹. Persons should only be searched by staff of the same gender. The searches should be carefully concerned and done with respect and manner as intimate body searches or cavity searches can be extremely humiliating and traumatic. Strip searches and intimate body searches should always be authorized by the director of a prison and the reason for the search shall be put on record. This type of search should be done in a manner that provides privacy from other prisoners and staff members.

It is common practice to appoint prisoners as group leaders in some Member States. The prisoners might be required to report to the prison authorities on the behavior of other prisoners

¹¹The Human Rights Committee, in its General Comment 16 on Article 17 of the International Covenant on Civil and Political Rights has states “*So far as personal and body search is concerned, effective measures should ensure that such searches are carried out in a manner consistent with the dignity of the person who is being searched. Persons being subjected to body search by State officials, or medical personnel acting at the request of the State, should only be examined by persons of the same sex*”.

and to make recommendations which affect the way they are treated. The prisoners might also be given authority over prisoners in punishment or segregation units. However, the practices might lead to the abuse of power by the prisoners and therefore generate a climate of fear and distrust which undermines the principles of creating a positive and healthy prison environment and a prison that is managed on the basis of fairness and justice. The prison authorities must be very careful in terms of giving this authority. Rule 28 of SMR indicates that prisoners may be given opportunities to participate in aspects of the administration of the prison in other positive ways. Prison authorities might allow and encourage the implementation of prisoner councils which have the responsibility of channeling communications between the prisoners and the prison administration or other prisoner bodies, which may be responsible for organizing social, educational or sports activities earned by behaving in a manner consistent with good order, safety and security.

The types of punishments for disciplinary offences that can be used should all be determined by law or regulation. This is to prevent any punishment and disciplinary procedures that can be imposed in an arbitrary manner and ensures that prisoners are informed in advance of the implications of their actions according to Rule 29 of SMR. Any type of punishment should be proportionate to the offence committed and should never be excessive. Restrictions on particular forms of punishment are referred to in Rules 30 to 33. Disciplinary punishment should not result in the sentence being extended beyond its original duration. Also, the prisoner should have an avenue of appeal against any disciplinary finding.

Apart from that, prisoners who do not speak the language most commonly spoken in prison should be provided with written copies of prison rules and regulations in a language they understand, and these rules and regulations should also be carefully explained to the prisoners in order that all points are clearly understood. This is important to those who are illiterate as well.

The use of disciplinary practices should always be a matter of last resort and the authorities should ensure that there will not be any incident that might result in breaches of discipline and to resolve problems by informal dispute resolution or by some form of restorative justice.

According to Rule 30 of SMR, prisoners should only be punished after a formal disciplinary hearing which is conducted according to the procedures based on the key principles of natural justice. These include the right to know details of the charge in advance in order for the prisoners to have enough time to prepare a proper defense and to present at the hearing. In cases where the prisoners are not capable of defending themselves for any reason, they should be permitted to call another person to assist them. This is particularly necessary for prisoners with disabilities.

In the case of a serious crime, the prison authority should refer to the appropriate criminal justice investigatory authority. Prisoners should not be punished twice for the same offence. If the offence is considered to be a serious breach of the criminal law and has been referred to an external court of law, a parallel internal disciplinary procedure should not be imposed. This does not preclude the prison authorities from taking necessary steps to ensure that the prisoner does not repeat the offence and does not interfere with witnesses in any investigation.

If the disciplinary charge is a serious one with the possibility that it might result in the imposition of a heavy penalty or if the charge involves complicated points of law, provisions should be made for the prisoner to have legal representation.

The conditions under which legal representation may be granted in disciplinary hearings should be clearly defined in prison regulations and should also be drawn to the attention of prisoners. Also, prisoners have the right to an interpreter where necessary and practicable. This is important to the prisoners who are of a minority race, color, descent, or national or ethnic origin.

Apart from that, the use of physical restraints should be based on the principles of legality, necessity and proportionality. Finger and thumb cuffs, body-worn electroshock devices and any weighted or fixed restraints should be prohibited as punishment according to Rule 33 of SMR.

If there is a case that physical restraints must be applied, it should be done for the shortest possible period of time and should not be used as an alternative to other physical measures of security. According to the rule, it is never permissible to keep prisoners chained by the ankle or wrist to walls or to long iron bars, either individually or in groups, simply because the physical security of buildings is very weak.

Moreover, physical restraints should not be used as a matter of course during the transfer of prisoners from one location to another, either within a prison or outside the prison. In each case, their use should be based on an individual assessment of the risk posed by the prisoner. It must be used as a last resort to control a violent prisoner who is threatening the safety of others but it should be removed as soon as possible after the prisoner stops the violent behavior.

Every prison system must have clear and transparent procedures for the use of physical restraints and key staff should be trained in their use. These procedures must be specific as to the circumstances in which restraints may be used and which types of restraints maybe used, based on the understanding that they should have a demonstrable practical utility in law enforcement/prison management; who can authorize their use; how they are to be applied; and who is to monitor that the prescribed procedures are being carried out correctly.

Prison authorities should be concern about the human rights of prisoners and treat them humanely according to the preamble of ICCPR and Article 2 of the Code of Conduct for Law Enforcement Officials, which states “*all law enforcement officials, including prison staff, shall respect and protect human dignity and maintain and uphold the human rights of all persons.*”

Prison officers must have integrity, humanity, professional capacity and personal suitability. Member States should develop a code of ethics for prison staff in terms of integrity. The prison staff, those who work directly with prisoners, has to deal with a wide cross section of prisoners. Some of them are likely to pose a threat to the public; some are dangerous and aggressive; others will try very hard to escape. Many of them are likely to be mentally disturbed, to suffer from addictions, to have poor social and educational skills or to come from marginalized groups in society. Each of them has to be dealt with as an individual person. According to this, prison staff needs to be professionally competent and to have a suitable personality in order to deal with this difficult and complex work. Without the concern of prison authorities, successful rehabilitation cannot happen. Prison staff should consist of teachers, instructors, and health care staff. In some prisons, there is a need for psychiatrists and psychologists. Professional training alone is not enough, prison staff assigned to supervise prisoners should be carefully selected, after having been given an opportunity to decline the task.

In terms of dealing with prisoners under the sentence of death, they should be trained to demonstrate particular sensitivity towards prisoners facing the death sentence and their families; identify signs of distress and mental disabilities, and ensure that psychological support is provided to the prisoners, as necessary and without delay. The officers themselves should also receive psychological support as they are likely to feel the distress of having to supervise prisoners who may be executed.

2.1.4.2 Rehabilitation Programs

In terms of education and recreation, the SMR states that all prisoners should be provided with further education. The education shall be provided according to the country's educational system so that prisoners can continue their studies without difficulty after being released. Moreover, all prisoners should also be provided with recreational and cultural activities like sports, music and other hobbies.

Prisoners under sentence of death are likely to spend more time in prison than other prisoners. Their access to education, work and vocational training, and recreational and cultural activities will reduce the suffering inherent in their sentence (UNODC, 2009).

Prison work for prisoners is work that maintains the institution such as preparing meals and cleaning the dormitories and work that is industrial or productive in nature. Work in prison serves several functions. It keeps the prison running, keeps prisoners busy, saves the state money, produces goods and services used by other institutions and governmental agencies, and teaches a useful skill. These purposes make work a necessary and important part of any prison's program (Silverman, 2001).

Prison jobs based on real-world job opportunities will provide prisoners with the experiences needed to be successful on release. These jobs should be remunerated; allowing prisoners to pay their way after release since ex-prisoners usually have difficulty finding employment. Prisoners have the opportunities to be supervised by free-world managers who emphasize promptness, attendance, and quality and quantity of output. A broader objective of this is life management experience, which gives them the opportunity to legitimately provide for themselves. It does this by paying them wages and requiring them to manage their income to pay for room, board, and other life needs and save some for release. As prisoners often have

difficulties in getting jobs, this money can help them secure a residence, eat, and pay for transportation, clothes, and other necessities. Former prisoners who leave prison with sufficient money have a lower recidivism rate than those who do not. Consequently, providing them with opportunities to earn release money makes good correctional sense (Guynes and Grieser, 1986 cited in Silverman, 2001).

Apart from that, work can reduce idleness. Work provides prisoners a meaningful daily activity that can reduce their tensions and structures their time, which adds an element of order to institutional life. When large numbers of prisoners are idle, they have time for illicit pursuits which can result in institutional violence or other rule violations. Studies have shown that prison industry programs appear to reduce this type of behavior in prisons (Flanagan et al, 1988 cited in Silverman, 2001).

Moreover, society also benefits from the savings achieved when prison industry programs provide goods and services to governmental agencies or meet other societal needs. In private sector industry programs, they may also pay income taxes and social security (Grieser, 1997 cited in Silverman, 2001) Prisoners may be required to pay restitution payments deducted from their wages to compensate their victims (ibid).

However, prison work also has some constraints, such as the fact that the majority of prisoners may be under qualified and may be security concerns. The need to reduce idleness may also result in the over-assignment of prisoners to prison jobs. Requiring that prisoners have to compensate their victims can result in higher price for services and products which may reduce their competitiveness with the private sector (Flanagan, 1989; Grieser, 1997; cited in Silverman, 2001).

A good example of prison work happened in the United States. The Texas Death Row Garment Factory was opened in 1986, and a hundred prisoners under sentence of death were asked to join the factory to produce sheets, pillowcases, napkins, and cook caps for departmental use along with diapers and aprons for contract sales. In its eleven and a half years of operation through 1998, the factory trained 430 prisoners, ninety of whom have now been executed, and forty-five of whom left death row for various reasons. The prisoners gave reasons for joining the program such as keeping themselves busy; having certain privileges since a work-capable

prisoner is allowed to have visits in a less restrictive environment, having permission to go to the commissary or having meals served on hot carts; and the desire to prove themselves, as they still had some socially redeeming value as human beings. The factory later produced uniform pants for the officers which led to a savings of \$500,000 yearly as the system did not have to purchase the items from outside (D'Cuna 1997 cited in Silverman, 2001).

Educational programs may be considered unnecessary by some prison authorities because they think that the prison's goal is mainly about security, order, and discipline. The punitive view of prisons and negative attitudes toward prisoners hinders the educational goals, which aim to help prisoners to realize their potential, and thus may reduce the programs' effectiveness (Bellorado, 1986 cited in Silverman, 2001).

In reality, educated prisoners tend to behave better and are less likely to engage in violence. They are more likely to have a positive effect on the general population, and therefore can be a stabilizing influence in an often chaotic environment. They can enhance the safety and security of all who live and work in correctional facilities (U.S. Center on Crime Communities and Culture, 1997 cited in Silverman, 2001).

According to Silverman (2001), the range of correctional educational programs is related to the institution's size, security level, location, and the characteristics of the prisoners in that particular institution. In the United States, Adult Basic Education (ABE) programs for prisoners have been the mainstay of correctional education. The programs focus on literacy and mathematical skills, science, and social science as a foundation for further education and training. Literacy programs are included in ABE programs. Basic literacy provides basic skills to low-level readers and non-readers and uses one-on-one peer tutoring as a method. Prisoners tutor other prisoners, and this volunteer tutoring often supplements classroom work when funds are limited or helps to reach prisoners who do not attend school. Having a prisoner teaching other prisoners is more likely to create a successful program as the volunteers understand the frustrations and goals of their fellow prisoners.

Thinking skills should also be addressed as prisoners usually have thinking deficits and attitudinal problems that are directly responsible for their being in prison along with the significant academic deficits. According to Silverman, a new field of cognitive/behavioral

approaches to changing prisoner behavior, cognitive intervention, has become an effective means to improve pro-social thinking and behavior. Silverman claims that many prisoners fail to learn the cognitive skills necessary for developing the problem-solving and moral-reasoning abilities required for effective social adaptation. Therefore, prisoners should be taught how to think so they can learn how to come to pro-social conclusions.

Correctional vocational educational programs are also thought to be the best vehicles for breaking the cycle of recidivism (Simms, Farley, and Littlefield, 1987 cited in Silverman, 2001). The programs are aimed at providing prisoners with contemporary marketable skills relating to specific jobs on the outside.

In terms of the recreation programs, recreational activities form an important part of prison programming and have a number of benefits essential to successful prison management. As five U.S. federal prison wardens stated in 1979 at the second revision of the Adult Correctional Facilities Accreditation Standards, "Give me an institution with a good chaplain program and a good recreation program and I will show you an institution that will not have a riot" (McCall, 2000 cited in Silverman, 2001).

Recreational and leisure-time programs encourage prisoners to make constructive use of their free time, offering movies, games, sports, social activities, arts, hobby craft, wellness, and other group and individual activities. The expected objectives of a complete recreational program are to (1) keep inmates constructively occupied and reduce idleness; (2) provide for the physical, emotional, and social well-being of prisoners; (3) encourage and assist prisoners in adopting healthy daily lifestyle traits through participation in physical fitness and health education programs; and (4) reduce the need for prisoners' medical treatment (PS5070.10, 2000 cited in Silverman 2001). A general model for today's prisoner leisure activities is built around four dimensions which are social, physical, psychological, and health promotion and disease prevention (Rison, 2000 cited in Silverman, 2001). The programs aim to provide means for developing social and interpersonal skills. Prison authorities may face some challenges in offering leisure activities designed to attract prisoner participation regardless of ethnic, racial, age, physical capabilities, or sex differences (Silverman, 2001).

Furthermore, as Rule 39 of SMR states, “*Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration*”¹². Having reading materials that they are interested in keeps them active and benefits them in many ways. This rule should be compatible with Rule 40 of the SMR which states, “*Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it*”¹³. The prison library is an important part of the prison environment in its support for educational, recreational, and rehabilitative programs (Lehmann and Locke, 2005). An incarcerated person still has the right to learn and to access information, and the prison should provide materials and services comparable to community libraries in the “free” world. Restrictions on access to library materials and information should be imposed only when access is known to present a danger to prison security. The library should emulate the public library model, while at the same time providing resources for prison education and rehabilitation programs as well as other prison specific requirements such as legal collections. Furthermore, special attention should be given to meeting the needs of multicultural and multilingual users. The prison library should provide the prisoners with the opportunity to develop literacy skills, and to pursue personal and cultural interests, as well as life-long learning. The library should provide resources for all these activities (ibid).

The prison library should contain books, magazines, and newspapers for prisoners to keep informed of world and local affairs and to stay in touch with their home community. All library materials should be classified and cataloged according to national and/or international standards (ibid).

¹² Article 19(2) of the International Covenant on Civil and Political Rights states that: *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice*. Deprivation of liberty does not imply that prisoners should be prohibited access information about local, national or international developments. On the contrary, such access can assist eventual reintegration into society on release. In addition to the methods listed in the rule, prisoner should also have access to television programmes. As technology advances, some Member States provide prisoners with access to internet information.

¹³ A library is an important cultural and recreational resource. It is also an important element of educational provision. In many Member States public libraries are now important sources for literature in a variety of electronic formats. This development should be reflected in library facilities in prison where possible. Books and other sources of information should be available in the languages spoken by all groups in a prison. Where available, provisions should be made for prisoners with reading difficulties

Apart from that, religion is also significant for prisoners due to its moral support according to Rule 41 and 42 of the SMR. The two rules are compatible with Article 18¹⁴ of the ICCPR. Prisoners should be given the opportunity to pray, to read religious texts and to meet other requirements of their religion, such as clothing, diet, hygiene, and praying times. Prisoners should be allowed to gather as a group for religious services on religious holy days and to be visited by qualified representatives of their private prayer and group services. Communal prayer and meditation among prisoners should be allowed even in the case that a religious representative is absent.

These provisions should apply to all recognized religious groups and should not be restricted to the main religions in any country. This does not exclude the spiritual beliefs, religious customs and ceremonies of indigenous people according to the United Nations Declaration on the Rights of Indigenous Peoples.

Religious representatives should be able to provide religious texts; artifacts such as prayer rugs, beads, statues, and pictures; and to conduct confessions; private prayers or group counseling in strict confidentiality with no acoustic surveillance unless there is a clear, definable, and exceptional risk to security or public order. Preaching hatred, inciting violence, paramilitary exercises, or practicing rituals harmful to others should be prohibited. Self-mutilation or animal sacrifices should also not be allowed.

Deprivation of religious rights may not be used as a disciplinary measure, and acts aimed at injuring the religious feelings of person or the interrogation of religious representatives about information which they receive should be strictly prohibited.

It is also important to ensure that prisoners who do not adhere to any religious group or who do not wish to practice a religion should not be obliged or put under pressure to do so. For example, there should not be additional privileges or allowance to live in better conditions on prisoners due to their religious affiliation or practice.

¹⁴ 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

In terms of prisoners under sentence of death, religion is a very important factor to help them cope with difficulties inside a prison until the time of execution. In the United States, prisoners under sentence of death are exposed to religious programming from both unit chaplains and volunteers. The chaplains work with the prisoners by the same means that they try to touch other prisoners, including prayer, Bible study, religious services, and spiritual counseling (Silverman, 2001).

However, prisoners under sentence of death have unique spiritual needs and considerations due to the awaiting death sentence. Volunteers and spiritual advisors can really help in this case, as the unit's chaplain must have enough to handle the work and must treat the prisoners as same as regular prisoners. In Texas, United States, after a unit chaplain receives the date of execution, he/she will organize approximately twenty volunteers and their affiliated churches to pray for the prisoner (s). As the date for the execution grows nearer, he/she will try to prepare the prisoner for death, whether the prisoner has professed a belief in God or not. As the execution approaches, more effort is made to provide for the prisoner's needs such as frequent pastoral visits and contact with attorneys and family. The chaplain also holds special prayer sessions, communion or other pastoral events with the prisoner's permission (ibid).

Two weeks prior to the execution, the chaplain starts to make daily contact with the two other chaplains. They try to convey the emotional state of the prisoner, along with the well-being and concerns of the family. The death row chaplain has to make special efforts to meet with the prisoner's family but without him/her around so as to respond to the family's unique needs and concerns regarding their own emotions over the forthcoming execution (ibid).

Continuing with common practice in Texas, the chaplain will spend time preparing himself for the execution on the evening prior to it. He spends time praying both that night and the following morning. When he arrives at the unit, he reviews the packet of information with background data on the prisoner, security issues, and witness information. He also spends time with the security personnel that will be involved in the process (ibid).

The chaplain also makes himself available at the death chamber before the prisoner arrives, so that he can speak immediately to him upon entry. He also helps the prisoner's family to prepare for the difficulties by visiting them before the execution, accompanying them to the

viewing room, and staying with them during the execution and then returning with them to the Hospitality House afterward for prayer, sharing and closure with the family members (ibid).

The chaplain assists the prisoner after visiting the family. Tension mounts at this point, usually allowing the opportunity for prayer, communion, confessions or any other needs. This time is un-structured and led by the prisoner. He remains by the side of the prisoner throughout the process. After the prisoner is pronounced dead, the chaplain gives the family any possessions and last thoughts from the prisoner (ibid).

2.1.4.3 External Support Systems

Prisoners should also be allowed to contact the outside world for external supports from family, friends, NGOs, or any private institution. Article 10.1 of the ICESCR also states “*The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*”

Prisoners under sentence of death have the same right as other prisoners to contact the outside world. There is no justification to restrict their correspondence or visits from family and friends, on the basis of their sentence. Prison officers should demonstrate particular sensitivity to the need of this group of prisoners to communicate with their families. The way they treat the prisoners themselves and their visitors should reflect this approach (UNODC, 2009).

Conditions in which visits are conducted are of great importance for preserving a prisoner’s dignity. They should take place in decent conditions with sufficient privacy to permit meaningful and constructive communication which includes allowing physical contact. Prisoners under sentence of death and their relatives may face especially acute shame and stigma related to their sentence. In this case, sensitivity should be extended not just to the prisoner who is awaiting death but also to his family or other visitors (Penal Reform International, 2004).

In Kenya, even though there are problems with the housing of prisoners under sentence of death, prison administrators have removed restrictions on outside visitors. No limitation is made on the number of visits allowed, and prisoners under sentence of death have received

frequent visits from relatives. In Kazakhstan, all prisoners including prisoners under sentence of death are entitled to “family visits”, during which small hotel-like rooms with a common kitchen can be rented for a nominal fee to allow the prisoner to spend up to four days with a family member or loved one (ibid).

In some countries, because of the social stigma associated with the death sentence and restrictive visiting rules, prisoners under sentence of death often have trouble communicating with the outside world. NGOs promoting prisoner visits can be the method to solve this problem. One example happened in 2002 in Uganda when the International Committee of the Red Cross (ICRC) carried out 44 visits to six prisons in Kampala District. In addition to registering new detainees and monitoring prison conditions, the ICRC also collected and distributed messages between prisoners and their families. The Committee also paid transport costs for over a thousand visits by family members to prisoners on death row (ibid).

In the Democratic Republic of Congo, the NGO “*Culture pour la Paix et la Justice*” regularly organizes volunteers to visit prisoners under sentence of death, since family visits are so restricted and some prisoners do not keep contact with family members (ibid).

As another example, members of the German Coalition to Abolish the Death Penalty try to find pen pals for prisoners on death row in the U.S., the Caribbean, and Zambia. They regularly visit prisoners under sentence of death, attend and observe death-penalty related trials, and help prisoners find good attorneys for their defense (ibid).

In the case of foreign nationals, communication with family and friends is of particular importance in alleviating the impact of isolation in prison in a foreign country. Immediately upon admission to prison, foreigners should be informed of their right to contact their diplomatic representatives. Prison authorities should enable contact without delay, unless the prisoner expressly opposes the action. Facilities should also be provided for communication (UNODC, 2009).

If the prisoners’ regular communication with their family and relatives is difficult due to their residence in another country, prison authorities should provide additional means to compensate for this disadvantage. Foreign nationals’ rights to use the telephone, enabling them to call at hours that take into account time differences, allowing for longer visits to compensate

for the infrequency of visits should be increased for them. Financial assistance to cover travel and telephone costs should be considered if resources allow (ibid).

In terms of nationals of states without diplomatic or consular representation in the country as well as refugees and stateless persons, there is a particularly strong risk that they will be isolated from all contact. Prison authorities should try their best to involve community organizations that can promote understanding of the prison system and allow them to visit when families cannot. All visits and correspondences should be allowed to take place in whatever language the prisoner chooses (Penal Reform International, 2004).

The universal right to family life involves the right of families and other partners to be aware of matters affecting family members who are in prison. This right involves a two way process and prisoners also have a right to be informed of the death or serious illness of any near relative and, taking into account security requirements, to attend to the family member.

Prohibition of family contact, especially where children are involved, is liable to be detrimental to the mental wellbeing and rehabilitation of all prisoners and should not be used as a punishment. Such a punishment would also imply unwarranted restrictions on the right of other family members to family life. This is confirmed with respect to women prisoners by the Rule for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (23) that *“(d)disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children.”*

In the case of prisoners under sentence of death, article 6(4) of the ICCPR states, *“anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases”*; prisoners under sentence of death may have the opportunity to go back to the society after serving their sentences. It is important that the family and the community help the prisoners after the long incarceration.

2.2 National Level

In this section, different players and issues that involve in rehabilitation and treatment for prisoners under sentence of death in Thailand are mentioned. It starts with (Section 2.2.1) the

Justice system, which is followed by (Section 2.2.2) the Courts of Justice, (Section 2.2.3) Death Sentence in Thailand, (Section 2.2.4) Royal Pardon, (Section 2.2.5) Department of Corrections, (Section 2.2.6) Prisons in Thailand, and ends with the National Standards on Rehabilitation for Prisoners under Sentence of Death (Section 2.2.7).

2.2.1 Thailand's Justice System

Several organizations share the responsibility for administration of criminal law in Thailand. This includes the Royal Thai Police, the Office of the Attorney General, the Courts of Justice, and the Ministry of Justice. The Department of Probation, the Department of Corrections, and the Central Observation and Protection are sub-organizations that belong to Ministry of Justice.

After an arrest, law enforcement agencies present information about the case and about the accused to the prosecutor. Kalyanasuta and Suriyawong (2002) stated that an investigation is conducted by inquiry officials, who are mainly the police, with Thai prosecutors who can only begin their function after receiving investigation files from the inquiry officials. They do not have the power to initiate investigation nor institute the case themselves. If the prosecutor deems that the facts or evidence that appear in the file are not clear enough, they can instruct the inquiry officials to conduct an additional investigation.

After the completion of the investigation, a report is filed with the public prosecutor. An indictment will be prepared and a copy of it will be handed to the accused or his counsel. The accused then enters a plea of guilty or not guilty. The judge either accepts a case for trial or dismisses all charges.

Trials are normally held in an open court. The accused is supposed to be innocent until proven guilty. During trials, accused individuals or their counsels can cross-examine prosecution witnesses and re-examine defense witnesses. The judge decides the sentence after that. A sentencing hearing may be held at which evidence of aggravating or mitigating circumstances from an offender's background and the offender's criminal behavior can be taken into account. Courts often rely on pre-sentence investigations by probation officers.

The sentencing choices that may be available to judges include the death sentence, a sentence of imprisonment, a sentence to confinement, fines, and forfeiture of property (the Penal Code Section 18).

2.2.2 The Courts of Justice

Thailand's judicial system is based on Civil Law which is greatly affected by the Constitution of the Kingdom of Thailand. The types of court recognized under the constitution are the Constitution Court, the Court of Justice, the Administrative Court, and the Military Court (Kalyanasuta and Suriyawong, 2002).

The structure of the Courts of Justice is divided into two parts, administration and adjudication. The Courts were separated from the Ministry of Justice in 2000 and the office of the Judiciary is the organization responsible for the administration of the Courts of Justice.

There are three levels of the Courts of Justice, namely the Courts of First Instance, the Courts of Appeal, and the Supreme Courts. The Courts of First Instance or Provincial Courts are specialized for civil, criminal, labor, juvenile or family matters. It has authority over all matters subject to a few exceptions (Union for Civil Liberty, 2011: 8). The Court of Appeal is responsible for an appeal against the judgment or order of the civil courts and the criminal courts. There are ten different Appeal Courts. One is in Bangkok, and there are nine Regional Courts of Appeal that hear appeals from the Provincial Courts. At least three judges are needed to form a quorum to hear an appeal. Lastly, the Supreme Court, the final court of appeal in all civil and criminal cases in the whole kingdom, is headed by a Chief Justice. It is regarded as the head of the Judicial Power.

After the Court of First Instance makes a decision, a convicted person can appeal to the Court of Appeal. After the judgment of the Appeal Court, a person can appeal to the Supreme Court. All appeals to the Courts of Appeal and the Supreme Court must be filed within one month after the judgment being appealed was given. After the final verdict by the Supreme Court, a convicted person has the right to ask for a Royal Pardon, with the restriction of one application per prisoner.

A convicted prisoner can be released for any one of the following three major reasons: expiration of his term of sentence or by order of competent authorities, royal pardon, and parole.

In the case of prisoners under sentence of death, after the final verdict has been given, the only remaining choice for them is to obtain the Royal Pardon, which can reduce their death sentence to life imprisonment. After that, if they behave well enough, they might receive years of sentence in number¹⁵.

2.2.3 Sentence of Death in Thailand

The first evidence of death sentences in Thailand can be found in the Royal Decree on Criminal Offences and Prosecutions or PhraAiyakarn-AyaLuang, which came into effect in B.E.1895 (1352 A.D.) (Union for Civil Liberty and the International Federation for Human Rights, 2005). The decree stated that the method for execution was beheading, for offences against the Royal administration, exploitation of citizens, harboring fugitives, resisting arrest, falsification of arrest warrants, alteration of testimony, and failing to carry out orders resulting in damage to official functions.

The method was changed to firing squad in B.E. 2477 (1934) when the Royal Thai Government decided to amend Article 13 of the Criminal Code. The method was changed again in 2003 to lethal injection, which continues until the present.

Male prisoners under sentence of death in Thailand who have received their final verdict are held at Bang Khwang Central Prison (2.3), while women are held at the Central Women Correctional Institution, one of the two female correctional institutions in the Bangkok Metropolitan, and the biggest female correctional institution in Thailand.

2.2.4 The Royal Pardon

The Royal Pardon is granted by the King of Thailand in the form of an unconditional release, a commutation or a reduction of punishment. Prisoners under the sentence of death can benefit from the Royal Pardon by getting a sentence commuted to life imprisonment. The

¹⁵ For example, a person might be under sentence of death but when he receives Royal Pardon, his sentence is reduced to life imprisonment. After receiving a Royal Pardon again, his life sentence might be reduced to 50 years of sentence. His sentence will be reduced again after a Royal Pardon into a number of years that is lesser than his current sentence.

decision is entirely dependent on His majesty the King, according to Section 221 and 225 of the Constitution (B.E. 2540) (1997) and Section 259 to 267 of Division 7: Pardon, Commutation and Reduction Punishment in the Criminal Procedure Code Amendment Act (No.23), B.E. 2548 (2005).

Two forms of Royal Pardon are applied to prisoners, the collective Royal Pardon and the individual Royal Pardon. The first type is granted on special occasions of national celebration such as Long-Reign Celebration and the Golden Jubilee. This collective Royal Pardon applies to all prisoners whose sentences have been finalized by the Courts.

In the case of individual Royal Pardon, after the prisoners receive a final verdict from the Supreme Court, they have sixty-days to submit an application for the grant of Royal Pardon to the Ministry of Justice.

2.2.5 Department of Corrections

The Department of Corrections is the final agency of the criminal justice system. Taking offenders who have been sentenced by the court into custody and the rehabilitation of offenders are under the Department of Corrections. The Department must reintegrate the prisoners into society as good citizens after release. Therefore, it plays two important roles at the same time; to act as a preventive agency in terms of crime suppression and, to develop the human resources of the country. Caring custody, meaningful rehabilitation, and achievement of international standards are stated as goals on the department's website. The department's main responsibilities are to execute penal sentences imposed by the Courts and any lawful orders.

The Criminal Procedure Code B.E. 2477 (1934), the Penal Code B.E. 2499 (1956), and the Penitentiary Act B.E. 2479 (1936) are a few of the laws which govern the department. The department has committed itself to fulfill the following:

- To keep prisoners whose ages range from 18 and above in custody and ensure their appearance in Court.
- To ensure that all the procedures for detaining prisoners in custody are consistent with laws, regulations, government policy, and the principle of criminology and penology, as

well as the United Nations Standard Minimum Rules for the Treatment of Offenders and other recommendations.

- To manage prisoners according to individual background, risk factors, and individual needs.
- To equip prisoners with lawful earning skills through various vocational training programs.
- To provide a safe, secure and humane environment whereby prisoners are able to have access to social services, recreation facilities, education, vocational training, religious, health care, and other forms of welfare.
- To coordinate and cooperate with other criminal justice agencies in order to achieve maximum protection of society.

The stated vision of the department is *“to become an efficient agency in keeping in custody and rehabilitating prisoners in order to return decent citizens to the community.”* The mission is *“professionally keeping prisoners in custody”* and *“rehabilitating prisoners with efficiency.”*

2.2.6 Prisons in Thailand

The major laws that govern the Thai prison system are the Penitentiary Act B.E. 2479 (1936), the Ministerial Regulations enacted by virtue of section 58 of the Penitentiary Act, Departmental Directives and other recommendations.

The organizational structure is broadly divided into Central Administration and Provincial Administration (Specialists of the Department of Corrections, 2008). Central Administration is under the direct supervision of the Department Headquarters which consists of Bureaus and divisions at the headquarters, and prisons and correctional institutions comprised of thirty-three central prisons, four remand prisons, and twenty-four correctional institutions, one house of relegation and detention houses. Provincial Administration is under the provincial authority and is composed of forty-nine provincial prisons and twenty-seven district prisons.

Facility types are classified into eleven categories, namely provincial prisons, district prisons, remand prisons, central prisons, female correctional institutions, correctional institutions

for young offenders, correctional institutions for drug addicts, open correctional institutions, medical correctional institutions, detention houses, and houses of relegation.

It is stated in a report by the specialists of the Department of Corrections (ibid) that in order to promote and strengthen the UN mechanisms such as the SMR, ICCPR, and CAT that Thailand follows, a set of prison standards has been introduced as follows:

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

The prison policy, as stated in the report, is developed from Government Strategic and Action Plans, the National Economic and Social Development Plan, as well as the Government and the Ministry of Justice's policies. All major policies are stated so as to focus on the core missions of the department, which are to take offenders into custody with professional skills and to rehabilitate the offenders with meaningful and effective activities.

2.2.7 National Standards on Rehabilitation for Prisoners under Sentence of Death

2.2.7.1 Living Conditions

According to the Department of Corrections (2005), government reform brought changes in a number of incarceration schemes with the cooperation of criminal justice agencies in 2002, which led to a decrease in the number of prisoners. The Department claims that it is able to adjust its direction regarding treatment of prisoners by emphasizing the improvement of quality of life in prison to be more appropriate for effective rehabilitation.

Furthermore, the Department has tried to achieve at least four of the five aspects of living standards (sleeping materials, kitchen, canteen, medical service, and waste treatment) in 20 prisons and correctional institutions each year. In its report in 2005, the Department anticipated that all the prisons and correctional institutions in the whole country would achieve the living standard by 2007.

The Department of Corrections is also concerned with the quality of prisoner life. It appointed a committee to study and consider the standard of space for one prisoner. The study was done through the United Nations Standard Minimum Rules for the Treatment of Prisoners and the committee visited prisons in Australia and the United States. On 27 January 1995, the Department of Corrections held a meeting between the Commanders of prisons and related authorities and was able to set up a sleeping space standard of 2.25 square meters per prisoner, with a maximum capacity of 1.2 square meters per prisoner in the event of a sudden and dramatic increase in the number of prisoners.

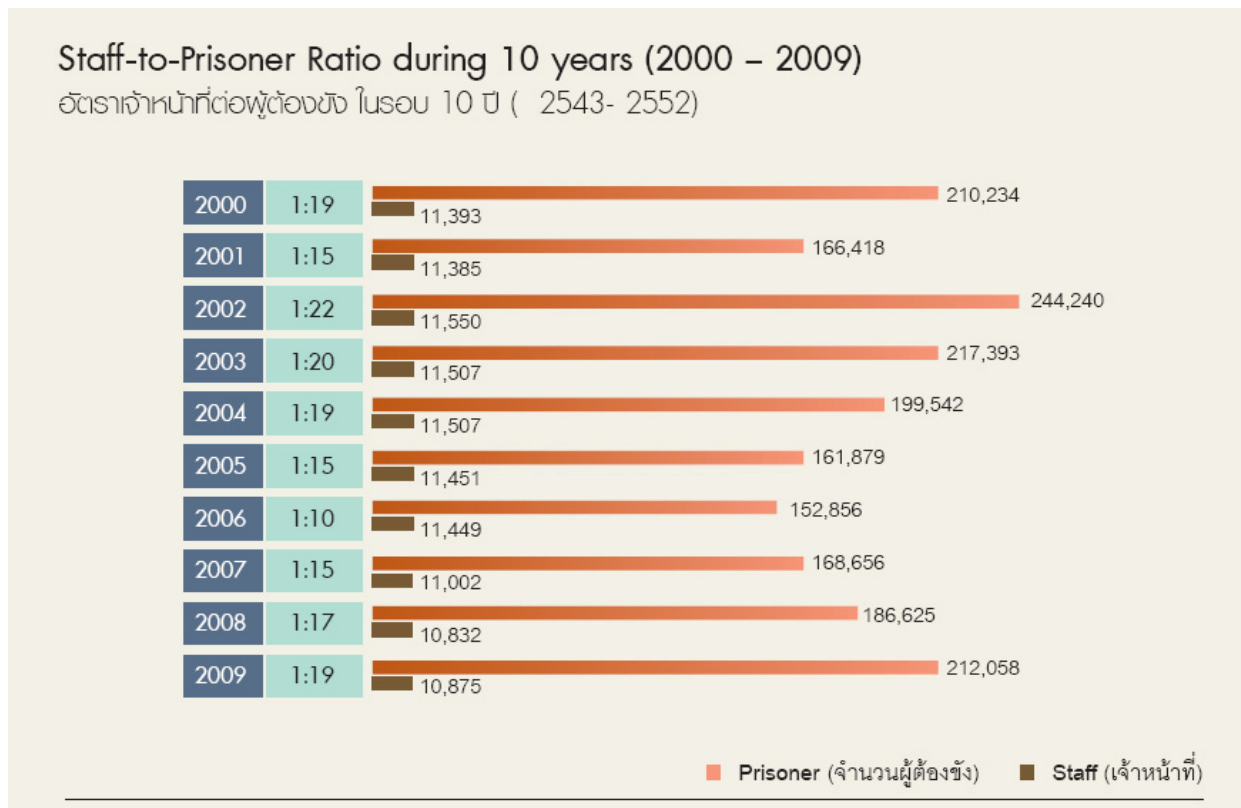
However, overcrowding seems to be the challenge that cannot be overcome easily. In the report by the Specialists of the Department of Corrections in 2008, it stated that prisons in Thailand still have this problem. In fact, it has always been a problem for the penitentiary system (Kalyanasuta and Suriyawong 2002; Specialists of the Department of Corrections, 2008; Jaruboon and Sereemongkonpol, 2010: 44; Union for Civil Liberty, 2011). The problem has led to many challenges such as the increased risk of riot and escape, a shortage of prison staff and ineffective rehabilitation programs (Specialists of the Department of Corrections, 2008).

The standard of prison conditions is mainly important to the overall quality of life in prison and thus affects the rehabilitation of prisoners. It can be extremely detrimental to their health and mental well-being (Union for Civil Liberty, 2011). Sleeping cells in Thai prisons are like dormitories, not single cells like in the west. There is no universally agreed upon minimum standard for cellular space, but the European Committee for the Prevention of Torture (CPT) has set four square meters as the absolute minimum of living space. The total space of dormitories in all correctional settings is 237,935 square meters and the standard sleeping area as stipulated by the Department is 2.25 square meters for each inmate (Specialists of the Department of Corrections, 2008). In reality, many prisons do not follow the standard that has been set. The Union for Civil Liberty (2011) states that prison conditions in Thailand do not meet the SMR.

The Human Rights Committee on the occasion of the Royal Thai Government report on its implementation of the ICCPR commented that it is concerned with the overcrowding and general conditions of places of detention, particularly with regard to sanitation and access to health care and adequate food. King's College ICPS World Prison Brief quotes an estimate for the total capacity of all 143 prisons in Thailand as 105,748 persons. However, according to the appendix III, there were 212,058 prisoners as of 2009, which ranks third highest in Asia.

Overcrowding affects access to education, training, and work. As of 2002, ninety-two per cent of prisoners had completed primary education while a small number had completed high education. There were only 0.5 per cent who had completed university education. This creates problems for the department in carrying out tasks effectively as overcrowding places high demands on education and training services (Kalyanasuta and Suriyawong, 2002). From a medical aspect, the overcrowding condition allows infectious diseases to spread quickly. Prisons can become harbors of disease which will affect the whole populations (Union for Civil Liberty, 2011). Shortage of staff leads to a deteriorating relationship between correction officers and prisoners, thereby destroying the notion of 'corrections' (Kalyanasuta and Suriyawong, 2002). In this situation, it induces the formation of prison gangs and corruption in the correctional systems, which can lead to smuggling of forbidden items such as narcotics and alcohol. This becomes a barrier in providing effective drug and alcohol treatment for prisoners. A prison that is without an effective rehabilitation program is more likely to create offenders who will re-commit crimes upon release. The combination of the effects of prison overcrowding is the lack of access to educational and training programs, insufficient attention from the prison's staff, a deterioration of living conditions which greatly affects mental health of prisoners, and a lack of substance abuse treatment services; which reduces the likelihood that prison sentences will actually work to tackle the causes of offending behavior.

Figure 2.1: Staff-to-Prisoner Ratio during 10 years (2000-2009)



Source: Department of Corrections, 2010

The major causes of overcrowding in Thai prisons are harsh policies on drug use, long sentences, minimal use of non-institutional treatment, high reliance on imprisonment as a sentencing option, and a low rate of bail granted to accused people (Kalyanasuta and Suriyawong, 2002).

Kalyanasuta and Suriyawong (2002) commented that using community service orders as an alternative to imprisonment, confinement and fines should be considered. This will help reduce the general population of prisoners, which should lead to an improvement regarding the shortage of prison staff.

In terms of medical services, there is a nursing home providing basic medical treatment for prisoners. Sick prisoners can ask for medical treatment free of charge. If a condition is beyond the medical treatments provided by the nursing home, the prisoners will be transferred to a nearby hospital or the Medical Correctional Institution. According to the Specialist of the

Department of Corrections (2008), prisoners with personal health problems who have to bring specific medicines into the prison need to receive approval from the authorities first.

According to the report, every prisoner has the right to access to health care and medical services the same as other people do. Prisoners are required to have a medical examination during the process of admission. Those who are ill will be sent to receive medical treatment at the prison medical center and later might be transferred to another place outside the prison that is deemed proper for the health conditions to get better (Specialist of the Department of Corrections (2008).

Pregnant prisoners will receive proper treatment and are allowed to raise their infants behind bars for a few years (ibid).

In terms of personal issues regarding living conditions, prisoners are required to wear clothes following the rule of the authorities. However, in some circumstances, they are allowed to wear their own clothes. Each prisoner is provided two prisoner's uniform and other personal items such as towels and underwear. A very limited list of personal belongings is allowed for prisoners such as clothes, pajamas, underwear, stationary, and daily-use items. Prisoners are given a sleeping mattress, a blanket, and a pillow. The mattress is made of materials that will not harm a prisoner's health (Specialists of the Department of Corrections, 2008).

They are given three meals daily. Apart from normal food, special menus to meet religious requirements and health conditions of prisoners such as Halal food, diets for the elderly, and liquid and soft diets for ill prisoners are provided. The Department of Corrections claims that the quality and cleanliness of raw materials are always considered, as there is a committee consisting of members who are prisoners themselves and other qualified visitors from the Justice Ministry which is responsible for proving the quality and cleanliness of the cooking materials. In terms of nutrition, a meal planning is set monthly by professional nutritionists. Prisoners are allowed to cook the meals they would like by purchasing materials from a prison welfare shop.

Prisoners were allowed to receive food from their relatives during visits until May, 2012 due to the project "White Prison" to prevent drugs smuggling.

Shackling was one of the factors that deteriorated the living condition of prisoners before being removed on 23-24 of January, 2013. It was a serious human rights concern as it is considered to be a form of torture and degrading treatment. The Union for Civil Liberty (2011) states there is no separation in prison conditions between prisoners under the sentence of death and general prisoners. Yet the prisoners under sentence of death were shackled twenty-four hours a day. According to international standards, the use of shackles twenty-four hours a day violates paragraph 33 and paragraph 34 of the SMR that states “*chains or irons shall not be used as restraints*” and “*the patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.*” Shackles prevented them from exercising and playing sports normally. The use of shackles violated the article 7 of the ICCPR and Principle 6 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment which states that “*no person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.*”

Even though the shackles have been removed from prisoners under sentence of death when they stay inside their buildings since January 2013, they still have to wear them when they go to the courts or receive medical services at the hospital outside the prison.

2.2.7.2 Rehabilitation Programs

Nathee Chitsawang (2003), a former director-general of the Thailand Department of Corrections, stated that the method of rehabilitation for prisoners should be categorized into three groups: general rehabilitation programs, special rehabilitation programs, and short-term training.

General rehabilitation programs for prisoners consist of educational programs, vocational training, and religious activities. According to the Department of Corrections (2007), educational programs that are offered to prisoners in Thailand range from the fundamental level to university education. Prisoners who have no background in literacy can attend fundamental education which offers course from the elementary school level to high school level before entering a university. Sukhothai Thammathirat University offers a university education to prisoners after that. Prisoners who wish to attend vocational education can also obtain Vocational Certificates

and High Vocational Certificates through the programs, via a Department of Corrections partnership with the Office of Non-Formal and Informal Education and the Office of the Vocational Education Commission.

Some of the vocational training that is offered to prisoners includes Thai massage (masseur), painting, making photo frames, and other self-employed jobs. Prisoners at the regional prisons are trained to make products out of local materials. In terms of the religious activities, prisoners are provided moral preaching and meditation. Monks are invited to pray and preach for Buddhist prisoners. There are also chaplains who are allowed to teach prisoners according to their religions.

In terms of the special programs, the programs are designed to concentrate on changing the attitudes and behaviors of prisoners. The program is normally between six months to one year, not including the pre-release period. The special programs can be designed for particular groups of prisoners according to the types of cases or their behaviors, such as programs for sex-offenders; programs for drug-offenders (which in the latter case, are normally community-based programs); and programs for prisoners who commit violent crimes.

Apart from that, Chitsawang states that the special programs can be designed according to the special needs of prisoners, such as prisoners with mental health care needs; prisoners with disabilities, ethnic and racial minorities and indigenous people; foreign national prisoners; LGBT prisoners; older prisoners; and prisoners with terminal illnesses. These types of special programs are not designed to focus on changing their attitudes or behaviors but to provide special care for them. The programs are more like special treatment for prisoners who need special care.

The process of specific rehabilitation programs as stated in the research by the Office of Correctional Administrative Research Development of the Department of Corrections (2008) is classified into five stages.

Stage 1: Group Selection

When the special programs are implemented, the next stage is to select the prisoners that have characteristics and behaviors that are suitable for the aim of the programs. The group

usually consists of twenty-fifty prisoners (Chitsawang, 2003:6 cited in the Department of Corrections, 2008).

Stage 2: Preparation for Rehabilitation

The preparation stage can be divided into three sub-categories as follows:

(1) Classification

Each prisoner will be interviewed and their information will be recorded as a case study. The classification can be done by the appointed committee for classification or by the social workers in order to know about each prisoner's background, motivations and causes for committing their crimes. The results will be used in designing proper rehabilitation and treatment programs for each individual in the group.

The specialists of the Department of Corrections (2008) divided the classifications into two levels, classification for segregation and classification for rehabilitation. According to the specialists, the objective of classification for segregation is to divide prisoners in three main groups which are

1. Prisoners who do not need rehabilitation, such as well-educated people;
2. Prisoners who are not suited for rehabilitation, such as repeat criminal prisoners;
3. Prisoners who can be rehabilitated and will be. This group will be classified under the second level which is classification for rehabilitation. In order to rehabilitate these prisoners effectively, their background and all details about their needs must be studied carefully.

This indicates that there are groups of prisoners that do not get rehabilitation. The specialists of the department admitted in the report that in theory, different types of prisoners—convicted prisoners, remandees, detainees and those confined in lieu of fine—should be locked up in separate facilities for the purposes of providing appropriate treatment programs and preventing the problem of contamination of unfavorable and criminal behavior. However, the practice is hardly provided in reality due to budget restrictions.

Assoc. Prof. Dr. Jutharat expresses her concern over the classification issue in which she states that an effective classification should be based on the nature of the offence, the cause and motivation for committing the crimes, and psychological testing. She suggests that the period of classification should be stated clearly regarding how long of the sentence as well as the implementation of the actual standards on classification. New prisoners should participate in the rehabilitation programs according to the classification (Office of Correctional Administrative Research Development of the Department of Corrections, 2008).

(2) Making a profile and evaluating the personality of each prisoner

Psychologists are responsible for the evaluation of the personality of each prisoner who participates in the programs. The information will be used to prepare them for the rehabilitation and treatment as each prisoner has a different background and motivation for committing crimes, even though the crime might be put in the same category. In-depth interviews, secondary information of prisoners' history from documents, conversations with prisoners, behavioral observations, and the use of psychological questionnaires are the typical methods. The information is also used when the programs is done for purposes of measurement and evaluation.

(3) Shock Therapy

Shock Therapy is a form of training for prisoners to become aware of and realize the results of crimes they have committed. The stage aims for prisoners to feel remorseful, under the close supervision of the wardens. The activities in this stage involve working for the benefit of community, discipline training, and exercise.

State 3: Rehabilitation Programs

The rehabilitation programs are the key to the entire process, with the aim of changing the attitudes and behaviors of each prisoner. The prisoners should be able to develop a sense of self-responsibility while being part of a group, which means that they can follow the standards that have been set for the majority. Music therapy, art therapy, and family therapy can be additional methods for the rehabilitation. Each program varies according to the prisoner's background, personality, and causes and motivations for committing crimes.

State 4: Pre-Release

Pre-release is the last program that the Department of Corrections provides for prisoners during the time spent in prison. Programs for pre-release are implemented for each prisoner. The Department of Corrections usually has all prisons and correctional institutions in Thailand implement the program twice a year for prisoners who have less than six months left in prison. The courses focus on fundamental knowledge in order to be able to adapt to the environment outside the prison, such as job and family life. The course also includes training for prisoners to avoid factors that may lead to re-committing crimes. Apart from these programs, the centers for rehabilitation have been established. In Bangkok, the center is at KlongPrem Central Prison. There are other ten additional centers that belong to the Provincial Administration.

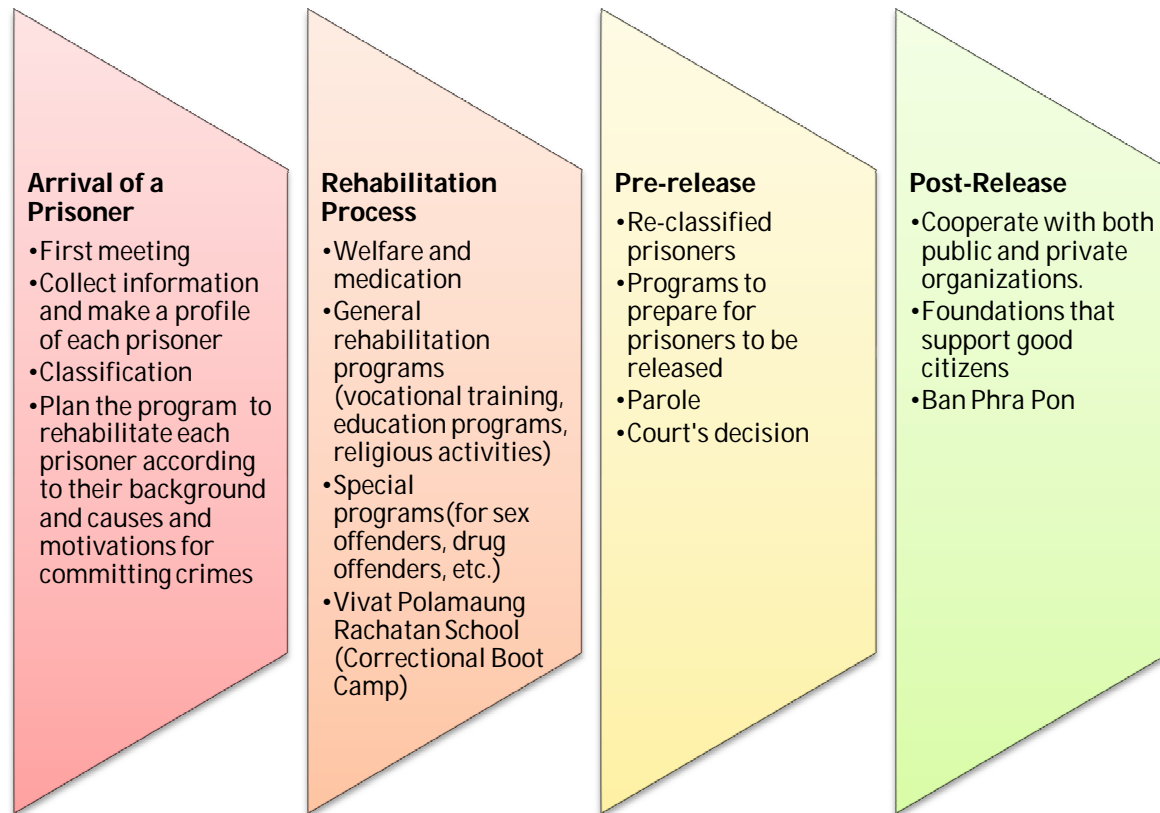
State 5: Post-Release Service

The Department of Corrections has policies for helping prisoners after being released from prison. In cases where the prisoners did work offered by the department, and the products they made yielded profit, they will be paid immediately. An amount of money for transportation costs will be arranged to allow the prisoners to go back to their community. Prisoners will be provided with new attire after being released. The department also makes a list of prisoners who will be released in order for their relatives to be there on the date of the release. The Department of Probation, the Department of Employment, and the Department of Social Development and Welfare, and other charitable organizations are a just a few of the organizations that the department coordinates with in order to help prisoners upon release.

Apart from general and special programs, the last category to be discussed is short-term training programs, which are short courses that are offered to prisoners for a particular purpose such as anger management, drug and alcohol treatment, and job-finding skills. These short programs can be classified as part of the long-term special programs designed according to their appropriateness for each prisoner, who may each require different rehabilitation. The special programs previously mentioned can consist of different types of short-term training programs.

The entire process of rehabilitation according to the Department of Corrections is stated in the chart below:

Figure 2.2 : The Diagram of Rehabilitation Process in Thailand



Source: Office of Correctional Administrative Research Development, 2008

Religion is another factor of concern, as prisoners have the right to practice their religion and perform religious activities according to their own will. They are also provided moral preaching and meditation. Monks are invited to pray and preach for Buddhist prisoners. Chaplains are also allowed to teach prisoners in accordance with their religion (Specialist of the Department of Corrections, 2008).

A specially-designed moral class is specially conducted for prisoners in the five southern provinces, the majority of whom are Muslim. In order to provide appropriate treatment and to avoid misunderstanding amongst prisoners and staff with different ethnic backgrounds, the Department produces a Manual for the Treatment of Muslim prisoners for prison staff (ibid).

There is also another concern regarding rehabilitation programs. According to the Union for Civil Liberty (2012), prisoners with special needs such as foreign prisoners receive insufficient attention from prison authorities. This is stated in its document on Conditions of

Imprisonment in Thailand, part of which stated that the rehabilitation programs for prisoners in Thailand are ineffective. The document was based on visits inside prisons on special occasions, conversations with prisoners and those recently released, with relatives of prisoners, and with long-term volunteer visitors to prisoners. The organization states there are some special groups of prisoners, such as foreign prisoners, who are excluded from the programs provided. It stated *“A foreign prisoner can expect no individual attention which would prepare him/her for release after long imprisonment. Foreign prisoners may not avail of any rehabilitative training, nor may they work for payment however meager it might be. While local prisoners are likely to receive regular visitors bringing fresh food and other necessities, foreign prisoners can expect little after an initial period.”*

2.2.7.3 External Support System

Visiting services are classified into three categories, namely regular visits, contact visits, and conjugal visits (Department of Corrections, 2005). Prison authorities allow legal representatives, families, and friends to visit prisoners. Many visiting services have been improved in order to facilitate the public visiting the prisoners, including:

- (4) The renovation of visiting halls, and shortening of visiting procedures,
- (5) The “One-Stop Service” to provide prisoner’s data and information to visitors,
- (6) The improvement of the prison welfare store,
- (7) The use of the telephone to replace traveling to and from prisons,
- (8) The use of facsimile and email instead of letters (receiving only)

Qualified prisoners, both Thai and foreigner, are allowed to receive contact visits inside the prisons. The Department states that prisoners and their relatives are allowed to sit and talk while having their meals together without any barriers.

The last category is conjugal visits or visits fostering family bonds, which has been allowed since 1990. According to the Department, this type of visit is for qualified pre-release prisoners who have been sent to the open correctional institution, where they receive agricultural training and pre-release treatment programs. Once a month upon appointment, the families are allowed to have a one-day and one-night visit with the prisoners.

According to the Union for Civil Liberty (2011), the right of prisoners to have access to family members was not always observed in practice. Foreigners who have a difficulty in communicating in Thai are usually removed from family supports. Prisoners who cannot depend on supplements of food and medicine, as well as monitoring of their physical and mental health from family supports can be left in a precarious position.

NGOs and private organizations are allowed to visit and conduct activities for prisoners in prisons. In Thailand, organizations like the Jesuit Foundation are allowed to conduct activities for prisoners. However, prisoners under sentence of death are not included in the visits by these NGOs.

2.3 Bang Khwang Central Prison

2.3.1 Overview of Bang Khwang Central Prison

According to the Department of Corrections, the construction of Bang Khwang prison started in 1927 during the reign of King Chulalongkorn and finished in 1931. The construction of the prison was one of King Rama V's goals, as he declared that the country had become increasingly progressive, and that unsightly prisons should be located outside Bangkok (Jaruboon and Sereemongkonpol, 2010: 44). Therefore, the purchase of land on the east side of the Chao Phraya River in Nonthaburi province to build the prison was arranged and the first phase of the construction of what was later dubbed the Bangkok Hilton began in 1927, with the aim of establishing Thailand's first maximum-security prison.

Prisoners at Bang Khwang are categorized into three groups: those whose appeals are pending in the Court of Appeal or Supreme Court after the Court of First Instance handed a death sentence, those whose sentences are more than 25 years, and prisoners under the sentence of death who are awaiting execution (Union for Civil Liberty, 2011).

2.3.2 Prisoners under the Sentence of Death at Bang Khwang Central Prison

The prisoners under sentence of death are not allowed to meet with any regular prisoner. They are in Buildings 2 and 5 of Bang Khwang Prison. According to statistics provided by the

Department of Corrections, as of June 19, 2012, there are 726 prisoners who are under sentence of death with 58¹⁶ of them having received their final decision from the Supreme Court.

Prisoners under the sentence of death observe the following daily routine:

7.30: Cells are opened and breakfast is eaten

12.30: Lunch

14.30: Cells are locked up for the night

A bag containing one tooth brush, shampoo, and a toothpaste is provided every six months. Prisoners are allowed to shower as much as they would like to. They have access to water three times a day and are allowed to spend time one hour in the library each visit. They are allowed up to two visits a week, for a length of forty-five minutes each time, between 1 pm and 1.45 pm. Two phone calls are allowed once a week for a length of five minutes each. They can write and receive letters but both incoming and outgoing mail has to be read by the administrative staff first. They do not have access to the Internet and are not allowed to use cell phones. Apart from that, they cannot work, exercise, or study with the others. Their good behavior does not affect promotions to their prisoner status, as the Department of Corrections classifies inmates as exceptional, very good, good, moderate, bad, and very bad. Prisoners under sentence of death cannot get a “good” mark based on their behavior, and therefore cannot get any promotion to a higher rank, something which affects the time of release for regular prisoners.

Discrimination of treatment between prisoners under sentence of death and other prisoners- even those serving life sentences is high (Union for Civil Liberty, 2011). This creates extra-suffering and moral torture for those awaiting execution, even though Bang Khwang Central Prison has dramatically improved during the last decade in terms of its overall condition.

Prisoners under sentence of death have access to study and vocational training according to Sections 27 and 28 of the Penitentiary Act. Apart from that, Sukhothai Thammarat University offers various courses for prisoners to study. The courses range from the basic level for those who cannot read and write to the bachelor degree level.

¹⁶ Page 2, Table 1.2

In terms of vocational training, the Department of Corrections has cooperated with many government agencies to provide vocational training, including the Department of Skills Development, the Department of Non-formal Education, the Department of Vocational Training and other educational institutions. Thai massage (masseur), carpenter, computer repair and other self-employed occupations are but a few examples.

The title of prisoners under sentence of death leaves this group of prisoners with very little or no opportunity to negotiate. They are considered as prisoners who have nothing to lose, and potentially may try to escape- this may have led to the twenty-four hour shackling.

Prisoners under death sentence are not informed about the date of execution. The Department of Corrections says the reason for this is to prevent them from committing suicide or harming themselves in order to have the execution postponed (Jaruboon and Sereemongkonpol, 2010: 57). The prisoners and their loved ones do not have time to prepare mentally before the execution. They live with the fear that every day may be their last day (Jaruboon and Sereemongkonpol, 2010: 56). During the last execution, which took place in 2009, two prisoners under sentence of death were informed just sixty minutes prior to the execution.

The prisoners are usually allowed to make phone calls or write letters to their loved ones before the execution. A big last meal is offered to them, and then they listen to a last sermon from a monk at the visiting area. Finally, they are transported on golf carts to a gazebo where they are blindfolded and executed by lethal injection (Jaruboon and Sereemongkonpol, 2010: 57). The prison doctor has to confirm the death and announce the time of death. The body will be kept in cold storage before being sent to Bang Preak Tai Temple.

5.4 Literature Gaps

Past works that specifically focus on rehabilitation for prisoners under sentence of death is very limited on both the international and national levels. There is no academic research or any secondary information on the analysis of rehabilitation for this group of prisoners in Thailand. The information that was found mainly discusses the rehabilitation and treatment for prisoners under sentence in general. This creates some challenges for prisoners under sentence of death as very prisoner under sentence of death in Thailand has the right to ask for pardons and remissions according to the Article 6 of the ICCPR. This group of prisoners need rehabilitation programs

that are designed for them specially as they tend to be more vulnerable in terms of their mental health due to the long incarceration and the fear of being executed Little was known about the most difficult period for prisoners under the sentence of death – the period after receiving their final verdicts and waiting for the Royal Pardon.

Additionally, the attention that has been given to the prisoners is also limited. Past works about the death sentence usually focus on its abolition and the supporting reasons thereof.

CHAPTER III

LIVING CONDITIONS

3.1 Introduction

Living conditions consist of 3.2) Accommodations, 3.3) Sanitation, 3.4) Exercise and Sports, 3.5) Food, 3.6) Medical Services, 3.7) Discipline and Punishment, and 3.8) Instruments of Restraint. Accommodation (Section 3.2) has three sub-topics: Dormitories and Bedding (Section 3.2.1), Air, Floor Space, Lighting, Heating, and Ventilation (Section 3.2.2), and Supervision of Prison Guards (Section 3.2.3). This part analyzes the sleeping accommodations at Buildings 2 and 5 of Bang Khwang Central Prison and the condition at the dormitories under the supervision of the officers. Sanitation (Section 3.3) talks about the cleanliness standard that is imposed on prisoners under sentence of death by the prison's regulations. Exercise and Sports (Section 3.4) discusses the allowance by the prison authorities regarding exercise and sports for those under sentence of death. Food (Section 3.5) is about the food and drinking water that is provided inside of the prison. Medical Services (Section 3.6) discusses how prisoners under sentence of death receive medical services under the regulations that are imposed on them inside of the prison. Discipline and Punishment (Section 3.7) tells about the regulations on discipline and punishment that are imposed on prisoners under sentence of death. It mainly talks about solitary confinement and incidents when prisoners under sentence of death violate the regulations. Last but not least, Instruments of Restraint (Section 3.8) mainly discusses the shackles that prisoners under sentence of death had to wear permanently.

All of these are factors that support the effective rehabilitation process of prisoners under sentence of death. Each part consists of the research findings as well as the analysis of the findings, interpreted based on the international human rights standards for prisoners that Thailand has followed, namely the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Standard Minimum Rules for the Treatment of Prisoners (SMR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The chapter aims to answer the first sub-research question which is "Does Thailand follow the international human rights standards on living

conditions, which are directly conducive to successful rehabilitation?” The boxes at the beginning of each section state the criteria from the SMR. It is then followed by the information from the interview before the information is analyzed according to the international human rights standards. The analysis part throughout the thesis is supported by the footnotes in which the information is triangulated from the UN documents on SMR and Thailand’s human right issues (in which some are responded to by national bodies), the Universal Periodic Review (UPR), comments from United Nations Special Rapporteur, reports of the Union for Civil Liberty (UCL) and the International Federation of Human Rights (FIDH), and books that are written by prisoners.

3.2 Accommodations

3.2.1 Dormitories and Bedding

According to the SMR, prisoners who share the same room in a dormitory must be suitable to associate with each other¹⁷. Each prisoner who lives under sentence of death must be provided with a separate bed¹⁸, the same as those given to regular prisoners.

Information from Prison Authorities and Prisoners

Prisoners under sentence of death are at Building 2 and Building 5 of Bang Khwang Central Prison. Each of them is separately provided with a pillow and a mat. Both buildings have two floors, with those under sentence of death on the ground floor, and the second floor being for regular prisoners. The two groups are not allowed to associate with each other, and this is carried out in practice through each floor having a separate entrance (PA1, P1, P2, P3, P4, P5, P6, P7, P8, P9, Interview). The time to use facilities such as the bathing area, latrines, the washing area, and the eating area for each group of prisoners is different, as policy states that they must be completely separated (ibid). In Building 5, the areas for bathing and washing clothes are zoned for each group of prisoners separately, while in Building 2 they have to use the same facilities and areas, with different times being imposed (ibid). Prisoners who are under sentence of death

¹⁷**Rule 9 (2):** Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

¹⁸**Rule 19:** Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

are allowed to spend time outside of their cells after regular prisoners, who can go out of their cell early in the morning and subsequently must go back before those who are under sentence of death go out (ibid). There are two periods when they are allowed to spend time outside each day, the morning and the afternoon. Each period lasts for two-three hours before the prisoners are locked up at around 2.30-3.00 pm (ibid). The time that prisoners under sentence of death spend outside of their cells is approximately five-six hours per day altogether. When it is time to go outside, all prisoners must be out of their cells, and no prisoner is allowed to go back until the call from authorities (ibid) (ibid). There is also a zone which is specifically for the prisoners under sentence of death who do not wish to go back after the first period in the morning that the cell is opened (ibid).

Untried prisoners or those who have not received their final sentence from the Supreme Court live with those convicts under sentence of death. All regulations and rules for the convicts are applied to them as well (P1 and P2, Interview) (Researcher's Observation). New prisoners have to learn from those who have been in the prison before them in order to survive the rules and regulations and ways of life as a prisoner (P1, Interview). This information was also confirmed by another prisoner from Building 2-prisoners usually form groups and tend to stick to their own group, which usually consists of people from the same area or same country or who have the same religions. This way reduces stress, as they understand each other's needs better (P8, Interview).

The numbers of cells for prisoners under sentence of death is about the same as those for regular prisoners. There are two big rooms which fifteen prisoners are able to share sufficiently, and there are several small rooms that can hold around five to six prisoners. One prisoner stated during the interview that he lived in the room with twenty prisoners before, and it was crowded (P anon¹⁹, Interview). They are provided with a separate mat and a pillow (P1, Interview). A television is usually available for each one or two rooms (PA1 and P1, Interview). A small radio is also allowed (ibid).

Prisoners with special needs, such as LGBT prisoners (gay, bisexual, or transgender prisoners), older prisoners, and those with mental illness are not separated from other prisoners

¹⁹ P anon: P stands for a prisoner while anon stands for anonymity. This reference code is used for information from any prisoner who has given sensitive information; no information about him can be revealed for security reasons.

under sentence of death in general (Researcher's Observation). Transgender prisoners or those who were born as male but fully transformed into female are not separated from the majority of prisoners (ibid) (P anon, Interview). It was reported by a long-time former volunteer who regularly visited the prison and hosted activities for prisoners in the past that there were cases of sexual harassment, though very few (EP, Interview). The majority of the group usually have partners who are also prisoners at Bang Khwang and who are able to protect them and financially support them (P anon and PA anon, Interview).

Older prisoners also have to spend time with other prisoners under sentence of death in general²⁰ (P2, P9, and PA6, Interview). It is challenging as this group of prisoners requires special attention in terms of medical care and psychological needs. Those with mental illness are treated with injection or provided with pills for their mental illness (see 3.6 Medical Services). It was reported by a long-time volunteer and former prisoners under sentence of death that these people would be beaten by other prisoners when their symptoms showed until they passed out, because there was no medical care for them in the past²¹. (EP and FP1, Interview).

Analysis

According to the SMR, it can be interpreted that prisoners under the sentence of death at Bang Khwang Central Prison have to stay in dormitories that are the same as those of regular

²⁰ It is controversial whether there should be a special unit for older prisoners or not. According to the report, Prisoners with Special Needs by UNODC in 2009, arguments in support of having a special unit are (1) Older prisoners can be protected from victimization and fear more for their safety as a result (2) Special units provide the opportunity to develop special programs for older prisoners, using specialist staff and resources (3) Age segregation contributes to positive mental health, encourages a sense of identification with peers and stimulates social interaction (4) Meeting the nutritional and medical requirements of older prisoners is easier. Arguments for placing older prisoners with other prisoners are (1) Since it is not financially viable to have special units in each prison, older prisoners may have to be placed far away from their homes, whereas if they are placed with other prisoners, it is easier for them to maintain family ties (2) Older prisoners are perceived to have a calming effect on other prisoners (3) Mainstreaming enables the allocation of older prisoners to appropriate security levels, including to minimum security conditions, based on the individual's risk assessment (4) Mainstreaming enables older prisoners to have equal access to all programs, not only those designed specifically for them, which may not meet their needs (5) Living in the general prison population resembles life outside prison, and thereby provides a more normal environment for older prisoners.

²¹The book that is written by prisoners talks about the improvement of Bang Khwang Prison. The prisoner who wrote this story was told by a prisoner who had been living in the prison for quite a long time that the conditions have greatly improved, as the cell previously had no fan, television, or even a latrine area. Each cell was provided a container called a "mail container" for his natural needs. Each morning, prisoners would have to carry the container downstairs to deposit the waste. (อิสรภาพบนเส้นบรรทัด ๑๓ นักโทษประหาร:งานเขียนจากหลังกำแพงคุกในวันที่ไร้อนาคตและทิศทาง, p.78)

prisoners. An individual will be put in a separate cell if he violates the prison's rules (see 3.7 Discipline and Punishment), a rule which is also applied to regular prisoners.

However, untried prisoners should be completely separated from the convicts under Rule 85 of SMR²², which is based on Article 10.2 of the ICCPR²³. This should be strictly imposed as Rule 84 (2) of the SMR states "*unconvicted prisoners are presumed to be innocent and shall be treated as such.*" Article 39 of the Constitution of Thailand B.E. 2550 (2007) also states "*the suspect or the accused in a criminal case shall be presumed innocent before the passing of a final judgment convicting a person for committing an offence, such a person shall not be treated as a convict.*"

Gay, bisexual, and transgender prisoners must be treated with care, as they are a sensitive group of people living within a male prison and have special needs. According to Principle 9 of the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity about the right to treatment with humanity while in detention, "*every person deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity.*" States must protect all prisoners under their supervision and care, as well as assist their social reintegration according to international human rights instruments. Therefore, prison authorities must consider developing policies and strategies that ensure the maximum possible protection of the groups and facilitate their social integration in an effective manner.

In terms of older prisoners, older prisoners under sentence of death tend to be people whom have been convicted of a crime in later life.²⁴ According to the UNODC report Prisoners with Special Needs (2009), the challenge for these older prisoners is that they may have difficulties in terms of adjustment to a life in a prison and might become a victim of other prisoners. The report further states that prison authorities should consider each individual's

²²**Rule 85 (1):** Untried prisoners shall be kept separate from convicted prisoners.

²³**Article 10.2 (a):** Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subjected to separate treatment appropriate to their status as unconvicted persons.

²⁴Those who are under sentence of death are usually granted the Royal Pardon

health problems, addictions and disabilities, which must be assessed upon entry to prison, and must develop suitable programs matching individual requirements²⁵.

In terms of those with mental disabilities, they should not be imprisoned with other prisoners. Prison authorities should remove them to psychiatric hospitals according to rule 82(1) of SMR²⁶ (for Medical Care, please see Section 3.6)

As prisoners under sentence of death are often held in poor conditions (see Chapter 2: Literature Review: 2.1.4.1 Living Conditions) with inadequate space according to the report by UNODC, it is noticeable that the accommodations for prisoners under sentence of death at Bang Khwang are not different from those of regular prisoners, as they are also placed in dormitories with the same conditions and provided with a pillow and a mat.

3.2.2 Air, Floor Space, Lighting, Heating, and Ventilation

According to the SMR, sleeping accommodations must meet the requirements of health. They must have proper conditions that support the good health of prisoners with an appropriate cubic content of air, minimum floor space, lighting, heating and ventilation^{27,28}.

Information from Prisoners and Prison Authorities

²⁵ United Nations Principles for Older People (1991) states that (12) Older persons should have access to social and legal services to enhance their autonomy, protection and care (13) Older persons should be able to utilize appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment (14) Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives (17) Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse (18) Older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution.

²⁶ There is a comment from the UN Sub-committee to revise the SMR as it offers only general guidelines, and does not cover issues for women, children, foreign nationals, persons with health problems, persons with disabilities, and LGBT people in prisons. In their own words, “(13) The SMR offer general guidelines, and are not sensitive to issues faced by persons in conditions of vulnerability – e.g. women, children, foreign nationals, persons with health problems, persons with disabilities, LGBT people etc.” The document (CAT/OP/4) is available at <http://www2.ohchr.org/english/bodies/cat/opcat/docs/SMR.doc>

²⁷ **Rule 10:** All accommodations provided for the use of prisoners and in particular all sleeping accommodations shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

²⁸ **Rule 11:** In all places where prisoners are required to live or work, (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation; (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Due to the collective Royal Pardon on the birthdays of Crown Prince MahaVajiralongkorn and Queen Sirikit in July and August 2012, at the time of the interviews (November, 2012), there were not as many prisoners living under sentence of death as those who had received their final decision from the Supreme Court before the birthdays had already had their sentences commuted to life imprisonment. Therefore, the first floor of both Building 2 and 5 were not as overcrowded as usual. However, Bang Khwang Prison still faces overcrowding problems in general (see Chapter 2: Living Conditions) and has an insufficient numbers of prison guards (see Section 3.2.3 Supervision of the Prison Guards).

Prisoners under sentence of death, as well as other regular prisoners who do not have problems with eyesight, are able read and write both in the daytime and nighttime with the light that is provided, as it is on for twenty-four hours due to security reasons (P1, P2, P3, P4, P5, P6, P7, P8, P9, Interview).

The prison authority gave the following reason about the 24-hours lights during the interview as *“We do not know what they are doing if we turn off the lights. It is easier for us to maintain security. This practice is not imposed only at Bang Khwang. It happens in every prison and detention institution in Thailand (PA anon, Interview)”*

A prisoner under sentence of death commented on this, saying, *“Sometimes, we choose to cover our eyes with a piece of cloth to avoid the light exposure (P1, Interview).”* This was also confirmed by the prisoner that was interviewed after him. When asked how it affects the health of prisoners, they said *“the 24-hour light greatly destroys eyesight, and some find it very difficult to sleep (P1 and P2, Interview).”*

The air circulation inside of the cells does not work very well. The prison authority stated that the structure was built according to the architectural plans during the construction in 1927, but it has been found that this kind of prison structure does not allow the air to ventilate very well, and also accelerates the spread of contagious diseases within the cells (PA3, Interview). It has been said that prisons built in modern times, such as the prison in Pattaya, do not use these kinds of windows and ventilation (PA anon, Interview).

Bug spray is used to eliminate bugs such as mosquitoes inside of the prison. This task is under the responsibility of the medical center of Bang Khwang (PA anon, Interview)

(Researcher's Observation). Recently, due to the limited budget, the frequency of bug spraying is not quite as often as in the past few years (ibid). However, if there is an epidemic disease that involves mosquitoes or other bugs as carriers, the prison will have to have it done to reduce the chance that the disease will occur and spread (ibid).

Analysis

According to the information and the rules of the SMR previously mentioned, overcrowding is still a problem in general. This problem seems to be a problem that prisons in Thailand and worldwide encounter²⁹. This violates Article 25(1) of UDHR³⁰ and Article 11 and 12 of ICESCR in terms of the right to an adequate standard of living and the right to the highest attainable standards of physical and mental health.

Ventilation and lighting also do not meet the standards that are stated in the SMR, as they do not positively support the well-being of the prisoners. Light that is on during sleeping hours can have major effects on the health of prisoners according to medical research³¹.

3.2.3 Supervision of the Prison Guards

According to the rule, the prisoners must always be under the supervision of the prison guards to prevent any kind of abuse that can happen in a prison³².

Information from Prisoners and Prison Authorities

In terms of the supervision from the prison guards at Bang Khwang, the number of those who are on duty is reduced from the daytime number to one per building per shift during the night, due to an insufficient numbers of prison guards (see Section 3.6 Medical Services for more

²⁹There are a number of factors that contribute to prison overcrowding. The Thailand Development Research Institute (TDRI) conducted research about this problem in 2011 in Thailand, the details of which can be found at <http://ilaw.or.th/node/772>. According to the TDRI, the factors lie within the whole justice system. Kalyanasuta and Suriyawong also mentioned this problem in their work, which can be found at http://www.unafei.or.jp/english/pdf/RS_No61/No61_22PA_Suriyawong.pdf

³⁰**Article 25(1):** Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

³¹<http://www.dailymail.co.uk/sciencetech/article-1334041/Why-sleeping-light-make-depressed.html>

³²**Rule 9 (2):** Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

details). The three night shifts are 4.30 pm – 00.00 am, 00.00 – 03.00 am, and 03.00 – 08.30 am. It was said during the interview that the actual number is 1 guard per 80-100 prisoners in Bang Khwang (PA1, Interview). Only those who have years of experiences will be on duty in each building during the night. New prison guards will be on duty in areas such as the central checkpoint (PA anon, Interview). The relationship between prison guards and prisoners under sentence of death is cordial, and the violence that happens at Bang Khwang is mostly between prisoners and prisoners (P anon, Interview).

Analysis

The number of prison guards at Bang Khwang Prison is still insufficient. The challenge is complicated as it involves government agencies outside of the Department of Corrections to recruit more people. It is a great challenge that poses risk to the prison's security. The number of those who are on duty is reduced from the daytime number to one per building during the night. Therefore, when violence occurs³³³⁴, it is dangerous for the guards to stop these events and save the lives of those prisoners who might be injured, as other prison guards on duty at different buildings or sections must be called first to support handling the incident, which will then leave other sections of the prison at risk.

Furthermore, according to the UNODC's report, Prisoners with Special Needs (2009), prisoners under sentence of death area group that also has special needs, and therefore prison officers who work closely with prisoners under sentence of death should be specially selected to provide supervision, in terms of applying sensitivity towards prisoners who are under sentence of death and their families. The report states "*they should be able to identify signs of distress and mental disabilities, and ensure that psychological support is provided to such prisoners, as necessary and without delay*"³⁵.

³³ Prisoners and prison officers stated that prisoners often fight with each other. This type of incident ranges from punching to stabbing each other.

³⁴ (2.1.4.1 Page 21) Violence is a common feature of prison life. It is a by-product of prisons where thousands of people with antisocial tendencies or behavior are aggregated and confined in close and frequently overcrowded quarters, characterized by material and social deprivation (Bowker, 1980; Irwin, 1980; Johnson, 1987 cited in Wolff et al, 2007). Physical abuse, psychological abuse, and sexual abuse can be found in prisons.

³⁵ The prison officers themselves should receive psychological support as well, as they might feel distressed from having to supervise those who are on death row and in some cases, are about to be executed. Those who are assigned to work on death row should receive clear explanations about the required tasks and what they will have to handle. They must have the right to decline the task after this clarification.

3.3 Sanitation

A prison that meets with international human rights standards must provide clean toilet facilities that are appropriate for the number of prisoners according to the SMR³⁶. Prisoners should also have unrestricted access to the facilities and should be able to use them in private without scrutiny by the authorities to keep themselves clean³⁷. Prisoners should be able to access the bathing and shower installations according to the local climate for hygiene matters.³⁸ All parts of a prison should also be kept clean³⁹ and the clothes that prisoners are allowed to wear must be suitable to the climate and not humiliating⁴⁰. Apart from that, they should be allowed to care for their hair and beard to keep a good appearance and maintain their self-respect⁴¹.

Information from Prisoners and Prison Authorities

According to the findings, prisoners under sentence of death at Bang Khwang are able to access water for bathing during the time that they are allowed to be out of the cell (see 3.2.1 Dormitories and Bedding for the times) (PA1 and P1, Interview). The water for bathing is available in an extremely large basin which is built from concrete for large numbers of prisoners to be able to clean themselves at the same time (ibid). Apart from that, a tap with a shower curtain is also available inside of each cell which allows prisoner to access water after they are

³⁶**Rule 12:** The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

³⁷**Rule 15:** Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

³⁸**Rule 13:** Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

³⁹**Rule 14:** All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

⁴⁰**Rule 17:** (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating. (2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene. (3) In exceptional circumstances, whenever a prisoner is moved outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

⁴¹**Rule 18:** If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use

⁴²**Rule 16:** In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

⁴³ The Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Rule 5) states “*the accommodation of women prisoners shall have facilities and materials requires to meet women’s specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.*”

locked up at 2.30-3.00 pm (ibid). A set of toiletry articles including shampoo, a bar of soap, and toothpaste is received by individual prisoners, including those with sentence of death, upon admission, and they can also buy these items for themselves at the welfare shop of their building later on (ibid). There are also donations from external organizations occasionally, but not every prisoner receives something every time there is a donation (ibid). The prison officers advised that those that have never had visitors or those who have special needs (prisoners with disabilities for example) are the first group which they consider after receiving the donations (see Chapter 5: External Support System) (PA6, Interview).

The toilets at Bang Khwang are the squat toilet type (PA1 and P1, Interview). The toilet is built inside of each room in a cell, and also zoned outside when the prisoners are out of the rooms, in the same manner for every building (ibid). It is an open toilet type in which a concrete wall is built up to cover the lower body of prisoners when they use them (PA1, Interview). However, the new toilets that were recently built in Building 5 have higher walls which cover up to the head of prisoners (P1, Interview). Those who are concerned about their privacy choose to cover themselves with cloth (ibid). During the interview, one prisoner stated that because of a problem with his spine, he cannot use the squat toilets, and had to ask one of the prisoners in the building who specializes in wood work to build a small wooden chair for him so that he can use such a toilet (P anon, Interview).

A barber shop is available inside of the prison (P1 and PA1, Interview). Those who run the shop are regular prisoners that were trained through the vocational training programs that the prison provides (P1 and PA6, Interview). Some prisoners might choose to shave their own head. Disposable razors for shaving are allowed for the prisoners (P1 and PA1, Interview). Prisoners are not allowed to have long hair (ibid). However, the hairstyles that they maintain are not overly restricted in reality (ibid). Prisoners stated that those who have visitors must have a proper hairstyle, while many of the Nigerian prisoners have long hair (P anon, Interview). During the research, the author witnessed traditional dreadlocks on some of the African prisoners (Researcher's Observation).

Apart from that, prisoners under sentence of death are allowed to wear their own clothes at their own building⁴⁴. However, if they are out of the building to which they belong, they have to wear either blue or orange-brown clothes. (PA1, Interview) (Researcher's Observation). All prisoners are only allowed to wear short sleeve shirts and short pants (ibid) (ibid). The prison has an area for prisoners to wash their clothes (PA1, Interview). There is no washing machine, but buckets and clotheslines to hang newly washed clothes are provided for them (ibid).

There is no requirement from the authorities on how often the cells and latrines within the cells should be cleaned (P1, Interview). Prisoners from different cells might be hired by the prisoner in the cell to do cleaning (P1, P2, P3, P4, P5, P6, P7, P8, P9, Interview). Another way is to take turns for each prisoner to do cleaning (ibid). In terms of the bathing area and the latrine area outside of the cell, the prison authorities organize a group of prisoners to clean it (P1, Interview).

Analysis

Bang Khwang has met most of the standards stated by the SMR. However, there is a privacy concern over the use of toilets, as they are open toilets with blockades that areas high as the head of prisoners when they use the toilets, or that cover only the lower body for the old models. The number of sanitary installations is not the problem. However, the squat toilet is the issue that raises privacy concerns. The prison authorities should also be concerned for those that cannot use this type of toilet due to illness or religious concerns, possibly.

The clothing that the prison authorities require the prisoners to wear, including the prisoners under sentence of death, is compatible with the weather, as it is simply t-shirt and shorts, which follows Rule 17 of the SMR. However, there should be an issue regarding this during the cold season, as shorts and t-shirts might not be enough.

⁴⁴A new policy has been launched that prisoners are no longer allowed to wear their own clothes, only blue shirts. This rule will be applied to all prisoners in 2013.

3.4 Exercise and Sports

According to Rule 21(1) about exercise and sports⁴⁵, prisoners should be allowed to exercise at least one hour per day outside of their cells.

Information from Prisoners and Prison Authorities

Prisoners under sentence of death at Bang Khwang Central Prison are allowed to use an exercise yard during the time that they are out of the cells (P1, P2, P3, P4, P5, P6, P7, P8, P9, Interview). They can jog or play sports as they would like to (PA1, Interview).

Analysis

This allowance is beyond the minimum entitlement that is stated in the SMR. However, the issue of concern in this case is sport materials such as footballs, basketballs, and badminton equipment.

3.5 Food

Rule 20 of SMR states “(1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. (2) Drinking water shall be available to every prisoner whenever he needs it.”

Information from Prisoners and Prison Authorities

In terms of food, prisoners under sentence of death are provided three meals a day, the same as other prisoners. According to the Ministry of Interior’s Regulations B.E. 2480 (1937), food should be provided to prisoners at least two times daily⁴⁶. In the case of prisoners under sentence of death, the problem is that the rule does not allow food in a dormitory (PA anon, Interview). Therefore, they have to eat before being locked up at 2.30-3.00 pm according

⁴⁵**Rule 21:** (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

⁴⁶It was stated by a prisoner in the book, *อิสระภาพบนเส้นบรทัด: ๑๓ นักโทษประหาร*, regarding the food in Bang Khwang, that the food is better than small prisons. At 7.30 in the morning, breakfast will be served. Boiled rice will also be served in the late morning which is followed by Thai traditional snacks such as boiled whole peanuts, pumpkin in syrup, or sticky rice with black beans. At noon around 13.00, lunch will be served. Boiled rice is also available and seasonal fruits are also served occasionally (page 78). Another prisoner states in his story that prisoners usually eat twice a day. Rice and condiments come to the building in a large portion and prisoners will line up to get food (page 98).

to the rule (PA anon, Interview). However, in practice, the prison guards are more flexible in terms of allowing them to take the food to the dormitory (PA anon, Interview). He states *“they put their food in a container and eat in the evening while watching television together (PA anon).”*

The food that is provided to prisoners is cooked in the prison’s kitchen which is in Building 9, before being delivered to the other buildings’ canteens (PA3, Interview). For those who are ill and need special diets, the doctor will make an order to Building 9 for the ill prisoners (ibid). Desserts are also provided regularly (P1, Interview). The prison authority advised that the prison has to be very careful in terms of food quality, as the majority of prisoners at Bang Khwang can easily get ill if the food is contaminated, being that it is from the same source (PA1, Interview). In terms of getting the “Clean Food, Good Taste” standard⁴⁷, the prison was evaluated by the Bureau of Food and Water Sanitation, Department of Health, Ministry of Public Health (ibid). The prison was awarded the *“Clean Food Good Taste”* which represents that the food quality is at the *“very good”* level (ibid).

It was mentioned by prisoners that cooking is allowed in practice despite the Ministry of Interior’s regulation B.E. 2480 prohibiting the action (P anon, Interview). This is confirmed by the prison authorities. During the interview, the prison officer said that *“cooking has actually been in practice for quite a long time. The practice has actually been cancelled in the majority of prisons in Thailand. We are afraid that the prisoners here are going to protest if the practice is disallowed. It seems like – for some of them, being imprisoned and having nothing to hope for in life, eating and cooking are the only activity for them to cling to (PA anon).”*

There is also food and dessert that food sellers from outside the prison ask the welfare shop in the prison to sell as a consignment (Researcher’s Observation). The welfare shop of each building has a list of consignments available for prisoners to order (ibid). The food for Muslim prisoners is also provided separately (P6 and P7, Interview). Prisoners were allowed to receive food from their relatives during the visit in the past, but this practice has been disallowed at the same time as parcels due to the new policy by the Department of Corrections that aims to have

⁴⁷The criteria to receive the “Clean Food Good Taste” standard can be found [only in Thai] at http://foodsana.namai.moph.go.th/main.php?filename=standard_cfg

the “White Prison”⁴⁸ (Researcher’s Observation). Many prisoners complained about this disallowance (P1 and P2, Interview).

Drinking water is available from water dispensers in each building. However, prisoners mentioned that filters are rarely changed (P anon, Interview). They can also buy bottles of water from the welfare shop inside of the building (ibid).

Even though the prison has received the “*Clean Food Good Taste*” status, some prisoners still complain about the food that the prison provides. The complaints heard during the interviews include:

“The food is at a sub-standard level, suitable to Thais’ palate but not to foreigner’s taste”; *“The rice is of poor quality (P anon, Interview)”* and *“If you observe the shape of those prisoners who pass by, you will see that they are somewhat potbellied. The food is not good. It is too greasy, but I cannot complain much (P anon, Interview).”* One prisoner complained about the cost per person and the quality of the food that the prison provides. He states that the institution is able to provide better quality of food with the budget that is received by the Department of Corrections (P anon, Interview).

Analysis

The right to food is a human right which is recognized under international law, which protects the right of all human beings to feed themselves in dignity⁴⁹. The Committee on Economic, Social and Cultural Rights authoritatively defines it in General Comment 12: *“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”*⁵⁰ For the United Nations Special Rapporteur, the right to food means *“the right to have regular, permanent and unrestricted access, either directly or by means of financial*

⁴⁸The White Prison campaign aims to have prisons in Thailand be completely free from drugs, electronic devices, and other forbidden items. The idea of this campaign started after the findings of numerous forbidden items at Nakhon Si Thammarat Prison. According to the campaign, many new regulations have been imposed since mid-2012, such as the disallowance of parcels and disallowance of food from visitors. The official launch of the project at Bang Khwang happened on January, 2013, and detail can be found at:

http://thainews.prd.go.th/centerweb/newsen/NewsDetail?NT01_NewsID=WNSOC5601140010034

⁴⁹The right to food is recognized in Article 25 of the UDHR as part of the right to an adequate standard of living, and is enshrined in the article 11 of ICESCR.

⁵⁰<http://www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>

purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear⁵¹.”

It is an obligation of the State to provide food directly to prisoners. According to General Comment 12, *“any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant.”*

The prison authorities should take account of a prisoner’s sex, age, health, and physical condition, religious or other beliefs, culture and the nature of the prisoner’s work. The prison has done well in terms of providing food for Muslim prisoners separately, and for those who are ill. It is difficult to discuss the quality of food here as the author did not have a chance to taste the food that is provided to the prisoners.

The issue that the prison allows the prisoners to cook seems to be a very sensitive case as it violates the Department of Corrections policy, and the majority of prisons in Thailand have already abolished the allowance (PA anon, Interview). According to informal conversations with several prison guards, they are very flexible with the rules; for example, they do not force prisoners to have dinner before 2.30 pm according to the rule set by the department, which does not allow any food inside a dormitory. To have dinner before 2.30 pm is very peculiar and incompatible with the rule stated in the SMR, as it is not the usual hour to have dinner- there would be an undue gap between the last one of the day and the first of the following day. The drinking water that is provided for prisoners should be clean and supports the well-being of prisoners, as it is a human right for a person to have access to clean drinking water⁵².

Also, the choices of food for prisoners should not be limited to the food that is provided by the institution. As prisoners at Bang Khwang, especially prisoners under sentence of death, usually spend a very long period at the institution, they should have more choices in term of food

⁵¹<http://www.srfood.org/index.php/en/right-to-food>

⁵²[http://www.unhchr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/\\$FILE/G0340229.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/$FILE/G0340229.pdf)

selection, since it does not affect the prison management and security inappropriately. The Department of Corrections should look into changing these issues, and these changes might be also applied at other prisons as well.

3.6 Medical Services

The SMR states that an institution should have at least one qualified medical officer who also has some knowledge of psychiatry. The quality of the medical services at the institution should be compatible with general medical services outside the institution. Dental care should be available to every prisoner. Those sick prisoners who need special medical attention that the medical services inside of the institution cannot provide should be sent out to civil hospitals or specialized institutions where they have proper medical services appropriate for the prisoners' conditions⁵³. The medical officers should see and examine every prisoner as soon as possible after his admission and then afterwards as necessary. They should see the sick prisoners daily and inform the director regarding how the imprisonment will affect the condition of said prisoners in terms of the prison's conditions and rules or regulations. They should also prevent infectious and contagious diseases from spreading by segregating the prisoners. They should also be careful because illness in both physical and mental form might hinder the rehabilitation. They should also watch over the physical ability of prisoners in terms of working⁵⁴.

⁵³**Rule 22:** (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship with the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality. (2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers. (3) The services of a qualified dental officer shall be available to every prisoner.

⁵⁴**Rule 24:** The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

Rule 25: (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed. (2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

Rule 26: (1) The medical officer shall regularly inspect and advise the director upon: (a) The quantity, quality, preparation and service of food; (b) The hygiene and cleanliness of the institution and the prisoners; (c) The sanitation, heating, lighting and ventilation of the institution; (d) The suitability and cleanliness of the prisoners' clothing and bedding; (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities. (2) The director shall take into consideration the reports and

Information from Prisoners and Prison Authorities

In terms of the medical service, according to observations made during the field research via access to the medical center at Bang Khwang, or Building 12, the facilities at the center are even more modern than some public hospitals (Researcher's Observation). The medical center collaborates with Pranangkla hospital (PA3, Interview). Drug storage at the center is more than efficient, and the center can ask Pranangkla for stock fulfillment (ibid). Bang Khwang's medical center also specializes in peritoneal dialysis (PD) which is a treatment for patients with severe chronic kidney disease (ibid). Twenty qualified medical personnel consisting of doctors, dentists, opticians, and nurses work at the center (ibid). The center also has numerous volunteers to help with the work of the center (ibid). Medical files for each prisoner are always up-to-date and kept confidential by the health care staff. The center provides copies of parts or all of the health records for prisoners upon request (ibid).

The center has a separate building for the Inpatient Department (IPD) (ibid) (Researcher's Observation). The building has two floors. The first floor is for those who had accidents or for general illness, while the second floor is reserved for those who have tuberculosis and HIV (P10, Interview). Prisoners are provided with specialized medical beds, which are sufficient to hold the average number of prisoners who get admitted to the IPD (ibid). Additionally, the center also has a separate building for physical therapy and another building to separate those who are seriously ill from other patients⁵⁵ (PA3, Interview).

Prisoners stated that there is no annual medical check-up, and the waiting line to receive dental care in terms of dentures takes too long (P anon and P anon, Interview). Medical services at Bang Khwang are available for prisoners for free except for some special cases, such as certain types of dentures (P10, Interview). There are limitations to the medical services at Bang Khwang; for example, they cannot perform major surgeries (ibid). Therefore, if a prisoner is

advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

⁵⁵ The book written by a prisoner who is a former doctor about his help at the medical center at Bang Khwang states that the medical service has improved over the past few years. The center was supported by foreign doctors from abroad who provided the knowledge on how to deal with tuberculosis and HIV, which are commonly found in the prison. The mortality rate in the prison from HIV went from 1-2 individual(s) monthly to 1-2 individual(s) yearly to finally no deaths per year. (กว่าจะฝ่าข้ามความตาย: หมอวิสุทธิ บุญเกษมสันติ: page 174)

seriously ill and it is beyond the ability of the medical center, he will be sent to public hospitals (P1, PA1, and PA3, Interview). Bang Khwang prison recently launched a new policy for its medical staff to be more proactive in terms of visiting each building and examining the prisoners (P1 and PA3, Interview).

Thai prisoners are able to use the 30 baht gold card for their medical care, and the prison will cover that cost for them. Prisoners who do not have a 13 digit Thai identity number, such as foreigners and stateless persons, still do not have to pay for their medical services as the prison is responsible for the cost (P10 and PA3, Interview).

However, prisoners complained during the interviews about the dental care. One prisoner stated that he lost his front removable dentures during the period when he was transferred from Bang Khwang to Khao Bin, due to the flooding in Bangkok and nearby areas at the end of 2011 (P anon, Interview). The prisoner applied for a new one after being transferred back to Bang Khwang, but as of November 2012, at the time of the interview, he was still waiting for the service (P anon, Interview). Another prisoner complained that he had applied for dental care in September, 2012, but still had not received the service at the time of the interview (P anon, Interview). A nurse at the center explained about this problem, saying that since Bang Khwang's medical center has to cooperate with external partner medical institutions in the case of dentures, prisoners have to wait a long time (PA anon, Researcher's Observation). In her own words, she said, *"Those who are outside of prison have more choices because they have many dental clinics to go to, the same cannot be said for prisoners, as the dental services can be provided only through our partner institutions. This explains why they have to wait (PA anon)."*

In terms of mental health, prisoners who are mentally ill are injected with a medicine that makes them unable to move their bodies (PA1, P1, P2, and P10, Interview). Those with a mild case will be provided with medicines for mental illness which must be consumed in front of the medical/prison officers (ibid). One prisoner states, *"the problem with this is some pills must be taken before bedtime. I was once prescribed sleeping pills due to insomnia. [I] do not think that it is considered a mental illness. The doctor might just want me to have the pills. Anyway, what happened was the doctor came around 2 in the afternoon, and I had to take them in front of him at that time. It did not help me as I'd fell to sleep after that and wake up again during the night. Of course, I could not go back to sleep for the rest of the night (P anon)."*

It was reported by both prisoners and prison authorities during the interviews that prisoners who fall into this category do not receive any therapy besides this. One prison officer said, *“there were times that prisoners would ask me to take them to a hospital after they have been treated with an injection. However, a doctor said they were not going to die. Therefore, I had to leave them like that even though I did not want to be that callous (PA anon).”*

Bang Khwang has a psychologist who works full-time at the medical center, while a psychiatrist visits the center once every two weeks (P10, Interview). All new prisoners, including prisoners under sentence of death, are subjected to compulsory appointments with the psychologist and for medical check-ups. The prisoners with mental illness- depression, suicidal tendencies and violent behavior are subjected to treatments such as prescription medications or injections, initially with controlled doses (P1 and P2 Interview). Those who have contracted contagious diseases such as tuberculosis will be quarantined in the medical center for a period of two to three months (P1, Interview).

Serious medical complications and illness or injuries from accident or assaults will be sent for treatment (PA3, Interview). After being locked up at 2.30 pm, if any of the aforementioned incidents happen, the prisoner who is in charge of the room will use a whistle so the warden who is on duty at the building will have to work with other wardens and manage to have the nurses that are on duty during the night to the building (ibid). If the prisoner is seriously ill, he will be sent to the hospital (ibid). A close relative of prisoners is allowed to visit the prisoner at the medical center in the case that the certain prisoner is seriously ill. In terms of the prisoners who are foreigners, embassies will play a role in visiting ill prisoners and inform the prisoners' relatives in a home country (PA4, Interview).

Analysis

Prisoners under sentence of death at Bang Khwang prison in general have access to health services without any discrimination from regular prisoners according to the SMR. Prisoners from any background (race, religion, nationality) do not have to pay for the medical services in general. The prison is becoming more proactive in terms of having medical officers visit prisoners at their buildings and perform medical services under the new policy.

The concerns of the medical officer over the prison conditions should be considered by the director of the prison. It is doubtful that only one doctor at Bang Khwang is sufficient. Dental care services, including dentures, should not be delayed, as it is the right of prisoners to receive the service. The prison authorities should seriously consider solving this problem. According to the interviews and the researcher's observations, it seems that the main challenges for prison management concern budgeting and personnel. During the interviews, these challenges were reported to be barely discussed during the meetings among the executives, as most of them view the problem as a permanent issue that is extremely difficult to discuss in terms of finding a resolution. Therefore, they always try to avoid it (PA anon, Interview). One interviewee said, *"whenever the challenges are about personnel or budget issues, others said it is alright not to talk about them as they do not see the solutions. I wonder whether we are talking about the real issues on the table or not- whether we are having a meeting or trying to avoid the truth"*⁵⁶.

Apart from that, the treatment for those who are mentally ill raises concern about the medical methods that have been used to treat them. According to the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, Principle 1: Fundamental Freedom and Basic Rights states: *"(1) All persons have the right to the best available mental health care, which shall be part of the health and social care system (2) All persons with a mental illness, or who are being treated as such persons, shall be treated with humanity and respect for the inherent dignity of the human person (3) All persons with a mental illness, or who are being treated as such persons, have the right to protection from economic, sexual and other forms of exploitation, physical or other abuse and degrading treatment."*

Moreover, Principle 9 states: *"(1) Every patient shall have the right to be treated in the least restrictive environment and with the least restrictive or intrusive treatment appropriate to the patient's health needs and the need to protect the physical safety of others. (2) The treatment and care of every patient shall be based on an individually prescribed plan, discussed with the patient, reviewed regularly, revised as necessary and provided by qualified professional staff. (3) Mental health care shall always be provided in accordance with applicable standards of ethics for mental health practitioners, including internationally accepted standards such as the Principles of Medical Ethics adopted by the United Nations General Assembly. Mental health*

⁵⁶ The problem with an insufficient number of personnel results in ineffective supervision by prison guards

knowledge and skills shall never be abused. (4) The treatment of every patient shall be directed towards preserving and enhancing personal autonomy.”

According to the principles, treating prisoners who have mental illness with injection and provide providing them with medicine is not enough. The prison authorities should be concerned about the prisoners’ dignity, as the injection seems to be a method that does not cure the cause of a certain mental illnesses. Based on the researcher’s observations, prisoners with all types of mental disabilities tend to receive the same treatment. A type of inter-disciplinary care and supervision with the treatment of mental disabilities is required as the UNODC’s report on Prisoners with Special Needs (2009) states, “*Effective mental health care services, providing individualized care, require the expertise of a range of mental health professionals, including psychiatrists, psychologists, counselors, nurses and occupational therapists.*”

3.7 Discipline and Punishment

The SMR states that discipline and order shall be maintained with firmness but not more than necessary for safe custody and well-ordered community life. This means that the state must ensure that prisoners are secure, safe, and well-ordered, without an oppressive or brutal manner. The prison authorities must follow the sentence of the court without imposing additional punishment.⁵⁷ Apart from that, prisoners may be appointed as group leaders by the prison authorities to report about other prisoners’ behavior and to make recommendations. In this case, the implementation of prisoner councils should be a concern, to prevent the risk from certain prisoners appointed as group leaders to abuse their power⁵⁸. The types of punishments that prison authorities use on the prisoners should be determined by law or regulation to prevent any arbitrary actions⁵⁹. It should be reasonable to the offence committed and should never be excessive⁶⁰. Those who need an interpreter should be allowed to have one in order to make a

⁵⁷**Rule 27:** Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

⁵⁸**Rule 28:** (1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

⁵⁹**Rule 29:** The following shall always be determined by the law or by the regulation of a competent administrative authority: (a) Conduct constituting a disciplinary offence; (b) The types and duration of punishment which may be imposed; (c) The authority competent to impose such punishment.

⁶⁰**Rule 31:** Corporal punishment, punishment by placmentin a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

defense⁶¹. Solitary confinement and other types of punishment can only be used only after the medical officer's determination that a certain prisoner can sustain it. When a prisoner is put in solitary confinement, that prisoner should receive a daily visit from medical officers. The medical officers should inform the director about the termination or alteration of the punishment based on the physical and mental health of prisoners⁶².

Information from Prisoners and Prison Authorities

In terms of the research findings on discipline and punishment, those who possess forbidden items such as money, electronic devices, and drugs are given a chance to explain when the items are found by the prison guards during the search. The prison will have to report to the police regarding this. A temporary committee will be appointed in order to investigate the case. As of June 2012, those who are found with forbidden items on them will be reduced to the "very bad" class according to the Department of Corrections⁶³.

The prison authorities stated that prisoners have many tricks in terms of the smuggling of forbidden items. Some examples that were given during the interviews are the smuggling of mobile phones through Coca Cola cans or bottles of fish sauce, and the smuggling of heroin through festive cards. As a result of these incidents, parcels have been disallowed, and the things coming into the prison are strictly scanned. There have been several occasions where forbidden items such as drugs and electronic devices, especially mobile phones, have been found (PA1, Interview).

⁶¹**Rule 30:** (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence. (2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case. (3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.

⁶²**Rule 32:** (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it. (2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31. (3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

⁶³Class only applies to regular convicted prisoners according to Ministry of Interior. There are six classes: excellent, very good, good, fair, bad, and very bad. Additional information can be found at <http://law.moj.go.th/images/stories/rajathan/3/16.pdf>

Prisoners who repeatedly violate the prison rules will be transferred to solitary confinement, the term of which must not exceed a period of three months for each case. The right to have visitors will be temporary cancelled during the period (ibid).

The prison authorities will have to report to the police if they found electronic devices and drugs during the search. However, the prisoners have full rights to defend themselves to the committee that is appointed to investigate the case (ibid). In terms of prisoners under sentence of death, this can affect them in terms of receiving the pardon. For example, the collective Royal Pardon can be limited to those who have only one lawsuit against them. Therefore, prisoners who violate the prison rules will have an extra case, and might not get the remission.

In terms of search, the Department of Corrections states that a search must be performed at least 30 times per six months. However, in the case of Bang Khwang Central Prison, as of November 2012, the record was at 651 times in the past six months. The search is performed by prison officers, which includes those in black uniforms⁶⁴ (36 of them as of November, 2012) and those who have the general uniform (PA1, Interview).

Information was revealed during the interviews about a physical assault last year, in 2012, by the people in black uniforms, who were sent from outside the prison to perform the search. The prisoner who mentioned this got beaten on one of his legs during the search. He stated that one prisoner got beaten to death, as the severity of the beating affected his internal organs terribly. Another prisoner got injured in the head but was able to survive. He also revealed that about three years ago, before being transferred to Bang Khwang, he also got punched in the stomach during a search by one of the prison officers (P anon, Interview). When asked, the senior prison officer of Bang Khwang and the senior officers of the Department of Corrections stated that they have never heard of the case before, otherwise there would be an official report talking about this (PA anon, Researcher's Observation).

Regarding solitary confinement, even when prisoners are in poor health, they still have to receive the punishment. However, they are allowed to receive a visit from medical officers from the medical center or be temporarily released from the cell in order to be able to go to the center

⁶⁴ Prison officers in black uniforms are a special unit. They usually cover their faces and do not reveal their identity during the search.

under the custody of prison guards. The guard stated that there are cases where prisoners trick the guards, such as by pretending to be mentally ill during the period that they are held in the solitary confinement (PA anon, Researcher's Observation).

Analysis

Regarding rehabilitation, according to the information that has been gathered from the prison authorities, the types of punishment that are imposed on prisoners all fall under prison rules and regulations (The Penitentiary Act B.E. 2479 or AD 1936)⁶⁵. All prisoners also have the right to explain about the issues regarding the Rule 30. There should not be any kind of assault during the search as the action is considered as cruel, inhumane, and degrading treatment. There is no evidence about the physical assault that happened. However, if it is true, it is a serious human rights abuse.

In terms of solitary confinement, the cell at Bang Khwang is not a dark cell where there is no natural light, but it still provides prisoners with isolation and prohibition from family visits⁶⁶. However, the international human rights bodies do not support the imposition of solitary confinement in any case⁶⁷. The United Nations Human Rights Committee has expressed concern over the issue, which may contribute to torture or ill-treatment in General Comment No.20, paragraph 6, which states, "*The Committee notes that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7⁶⁸ (of the ICCPR).*" The UN Special Rapporteur on Torture has urged the state to prohibit this method as punishment, either as a part of a judicially imposed sentence or a disciplinary measure. He also found that the

⁶⁵According to the Penitentiary Act B.E. 2479, there are nine types of punishment which are (1) Probation (2) Suspension of the right to be promoted to better class (3) Reduction of class (4) Suspension of the right to receive a visit or contact with the outside world (5) Reduction or suspension of the right to receive some types of rewards (6) Imposition of solitary confinement not to exceed a 3 month period (7) Putting prisoners in a dark cell without any sleeping accommodations for a time period from 2 days until a week, under the medical officer's consideration (8) Beating for no more than 20 times, under the medical officers' consideration (9) Reduction of the number of days of punishment that is stated in the Article 32(6) of the act. (7) and (8) have been permanently cancelled for all types of prisoners. In terms of prisoners under sentence of death, only a few types of punishment can be imposed.

⁶⁶ General Comment No. 20 of the UN Human Right Committee (5), with reference to Article 7 of the ICCPR explains "*The prohibition in article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim. In the Committee's view, moreover, the prohibition must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure.....*"

⁶⁷ BPT (7) states "*efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.*"

⁶⁸No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

longer the duration of solitary confinement or the greater the uncertainty regarding the length of time, the greater the risk of serious and irreparable harm to the prisoner that may constitute cruel, inhumane, or degrading treatment or punishment or even torture. As a result, he calls on the international community to impose an absolute prohibition on solitary confinement that exceeds fifteen consecutive days⁶⁹⁷⁰.

Based on the Special Rapporteur's recommendation, the Penitentiary Act B.E. 2479, which states that the maximum period that a prisoner can be in solitary confinement is three months, should be amended.

3.8 Instruments of Restraint

The SMR prohibits any kind of instruments of restraints as a form of punishment⁷¹. If it is used, it should be under the central prison administrations and must be imposed only as a necessary circumstance and not for a long period of time⁷².

Information from Prisoners and Prison Authorities

In terms of the instruments of restraint, at the time of field research in November 2012, prisoners under sentence of death at Bang Khwang Central Prison had to wear shackles all day and everyday⁷³⁷⁴(P1, P2, P3, P4, P5, P6, P7, P8, P9, Amnesty International Thailand, Interview).

⁶⁹ UN document (A/66/268) available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement>

⁷⁰ The Istanbul Statement on the Use and Effects of Solitary Confinement explains that solitary confinement can harm prisoners who were not previously mentally ill and tends to worsen the mental health of those who are ill. It recommends that the use of solitary confinement in prison be kept to a minimum. The statement recommends that the use of solitary confinement should be absolutely prohibited for death and life-sentenced prisoners by virtue of their sentence, for mentally ill prisoners and for children under the age of 18.

⁷¹ **Rule 33:** Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances: (a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority; (b) On medical grounds by direction of the medical officer; (c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

⁷² **Rule 34:** The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

⁷³ UN Document (A/HRC/WG.6/12/THA/1), National Report Submitted in Accordance with Paragraph 15 (a) of the Annex to Human Rights Council Resolution 5/1: Thailand (19 July 2011) states "***The law prohibits the use of restraints on a prisoner unless he or she is a threat to himself/herself or others and to prevent escape. Any decision to use restraints on a prisoner will be re-assessed by a committee every 15 days. In any event, the law prohibits the use of restraints as a form of punishment. The use of restraints on prisoners over 60 years of age and female prisoners is also prohibited. Regarding the condition of prisons and detention centres, Thailand has***

If their sentences were commuted to life imprisonment due to the receiving of the Royal Pardon, the shackles would be removed within 90 days after the announcement of the pardon (P1, P2, P3, P4, P5, P6, P7, P8, P9, PA1, Interview). Ill prisoners did not have to wear shackles inside the buildings as the instrument would make their condition worse (P2 and P9, Interview). The prisoners mentioned that it was difficult during the hot season since they could easily get sweaty, which caused the shackles to become rusted easier than usual (P1, Interview). Because of that, prisoners had to clean their own shackles several times a day (ibid). If the rusty instruments accidentally cut into the skin, they could get infected with various kinds of pathogen (ibid).

On 23 and 24 of January, 2013 all the shackles were removed (Researcher's Observation). However, prisoners under sentence of death still have to wear them when they go outside the prison (ibid).

Analysis

Shackling is a serious human rights violation⁷⁵. Shackling prisoners under sentence of death, even for the time that prisoners are transferred from place to place, is incompatible with Article 7 of the ICCPR, which came into effect in 1976 and was ratified by Thailand in 1996. It states, "*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*" This statement is compatible with Section 32 of 2007 Thailand's Constitution, that states, "*A torture, brutal act or punishment by a cruel or inhumane means shall not be made; provided that punishment under judgments of the Courts or by virtue of the law shall be deemed the punishment by a cruel or inhumane means under this paragraph.*" Apart from that, it is also incompatible with Article 10 of the covenant, which provides specific protection for detainees

continued to improve conditions in these facilities to bring them in line with penological, legal and human rights principles." In reality, all prisoners under sentence of death previously had to wear shackles, which is incompatible to the context highlighted in bold.

⁷⁴ In the reply of the Kingdom of Thailand on the List of Issues to be taken up by the Human Rights Committee in connection with the consideration of the initial report of Thailand under Article 40 of the ICCPR, when asked to clarify whether and why the practice of continued shackling of prisoners under sentence of death is necessary, the response was that it was because the Bang Khwang Central Prison is overcrowded, and shackling was, therefore, still absolutely necessary until the Department of Corrections could improve the prison conditions. The document can be found at www2.ohchr.org/english/bodies/hrc/docs/thailand_reply.doc

⁷⁵ International Federation for Human Rights (FIDH) and Union for Civil Liberty (UCL) on Oral Statement on the Adoption of the Outcome Report of the Universal Periodic Review of Thailand 19th Session of the United Nations Human Rights Council, March 15 2012 states "*the on-going practice of shackling of male prisoners sentenced to death was unfortunately not raised during the interactive dialogue of the Review. We call on the government to end this inhumane and torturous treatment without delay, in line with the ruling of Thailand's Administrative Court in September 2009 and the recommendation made by the UN Human Rights Committee in 2005.*"

and prisoners according to its statement that “*all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*”

Moreover, as Thailand has ratified the Convention against Torture and Cruel, Inhuman or Degrading Treatment of Punishment (CAT) in 2007, torture in Article 1 is defined as “*... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*”

The United Nations also commented on Rule 33 and 34 of the SMR under the Instruments of Restraint section that the physical restraints should only be applied in exceptional circumstances and for the shortest possible period of time and should not be used as an alternative to other physical measures of security. The SMR prohibits the use of shackles when prisoners are being transferred from one location to another. During the interview, a prison officer gave the reason for shackling prisoners when they go outside Bang Khwang as a security reason. In his own words, he stated “*prisoners are so fast. It is difficult to chase them if they escape.*” Accordingly, the SMR states that an individual assessment of risk should be made, and the use of the instruments should be based on the assessment. In the case of self-injury, there are additional methods to prevent it.

It is understandable that Bang Khwang practices shackling according to the regulations of the Ministry of Interior. However, the regulations were written according to the Penitentiary Act B.E. 2479 (1936) which is 76 years ago as of 2013, during the period of King Rama VIII. Therefore, the problem is not at the Bang Khwang prison itself. The policy makers of the Department of Corrections should be responsible for making the amendment to the regulations by making an up-to-date version, which is compatible with international human rights law and standards for the humane treatment of prisoners.

3.9 Summary and Conclusion

In conclusion, living conditions are important in terms of individual well-being. It is a fundamental step to prepare the prisoners physically and mentally for the rehabilitation in the next step. From a human-rights perspective, to answer the question “*Does Thailand follow the international human rights standards on living conditions which are directly conducive to successful rehabilitation?*”, in terms of prisoners under sentence of death, it still needs improvement in order to meet with the international human right standards.

Bang Khwang Central Prison has improved a lot during the past few years in terms of living conditions, and it is accepted by prison officers, prisoners, NGO officers, and volunteers that the prison is still better than other prisons, especially provincial prisons. However, there are still cases of human rights abuse which should be carefully examined by the authorities.

In the case of Bang Khwang, it can be concluded that prisoners under sentence of death are provided with conditions that are not much different from those of regular prisoners, which implies that the human rights abuses that were found during the field research can occur within the prison populations at Bang Khwang in general. Special concern should be taken regarding those with special needs, such as prisoners with mental illness, older prisoners, LGBT, minorities, and foreigners; especially if they are under sentence of death.

Bang Khwang Central Prison has met with the standards in terms of providing a pillow and a mat. However, the ventilation and lighting needs improvement. Prison guards are still not numerous enough to prevent any type of abuse or violence that may happen, especially during the night. Bathing and washing facilities are compatible with the rules based on the interviews. However, there is a human rights concern about privacy over the use of latrines. Food and drinking water should be clean. Drinking water should always be available and food should be provided three times daily. Prisoners should not be forced to eat or drink if they do not want to. Prisoners under sentence of death should receive their medical services from qualified medical officers soon after their registration. Those who violate the prison’s rules and regulations should not be punished in ways that are considered as inhumane, torture, and degrading treatment.

CHAPTER IV

REHABILITATION PROGRAMS

4.1 Introduction

Rehabilitation programs consist of (Section 4.2) Work, (Section 4.3) Education, (Section 4.4) Recreational Programs, (Section 4.5) Other Internal Supports and (Section 4.6) Summary and Conclusion. This chapter is a very significant chapter as effective rehabilitation cannot happen without having good rehabilitation programs.

Work (Section 4.2) discusses the right to work of prisoners under sentence of death. Education (Section 4.3) talks about how Bang Khwang Central Prison provides education to prisoners under sentence of death based on its rules and regulations. Recreational Programs (Section 4.4) discusses the activities that help with recreation that the prison provides for prisoners under sentence of sentence. Last but not least, Other Internal Supports (Section 4.5) is about the support from Bang Khwang Central Prison in terms of welfare for prisoners under sentence of death. This chapter intends to answer the second sub-question which is “In terms of rehabilitation programs, from a human right perspective, are the current rehabilitation programs implemented according to the international human rights standards?” All information in this section leads to the answer of this sub-thesis question.

4.2 Work

Rules 71-76 of SMR⁷⁶ clearly state the work related issues and issues for prisoners under employment.

⁷⁶**Rule 71:** (1) Prison labour must not be of an afflictive nature. (2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer. (3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day. (4) So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release. (5) Vocational training in useful trades shall be provided for prisoners to be able to profit thereby and especially for young prisoners. (6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform. **Rule 72:** (1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life. (2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution. **Rule 73:** (1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors. (2) Where prisoners are employed in work not controlled by the administration, they shall always be under the

Information from Prisoners and Prison Authorities

Bang Khwang Central Prison does not allow prisoners under sentence of death to work⁷⁷ (PA1, PA4, P1-P9, Interview). Those who work inside the prison at the barber shop of each building or in other professions and who can earn income are regular prisoners who have been trained according to the programs that the prison provides (PA1, Interview) (see Section 4.3 Education). The prison authorities gave the reason for this disallowance as security concerns, saying prisoners who are under sentence of death might benefit from the tools that are used for work to escape or harm others and themselves (ibid). In his own words, the interviewee stated “*many things that you have never imagined before can happen, as the tools can be used as a means to help them escape.*” However, at Bang Khwang, some prisoners under sentence of death do cleaning (clean the floor, take out garbage, clean the latrine areas inside the building) for others (see Chapter 3: Living Conditions: 3.3 Sanitation) to earn some income (P1, P3, and PA1, Interview). Some of them also provide a massage service for others. As the rules mainly discuss the case of those who work, this discussion will talk about the right to work of prisoners under sentence of death.

Analysis

There is no statement specifically about the right to work for prisoners under sentence of death. However, according to Rule 71(2), “*all prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.*” Examples of allowing prisoners under sentence of death to work can be seen in Section

supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners. **Rule 74:** (1) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.(2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen. **Rule 75:** (1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.(2) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners. **Rule 76:** (1) There shall be a system of equitable remuneration of the work of prisoners.(2) Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.(3) The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release.

⁷⁷ The definition of work in this case is the work programs that are offered by prison authorities for the prisoners to learn skills so that they can get employed upon release. The work programs include wood workshops, hairdressing training courses, and ceramic painting, for example. This type of work can also earn them money.

2.1.4.2 Rehabilitation Programs, as in the example of the Texas Death Row Garment Factory. Work can help them in terms of rehabilitation, according to the secondary information in Section 2.1.4.2 Rehabilitation Programs. *Death row phenomenon* and *death row syndrome* can negatively affect prisoners in terms of mental health and other personal well-being. In terms of rehabilitation, according to what that was stated in Chapter 2, prisoners can help by contributing some of the wages to the prison budget, which in turn benefits them in terms of better facilities. Work can also help them focus and keep them busy during their time of imprisonment. Prison jobs based on real-world work will provide prisoners with the experience needed to be successful upon release. Jobs can pay them wages and require them to manage their earning to pay for life after their release, as prisoners usually have a hard time in getting jobs. Guys and Grieser (1986 cited in Silverman, 2011) claimed that providing opportunities to earn release money for prisoners makes good correctional sense (see 2.1.4.2). The wages can also help them in the post-release period, or they can work to contribute their wages to heal their victim or victims' relatives⁷⁸ based on the requirement of the courts. According to the researcher's observation and interviews, there are claims from NGOs that prisoners in Thailand (regular prisoners) are often used as free/cheap labor (NGO, Interview and Researcher's Observation). Prison officers also complained about the regular foreign prisoners at Bang Khwang, who do not work when they are required to work. In their own words, they said, "Those foreign prisoners are backed up by their embassies. We asked them to work, instead they say they are here for imprisonment not for work (PA anon, Researcher's Observation). There is no evidence as to whether this claim is true or not. However, if it is true, Bang Khwang Prison needs to be more systematic and require every prisoner to work based on the international human rights standards that Thailand has followed. Work should also never be used as a punishment, and those who work should be included in national social security systems⁷⁹.

4.3 Education

Rule 77 of the SMR states *“(1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special*

⁷⁸<http://www.justice.gov.uk/news/press-releases/moj/new-rules-make-offenders-pay>

⁷⁹http://www.coe.int/t/dghl/standardsetting/minjust/mju30/COURT_n3256787_v1_Recent_case-law_on_prisoners_rights.pdf

attention shall be paid to it by the administration. (2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.”

This rule supports Rule 59 of the SMR, which states that *“the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.”*

Information from Prisoners and Prison Authorities

Prisoners under sentence of death at Bang Khwang Central prison are allowed to participate in primary education through the level of bachelor degree (PA4, Interview). The primary and secondary education is supported by the Department of Non-Formal Education, without any tuition fees according to government policy (ibid). Foreign prisoners who are under sentence of death can participate and receive degrees as well (ibid).

Sukhothai Thammathirat provides education for those prisoners who wish to continue their education after high school (ibid) (P1, Interview). However, the prisoners must be able to afford the tuition fee themselves, which is the same as for the general public (PA4, Interview). Textbooks are available by post (ibid). Prisoners can learn by themselves before the examinations (ibid). They can form a group of ten to receive intensive tutoring before the examinations, in which prison authorities will contact lecturers and assist them to Building 14 for the course (ibid). Foreigners can participate if they are able to read Thai as there is no English program offers to them (ibid). Therefore, those who would like to enroll usually take Thai courses first (ibid).

Additionally, Bang Khwang had a plan to allow prisoners to study for master’s degrees (ibid). However, due to the fact that they have to do research, and having access to the Internet is vulnerability for security reasons, the plan has been discontinued (ibid).

Vocational training is limited to those who have been sentenced less than forty-years, as the subject is supposed to be used upon release according to the prison authorities (ibid). Security is also considered, as tools that are used during the training can be used as a means to escape

(ibid). Apart from that, the vocational training takes place at Building 14 of Bang Khwang Central Prison (ibid). Because prisoners under sentence of death are not allowed to associate with other prisoners, they are not allowed to participate (ibid). Also, they can only participate after they receive the pardon, assuming the length of their sentences is not more than forty years as previously mentioned (ibid). The prison guard stated, “*The training will benefit them upon release. We do not allow those who are on death row to participate because they have to spend a very long period in prison before being released. They might forget* (PA anon, Interview).”

Analysis

In terms of discussion, article 13(1) of the ICESCR states that every individual is should receive a proper education, as it is human right⁸⁰. In this regard, Bang Khwang Central Prison does follow international standards by allowing every prisoner to receive proper education from the primary to the tertiary level without discrimination. The free education from the primary to the secondary level is credited to the government. However, the prisoners tend to apply for many courses and get many different degrees, due the large amount of time that they have in prison, as well as the fact that the choices of activities are very limited.

4.4 Recreational Activities

According to rule 41 and 42 of SMR, a full-time qualified representative should be appointed for religious groups of prisoners which contain a sufficient number of members. They should be able to provide regular services at proper times. Apart from that, prisoners from every religious background should be able to receive a visit from any religious representative⁸¹. They

⁸⁰The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

⁸¹Rule 41: (1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis. (2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times. (3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

should also be allowed to satisfy the needs of their religious life with the services that are provided by the institution. Last but not least, they should be allowed to own religious books⁸².

Information from Prisoners and Prison Authorities

In the case of Bang Khwang Central Prison, there are not many recreational activities for them to participate in. According to the interviews, religious activities seem to be the most obvious. Prisoners under sentence of death can participate in the Vipassana meditation program, which is hosted by prison authorities, who in turn invite the monks (PA4, Interview). The activity is hosted twice a year (ibid). The length of the activity is three days (ibid). Dhamma Studies offered by the Central Dharma Testing Service Headquarters of Thailand, from the elementary level to the highest level, are also offered to prisoners, who may take an examination at the end of the programs within their own building (ibid).

Bang Khwang Central Prison has two qualified chaplains who are responsible for every kind of religious activity (ibid). In terms of Muslim prisoners, they can pray in their room (P6 and P7, Interview). According to the interviews with the prisoners, there is one room that is only for Muslim prisoners, as they have to pray five times a day and the room makes this more convenient (ibid). Additionally, Riyadissunan Masjid, which is near Bang Khwang Prison, also sends representatives to visit this group of prisoners to conduct religious activities (PA4, Interview). In terms of Christians, there are Christian foundations that host religious activities for the prisoners. Prisoners are not allowed to change from one religion to another religion according to the prison's policy for security reasons, as changing involves process and rite (ibid). It must be noted that prisoners at the prisons are not forced to join any religious activities if they do not wish to do so (ibid).

Others who do not favor religious activities tend to rely on drugs, gambling, and other illegal business (P anon, Interview). The rest can be called neutral, as they do not have anything that interests them in particular (P anon, Interview). Prisoners also stated that they would like the prison to host more religious activities (P1 and P5, Interview).

⁸² Rule 42: So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

Last but not least, according to the researcher's observations and interviews, the relationship between religion and execution should not be left out of this section. When it comes to an execution, chaplains will accompany prisoners and prepare them to be ready for the execution (PA4, Interview) (Researcher's Observation). The monk from Bang Preak Tai temple will be there to pray and give a sermon (see Section 2.3.2). For those who are not Buddhist, the chaplains will only accompany them, without a sermon from any religious representatives such as imam, priests or rabbis (PA4, Interview).

Analysis

Religious activities seem to be the only choice for prisoners under sentence of death to hold on to and survive their daily lives, as their choice of activities is limited. The religious activities that are officially hosted by prison authorities for prisoners on death row are not enough. Those who wish to pray and practice meditation have to practice on their own as the meditation activity is only hosted twice a year. Also, no one said that there are religious activities available for those under sentence of death on important religious days such as VisakhaBucha Day, the day before the Buddhist Lent, Buddhist Lent, the end of Buddhist Lent, or MakaBucha Day (the Buddhist All Saint's Day). There is a daily prayer activity, led by the chaplains at the prison, but it allows only regular prisoners to participate. Moreover, not allowing prisoners to change their religions according to their beliefs violates the UDHR's Article 18, which states, *"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."* It also violates Article 18⁸³ of the ICCPR regarding the right to freedom of thought, conscience and religion.

Chaplains should play a larger role in mentally preparing those who will have to face execution. The death penalty surely violates human rights, and this practice is still imposed on prisoners in Thailand. When it comes to this practice, religious representatives should take a

⁸³ (1) Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. (2) No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. (3) Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

more important role in terms of preparing the prisoners to face death (see Chapter 2 Literature Review: 2.1.4.2) and in keeping the relatives informed as well.

Even though there are human rights violations on the issue, there are some positive aspects that should be considered. Bang Khwang Central Prison still does not prohibit prisoners under sentence of death from praying and reading religious texts. Moreover, the qualified chaplains at Bang Khwang certainly uphold Rule 41, which is primarily about having a full-time qualified religious representative. Apart from that, those who are under sentence of death are allowed to possess religious books and read them according of their own free will, which shows observance of Rule 42.

Rule 78 of the SMR states, “*Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.*” The rule expands on the provisions in Rule 59 and in Rule 77.

Information from Prisoners and Prison Authorities

Prison authorities also mentioned hosting Raja yoga for the prisoners under sentence of death once⁸⁴ (PA4, Interview). Prisoners under sentence of death are encouraged to participate in Art for All or the Kamlangjai project’s activities, which are supported by an external source (see Chapter 5: External Support System).

No one has stated how many times a day or a week that prisoners need recreational activities. However, Dr. Duangta Kraipassapong, Deputy Director for Medical Services at the Galya Rajanarindra Institute and a psychiatrist who visits Bang Khwang occasionally for mental care check-ups for prisoners, stated during the interview that the recreational activities for prisoners under sentence of death are not sufficient (Kraipassapong, Interview). The same was stated by a former long-time volunteer who visited Bang Khwang prison regularly in the past (EP, Interview).

⁸⁴ According to the prison officers, this kind of yoga, which prisoners under sentence of death are allowed to practice, does not involve postures too much as they were typically wearing shackles. Instead, it focuses on meditation and the mind.

Analysis

These kinds of programs help prisoners under sentence of death in terms of rehabilitation, as they allow the prisoners to spend time wisely. It helps them in terms of their mental health. However, similar programs do not happen often at Bang Khwang Prison for those who are on death row. According to Chapter 2: Literature Review, the recreational and cultural programs can have an important role in the rehabilitation of prisoners, as the programs (both short-term and long-term) can help form the main rehabilitation programs for prisoners based on their criminal backgrounds.

4.5 Other Internal Supports

The prison authorities allow monetary deposits at the office on visiting days only (PA5, Interview) (Researcher's Observation). Therefore, there are two opportunities per week where people can deposit money to the accounts of those who are under sentence of death. Another way to send money to the prisoners is to send a postal money order, where those who would like to deposit it can do so at their convenience (ibid) (ibid). Relatives or friends of foreigners who are under sentence of death can send the postal money order directly from abroad to the prison or via their embassies (PA5, Interview).

Prisoners can spend the money in their accounts at the prison shop in their own building (P1, P2, PA1, and PA5, Interview) (Researcher's Observation). They have to fill in a form that is provided by the authorities stating the items that they would like to buy (PA1 and PA5, Interview). The amount of money that they can withdraw daily must not exceed 300 baht (ibid). Alcohol is not allowed in the prison, but cigarettes are allowed (ibid). The prison authorities stated that the price of items that are sold in the shop is the same as those that are sold outside of the prison, as the authorities survey the price every three months (ibid). The money from the shop goes to the prison fund (ibid). This fund can be used within Bang Khwang for the maintenance of the prison or to support projects outside of the annual budget from the Department of Corrections (PA5, Interview).

In terms of the support for prisoners under sentence of death by the prison authorities, the programs that have been hosted by the prison authorities so far have not involved those who are under sentence of death due to security reasons (PA4, Interview). One example of these

programs is family visitation days, which allow immediate relatives of prisoners to visit them in close contact and spend time doing the activities that the prison authorities provide as part of the program (ibid).

Apart from that, there is an orientation for every prisoner, including prisoners who will be living under sentence of death, about living inside a prison (ibid). The classification of prisoners according to the motives of their crimes is conducted, and the prison authorities also have a full profile of the criminals, which consists of their family background and criminal record (ibid). However, the rehabilitation programs that have been conducted are mostly for the prisoners who have their years of sentence in numbers (ibid) (see Section 2.2.7.2 Rehabilitation Programs)

The authorities stated that the overall support for prisoners is still limited because of the budget (PA4, Interview) (see Chapter 3: 3.6 Medical Services). The combination of this issue and the security concern that the prisoners should not associate with other regular prisoners makes the rehabilitation from the time that they are put under sentence of death seem very difficult. As previously stated, prisoners have to heal themselves in terms of coping with the mental distress that may result from death row phenomenon. Internal supports are another factor that supports those under sentence of death with their physical and mental well-being.

Apart from that, one support from the authorities that involves prisoners under sentence of death is scholarships for their children, as well as some support for elderly prisoners or those with disabilities. Prisoners under sentence of death can apply for scholarships for their children, but only a few actually receive the scholarships due to limitations of the budget of the Department of Corrections, similar to other prisons and correctional institutions (ibid). Those with disabilities get support according to government policy of five hundred baht per month (ibid). However, this does not apply to older prisoners who live in prison, as the government's policy states that the elderly who are eligible for this support must not be under the care of any government agency (ibid).

Another internal support which is very important in terms of helping prisoners under sentence of death with rehabilitation is the library service. According to Rule 40 of the SMR, *“every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to*

make full use of it.” At Bang Khwang, prisoners under sentence of death in both buildings have access to the library in their own building twice a week, for a period of one hour each time. One prisoner reported that there are various types of books provided in the library, and prisoners are able to borrow some books to read (P2, Interview). There are some English books available for foreigners at the library. Newspapers are available but most of them are in Thai, thus excluding foreigners who cannot read Thai.

The library service seems to be compatible with Rule 40 of the SMR. However, there is a concern regarding English newspaper, as some prisoners stated that they were available, but others were uncertain. In the earlier literature review, some secondary information obtained from a Union for Civil Liberty’s report⁸⁵ stated that there is no English newspaper provided, which is compatible with what previously stated. Another concern is that there are those who are incapable of understanding any of the languages commonly used inside the prison. This group of prisoners might contain Burmese, Chinese, Japanese, and Cambodian prisoners who cannot understand Thai or English. It is really difficult for them to enjoy book reading or other activities during their leisure time.

In terms of the pre-release programs, for those prisoners living under the sentence of death whose sentences are commuted by the King and who are eventually released, the prison authorities stated that the programs will be impose on prisoners who have at least three years left before being released (Researcher’s Observation). At the time of release, underprivileged prisoners will be given money for transportation and food costs (PA4, Interview). The problem is that the amount of money that is given to prisoners is based on the Department of Corrections’ regulations, which have never been adjusted according to inflation (ibid). In terms of post-release programs, these tasks are actually not under the responsibilities of the prison (PA2, Interview). As there are two types of release, release on parole and release according to the term of the sentence, those who are released on parole will have to report to the Department of Probation, at a police station and district office based on their present location (ibid).

⁸⁵ Prisons in Thailand 2011

4.6 Summary and Conclusion

Regarding rehabilitation programs from a human rights perspective, the sub-research question asks, “are the current rehabilitation programs implemented according to the international human rights standards?” It must be answered that they do not meet with the standards, based on the information that was gathered through interviews and the researcher’s observations. In summary, prisoners under sentence of death are not allowed to work or participate in any vocational training, due to security reasons, as the authorities said that they could use working tools as a means to escape, being that this group of prisoners has nothing to lose. Educational programs seem to be the only activities that are compatible with the international human rights standards since prisoners under sentence of death can participate. However, the issue about education raises a concern that prisoners tend to get many degrees during their time of imprisonment, only because the choices for other activities during their leisure are so limited. Some may have more than five bachelor degrees without them actually being practicable. Religious activities that are hosted by the authorities for those who are under sentence of death are also limited, as they have to pray and meditate by themselves without any motivation by the authorities (see 2.1.4.2 on how a chaplain in Texas prepares himself, a prisoner, and his family, when there is an execution). Moreover, other internal supports that are provided by the prison still have budget limitations, with those under sentence of death having little chance to receive support except for the use of library.

In conclusion, prisoners under sentence of death still do not have much access to rehabilitation programs, as they are viewed by the authorities as posing an extreme risk, and are also not allowed to associate with regular prisoners. The latter case leads them to be unable to do any activities that are provided to regular prisoners. It can be concluded that, in terms of prisoners under sentence of death, there are no actual and official rehabilitation programs provided for them. This is compatible with the secondary information in the literature review, that these prisoners often spend time inside the prison only for imprisonment. In light of this, it would require major improvement to make the conditions meet with the human rights standards that the country has followed.

The Department of Corrections should be more concerned about this group of prisoners in terms of their human rights, and become more aware in terms of the negative effects of

spending a long period of time on death row waiting for an execution, especially given that the long period often results in all or most of them get their sentences commuted. Rehabilitation programs are the heart of returning a law-abiding citizen to society, and should start soon after the prisoners are imprisoned for effective results. The authorities should also support abolition of the death penalty and be a voice to represent this issue, as they are the group of people who work most closely with these prisoners. Thus, they should know that the rare cases of execution in Thailand do not really affect much positively, and at the same time do violate international human rights law and standards that the country has followed. Prison should be able to correct these prisoners and help them return to society as a new person, and execution is definitely not an answer or the way to do so.

CHAPTER V

EXTERNAL SUPPORT SYSTEMS

5.1 Introduction

The chapter on external support systems is about contacts with the outside world, including relatives, friends, NGOs, and other external bodies. The chapter contains 5.1) Introduction 5.2) Contact with the Outside World and Social Relations and 5.3) Summary and Conclusion. The content of this chapter lies within section 5.2, which is divided into two parts: 5.2.1 Visiting, Writing Letters, and Posts and 5.2.2 Other Support from External Sources.

Contact with the Outside World (5.2) discusses the rules and regulations of Bang Khwang Central Prison that allow prisoners under sentence of death to connect to the world outside of the prison. The analysis of the information in this section, which has been gathered through interviews and the researcher's observations, is based on the international human rights standards. The information in this chapter answers the sub-research question, "*To what extent does Thailand follow international human rights standards in terms of external support systems, which play a significant role in successful and effective rehabilitation?*"

5.2 Contact with the Outside World and Social Relations

5.2.1 Visiting, Writing Letters, and Posts

Rule 37 of the SMR states, "*prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits*⁸⁶." Rule 80 also states, "*Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as is desirable in the best interests of both.*"

⁸⁶ UN document (CAT/OP/4) states "*although Rule 37 of the SMR provides for contact with the outside world, the specific use of the word "allow" in its text indicates a restrictive approach. Communication with the outside world should be seen as essential and should be encouraged, rather than tolerated*" The document is available at <http://www2.ohchr.org/english/bodies/cat/opcat/docs/SMR.doc>

Information from Prisoners and Prison Authorities

Prisoners under sentence of death in Building 2 can have visitors on Monday and Wednesday, while prisoners under sentence of death in Building 5 can do it on Tuesday and Thursday (PA1, Interview). Bang Khwang Central Prison allows visitors who are not the prisoners' relatives to visit them (Researcher's Observation). All visitors must provide a copy of their identity cards or passport to the prison authorities before 12.30 pm, and they will get to meet the prisoners at 1.00 pm (ibid). The session lasts between 40-45 minutes (ibid). The prisoner and visitors communicate via phone with security glass between them, as they are not allowed to touch each other (ibid). The number of visitors for each prisoner is limited to five people per visit. In the past, visitors were allowed to bring food to visit prisoners (ibid) (PA1, Interview). However, due to the policy of preventing drug smuggling into prisons, this allowance has been cancelled as of May, 2012 (PA1, Interview). A prisoner talked about this matter, saying that *"families and friends are concerned for their loved ones who are not eating well, so they would like to bring home cooked food or food that is bought at the shop for the prisoner they are visiting. It brings them great relief to know that he is eating well (P anon, Interview)."* He then continued, *"in terms of a normal visit, prisoners and their visitors should be able to sit by facing each other on an allotted table. They should be able to talk freely and feel closer to each other. Our dignity would be preserved and this would lift up the morale as we would not feel like caged animals (ibid)."*

As of October 2012, the prison allows only close relatives such as parents, siblings, wives, and children of prisoners to visit on Saturday and Sunday (PA1, Interview). A copy of an ID card or passport from every visitor must be submitted to the prison authorities (ibid).

Prisoners who are able to have visitors on Saturday and Sunday must not be currently penalized for any violations of the prison's rules or under the investigation of any violation of the prison's rules (ibid). For those who belong to the first category, after the period of getting penalized for violating the prison's rules, they will be able to receive visits normally (ibid). Those in the latter category can receive a visit on Saturday and Sunday like others after the investigation is done, assuming that prisoner is not found guilty (ibid).

Letters coming into Bang Khwang Central Prison, if written in Thai, will be read by the central custody division's officers (Researcher's Observation). Those that are in a foreign language will be read by the foreign relations division's officers (ibid). Certain types of books are allowed ⁸⁷(ibid). Those containing nudity, and those that are considered harmful to national security, will be disallowed (ibid). Parcel post has not been allowed since May 2012, to prevent the smuggling of drugs, electronic devices, and other forbidden items (PA1, Interview). Prisoners under sentence of death can communicate with regular prisoners or those prisoners under sentence of death who stay in different buildings or different zones of the same building by writing letters (Researcher's Observation). The letters will be opened and read by the wardens who are in charge of the building before being sent out to the receivers (ibid). There is no limitation on how many lines the prisoners can write (ibid). During the interview, prisoners mentioned that Muslims from the southern provinces cannot write in the Yawi language because the prison guards who are responsible for the letter checking cannot understand the language (P6 and P7, Interview). It is very difficult for some of them as their parents understand only the Yawi language (ibid). Some of them do not write any letters as a result, despite being the only way, apart from a 5 minute phone call, to communicate with their parents (ibid). The International Red Cross accompanies the parents of Muslim to visit them once a year (ibid).

In the case of executions which are going to happen, a prisoner stated during the interview that *"if any executions are to be carried out, the family of the prisoner should be duly informed. An arrangement made for them to see the prisoner for the last time is needed. It is considered to be basic and humane to do so (P anon, Interview)."*

Analysis

The information here based on the interviews and researcher's observations follows the context of Rule 37. As Article 12 of the UDHR states, *"no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks."* Article 16(3) of the UDHR also states, *"the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."* Based on these

⁸⁷ Books that are sent by post are not allowed anymore, as of March 2013. All the books that were sent in for prisoners were returned to the senders.

findings, at Bang Khwang, this right is not taken away, but is restricted by the nature of imprisonment.

Rule 37 and rule 79 of the SMR are compatible with Article 10 of the ICESCR, which states, “*The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.*”⁸⁸ This is confirmed by 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.*”

After recent developments in the case-law of the European Court of Human Rights relating to the European Prison Rules of 2006, it states “*prisoners shall be allowed to communicate as often as possible by letter, telephone, or other forms of communication with their families, other persons and representatives of outside organizations and to receive visits from these persons.*” In this case, the challenge that raises concern regarding contact with the outside world for prisoners relates to those who have relatives far away. In this case, for example, foreign prisoners do not have many chances to communicate to their family members who might be abroad, or those people who are from areas like the northern or southern provinces, who can only receive visits from their immediate relatives once a year or less, due to financial issues. In one prisoner’s own words, “*Most prisoners and their families are from poor rural areas or up-country, where travelling to Bangkok is considered a luxury which they cannot afford. The journey time, the cost of traveling, the cost of spending at least a night in Bangkok and the numbers of visitors are very costly (P anon, Interview).*”

⁸⁸ Recently, there has been an on-going process to amend the SMR. According the document CAT/OP/4 on January 5 2013, the subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment suggested changes on several matters of the SMR. Category B. contact with the outside world/social relations and after-care states:(9) *Communication with the outside world should be seen as essential and should be encouraged, rather than tolerated (10) (a)The prison administration should encourage communication between prisoners and relatives and friends unless there is a reasonable/justified objection to the same. Communication must be carried out at regular intervals by mail, by telephone or by other means of communications, and through visits. Where a detainee’s partner/spouse or his or her family members visit, physical contact should be allowed.(b)The prison administration should provide decent conditions for visits so that prisoners have the opportunity to maintain and strengthen family relationships in a natural manner without any discrimination. Body searches on visitors should be carried out in a way that is respectful of human dignity and conducted by appropriate personnel of the same gender as the person being searched.*

Families and friends are very significant for prisoners in terms of rehabilitation. Prisoners stated that a visit from family members and friends always brings great joy to prisoners, and is considered a great relief from the stress that occurs from imprisonment. Prisoners under sentence of death should be considered a special case, and prison officers should understand that they can suffer from death row phenomenon. Families and friends can also provide great support for prisoners in terms of rehabilitation. In some prisoners' own words, they state, "*as a human being, it means so much for us. It affects us psychologically to be able to touch, hold, and hug the people that we love so much. Tension builds up psychologically and physically inside us for so long during this time of loneliness. It can be released during those moments (ibid).*"

5.2.2 Other Support from External Sources

Information from Prisoners and Prison Authorities

Some embassies recruit volunteers as representatives of the embassies to visit prisoners from their countries regularly⁸⁹ (Researcher's Observation). The volunteers then report to the embassies about how the prisoners they visit are doing (ibid). According to the researcher's observations, the French Embassy and the British Embassy have this kind of program in which external individuals can participate (ibid). Some civil society organizations such as the Jesuit Prison Ministry work to help underprivileged prisoners by visiting them (ibid). They also host activities for prisoners (ibid). In one interview, an officer of the organization said, "We are not allowed to host any activity for those who are on death row (Jesuit Foundation, Interview)."

Apart from that, "*Art for All*" is an annual activity (PA4, Interview). It is one of the recreational activities in which prisoners under sentence of death can participate. The project has been established to focus on the unprivileged (ibid). Prisoners under sentence of death are selected first as a target group, with the objective to reduce stress for them (ibid). Later, the regular prisoners can join, since the number of the prisoners under sentence of death is not a lot (ibid). The prisoners who would like to participate have to submit their own art work with a short description (ibid). The participants will be selected by the art teachers from the Art for All Foundation (ibid).

⁸⁹ Usually European embassies

The period of the project lasts for a year (PA4 and P10, Interview). The activity is different each year, but painting is the main focus as the area and the materials are readily available (ibid). There is no participation fee (ibid). Watercolors, acrylics, and oil painting have been part of the program. Prisoners are able to create their own art work freely at the end of the program (ibid).

Apart from Art for All, Orasom Sutisakorn's project⁹⁰, "*Narratives from Death Row*", which is supported by the Kamlangjai project of HRH Princess Bajrakitiyabha and the Buddhika network, is one project that specifically targets prisoners under sentence of death (ibid). Sutisakorn, as a professional documentary writer, trains thirty prisoners who are under sentence of death at the time of participation and those who were on under sentence of death to write about their experiences, along with other professional writers (ibid). The project was first introduced to prisoners in November 2010 and finished in March 2011, after fourteen weeks (ibid). It continued for a second time in 2012 (ibid). Those who wish to participate must submit their writing samples, which will be selected later by the committee (ibid). The best thirteen stories from the project are published together as a book under the title, "*Thirteen Death Rows: Freedom on the Line*" (ibid).

After it ended for the first time in March 2011, those thirty prisoners that participated in the project continued with a second project, Volunteer Spirit from Death Row, from May to September 2011 (ibid). They made handmade scarves and hats, cards, and dolls from socks for charity. The products were given to monks in rural areas and other underprivileged people (ibid).

The prison authorities have programs to psychologically and physically support the prisoners who are elderly as well (P4, Interview). Apart from that, Bang Khwang also asks for support from external agencies such as the District Administration Organization or other foundations for sports equipment for prisoners in general (ibid). They donate sports equipment and provide knowledgeable people for training programs and seminars (ibid).

⁹⁰Orasom Sutthisakorn is a professional writer who had a desire to teach prisoners under sentence of death how to write their own stories behind bars. She has been supported by the Kamlangjai project to create "Narratives from Death Row"

Analysis

These activities can be analyzed under rule 78 of the SMR, which was previously stated in Chapter 4: Rehabilitation Programs. The rule states, “*recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.*” The rule expands on the provisions in rule 59 which state, “*the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.*”

Based on the information, the prison authorities should have NGOs officially participate in the recreational activities that the prison hosts, or let them host events for the prisoners themselves.

5.3 Summary and Conclusion

As this chapter aims to answer the sub-research question, “*to what extent does Thailand follow international human rights standards in terms of external support systems, which play a significant role in successful and effective rehabilitation?*” This can be answered by saying that if only the context of Rule 37 is considered, then what Bang Khwang Central Prison has done meets with these standards, as they allow prisoners under sentence of death to communicate with their families, friends, and external organizations and personnel. However, this family issue seems to be more sensitive than that, as prisoners actually need more than what is stated in the rule.

In summary, families and friends are allowed to visit prisoners under sentence of death twice a week. They can have conversations through phones, and there’s a security glass between them which prevents touching. Visitors are not allowed to bring any food when they visit prisoners. Parcel posts are not allowed. Prisoners can only communicate with people outside through phones and letters.

Furthermore, the involvement of NGOs and other external supports is still not enough for prisoners under sentence of death. The prison officers should consider having their official participation and involvement in the activities hosted by the prison, or consider the activities that

these external organizations would like to have for prisoners under sentence of death. The prison authorities should realize that these external supports are also important to help them in terms of implementing effective rehabilitation programs for prisoners.

Prisoners under sentence of death, as well as regular prisoners, should be assisted by prison guards and be allowed to talk directly to visitors who are relatives without any physical barriers. This can be done across a table, and they should be allowed to touch each other. Conjugal visits should be considered by the prison authority for spouses or long term partners. Phone calls should be allowed for more than five minutes, and should be permitted without restrictions. Prison authorities should bear in mind that not every prisoner can receive a visit regularly, as some of them are from rural areas or other countries. Also, prisoners should not be forced to speak in a language that they are not comfortable with during a visit. They should be allowed to talk to each other in the language that they feel comfortable using with their visitors.

Also, regarding the situation where Muslim prisoners can only write letters in Thai but not in Yawi, the prison authorities should respect the local culture by allowing prisoners to write in their own indigenous languages, as this is considered a human right of prisoners. The prison authorities are responsible for finding an interpreter regarding any security concerns about the content of the letters which they cannot understand.

In terms of posts, parcel posts should be allowed, since it is the right of a prisoner. Food from visitors should also be allowed, and it is the prison authorities' responsibility to have an effective method to check for the smuggling of forbidden items that may come with the posts or food at Bang Khwang. "*White Prison*" is a project of the Department of Corrections that has a good purpose in trying to eliminate all the forbidden items from prisons in Thailand. However, the method raises concerns over the prisoners' rights, since prison authorities have failed to prevent the smuggling of forbidden items into prison, and therefore forced the prisoners not to receive services because of their failures. As a result, the disallowance on parcel posts and food is a human rights abuse.

CHAPTER VI

CONCLUSION

6.1 Conclusions

As the main research question is “*To what extent does Thailand follow the international human rights standards on rehabilitation for prisoners under sentence of death before receiving the royal pardon?*”, the answer is that Bang Khwang Central Prison follows some of the SMR and other international human rights standards, but does not follow the standards more often than it does. This research consists of three main themes (prison conditions, rehabilitation programs, and external support systems) with three sub-research questions each asking about how the prison follows the international human rights standards on each theme; there needs to be improvement in every theme.

According to Blakely (2007:13), the goal of rehabilitation is to make a socially responsible and law-abiding citizen. Prisoners have to be trained and educated to achieve the skills that are necessary to find profitable employment. As previously mentioned in the literature review (see 2.1.1), prisoners usually lack the skills and education to earn a proper living. They also usually have a problem in socializing with other people. Therefore, the time spent after receiving the Supreme Court’s judgment, often more than a decade, should be spent wisely by being rehabilitated. Successful rehabilitation requires many factors, and prison management is the most important. Thailand has a system of Royal Pardons, which allow the majority of prisoners under sentence of death to escape execution. However, they still suffer long incarceration and many of them have a hard time living their lives upon release due to ineffective rehabilitation and social prejudice against them⁹¹.

Prison authorities in Thailand must follow Rules 65 and 66 of the SMR, which state that the purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after their release.

Living conditions need improvement in terms of prison overcrowding, which leads to insufficient supervision by the prison guards, which in turn poses risks of violence and abuses

⁹¹ Thailand admitted that former prisoners still face prejudice and discrimination from society.

that may occur inside of the prison. Apart from that, the structure of the prison itself does not support the good health of prisoners. They also do not have privacy in every activity they do, even when using a toilet. Also, practices that are considered to be torture, inhumane, and degrading treatment are still imposed on prisoners, such as wearing shackles⁹² and being put in solitary confinement for long periods of time. Some regulations on food are still not compatible with prisoners' rights, and access to clean drinking water does not reach some prisoners. Medical services, in terms of dental care and psychological care, also still do not meet the standards. As previously mentioned in 2.1.4.1, living conditions should honor the basic humanity of those confined, and prohibit torture and other cruel, inhuman, or degrading treatment or punishment, and set rehabilitation as the primary goal of imprisonment (Fellner, 2012).

In terms of rehabilitation programs, there are no official programs for prisoners on death row that especially focus on rehabilitation. Prisoners on death row practice meditation and pray by themselves or conduct religious activities without any consultation from a qualified religious representative. Also, even though they can access proper education until the tertiary level, they often get unnecessary degrees due to the lack of choices of activities for them. Work and vocational training are also prohibited, as the officers are afraid that the prisoners will seek benefits out of the working tools in terms of escape. Although the country prohibits these types of prisoners from work, there is an example at the Texas Death Row Garment Factory which Thailand can learn from, regarding how a factory can be operated by prisoners under sentence of death.

Regarding external support systems, the context of the SMR only discusses the allowance of contact with families and the outside world. Prisoners stated that this is not enough and express greater needs about the way that they can contact and get in touch with their family members and friends. The reasons given by the prison authorities are always about security concerns. For example, prison authorities cannot read Yawi, and therefore, prisoners are not allowed to write in Yawi despite the fact that the recipients can only read Yawi. In reality, this problem should be solved by hiring a person who is able to understand Yawi. The security reasons given by the authorities are often related to insufficient budget, an insufficient number of

⁹² Prisoners do not have to wear shackles anymore while they stay inside of the prison. However, they still have to wear it when they go outside.

prison guards, and other issues in prison management⁹³. These reasons often lead to human rights violations of the prisoners. The prison officers should not use the reasons given above as excuses for Bang Khwang not being able to meet the international human rights standards.

The crimes that prisoners committed should not be the reason for their human rights to be taken away, as human rights are inalienable. Dignity should always be practiced, along with the regulations that are imposed on prisoners. There is a thin line that crosses between things that are allowed and disallowed, and the latter case always involves human rights abuses.

The long incarceration does not provide the benefits of rehabilitation for prisoners. It takes a while for many of them to blend with the outside world upon release. It is also difficult for them to start a new life, as the prime of their life is spent behind bars. Those who have families before the time of the arrest are usually abandoned by their partner or spouse during the imprisonment. Getting a career after being released is also challenging. Also, long incarcerations require unnecessary costs for prison management. It is more effective to implement rehabilitation programs that really help prisoners to become law-abiding citizens after a proper period of time so they can start a new life upon release. The current situation in which some of them have their sentences of more than twenty years does not help them to start a new life. They still have to face social judgment upon release. Some of them are too old to find a stable job and end up being the family's responsibility.

The country should not waste its own human resources with unnecessary long-term imprisonment which does not really focus on rehabilitation. This, in turn, creates a social burden instead of a new person who can contribute meaningful resources.

Human rights should be the issue that the prison authorities, the policy makers at the Department of Corrections, and the personnel in the entire criminal justice system should be concerned with, given that the Department of Corrections and the prisons in Thailand are the organizations which are at the end of the process. Thailand needs people who understand that human rights issues are sensitive, and its sensitivity should be carefully addressed in every process of the justice system. The current Penitentiary Act and other regulations should be

⁹³ According to the UN Human Rights Committee in its general Comment 21 (paragraph 4) on Article 10 of the ICCPR, the committee states "... *the application of this rule as a minimum, cannot be dependent on the material resources available in the State party ...*"

carefully revised to respect the human rights of prisoners and to meet the international standards that the country has followed.

The country is still far from the human rights standards. The rights of prisoners in the country have never been the main concern of international and national human rights bodies. The Universal Periodic Review in 2011 has very few details.

Austria is the only country that expressed concern over prison conditions and the problems in the justice system in Thailand during the Universal Periodic Review. Compared to other issues, prison conditions and the rights of prisoners received few reports and little concern by national bodies. In this case, the Thai government and the National Human Rights Committee fail to address both human rights violations in prisons in the country and ways to rehabilitate prisoners.

The country responded on the negative prison conditions saying, “*with respect to prison conditions, Thailand indicated that all alleged offenders could apply for provisional release, and that funding was provided by the Ministry of Justice for those unable to afford bail. Furthermore, the criminal procedure code had been amended to allow for alternatives to imprisonment.*” In reality, there are some prisoners who cannot afford bail and do not get supported by the Ministry of Justice. The situation is more complex than the response, as prisoners’ well-being matters are not completely based on how long they spend in a prison. The Thai government and the National Human Rights Committee should respond to the solution to overcrowded prisons and the well-being of prisoners with rehabilitation as a priority.

6.2 Recommendations

This part discusses the practices that should be carried out by the authorities and those involves based on the international human rights standards that Thailand has followed. Overall, the rules and regulations should be revised to meet with the international human rights standards (the Penitentiary Act B.E. 2479 and the Ministry of Interior Regulations, which was launched according to Article 58 of the Penitentiary Act). Also, there is no international standard on the rehabilitation of prisoners for the aim of developing law-abiding citizen, which is imperative to the correctional process and to maintain the human rights of prisoners. For recommendations, the

section consists of three sub-sections following the main themes of this thesis: (6.2.1) Living Conditions, (6.2.2) Rehabilitation Programs, and (6.2.3) External Support Systems.

6.2.1 Living Conditions

The prison has not been able to provide a solution to prison overcrowding, which has resulted in an insufficient number of prison officers and insufficient supervision of prisoners by the guards. The challenge requires the whole criminal justice system to find a solution. The prison officers who have to work with prisoners under sentence of death must be specially trained to support prisoners' mental health, which might be affected by death row phenomenon. The structure of the building should be re-examined by the prison authorities and the Department of Corrections, as the ventilation causes negative effects on the health of prisoners. The 24-hour light should be substituted with a new policy that is considered to be supportive of the health of prisoners as well. Apart from that, there should be a regulation that prisoners should be allowed to receive food three times daily at their convenience. Clean drinking water should be accessible for all prisoners. The filter should be changed regularly based on its official technical requirements. Any kind of medical service should not be delayed, and proper psychological care is needed. Annual medical check-ups should also be imposed.

Shackles should also be removed permanently even when they are outside of the prison so as to respect their dignity. Last but not least, the use of solitary confinement should not exceed the period of fifteen days, as it can be considered to be torture, inhumane, and degrading treatment. Individuals who have not received their sentences from the Supreme Court should be completely separated from convicts, and prisoners with special needs should receive special attention from the authorities. Having living conditions that meet with the international human rights standards can lead to physical and mental health, which prepares them to be ready and able to focus on rehabilitation throughout the process, as Blakely (2007:13) (Section 2.1.1) stated that reform can happen only under the system that recognizes and value it.

6.2.2 Rehabilitation Programs

Effective rehabilitation programs needs a strong classification of prisoners based on their personal and criminal background. They should receive various rehabilitation programs catered to each individual, and the programs should be conducted continuously for a proper period of

time. They must be evaluated after they completed each course. It should start immediately after imprisonment, as those under sentence of death usually receive pardons and remission, such that they get released eventually. Prisoners under sentence of death should be provided with counseling from qualified counselors, monks, priests, and imam. They should also be allowed to work on the types of work that is seen to be proper by experts with human rights and criminological backgrounds (see the case of Texas in 2.1.4.2). Furthermore, the choices of activities to do during the imprisonment should have some variety. Prisoners should also be able to associate with regular prisoners and be able to participate in the same programs or do activities together. Last but not least, there should not be any discrimination between those who are different in terms of race, language, age, and religion.

6.2.3 External Support Systems

A classification on types of visitors should be practiced. Spouses and partners should be allowed conjugal visits, and the children of prisoners should be granted special visits by the authorities. Relatives and friends of prisoners should be able to talk to prisoners and touch them. Non-relatives who are visitors can choose whether to visit prisoners with or without physical barrier for their own security. Phone calls should be accessible at all times and should not be limited to five minutes. Those who rarely have visitors or who have relatives who are unable to visit regularly should receive special attention by receiving special welfare or longer phone calls, and prisoners should be allowed to write in any language in which they are comfortable using. Prison authorities should recognize the importance of family supports for prisoners. According to the interviews, family seems to be the most important factor that helps prisoners handle the stress and negative emotions during their imprisonment, as prisoners seem to be worried about their family members' well-being. Encouraging prisoners to get in contact with their families through direct contact or through embassies or NGOs should be a high concern for prison authorities, in order to reach the highest attainable standards of physical and mental health; the ICESCR states that this is a human right which can lead to successful and effective rehabilitation.

6.3 Recommendations for Further Study

This research can be followed by the further studies on rehabilitation and prisoners under sentence of death, the impact of current conditions on the post-release period, and one last

potential future situation, namely the impact of the abolition of the death penalty on prisoners under sentence of death.

The first issue about rehabilitation and prisoners under sentence of death can focus on the obstacles that hinder achieving the implementation of rehabilitation, by analyzing social norms or the attitudes of those who work closely with prisoners, general people, and civil society organizations. It can then state how Thailand's prison management can achieve international human rights standards.

The second study on the impacts of current conditions on the post-release period would be a study about the lives of those under sentence of death, received the pardon and then were finally released. It would be very interesting to find out how long imprisonment affects their lives. The research can focus on the positive and negative impacts of changes in the prisoners themselves, their family lives, careers, and the attitudes of people in society towards them. All of them should be based on the conditions (prison conditions, rehabilitation programs, and external support systems) that they faced during their time in a prison.

The last further study is about the impact of the abolition of death penalty on prisoners under sentence of death. This can be done with supporting information from government agencies and those who are involved in the issue, to look at how Thailand would prepare for this condition given that it might happen in the future. A study that could follow this research would be a qualitative study about the impact on prisoners under sentence of death. The research could focus on what kind of consequences might happen, based on current situations such as prison crowding, budget constraints, and the situation on pardons and remissions from a human rights perspective, by gathering cases from other countries that have already abolished the death sentence.

6.4 Recommendations for the International Human Rights Bodies

According to Article 10.3 of the ICCPR, which states, "*the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation,*" there should be international human rights standards that officially and directly discuss the rehabilitation of those who are deprived of their liberty. The standards should be enforced by law in those states that ratify it. The standards should also not be too general, but act

as a guideline for universal penitentiaries, with the aim of creating a successful law-abiding citizen upon release.

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APPENDIX

Interview Questions for Prisoners

1. Could you please tell me about the accommodations at your building (and when you were under sentence of death)?
2. How many people share the same room with you?
3. How is the ventilation, lighting, air, heating, and floor space?
4. Can you please tell me about the latrines, washing and bathing area?
5. How do you get toilet articles?
6. Are there prison guards around during the night? Is it difficult if you need to call someone when there is an emergency?
7. Are you allowed to exercise and do any sport activities? Is there an area available?
8. Have you ever been ill? Can you please tell me about the medical services?
9. What is your opinion on the food that the prison provides to prisoners? Is there any other option if you do not want to eat the food?
10. Have you ever violated the prison rules? Could you please tell me about it?
11. How did you feel during the time that you wore shackles? How did wearing shackles all the time make you feel?
12. How do you spend time each day?
13. Are you allowed to work? Were you allowed to work when you were under sentence of death?
14. Do you register for any type of educational programs that are offered in the prison? Were you allowed to do so when you were under sentence of death?
15. Are there any recreational activities offered by the prison authorities? Were there any recreational activities offered to you when you were under sentence of death?
16. Any there other internal supports from prison authorities?
17. Have you contacted your families recently? Is there any difficulty due to the prison's policies?
18. Have you ever received support from third parties like NGOs or embassies?

Interview Questions for Prison Authorities

1. Could you please provide the information about the accommodations at Building 2 and Building 5? Are they the same as other buildings?
2. How about air, floor space, lighting, heating, and ventilation?
3. How many prison guards are there during the night?
4. How is the sanitation at Building 2 and 5? Are they the same as other buildings?
5. Is there an exercise area for prisoners? Is it available at every building?
6. Could you please tell me about the food quality at the prison? How is it prepared? Is there any other option for prisoners if they do not want to take the food that is provided by the prison?
7. Can you please tell me about the medical services? How do you manage when there is a serious incident that needs medical attention during the night?
8. How many medical officers are there at Bang Khwang's medical center?
9. Is there any expense related to medical services? What about foreign prisoners and those who do not have a Thai ID card?
10. How do you manage when prisoners have to be sent out for medical services at a public hospital?
11. How do the prison authorities handle those who violate the prison's rules?
12. Can you please tell me about solitary confinement? How long do prisoners have to spend in solitary confinement?
13. What is your opinion on shackling? Have you ever heard complaints about human rights violations regarding shackling prisoners permanently from third parties like NGOs or embassies?
14. What are the reasons for not allowing prisoners under sentence of death to work?
15. How do you provide education to prisoners under sentence of death? Is there any fee?
16. Are there any recreational activities?
17. Can you please tell me about other supports that the authorities have for prisoners under sentence of death?
18. How do the prison officers help prisoners under sentence of death contact their families?
19. Can you please tell me about the process of the Royal Pardon that is under the responsibility of the prison officers?

VITAE

The author of this thesis received her bachelor degree in Business Administration from Mahidol University International College in 2011 and decided to pursue her master's degree at Chulalongkorn University in International Development Studies in 2012. Between 2011- 2012, she did her internship at Amnesty International Thailand and the United Nations Development Programme (UNDP) and developed her interests in human rights issues, especially regarding the death penalty.

This thesis about the human rights of prisoners under sentence of death is the result of her interest towards the sentence of death issue, which Thailand still imposes. She developed her interest in the death penalty issue after an internship with Amnesty International Thailand in 2011. Being a person with a degree in business administration, the death sentence never caught her attention before. She was curious why some people would like to abolish it, and after self-study from various sources of information, she realized that it a serious human rights violation to take away an individual's life. This thesis is the result of her thoughts on the human rights violations that prisoners under sentence of death face during their imprisonment. It has given her a deeper understanding of the human right violations imposed upon a group of people whowere once out of her reach. It truly inspires her to further continue working on human right issues.