

Center for prisoners' Rights Japan

# **Human Rights Situation in Japanese Prisons**

**Alternate Report submitted to HRC  
By Center for prisoners' Rights Japan**

**September 1998**

## Center for prisoners' Rights Japan

Center for Prisoners' Rights Japan is a non-profit, non-governmental organization established in March 1995 with a view to improve the detention conditions in Japan and Asia. The organization was created by legal attorneys, academics, and human rights activists who realized the necessity to improve custodial conditions and facilities to concur with international standards and laws.

We are working with international NGO such as Amnesty International, Human Rights Watch, Penal Reform International, International Prison Watch and so on.

We hold the international human rights seminar every year.

March 1995 Ms. Joanna Weschler (director of prison project/Human Rights Watch)

Feb. 1996 Ms. Vivien Stern (Secretary General of Penal Reform International)

Dr. Andrew Coyle (then governor of Brixton Prison in London, now director of International Centre for Prison Studies)

May 1997 Dr. Bent Sorensen (A member of CAT and CPT)

June 1998 Mr. Mark Alison (AI International Secretariat East Asia section)

Ms. Mel James (former AI International Secretariat, now a staff of International Section of Legal Society)

## *Introduction*

There are numerous violations of the international human rights law in Japanese prisons. Japan routinely violates the International Covenant on Civil and Political Rights. But the Japanese government did not correctly refer to the issues in the fourth periodic report of Japan. Center for Prisoners' Rights Japan hope that the Human Rights Committee will consider the report submitted by the Japanese government concerned with the problems in this alternate report. And CPR also hope that the Committee will recommend the government to improve the treatment of prisoners which violates the international human rights standards.

### 1. Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

#### 1-1. Question which the Committee is urged to ask the Government of Japan

The Committee should inquire when the Japanese government plan to ratify the Convention.

The Committee should inquire the reason why the government cannot ratify the Convention.

If the government are to ratify the Convention, the inquiry should be made whether the government plan to make a reservation and whether it declares the individual communication under the article 22.

#### 1-2. Measures taken by the Government of Japan that the Committee is urged to enquire into

The Committee should recommend the government that it should ratify the convention without the reservation and also declare the system of communication from individual under the article 22.

#### 1-3. Current Situation

Japan has not ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Minister of Justice replied in the Diet that they are considering the ratification. Center for Prisoners' Rights Japan and Amnesty International Japanese Section hold the International Human Rights Seminar in May 1997 inviting Dr. Bent Sorensen, a member of CAT and CPT. When Dr. Sorensen visited the Ministry of Foreign Affairs to request the ratification of the Convention, the officer in charge of human rights affairs said "it is so difficult to correct the evidence under the article of universal jurisdiction that he doubt whether it works." But this cannot be the reason of putting off the ratification. The government should ratify the convention without any reservation and also declare the system of communication from individual under the article 22

2. Article 2

3. Each State Party to the present Covenant undertakes:

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy

2-1. Question which the Committee is urged to ask the Government of Japan

Are there any practical measure of remedy in Japanese prisons?

Is there any plan to establish the easy access mechanism for human rights remedy which is independent of prison authority.

Is it true that when a prisoner accuse a guard toward the public prosecutors office, other guards of the prison investigate the case?

2-2. Measures taken by the Government of Japan that the Committee is urged to enquire into,

Easy access mechanism for human rights remedy which is independent of prison authority should be established.

When a prisoner accuse a prison guard, the police or the public prosecutors office which is independent of prison authority should investigate the case.

2-3. The former Comments by the Committee

The Human Rights Committee recommended " that preventive measures of control against any kind of ill-treatment of detainees should be further improved. ", in the section D, "Principal subjects of concern" of their comments adopted at its 1290th meeting (forty-ninth session) on 4 November 1993.

2-4. Current Situation

The reason why there are so much human rights violation cases in Japanese Prisons is lack of practical mechanism for human rights relief. In Japan there are no system like visiting board, Prison Ombudsman or Prison Inspector which are independent of prison authority. A prisoner in Japan can make a petition to the Minister of Justice, and s/he can make a petition to a visiting officer ( the officer of correction bureau of MOJ) who visits once every two years. But these systems are not effective and not open to others. Besides these ways, the remedy by way of civil suits is possible, but it takes much time and money. And the system of correcting the evidence by prisoners are insufficient and this makes it more difficult to prove the human rights violation case by the plaintiff's proof. So the civil suit is not also an effective way of relief.

When a prisoner accuse a prison guard toward the public prosecutors office, other guards of the same prison investigate the case. So in this criminal procedures, there are also no independence and it is not effective.

Easy access mechanism for human rights remedy which is independent of prison authority should be established.

3. Article 6-4

" 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. "

3-1. Question which the Committee is urged to ask the Government of Japan

Why the death row detainees are not informed of his/her execution until just before it and why his/her family are informed nothing about the execution in advance?

3-2. Measures taken by the Government of Japan that the Committee is urged to enquire into, The death row detainees are not informed on his/her execution until just before it and members of his/her family are informed nothing in advance.

Therefore, the death rows detainees are deprived every ways for protecting themselves from the execution. These practices violate article 6-4, and Article 7 of ICCPR.

The date and time of execution should be informed to him/herself and his/her family with enough time to try any measures to defend him/herself.

3-3. The former Comments by the Committee and Comments by the Government of Japan in Fourth Report

The Human Rights Committee commented " In particular, the Committee finds that ... the failure of notification of executions to the family are incompatible with the Covenant", in the section D, "Principal subjects of concern" of their comments adopted at its 1290th meeting (forty-ninth session) on 4 November 1993.

In the Fourth periodic report by the Government of Japan, they said that there is no legal provision that permits the notification to the family in advance, therefore , they aren't to be notified before execution. The government also explains in the view of practical reason as the following: " the family might experience unnecessary mental anguish, if they are notified of the date of execution beforehand", and, if the death prisoners "receive their family visit after they have been notified of the date of execution, they may become mentally distressed and be unable to maintain calmness".

3-4. Current Situation

(1) No notification to the prisoner

The death prisoner is usually informed about 1 hour before his/her execution on that day. Formerly, in Japan, he/she was notified by the day before, and able to write his/her last will until the previous night and meet with his/her family members . Mr. Kiyohachi HORIKOSHI who executed at Tokyo Detention Center on 07/12/1975 had met with his mother at the day before of his execution. However, on 22/01/1976, one month and half after Mr. HORIKOSHI's execution, Mr. Kiyoshi OKUBO was also executed at the same detention center. He notified in the morning of the very day of his execution. From this time, the notifications have been made in the morning of the day.

The execution of prisoner usually takes place in the morning, therefore, the death prisoner is exposed terror of execution every morning. Sudden notification to the death prisoners like the above-mentioned violates the General Comments of the Human Rights Committee ( adopted on April 3 , 1992 ) which said that when the death penalty is applied by a State party , it must be carried out in such a way as to cause the least possible physical and mental suffering .

(2) No notification to the family of the death row detainees

Notification to the family members in advance has completely failed yet, despite of the Committee's comments at its 1290th meeting. After the execution of death penalty , the family members can know the fact of execution only by being told " We said him/her good-bye today " from the official of the detention center and are asked whether they want to take back his/her body or not ( whether the official can cremate the body or not ) .

The Government said the detention institution usually instructs concerning how to write his/her will and cope with estate in the report . However , in fact , the prisoner can only leave an oral message with a officer during more or less a few minutes just before the execution .

For example, in the case of Mr. Syuji KIMURA, who was executed on 21/12/1995, when his mother and elder sister in law visited him in the morning of the day that was scheduled his execution, they were told from the officer "Could you come at noon again since we are busy on many works in the end of year ? " Then, when they visited again, they were told that he had already been executed in the morning. The officer didn't any mention on what time he was executed. His family member said that although Mr. KIMURA had requested the detention center to notify the date of his execution to his family members in advance , it hadn't done. In addition , he had hurriedly written a short letter to his family members during a few minutes just before of his execution.

Furthermore, in the case of Mr. Norio NAGAYAMA who was executed 01/08/1997, the notification hadn't done to any family members including his brothers, and there had been no person who can take back his body . Therefore, his body was cremated at the detention center. If the former his council had not found out the fact of his execution and proposed to take him back , his body would be buried under the cemetery that leaving no one to care of .

(3) No opportunity for defending themselves

No notification to the prisoner and his family members in advance is not only much cruel for themselves, also means that the prisoner don't have any chance for whatever to defend him/herself with help of his/her family members. (That is also why the contact between death prisoners and the people except the family members is strictly restricted.) This practice is inhuman and definitely violates Article 7 and Article 6-4 which said "Amnesty, pardon or commutation of the sentence of death may be granted in all cases".

4. Article 7

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.

4-1 Question which the Committee is urged to ask the Government of Japan

(1) Ill-treatment within criminal detention facilities

The number of ill-treatments against detainees in prison and detention centers is increasing. Is the authorities conducting any investigations on these conducts? In addition, is there any plan to provide human rights education to prison officers?

(2) \*Protection cells\* and leather handcuffs

Some cases are reported in which detainees are subjected to ill-treatment by the use of protection cells and leather handcuffs. Leather handcuffs by its design force detainees to eat as dogs would do and to go to the toilet without using their hands. Shouldn't such instruments be abolished as they are degrading? Furthermore, what is the legal basis for \*protection cells\*?

(3) Opening prison rules and regulations to the public

Administrative regulations prepared by the Ministry of Justice, and Prison rules and regulations are kept secret. Should not such regulations and rules be made public, in accordance with Rule 29 and 30 of \*the United Nations Standard Minimum Rules for the Treatment of Prisoners\*?

(4) Collaboration with non-governmental organizations (NGOs)

In the event of investigation of a prison conducted by a NGO, is it allowed to engage in a meeting without the attendance of a guard?

(5) Strip body check of detainees

Some prisons conduct body checking against all the convicted prisoners every day. Those detainees must undress to be checked. Isn't such investigation without clarifying the need for checking be recognized as degrading treatment?

4-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

(1) Ill-treatment within criminal detention facilities

Measures to eradicate ill-treatment by prison officers, particularly the establishment of an effective institution for prisoners' rights and human rights education., must be implemented.

(2) Protection cells and leather handcuffs

Leather handcuffs are instruments for torture. They should be abolished in accordance with Rule 33 of \*the United Nations Standard Minimum Rules for the Treatment of Prisoners.

(3) Opening prison rules and regulations to the public

Administrative regulations prepared by the Ministry of Justice, and Prison rules and regulations should be open in accordance with Rule 27, 28 and 29 of the \*United Nations Standard Minimum Rules for the Treatment of Prisoners\* and Principle 30 and 30(2) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

The authorities should distribute pamphlets listing rights of prisoners in detention facilities

and prepared in languages they can understand.

(4) Collaboration with Non-governmental Organizations (NGOs)

Prisons should accept visits by non-governmental organizations.

(5) Strip search of detainees

Strip search against all detainees must be abolished.

#### 4-3. Current Situations

(1) Frequent ill-treatment within criminal detention facilities

Cases of ill-treatment in detention centers are now well documented by international non-governmental organizations (NGOs) including Human Rights Watch and Amnesty International as well as Japanese NGOs. An Amnesty report states, "Prisoners in Japan suffer from systematic cruel, inhuman, or degrading treatment and are at high risk of being subjected to abusive forms of punishment." (Amnesty International, "JAPAN: Abusive Punishment in Japanese Prisons," June 1998)

These reports raise the possibility that the authorities consider those prisoners who lodge an appeal against them, resort to the assistance by a lawyer, or try to write the Commission on Human Rights of the United Nations as "defiant", and that they conduct systematic ill-treatment. In order to exterminate such ill-treatment and change the culture and practice within detention facilities, human rights education for prison officers will play an essential role.

(2) Ill-treatment by the use of protection cells and leather handcuffs

Two Amnesty reports published in November 1997 and June 1998 make particular reference to numerous cases of ill-treatment by the use of protection cells and leather handcuffs. It is concerned that these instruments are utilized as means of punishment. Leather handcuffs have the same characteristics as medieval instruments for torture, whose purposes were to degrade human dignity. Protection cells are based on no law specifying the conditions for the use of them. Common practice in the use of protection cells involve leather handcuffs so tightly fastened that the use of them cause aftereffects. In 1988, Tokyo High Court judged that leather handcuffs are illegal on account that the handcuffs fix the arms of a prisoner around the waist giving him or her unnecessarily high physical and mental pain, making it unable to go to the toilet and take care of himself or herself, and forcing him or her to eat like a dog.

The use of the handcuffs, however, are not banned yet. Furthermore, at Hamada Branch Detention House, a convicted prisoner confined in a protection cell died from heatstroke in July 1996. (See cases of Hamada Branch Detention House)

Protection cells must be operated under specific conditions for the use of them. They should be under the supervision by medical section of a detention center instead of the security section. Leather handcuffs must be abolished.

(3) Secrecy of prison rules and administrative regulations

It is a serious source of concern that the administrative regulations by the Ministry of Justice and prison rules are not open to the public. Japan Federation of Bar Associations obtained internal rules of a prison. They are difficult to follow as they require permission by a guard to go to the toilet, talk to other prisoners or wipe the body with towel. Extracts from the rules are attached to as an appendix of this report. Since these



rules are not public, it is difficult even to consider the rationality of those rules. Such circumstances lack safeguard against human rights violations. Thus the practice of the government of Japan is in violation of

Paragraph 2 of Article 2 and Article 7.

Detainees are notified of his or her duties he/she has to obey, but not detailed account of his/her rights. One of the examples is that many detainees at Tokyo Detention Center believe they can send only one letter a day although they can write up to three letters a day upon the grant of the permission for special communication. Another example is regulations on a prisoner's personal belongings. Yokohama Branch Detention House tells its detainee that he/she can hold personal belongings up to the volume of two boxes, but the size of those boxes are kept secret.

(4) Lack of co-operation with the research by non-governmental organizations

The Ministry of Justice (MOJ) provide very limited co-operation with Human Rights Watch and Amnesty International. The ministry would not allow direct interviews with prisoners. In 1994, Human Rights Watch conducted its research and requested to visit Asahikawa and Niigata Prisons, but their access was denied. Even at prisons the ministry allowed them to visit, they could not interview prisoners directly. Furthermore, when they requested their interview with prisoners in an institution for intermediate treatment, the MOJ replied that it will allow the interviews on a condition that the ministry could choose interviewees. Such setting will not provide any merit of third-person visit by a non-government organization. Human Rights Watch decided that requesting co-operation from the Ministry of Justice was unproductive, thus they conducted their own research. The ministry complained their report with a claim that there was a bias in the selection of interviewees. The ministry, however, is not in a position to accuse Human Rights Watch considering how much co-operation the ministry had extended.

(5) Strip body search of detainees

On the contrary to the report of the government, most of the detention centers conduct body check to all the prisoners where detainees must undress. Strip body check may be acceptable under specific condition such as the possession of weapons or drugs. Uniformed strip body check against all the detainees is a degrading treatment stipulated in Article 7 and it is not acceptable.

Hamada Branch Detention House : Death in custody, protection cell

On 25 July 1996, at Hamada Branch Detention House, very early morning, a convict (Mr. B, 44 years-old) had died in a protection cell. Postmortem says he dies from heat attack. Yet, official report on his forensic autopsy is yet publicized.

Mr. B had been detained in the Detention House since 19 July 1996, to serve 2 months prison sentence for Road Traffic Law violation (drunken driving). At that time, the region was hit by heat wave. From July 21, he complained, "I feel all my energy left me as alcohol went away." On July 22, at night, he shouted out, "There are worms here!", "Let me out of here!", and banging and shaking the cell windows. Having shown some motion that looked like jumping at them, he was hand-cuffed by the guards, he was put into protection cell with both metal hand-cuffs and a leather hand-cuff. It happened around 9 o'clock and 50 minutes p.m. At 9 o'clock in the morning, July 24, a part-time prison doctor checked his condition. The prison authority did not provide him with psychiatrist check. Around 9 o'clock and 10 minutes at night, they released him from leather hand-cuff.

He was asleep and appeared to be OK around AM 1 o'clock and 20 minutes of July 25. After 10 minutes, a patrolling guard found him motionless, leaning against the wall. They fetched him to a hospital, only to be announced dead an hour later.

On his admission, the Hamada Detention House recognized he had alcoholic records. Behavior Check Record notes his syndromes since July 20 on, detailed observance since July 22 on in particular, are highly indicating the syndromes of recovery from alcoholism, so fatigued that he could not sleep nor have meals.

The Prison Authority had known his conditions as such, but they not only neglected him for providing any appropriate medical help but also confining and leaving him to appalling conditions of protection cell, thus driving him to death with heat-stroke caused by the syndromes of recovery from alcoholism. This case is now filed against the government for compensation, against 7 Prison officials (including the Director himself) for public servant's violent homicide, and against that part-time doctor for professional negligent homicide.

Fuchu Prison :Kevin case, Protection cell

Kevin Niel Malla,, an American male prisoner, had been in Fuchu Prison since March 1993. There is a regulation stating that prisoners must close their eyes before meals. In June 1993, Kevin's name was called and he opened his eyes. That was regarded as "resistance," and he received 10 days' solitary confinement as punishment.

Before the execution of this punishment, he was stripped and confined to a "protection cell" for two days. In this cell he was put in confinement clothes and a restraining belt for 20 hours. The restraining belt and metal handcuffs were very tight, to the extent that he had difficulty in breathing. While he was in the protection cell he was issued pants with a slit in the crotch, so that he could use the toilet without using his hands.

When Kevin was working in the prison factory on December 14, 1995, a prison officer warned him not to look outside the window. He apologized but the officer kept yelling at him. After the officer left, he murmured "crazy." Later Kevin was punished for this with 15 days of solitary confinement.

On February 13, 1996, Kevin scooped up some water in order to comb his kinky hair. This action was regarded as a violation of the prison rule barring prisoners from washing their hair at any time other than bathing. As a result, he was punished for 5 days.

In March 1996, Kevin sent a letter requesting the Japan Federation of Bar Associations to send him a lawyer to handle the preparation of his law suits challenging the arbitrary punishments in the prison. Because he sent this letter, the prison confined him to a strict solitary cell. He had been confined in a solitary cell, and is only allowed 30 minutes outside the cell for exercise two or three times a week and bathing two or three times a week. The window of the cell is covered by plastic, and it has insufficient sunlight and ventilation.

In July 2 Kevin filed a law suits demanding 10 million yen ( about 70,000 US dollars) as compensation for the ill treatment he has suffered in Fuchu Prison.

Kevin had been transferred to Tokyo Immigration Center after serving his sentence in January 1998 and soon deported to US. His litigation is still going on at Tokyo district court.

Fuchu Prison : Foreign prisoner Bahman case

Bahman Daneshian Far, 32-year-old Iranian male prisoner, had been detained in Fuchu Prison since October 8, 1994 until January 28, 1997. On April 1, 1994, when Bahman was taking a shower, another prisoner pushed him and then he pushed back him in return. The prison authority thought he is to be punished and investigated him. The senior officer said to him angrily "Iranians are all liars." He answered "Some Japanese are good, and others aren't." They regarded his answer as "retort" and investigated him again.

Then he was sentenced to 10 days' minor solitary confinement in addition to prohibition of reading any books and papers for that period. At the moment of being sentenced, he failed to give a salute to an officer in Japanese style. The officers were outraged by his discourtesy and slapped him on the face. They both metal- and leather- handcuffed him and tightened a string of the leather-handcuff very strongly. They held him down on his back and covered his head with a cloth bag to make him blind. Then they kicked him on the back and the abdomen. Bahman had been leather-handcuffed tightly for 5 hours and then confined in a protective cell for 2 days. Leather-handcuffing gave him an aftereffect at his left leg and it still remains.

On May 14, 1994, when Bahman, under punishment at that time, brushed his teeth standing on his feet, the chief officer told him "why don't you sit on a special stool for punishment." He answered that "I'm brushing my teeth (therefore, it is allowed to stand now)." Then, surprisingly, the officer hit him on his left ear with his right fist very strongly. Afterwards he leather-handcuffed him and assaulted him again as he did in the first incident. Then Bahman had been leather-handcuffed for 9 hours and confined in a protective cell for 2 days. As a result pus oozed from the wound in his left ear continuously and difficulty in hearing still remains as an aftereffect.

On July 19, 1994, the officers assaulted, leather-handcuffed, confined him in a protective cell without a good reason as they did in the second incident.

From December 1994 to February 1995, Bahman applied for permit to write to Commission on Human Rights of the United Nations in order to communicate these mistreatments to them, but the prison authority did not allow it. On February 27, 1995 he went on hunger strike for permit of dispatching a letter to the Commission on Human Rights. But on the next day he was confined in a protective cell. On March 1, only three days after he went on the strike, he was injected a certain medicine without any explanation and put food into his mouth forcibly.

From October 23, 1995 until July 15, 1996, totally about for 9 months, he had been confined in a special cell for the mentally disordered. His cell was located next to an really insane prisoner hitting himself on the wall, and talking to himself almost all day and night long without a break. The authority told him that he should be in a special cell because he had swallowed a razor. But that story is totally groundless.

He filed a law suit claiming ¥15,000,000 against Japanese government as compensation for these ill treatment.

Chiba Prison : leather handcuff

K and T had been detained in Chiba Prison since 7 November 1990.

On 20 February 1991, K asked a prison guard the reason why prices of canned food had been raised. The guard didn't answered K's question, so K requested to prepare another opportunity to give him the answer. But instead of giving K the answer, the guard kicked K's left leg. K immediately protested against this violence, and then the guard hold K's head wildly and struck K's back against the wall. After that, the guard and his fellows lifted K and brought to the protection cell. In the cell, the guards put both metal handcuffs and leather handcuff on both his hands behind him. He was kept in handcuffs for 5 days and confined in the cell for 6 days.

On 29 March 1991, T was just walking along toward the ground with slightly dragging feet. But he was investigated by guards on the suspicion of "disobeying and using abusive language".

In the investigation he happened to kicked the desk he was sitting at. Then the guards turned him over on his face, kicked on his back, and put metal and leather handcuffs on both his hands behind him. He was confined for 5 days in the protection cell.

K and T filed a suit for damages to Chiba District Court, but the case went against them. They appealed to the Tokyo High Court. The High Court reversed the District Court's decision and decided that confinement of K and T in protection cells was not illegal, but putting metal and leather handcuffs on both their hands behind them was obviously over least restrictive means for custody which forced them to suffer not only physically but also mentally, and ordered the Government to pay 1,200,000yen for K and T. The Government didn't appeal to the Supreme Court, and the judgement became final.

5. Article 8

No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

5-1. Question which the Committee is urged to ask the Government of Japan

(1) Labor monitoring by private company personnel

In monitoring of labor at a prison, do any personnel of private company engage in direct control over convicted prisoners? Does not it constitute the violation of Article 8 of ICCPR and Sub-Paragraph C, Paragraph 2, Article 2 of "Convention concerning Forced or Compulsory Labor" (ILO No. 29)?

(2) Prohibition of looking away and conversation at factories

In prisons, it is prohibited for prisoners to look away, to talk among them, and to talk to guards at factories in prisons. Does not such practice violate Article 8 prohibiting forced labor?

(3) Labor with no payment

Prisoners receive approximately 3700 yen (approximately USD 25.69 base on the exchange rate USD 1=JPY 144)per month for their labor. The amount is approximately 1 per cent of general workers. Is not such system the violation of Article 8? Is it possible to confiscate prisoners' salaries as a form of punishment?

5-2. Measures taken by the Government of Japan that the Committee is urged to enquire into

(1) The authorities must review the labor monitoring by private company personnel.

(2) The authorities should deregulate excessively strict prison rules regarding working in prison, such as prohibition of looking away and conversation.

(3) Prisoners should receive payment in proportion to his/her work. His/her salary should not be confiscated as a punitive measure.

5-3. Current Situations

(1) Involvement of private companies in working in prison

Labor at prisons are recognized as an acceptable form of labor in ICCPR (Article 8-3-c-i). In case that such labor is administered directly by private companies, such mode of labor violates Article-2-C of "Convention concerning Forced or Compulsory Labor" (ILO No. 29). At factories in prisons, personnel of private companies often give directions to prisoners.

Congress of the United States has discussed the situation in Fuchu Prison, an example of such practice. The view of the government of Japan should be clarified regarding possible violation of Article 8-3-a of ICCPR and Article 2-2-C of "Convention concerning Forced or Compulsory Labor" (ILO No. 29)

(2) Excessive restriction over prisoners\* labor

Actual working in prison is not administered in a manner the government's report states, Prison work is conducted in nearly the same way as at any company in the private sector in terms of work hours, work environment, work methods, etc. ((I) Prison Work, Treatment of Correctional Facilities, in section about article 10).

Furthermore prisoners do not receive appropriate payment in proportion to his/her labor.

Every move other than his/her designated labor require raising a hand to draw attention of a prison guard for prior permission to engage in his/her desired move. Even in such a case that a prisoner wants to pick up a thing only one meter way, he/she must ask for permission by a guard. Consultations necessary for his/her labor must be initiated in the same manner. Prisoners must raise their hands for permission to go to the toilet. Even a moment of looking away or a word of conversation is a subject for punishment. Prisoners are thus deprived of their independence and forced into a mechanical mode of labor.

Research and Training Institute of the Ministry Justice\*, an affiliated organ of the Ministry of Justice, published in August 1997 a report on their survey of 769 prisoners expected to be released in April 1996. According to the report, most difficult rules to follow or rules the prisoners most strongly hoped to change include prohibition of conversation and looking away, restriction on the frequency of the use of the toilet, forced meditation, and restriction on the posture and move they were allowed to make in their cells.

Prison work is conducted under such strict rules provide prisoners with pain, and constitutes forced labor and inhuman treatment violating Articles 8 and 10 respectively.

### (3) Labor without payment

The average per person of payment a prisoner receives for his/her labor in a prison is 3,733 yen (as of 1996), or approximately USD 25.92 (base on the exchange rate USD 1=JPY 144, the same rate is applied to figures hereafter). This amount is below minimum payment regulation of Tokyo, 5252

yen (regulation in effect since October 1996), or approximately USD 36.47. Prisoners salary is clearly insufficient to allot to compensation for the victims nor to support their own life after their release. They do not have full access to their salary during their detention. The authority may confiscate their salary as part of a punitive measure. The average amount of payment a prisoner receives upon his/her release is 42,545 (as of 1996, approx. USD 295.45). On the other hand, prisoners\* labor has generated in 1995 the income to the national treasury that amounted to 12.7 billion yen (approx. USD 88.2 million). This figure means that income generated by a prisoner exceeded 300,000 yen (approx. USD 2083.33). These figure means that prisoners receive virtually no payment for his/her labor. Such mode of labor is considered forced labor in violation of Article 8.

6. Article 10-1

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human persons."

6-1. Question which the Committee is urged to ask the Government of Japan

(1) Solitary Confinement

Some pre-trial detainees, or all death prisoners who are held in solitary confinement, and some prisoners who are held there for 24 hours a day, are deprived of human contact with other inmates. The number of detainees who are treated in such a manner and the average/maximum duration of solitary confinement should be disclosed. Is even chatting between guards and detainees prohibited? Aren't there any cases which cause psychological disorder among detainees held in solitary confinement? If any, could you disclose the symptoms and the numbers of people who have suffered psychological disorder after being confined.

It is prohibited to lean on the wall or stretch legs if the detainee is held in solitary confinement through the day and night. What is the reason for such regulation of body movement?

(2) Lack of Outdoor Exercise

At detention houses and prisons, outdoor exercise is permitted for only 30 minutes periods and two or three times a week. Does this condition most probably violate Article 10 and Rule 21 of the "the United Nations Standard Minimum Rules for the Treatment of Prisoners" ?

(3) Lack of Heaters

Why are there cases that heaters are not used even when equipped in the cells? Since many of the detention facilities are not equipped with heaters, many detainees suffer from frostbite during the winter months. Such treatment is apparently thought to be against Article 10.

(4) Insufficient Medical Care

As to the cases in which detainees have sued by reason of insufficient medical care, the number and the contents should be clear. Is it likely to happen that the demand a prisoner might make for a medical examination is refused by a medical staff who him/her-self is not a doctor?

(5) Cells without Windows

In what principles and in what facilities the measure is taken of covering the window with a blind? Is there any plan to reform this practice in the future?

(6) Imposition upon Prisoners of a Military March

When moving from one place to another in a prison, prisoners are forced to proceed in a military fashion. For what reasons this practice is put into operation?

(7) Guarantee of Translation for Foreigners in Facilities.

Is the translation to prisoner guaranteed when a foreign prisoner is announced of regulations, and when he/she is placed in the process of punishment?

6-2. Measures taken by the Government of Japan that the Committee is urged to enquire into

(1) Solitary Confinement

We demand that an pre-trial detainee should be able to spend the daytime with other



prisoners who are not his/her accomplices. Solitary confinement should be practiced to sentenced prisoners only when necessary and for a limited period. We demand also that a death prisoner should be able to spend the day with other prisoners.

As for prisoners who are confined within solitary cells for day and night, such extreme regulations of movement as to forbid them to lean against a wall or stretch their legs should be abolished.

(2) Lack of Outdoor Exercise

Outdoor exercise should be put into practice at least for an hour every day.

(3) Lack of Heaters

Local facilities located in places which are cold in winter should be installed with heaters, should turn them on in reality, and should provide prisoners with clothes and bedclothes so as to sustain their health.

(4) Insufficient Medical Care

When a prisoner requests a medical examination, he/she should be allowed to take the examination by a doctor as soon as possible. We also demand that the system be modified in order for prisoners to be able to use their health insurance they joined before imprisonment.

(5) Cells without Windows

The measure should be suspended of covering windows with blinds. We also demand that cells in new facilities be planned in such a structure that prisoners can view the outer world.

(6) Imposition upon Prisoners of a Military March

When moving from one place to another, prisoners should not be forced to proceed in a military fashion.

(7) Guarantee of Translation for Foreigners in Facilities

Translation should be guaranteed to foreign detainees when they are announced of regulations, and when they are placed in the process of punishment.

### 6-3. Current Situation

(1) Solitary Confinement

A particular characteristic of Japanese prisons is that many prisoners are placed in solitary confinement for 24 hours a day. Pre-trial detainees are placed in either single or communal cells. While inmates in communal cells may talk among themselves, it is forbidden for detainees in single cells to talk to the detainees in neighboring cells. Most prisoners work together at prison factories during the daytime, but about 10% of prisoners, for the reason of being unsuited for working and living with others, are placed in solitary confinement for 24 hours a day. The reasons include not only mental decrease and trouble with other inmates but also file suit against the prison authority. Inside of the single cell, prisoners are prohibited to walk around and lie freely, further are forced to be keep a decided posture. If they break this rule, they might be punished. We think this situation is worse than that of cage in the zoo. In the case of Hiroshima Detention Center, the detainee was punished only because he was reading newspaper with his elbow on a mattress in his cell. (See the case of Hiroshima).

In the case of sentenced prisoners solitary confined, they are never permitted leaning wall and must work alone with sitting at decided position. Mainly, their work is making paper bags and

like. Any physical and psychological illness might result from such a work in unnatural behavior and strict restriction of their conduct for a long time. In fact, many prisoners who have held solitary confinement for a long time, complaint about lumbago.

A law suit is currently being prosecuted against Asahikawa Prison where a prisoner was placed in solitary confinement for 13 years. (\*See the case of Isoe in Asahikawa Prison)

In Niigata Prison, a prisoner who wore slightly colored glasses was forced to change glasses, and after refused, he was placed in strict solitary confinement for 1 year and 10 months until released from prison in March 1996.

All the death prisoners have held in solitary confinement all day long. Until February 1997 some death prisoners had been allowed to eat or pray together, but such treatment abolished and all the death prisoners are placed in complete solitary. Moreover, prohibition to have conversations between guards and detainees strengthen the feeling of solitude.

General Comment 20 (adopted 3/4/1992) states as follows: "(T)he Committee notes that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7." It is clear that long time solitary confinement like the above mentioned is violation against Article 7 and 10.

#### (2) Outdoor Exercise

At detention centers and prisons, there are no exercise on Saturdays, Sundays, and holidays, or on rainy days, or on days when prisoners are allowed to bathe (twice a week in winter, three times a week in summer). As a result, the actual number of days on which exercise is possible is approximately 160 days a year. It is impossible for those, who are held in solitary confinement for over 200 days out of the year, to go outdoors.

The duration of exercise is within 30 minutes, which include from his/her cell to a playground and the return of same way. According to the Rule 21 of "the United Nations Standard Minimum Rules for the Treatment of Prisoners", every prisoner shall have at least one hour of suitable exercise in the open air daily if the weather permits. The practice which reaches not so much as a quarter of one hour every day obviously violates this rule. (\*See the case of the Masunaga).

In high-rise facilities, such as the Tokyo Detention Center now under reconstruction, it often happens that detainees cannot have the chance to touch the earth. It should be taken into consideration for detainees to touch the earth outside at least during the time of exercise, that is why there are not a few whose period of detention goes beyond 10 years.

Moreover, an exercise period is limited to only 30 minutes. This treatment violates Rule 21 of the "the United Nations Standard Minimum Rules for the Treatment of Prisoners".

#### (3) Lack of heaters, insufficient clothes and bedding against the cold

In the cells of criminal facilities, except in the Hokkaido located in the far northern area of Japan, a heating system is not working. In the case of the Nagoya Detention Center, reconstructed as a high-rise building, despite being equipped, the heating system is not working for many years. In the facilities without a heating system and the facilities with it but not at work, clothes and bedclothes are not lent enough to detainees to stand the cold in winter. Although in detention center they can use hot-water bottles or disposable pocket body warmers, these are charged. Many detainees suffer from chaps, chilblains, and neuralgia for the cold. Above all, this causes a serious

problem to the foreign detainees who have come from warm countries. In the above mentioned Questionnaires by \*Research and Training Institute by the Ministry of Justice\*, to the question: "What did you feel hard about, living in prisons?" the 10.2 % of the prisoners answer: "Coldness and hotness". This practice, that many suffer from physical illness because of the lack of heating systems, violates Article 7.

#### (4) Insufficient Medical Care

Reportedly, some prisoners are troubled with bad health and have become dead due to insufficient medical care. On July 25, 1996, a prisoner died of heatstroke in a cell at the Hamada Branch Detention House in Shimane Prefecture. The extremely high temperature in the closed cell is thought to be the cause of death.

If prisoners ask for a medical examination, they are, at first, suspected of playing sick. So that in many cases they are not treated until their disease has proceeded too further. In the Questionnaires by the \*

Research and Training Institute of the Ministry of Justice\*, to the question: "What did you feel hard or painful about, living in a prison," the 5.5 % of the prisoners answer: "They didn't prescribe medicine to me." A person who was released from the Asahikawa Prison is now in such a situation that he should be continually taken care of, as a result of insufficient medical care. On 02/93 the person suffered from tubercular spinal caries in the prison, and complained of pains in the loins and the chest. However, he was suspected of playing sick and the complaint was totally ignored. His consciousness injured on August 1993, aftereffect has left, and he has needed usual care in his daily life.

It is rarely accepted for a prisoner to be transported to a hospital outside, when he/she requests. On June 1997 the Hiroshima District Court decided that "In principle, the decision whether a detainee should be treated in a hospital outside the prison is at the discretion of the warden of the prison." regarding to the case demanded protection himself from the insufficient medical care of the prison.

A Chinese woman, who was arrested for overstaying while being pregnant, was taken by the Ueno Police Station to a hospital without Obstetrics, where she was mistakenly diagnosed as "acute gastritis." Accordingly, after being transported to the Tokyo Detention Center, she was not allowed to receive sufficient medical care, only to end in her abortion.

(On March--April 1997) (\* See also case in Tokushima Prison and Zhu case of abortion).

In addition, many cases are reported to show the worse condition of medical prisons than that of regular prisons. (\*See the case of the Jono Medical Prison).

Except for the periodic medical examination, such as for a dental surgery, prisoners have to pay by themselves. They can't utilize the health insurance, so that needs a good amount of money. That is why the \*National Health Insurance Law\* provides that person is not eligible to receive the payment from the insurance while being detained in a prison. Spectacles and artificial teeth, which are necessities for prisoners of various generations, cannot be obtained without paying at one's own cost. These practices violate Article 10.

#### (5) Cells without Windows

The numbers of cases, in which prisoners are placed in solitary confinement for 24 hours a day in cells that have blinds on the windows and can not look outside the cell, are increasing.

Although the Government Report states "Windows are large enough to permit inmates to read under natural light conditions", there are many cases to show that the windows are covered and that prisoners are not allowed to read by the windows. As we described above, prisoners are restricted to their posture in cells very strictly. (addressee the cases of the Hiroshima Detention House and of the Sawachi Window Suit)

Now the Tokyo Detention Center, the largest among all of Japanese criminal facilities, is being under reconstruction. When the reconstruction is completed in 2004, it will become a high-rise building which consists of 12 stories above the ground and 2 stories under the ground, accommodating 3000 prisoners. According to the plan, there are corridors for patrol between detainees\* cells and windows, so that the inmates can not see the outside directly through the windows. Further, since most of parts of these windows are frosted glass, it will become difficult for detainees to see the outside.

Worse still, the sports ground is a concrete one with artificial lawn on it, where their exercise is practiced. Thus, these can be expected to strengthen their feeling of being restrained, making their contact with the outer world and the earth less than before. Since there are many prisoners whose detention reaches beyond 10 years in the Tokyo Detention Center, the psychological effects of these circumstances in the long span are certainly serious.

In 1997 tentative cells were brought to completion. In these facilities a patrol corridor runs outside each cell, and its outer windows are covered with a blind consisting of 16 white opaque films. After three Bar Associations in Tokyo requested its reform, two of the 16 films were removed, so that the prisoners can see the sky through the gap. It is almost impossible, nevertheless, to see the outer landscape, whether outside or inside the facilities. These circumstances should be improved opened more.

Such closed structure of cells like these violates Rule 11 of the \*United Nations Standard Minimum Rules for the Treatment of Prisoners", and detaining prisoners in such a cell seems to violate Article 10.

#### (6) Military March

Prisoners are forced to march as in a military ceremony. It was introduced to enforce upon them a military rule: "Subject yourself absolutely to the commands of superior officers." This practice only deprives prisoners of their subjectivity and destroys it. Therefore, it is against Article 10.

#### (7) Guarantee of Translation for Foreigners in Facilities

There is a great problem of communication between the authority of facilities and foreign criminal detainees. Foreign criminal detainees cannot understand Japanese. Therefore, it often happens that they cannot communicate with the authority. Even if they can understand Japanese a little, most of them cannot comprehend the detail of criminal cases and the complex rules in the facilities.

It is obligatory to supports them by translation at stage of a criminal investigation and a criminal hearing. On the other hand, not obligation at stage of execution of sentence, so that communication often breaks down between the authority of facilities and foreign detainees. When they are imprisoned, their rights and obligations and important rules of the facilities should be announced in the language that they can understand most, and it is urgent to guarantee translation

in this language to them when they are seriously punished by reason of breaking the rules.

The reality, however, is that the authority leaves the work of translation to those prison guards who can speak foreign languages or to those foreign detainees who can speak Japanese. Thus, both in quantity and quality they are not provided with proper translations.

There are many cases in which the communication gap of languages caused the disciplinary punishment and become subsequent violence by the guards of the facilities. At the Kurobane Prison, a foreign prisoner is reported to have gone on a hunger strike, claiming a translation during the procedure of punishment. (\*See the Saied case in Kurobane Prison). To foreigners translation should be guaranteed when being announced of the rules, and in the procedure of punishment.

## Zhou case

On March 3, 1997, Zhou Bi Zhu, 35 years old Chinese woman, was arrested for overstaying her visa. Her physical condition was poor from the beginning, and 3 days after the arrest, on March 6, she vomited badly and confirmed that she was pregnant. The Police, however, took her to the hospital without a department of obstetrics and gynecology, and the doctor diagnosed her sickness as acute gastritis and gave her gastritis medicine. She finally managed to consult an obstetrician and gynecologist on March 17 and was diagnosed as seven weeks pregnant.

In a cell at the Police Station, for several consecutive days she vomited after eating and at its worst she vomited 10 times a day. Zhou thought she needed to take more nourishment for the fetus and asked to prison officers many times for some fruits which she would not vomit, but they refused. She asked if she could have at least a glass of milk, but the officers refused it because it was against the regulations.

On March 26, Zhou consulted an obstetrician and gynecologist again. Though the doctor diagnosed her fetus as normal, she thought there was a danger of miscarriage because she had been bleeding from her genital area.

On April 2, she was transferred to Tokyo Detention House. Three days after from her transference, she developed a pain in her abdomen which became unbearable and she felt as if half of her body were paralyzed. She asked to a prison officer on night duty for help. The officer, however, replied "There is no one here but night officers. Since it is Sunday tomorrow, you will have to wait until Monday to see a doctor."

But on Monday, it was not a doctor who came to examine her but a nurse. "Where does it hurt?" the nurse asked her through the window of the cell and She answered that she had pangs in the back and the abdomen. "That's because you slept too much," the nurse chastised her. Even though Zhou complained that she actually had a pain in her abdomen, the nurse turned a deaf ear to her words and deserted her. She kept waiting for a doctor hopefully, but none came.

It was not until 17 days later, on April 22, that she could see a doctor. The fetus was dead and the doctor said, "The baby was gone. Poor woman." The doctor's words left her with profound grief.

On June 20, 1997, Zhou filed a suit for damages with the Tokyo District Court against the Japanese government and the Tokyo Metropolitan government.

Zhou was sentenced to 2 years in prison with forced labor suspended for 3 years for overstaying her visa, and the day after she filed the suit, she was deported to her own country as part of enforced repatriation procedures.

Solitary Confinement : Asahikawa Prison Yoichi ISOE case

Yoichi Isoe, a 55 year-old male prisoner serving a life sentence had been kept in solitary confinement since the day of his arrival in Asahikawa Prison, on September 3, 1982. The prison prohibited him from contacting other inmates. He was kept in total isolation. He works in his cell, exercises alone and bathes by himself. He can go out of the cell except when he go for an exercise or bathing. The size of a solitary cell is 3.31 meters long, 1.63 meters wide and 2.55 meters high. He spends more than 23.5 hours a day in the cell.

He never spoke to anyone and is feared to be losing his faculty of speech. Because he is held in far away from his place of residence and his only blood relative, his mother, is very old and has great difficulty traveling, he received only two family visit in 16 years. Three or four times a year, he is visited by a lawyer representing him in his ongoing suits.

He filed a lawsuits against the Prison in December 1984. But the Prison authority repeatedly extend the three months solitary confinement every three month. The reason of the extension is that "he cannot get along with other inmates"

In January 1995, at the fiftieth session of UN commission on human rights, Mr. Nigel S. Rodley, Special Rapporteur on Toture, submitted the report. Isoe case was included in the report. In 23 October 1995 Isoe was suddenly moved to normal single cell. But he had been kept in solitary confinement for about 13 years.

His lawsuits are still going on in Asahikawa District Court.

#### Death Row Prisoner Toshiaki MASUNAGA

Toshiaki MASUNAGA has been in Tokyo Detention House since 1975. In April 1987, the Supreme Court passed his death sentence verdict. He was renounced as a member of his natural family and was left in a state of human isolation.

In 1982, he became the adopted child of Sumiko MASUNAGA, one of his supporters. Sumiko fostered a solid and trusting relationship with Toshiaki through numerous letters, visits and court hearing attendance.

However, in April 1987 when his death sentence was passed and his treatment as a death row prisoner began, Tokyo Detention House refused to grant permission for communications between him and his foster family.

At present, he is only permitted outside communications with his natural immediate family and with lawyers coordinating the retrial and civil suits.

Tokyo Detention House refused to grant permission of outgoing correspondences to him for the purpose of filing letters of redress to the UN Human Rights Commission. Claiming the fact that prison inmates in Japan suffered human rights violations by being limited to deficient outdoor physical exercise conducted only two to three times per week for 30 minute period, he made three attempts to send letter of redress to the UN Human Rights Commission. In response, Tokyo Detention House took an obdurate stance in repeatedly denying such a correspondence be sent.

He had attempted to send letters to a widely read newspaper in Japan specifically about problems concerning the death penalty system. However, the prison authority has prohibited him from this form of outgoing correspondence. The reason given was that he was not allowed communications with that newspaper.

Everyday, for almost 24 hours, he lived in total isolation in a cramped, dark, stuffy cell from where he could not even gaze out at the world outside for very long. Every movement he made was constantly being monitored by the camera in his cell.

He was completely isolated from all the other inmates. Even when taking baths or participating in outdoor physical exercise, he was completely alone. All death row prisoners are prohibited from participating in coffee meetings and television watching activities. They are suppressed from any and all contact with people.



## Saeid Case

Mr. Saeid PILHVAR, Iranian national, aged 27

The life of Saeid PILHVAR, an Iranian detainee in Fuchu Prison near Tokyo, is in great danger as a result of ill-treatment and lack of adequate medical attention.

Saeid PILHVAR was sentenced to six years' imprisonment for robbery in 1995 by a Japanese court. In July 1997, Saeid PILHVAR went on hunger-strike after he was interrogated for having a "private conversation" at Kurobane Prison, Tochigi District. According to his lawyers, he breached the prison rule intentionally in order to seek a chance to meet high rank officials of the prison. That is, he thought he could meet them and talk to them in the punishment procedure. He wanted to tell the prison officials that his family in Iran was in financial difficulties because he could not send them money any more. However, during the tribunal of the punishment, he was not allowed to talk and they refused even to bring a translator.

The prison authorities reacted to Mr. Pilhvar's hunger strike by forcibly inserting an intravenous drip into his right leg. His leg apparently became severely swollen and painful, but the authorities disregarded Mr. Pilhvar's complaints and kept the drip in place for about two weeks. At the end of that period, his leg was numb. He became unable to walk and started using a wheel chair.

In August 1997, Mr. Pilhvar was transferred to Fuchu Prison in Tokyo, where he resumed his hunger strike, demanding access to a translator and an improvement in his conditions of detention. Then he was force fed with a drip inserted through his nose. However, he soon became unable to digest most of his food, and started vomiting. In October 1997, he was sent for six weeks to a prison hospital where his leg was treated. However, his malnutrition was not successfully treated. After his return to Fuchu Prison in December 1997, he continued to be unable to digest food, and can now only absorb liquids. According to lawyers who visited him in June 1998, his weight has dropped from about 78 kilograms (172 lb) in 1995 to about 42 kg (92 lb) now, (his height is 172 cm), a loss of some 45 % of his body weight. He appears to be at grave risk of dying if not given specialist treatment in a civilian hospital soon.

Background Information (quoted from AI Index: ASA 22/01/98)

Conditions of detention in Japanese prisons are very harsh, and in many respects amount to cruel, inhuman and degrading treatment. Medical treatment is often cursory. It is often difficult for inmates to obtain adequate medical treatment; very few complaints of ill-treatment have been upheld by courts. The Japanese Government regularly claims that treatment is adequate and accords with Japan's international obligations. However, patterns of ill-treatment remain, for Japanese as well as foreign detainees.

Tokyo Detention House, Plastic panel of the cell window : Kazuo Sawachi

Mr. Kazuo Sawachi, detained in Tokyo detention House, is suing the State against violating his right to watch outside from his prison cell windows, which have special window screening. In May 1989, he was moved from a solitary cell of a new wing to another solitary cell on the ground floor of old wing called North 3rd Wing. In that wing, his windows were screened with wave-shaped plastic panel. From his former cell, he could watch flowers and trees in the yard, relieved and comforted with the outside scenery. But, in the North 3rd Wing, due to that screening, all he could see was only a glimpse of the bit of the soil and sky. In addition, he could enjoy less sunshine and wind in his new cell, reading summer got damper ever, and colder winter. Having been deprived of a look of outside, he suffers more than before from his confinement nearly around-the-clock.

In April of 1991, he complained to the Director to take off the screening. In August, they cut 50 cm of the upper part of the screening. Yet, it made no change at all to let him watch the outside scenery from his cell windows. On April 6 of 1992, he filed a suit to Tokyo District Court demanding state compensation for damages inflicted by window screening. The defendant, the State, claimed the screening is not illegal, because the detainees would be able to talk with or exchange signs through windows with other detainees outside or in the playground, which would compromise detention objectives or internal order of the Center. The Court held the defendant claims, telling that the screening in question is necessary and reasonable device to achieve detention objectives, while pointing out "Generally speaking, it complies with international standard not to screen windows of detention center". Tokyo Higher Court held that judgement. So on May 26 of 1995, he put his case to the Supreme Court.

#### Hiroshima Detention House : Y

Mr. Y has been detained in Hiroshima Detention House since 5 November 1993. He had suffered from loss of the left hip-joint function, suffering from slight fever from the beginning of his detention. The Prison Authority recognized his handicap on the left hip-joint.

Around 3 in the afternoon of 12 December 1993, Mr. Y was sitting in his cell, leaning his back against the wall because of his physical handicap and ill condition. The guard on duty checked his sitting style as "not decent". Mr. Y gave his reason, with no avail, and his explanation was deemed "oral disobedience". He was put on "Reprimand Committee" and punished with minor solitary confinement for 10 days.

Mr. Y sued the State for 1 million yen ( about 7000 US dollars) compensation on September 8, 1994, to the Hiroshima District Court. However, he lost on 25 December 1996.

The Court held imposing specific posture by the "Rules" is necessary as well as reasonable control, stressing on such a highly idealistic interests of keeping order of Prison and preventing detainees from suicide or self-inflicted injuries. "Measure to prevent suicide" by making detainees sit in the same spot with the same posture is nothing but convenience for patrolling guards. Detaining suspects is to prevent them from fleeing or destroying proofs. Furthermore, the sentence did not touch on whether that control infringes not only the Constitution. Mr. Y appealed Hiroshima High Court on January 7, 1997.

#### Osaka Prison

Mr. A, whose sentence of imprisonment with labor had become final on 31/10/1991, had confined in Osaka Prison since January 1992. He had been suffered from "cirrhosis" and other disease and went out hospital many times during his trial. Despite of this situation of his health, the prison authority had not taken care of him sufficiently. The authority had merely carried out medical examinations like general persons, that is why the result of the examination in 1992 didn't have problem and Mr. A didn't complaint of his subject of symptom.

After that, on 11 July 1994, Mr. A vomited and complained of pain of his stomach. He was found out to get liver cell cancer after some examinations, so that he was transferred to the medical prison and treated for protect himself from cancer. However, he died on 23 August 1994.

It is the common knowledge in medical field that liver cancer is easily to break out when the condition of "cirrhosis" has kept for a long time. His family members filed a suit for state compensation and claimed it was the duty for the authority to carry out the examination for finding out the cancer earlier.

Regarding to the medical treatment in prison, the "Prison Law" provides that prisoner can choose his/her doctor of outside and be given appropriate medical treatment(article 42). Furthermore, it provides the authority has to confine and give treatment the prisoner suffered from disease in the medical prison(article 40).

7. Article 10-3.

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

7-1 Question which the Committee is urged to ask the Government of Japan

(1) Education Activities for Prisoners

What kind of education course the prisoners can take ? Do they select any courses whatever they want ?

Regarding to "guidance prior to release" which the Government explained in the report , please let us know more detail of "these standards now being equally applied nationwide at all facilities".

(2) Aid After the Release

What kind of aid are prisoners given regarding to jobs and residences after they reliease ?

(3) The Rights of Receiving Annuity

What kind of information for recieving the annuity do the prisons give to their inmates who will reliease at advanced age ?

7-2. Measures taken by the Government of Japan that the Committee is urged to enquire into

(1) Education Activity

Prisoners should be able to take education according to their requests.

(2) Aid After the Release

We request enough aid regarding to job and residence also for the prisoners who release on the expiration of term with cooperation between the authority of the institution and devision of probation .

(3) The Rights of Receiving Annuity

We request the prisoner who will reliease at advanced age can be given enough information for receiving his/her annuity.

7-3 Current Situation

(1) Insufficient Education Program

The kinds of correspondence courses are not many and the prisoners can't take the course according to their requests. Only prisoners, who have already been selected arbitrarily because of seeming to pass the examinations for licence, can take the course. That is why the prison authority would like to keep the parcentage of passed prisoners high level.

The "guidance prior to release" has given to the prisoners who release on parole but hardly have done to them who release on the expiration of term.

(2) Aid After the Release

The prisoners after reliease in parole continue to be supervised by the division of probation or live in the Rehabilitation Aid Society, therefore, they can receive any aid for his/her life. However, a lot of prisoners who release on the expiration of term have committed the second offences since it's difficult to find out their jobs and residences, and, they spend all of their money

during short days because of very little remuneration for their work in prisons.

We request enough aid regarding to job and residence for the prisoners who release on the expiration of term with coororation between the authority of the institution and devision of probation .

(3) Right of Receiving Annuity

The prisoners aren't instructed how to receive their annuity .

We heard some cases the prisoners who have released at advanced age can't receive their annuity because they weren't informed how they should had done for getting their annuity during his term.

For example, Mr. Masao AKAHORI whoes death sentence had been finalized on 12/1960. The current annuity system started in 04/1961, however, he wasn't given any explanation about how to join or exempt from the premium by the Miyagi Prison where he detained . This causes him not to join the annuity. He is still not able to receive his annuity despite his release in 1989 when he found out to be inocent at the review trial. The close explanation should be given to the prisoners.

8. Article 14-1 para2

"In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

Article14- 3(b)

"In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

8-1 Question which the Committee is urged to ask the Government of Japan

(1) Communication with Counsel

When the prisoner and death prisoners meet with his/her counsel , the prison guards attend there and note down their dialoge, furthermore, the letters between them have been censored. These practices violate Article 10 , 14-1 , 3(b) and Principle 18-3 and 4 of "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment".

(2) Limitation of Articles kept in prison

The new rule regarding to limitation of articles kept in prison has been enforced from 1997. Although this rule restrict quantity of the prisoners' private effects, can this rule restrict the quantity of documents concerning their criminal and civil trials ?

(3) Prisoners' Rights to Appear in Court

When the prisoner brings a case, the prison authority does not allow him/her to appear in the court. Does this practice violate Article 14-1 ?

(4) Due process for the Apprication of Disciplinary Punishment

Is the condition of the disciplinary punishments provided in any laws or rules ?

Is the prisoner's right to be notified the reason for punishment by written , look in the evidence and examine the witnesses and request the couel in order to defend him/herself in the procedure for punishment guaranteed ?

8-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

(1) Confidentiality of Communication with the Council

Attendance at the meeting between prisoner and his/her council and noting down their dialoge by prison guards and censoring the letters between them should not carried out.

(2) New Rule for Restriction of Articles kept in prison

Regarding to the new rule for restriction of Articles kept in prison provided in 1997, it should exempt the documents concerning their criminal and civil trials and take the term of imprisonment of each prisoner into consideration.

(3) Prisoners' Rights to Appear in Court

When the prisoner brings a case , the prison authority should allow him/her to appear in the court.

(4) Due process for the Apprication of Desciplinary Punishment

The prisoner's right to be notified the reason for desciplinary punishment by written, look

in the evidence and examine the witnesses and request the counsel in order to defend himself in the procedure for punishment should be guaranteed.

The prison rule should be provided obviously by law . Furthermore, prisoners should be guaranteed effectively the opportunity to complain about the decision on punishment.

### 8-3 Current Situation

#### (1) Confidentiality of Communication with the Council

Pre-trial detainees can meet with their counsels confidentially. However, when prisoners who sentenced imprisonment or death prisoners meet with their counsels in order to talk about requests of judicial review and preparation for the hearing for state compensation concerning ill-treatment in the prison, the officers of the prisons attend and noted down their dialogue. In addition, such other restrictions as the duration to talk is limited to less than 30 minutes are added. That is to say, when a prisoner is under trial against the authority of prison or detention center for some trouble in these institution, the defendant is always present at the meeting between the plaintiff and his/her representative and can check all of their letters. Under these circumstance , it's difficult to realize an impartial tribunal.

In a case of Asahikawa Prison, despite of the recommendation from the head of Judge to the warden of the prison, not to attend a meeting, the attending at the meeting has been continued. The cases of meeting for the review trial for death prisoners are same. (See the case of Mr. ISOE at Asashikawa Prison)

Takamatsu District High Court judged on 25/11/1997, regarding to the case which brought by a prisoner for state compensation caused violation by the guards, such case is illegal that the meeting between the prisoner and his counsel was limited to 30 minutes and they can't discuss enough because of attendance of the officer. This judgement is epoch-making case because it has admitted the provisions in ICCPR have direct effect in domestic legal system and "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment" and the case law of European Court of Human Rights can be reference for interpretation of ICCPR. (See the case of Tokushima Prison)

All of letters written to the counsels by prisoners including pre-trial detainees are censored and sometimes part of the letters are deleted.

These practices violates Article 14-1 , 3(b) , and Principle 18-3 of "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment".

#### (2) New Rule for Restriction of Articles kept in prison

Since 01/10/1997, by ordinance of Ministry of Justice, the new rule for restriction of quantity of article kept in prison has been enforced. There was no limitation to article kept in prison before it. This ordinance provides the standard quantity to hold per a prisoner by dividing the number of capacity into the amount of quantity to hold at each prison. For instance, the standard is 98 liters at Nagoya Detention Center , 115 liters at Tokyo Detention Center , 150 liters at Osaka Detention Center , 129 liters at Fuchu Prison . When a prisoner hold over these standard , he/she is prohibited to receive from outside and buy something. Therefore, many of prisoners have been forced to throw away their things or send back to their family members.

The ordinance restricts the quantity of documents regarding to prisoners' trial sent from their counsel and books or something for their study; moreover, it applies equally regardless of each imprisonment term . In fact, it has been any hindrance to the activities for their trial. These practice are obstacle to the defence activity for prisoners in criminal and civil trial, therefore, violates Article 10 , 14-1and3(b).

Futhermore, the kinds and quantity of private effects prisoners can keep in their rooms are strictly limited. At Tokyo Detention Center , since November 1997 , the documents concerning to their trial has been limited to less than 2 meters high when they are piled up , and other documents has been to less than 1 meter high. In particular, the accused of complex criminal case has much trouble with holding the documents for their case.

### (3) Rights to Appear in Court

When a prisoner sues for state compensation caused trouble about his/her treatment in the institution, most of them are not allowed to appear in court . It is same as the case of being called to witness. At this case, the persons concerned this trial visit the institution the prisoner as a plaintiff is detained but the hearing is not public ( it is not allowed for general people to watch the hearing ) . The death prisoner is especially restricted. These practices violate Article 14-1 which guarantees the right

to be entitled to fair hearing.

### (4) DueProcess for the Application of Disciplinary Punishment

Rule 29 of "Standard Minimum Rules for the Treatment of Prisoners" provide that conduct constituting a disciplinary offence, the types and duration of punishment which may be inflicted, the authority being competent to impose such punishment, shall always be provided by the law or by the regulation of the competent administrative authority.

Article 30-1 of it futher guarantees to prisoner not to be punished except in accordance with the terms of such law or regulation . Furthermore, Principle 30-1 of "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment" request such law or lawful regulations are duly published.

However , instead of "Prison Law" and "Prison Law Enforcement Regulations", "Handbook for Life in Prison" has provision about the condition of disciplinary punishment. This rule is not published as we told section 4 (the section mentioned about Article 7). The prisoners who "Complaint(kouben)" against the prison officer can be conduct of disciplinary punishment regardless of what is the reason . Even when a prisoner ask the officer why he/she is ordered or instructed like that, it can be decided to be the conduct for punishment as "kouben". The Judge also tends to admit these practice.

Although the disciplinary punishment council has to examine the case in order to inflict the punishment, this council that consists of the prison officers and the reason of punishment is notified only by oral to the prisoner. Moreover, the prisoner who will be inflicted punishment can't look in the effect of his/her case and isn't guaranteed the right to request a witness and a counsel for defense of him/herself. These practices violate Article 14-3(b)(d)(e) of ICCPR which guarantee due process for the application of serious punishment . (See the case of Mr. Kevin)



#### Death row Prisoner Yukio AJIMA

Yukio AJIMA whose death sentence had finalized on 05/27/1985 on charge of the murder was prohibited to communicate with his adoptive parents by the authority of Tokyo Detention House where he had detained. He had been adopted by Mr. and Ms. AJIMA after the sentence and both he and his adoptive parents requested the authority to meet and send letters.

Then, they filed a suit for state compensation to claim it was illegal not to permit correspondence with his family on 10/1988. However, on 1/12/1994, Yukio executed and then, on 13/12/1994, they failed in the case for the judgment that prohibition of their correspondence by the authority of Tokyo Detention Center was not illegal. Although the adoptive parents appealed to high court, they also failed. They has appealed to the Supreme Court but not been given the sentence yet.

#### Nagata case

Ms Nagata was imprisoned in Tokyo Detention House in June 12, 1992 as a unconvicted prisoner. Ms A sent a copy of a letter in English into the prison. The letter was written by one of the international secretariat member of Amnesty International. The governor requested Nagata to pay the translation fee in June 16, according to the internal prison rules that the prison authority censor the letter in Japanese before they make a judgement whether they permit the prisoner to read it or not. However, because Nagata rejected to pay the fee, the governor forbid her to read it.

The letter is as follows:

amnesty international INTERNATIONAL SECRETARIAT,---/ Mr. (name) (address) / Dear Mr. (name) / We have received the 240 copies of the "Plea for International Support to allow Nagata Hiroko to get Medical Treatment " which you sent us in January 1991, as well as several petitions from other sources in the following months./ We have discussed the case of Ms Nagata with medical doctors in the UK are supportive of Amnesty International's work and we understand they subsequently mate inquiries with the authorities about the medical condition of Ms Nagata./ Please let us know if there are any changes in her condition and in the medical treatment she is receiving.

Ms A and Ms Nagata took a lawsuit for the state compensation. The judgements of Tokyo District Court and Tokyo High Court said that "there is no mistake in the governor's judgement." The Supreme Court supported those judgement and refused the appeal. Since now, the prisoner must pay the translation fee to the authority if he/she wants to read a letter in foreign language.

9. Article 17-1

"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."

9-1 Question which the Committee is urged to ask the Government of Japan

(1) Correspondence between prisoners and their friends or NGO

Is it violates Article 10 and 17 that prisoners are not allowed to meet or correspondence with their family members, friends of them except of their counsels ?

(2) Censorship of letters

What is the practical reason for censoring all of letters from and to prisoners.

(3) Meeting

Is there any plan to permit meeting on Saturdays and holidays ?

(4) Meeting and correspondence in foreign language

Is there a case that a prisoner wasn't allowed to meet with someone in foreign language because of impossibility to attendance by a officer who can't understand the language? Is there a case that a letter written in foreign language was delayed in reaching a prisoner because censoring of the letter was impossible in that institution?

9-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

(1) Correspondence between prisoners and their friends or NGO

The current " Prison Law " should be amended so that prisoners including death prisoners can meet and correspond with their friends and members of NGO who support them.

(2) Censoring of letters

We request to quit censoring letters which prisoners receive or send, books, pamphlets and others they read. We further request not to force to pay for translation fee which need for censoring by the institution.

(3) Meeting

We request to permit meeting in Saturday, Sunday and other holidays and to prolong the duration to 30 minutes at a minimum.

(4) Meeting and corespondence in foreign language

Such practice should be abolished that use of foreign language at the meeting and correspondence are restricted because of impossibility of censoring.

9-3 Current situation

(1) Correspondence between prisoners and their friends or NGO

Pre-trial detainees are allowed to meet with their friends. On the other hand , the sentenced prisoners and death prisoners are not allowed to meet and correspond with friends and members of NGOs. Therefore, if the prisoner has no relation to his/her family member, he/she has no oppotunity to connect with the outside world. In the case that their family members are living in far place and foreign country, it is possible to correspond with them but impossible to meet.

A death prisoner is not allowed to meet, despite of his family members. Prisoners have

lost opportunity to contact with the society. Mr. Y, who was executed in 12/1994, was not allowed to meet and correspond with his family members who had adopted him just before his death sentence was finalized. It is his dead body that his foster parents met again after finalized sentence. (See the case of Mr. Ajima)

These strict restriction of contact with outside world is not only inhuman but also make rehabilitation of prisoners difficult.

(2) Censoring of letters

Some problems occurred resulted from censoring all of letters prisoners receive or send, books they read, pamphlets and the like. The kinds of newspapers prisoners can subscribe are limited because of much work for censoring. Regarding to documents or letters written in foreign language, prisoners have to pay for translation fee for being censored by the officer. (See the cases of Mr. MASUNAGA and Ms. NAGATA)

It's the same to publications sold in general. As a rule, when such matter as escape and the like happened, the parts concerning the accidents are deleted. Regarding to the death prisoners, the parts concerning execution of death sentence are deleted by reason of "ensuring prisoner's mental stability". However, in fact, these practice have no effect for prevention from escape and ensuring prisoner's mental stability. (See the case of Mr. ISOE)

(3) Meeting

Since 04/1990, meeting in Saturday has become completely impossible. For this reason, it has become difficult for a person who is working in weekdays to visit a prison and in the case of a visitor from far place it is still more so. Meeting in Saturday, Sunday, and other holidays are more desirable to meet than in weekdays.

Although the duration of meeting is ruled to be limited to less than 30 minutes, in fact, it has been limited from 5 to 10 minutes. How often and how many persons which a prisoner are permitted to meet per one day, depend on each prison. The Tokyo Detention Center, where most inmates are detained, has restricted such most strictly as once per one prisoner in a one day and less than 3 visitors in one meeting. Therefore, a prisoner can't meet another friends or family members in each morning and afternoon in same day.

(4) Meeting and correspondence in foreign language

Except of English, Chinese and other a few languages which is possible to be coped with at a few institutions, the language which can be used between person in general (except the counsel) and foreign prisoner/pre-trial detainee at the meeting is limited only to Japanese. Regarding to the correspondence, for the reason of necessary to translate for censoring, the authority request translation to the embassies and then censor. Therefore, we heard many cases which receiving and sending of correspondence are too delayed. It has tried to strengthen the ability of foreign language such as the division for International issue has been established in Fuchu Prison. However, attendance by the officer and censoring letters have already not been carried out in principle at many countries in Europe and USA. Also in Japan these practice should be abolished with excluding a few exception.

Although the information in foreign language is much important for the criminal detainees deprived their liberty in the foreign country, both of the number and kinds of provided newspapers and books written in foreign languages are very insufficient. The large-scale prisons or detention

centers have more or less English newspapers and books but a few written in other languages . The small-scale prisons have few foreign books. In addition, hearing radio and watching TV in foreign language are not permitted in any instituion.

10. Article 18

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."

10-1 Question which the Committee is urged to ask the Government of Japan

Is there cases that Islamic prisoner is forced to take a meal during "Ramadan" (they continue fast until sunset)?

10-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

Religion of prisoners should be respected, for example, Islamic prisoner must not be forced to take a meal during "Ramadan".

10-3 Current Situation

It is reported that a Islamic prisoner was forced to eat liquid food by pushing a tube into his nose despite of during "Ramadan" in Tokyo Detention Center. (See the case of Mr. Radwan in Tokyo Detention Center)

11. Article 19

1. Everyone shall have the right to hold opinions without interference.
2. 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.

11-1 Question which the Committee is urged to ask the Government of Japan

Is meeting between a journalist and prisoner for a purpose of gathering information permitted ?

11-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

Meeting between a journalist and prisoner for a purpose of gathering information should be permitted .

11-3 Current Situation

Any meeting between a journalist and prisoner, including also pre-detainee who is allowed to meet with friends, for a purpose of gathering information, are not permitted. The warden of Tokyo Detention Center didn't allow the meeting between a pre-trial detainee, who sentenced death and was waiting for an appeal hearing, and an magazine editor for the purpose of gathering information. Furthermore, Tokyo District Court judged this decision was not illegal.

This practice violates Article 19 which guarantees liberty of expression and seeking information.

12. Article 20-2

Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

12-1 Question which the Committee is urged to ask the Government of Japan

What kind of measure has been taken in order to prevent from racial discriminatory words and deeds by the prison guards ?

12-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

Some effective measures in order to prevent from racial discriminatory words and deeds by the prison guards, based on Article 4, 6, 7 of " the International Convention on the Elimination of All Forms of Racial Discrimination", especially human rights education for the officers should be taken place.

12-3 Current Situations

A lot of cases of discriminatory word and deeds against foreign prisoners by the guards inside of the institution have been reported as ever. An Iranian national imprisoned in Fucyu Prison was stated "all Iranians are liars", and a Nigerian national detained in Tokyo Detention Center was called "gollira".

( See the cases of Mr. Michel in Tokyo Detention Center and Mr. Bafman in Fucyu Prison )

Tokyo Detention House : Physical assault to foreign prisoners

Yahia Radwan Allam, a 27 year-old Egyptian, had been confined in Tokyo Detention House since June 1993. Radwan was confined in "special room" in November 1993 and in March 1994 as punishment for what guards called his "ill manners". As a result of the first confinement, he contracted a skin disease because the room was extremely filthy and unsanitary, containing a lot of insects and human filth. During the second confinement, about 15 guards and security staff members assaulted him, causing serious injuries and leaving him nearly deaf in his right ear.

C, a 28-year-old Nigerian, had been confined in Tokyo Detention House since February 1994. One day C protested that one blanket was not enough and asked a guard to bring another blanket for him as it was cold. Then, five guards came into his cell and beat him many times. And he was taken to the protection cell, where he was stripped. In the cell the guards beat him and kicked him. The guard in charge of C's block sometimes called him a gorilla. One day when C had lunch, the guard again called him a gorilla, which caused C to shout back "bakayaro" (This means a fool in Japanese.)

In 4 August 1994, C was ordered a punishment of minor solitary confinement. When he said he would not obey the order, he was taken to the protection cell and a group of guards repeatedly lifted up his body and dropped it on the floor, and then threw him against a wall. As a result, he chipped a tooth and his nose bled for about 10 hours. Bloody discharge from his right ear continued for about two weeks, sight in his left eye became blurred and he suffered from serious back pains.

Radwan and C filed lawsuits against the government on 1 November 1994 seeking a total of about 44 million yen. But they lost in 1997 because of the lack of evidence. They appealed to Tokyo High Court.

13. Article 22 1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

13-1 Question which the Committee is urged to ask the Government of Japan

Are prison officers guaranteed the right to form unions and other rights to protect their interests as laborers ?

13-2 Measures taken by the Government of Japan that the Committee is urged to enquire into

Prison officers should be guaranteed the right to form unions and other rights to protect their interests as laborers.

13-3 Current situations

Article 108-2-5 of "National Public Service Law" completely denied the such rights of prison officers, the policepersons and officers of the Maritime Safety Agency as basic laborers' rights, for example, the right to form union and that of collective bargaining. In fact, the union of prison officers doesn't exist now. Although there is the National Personnel Authority as the organ concerning issues on working condition of the official workers, it is little effective. The practical condition of the prison officers absolutely bad. Especially, many complaints are reported regarding to the night shift in working and change of the job (transfer).

Article 22-2 of ICCPR admit the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of the right but not on prison officers.

ILO expert committee stated, based on Article 9 of the \*Freedom of Association and Protection of the Right to Organise Convention\* (ILO No. 87), that fire fighters and the prison officers shouldn't be excepted from the subjects of the right to form unions. From the report by ILO, the countries which don't admit the right of prison officers to form union are; Cameroon , Malaysia, Mexico , Nigeria , Pakistan , Sri Lanka , Swaziland and others .



### Suicide of prison staff

A prison officer, Mr. M, who left for the head of department for prisoners' treatment in Tottori Prison, died by hanging himself on 20/05/1998 at his residence. The chief of medical section of the prison carried out inquest without autopsy and reported he died caused "heart attack (myocardial infarction)".

Mr. M had worked as the head of the medical department of Hiroshima Detention House. After he moved to the current position, he often grumbled about his unfamiliar job for treatment of prisoners.

Recently, it is reported that the number of prison staffs who commit suicide has been more than that of prisoners. The cases of prisoners have been published by some media and reported inside of the authority and expressed the Ministry of Justice. On the other hand, the suicide of prison staff have not been reported officially.

Since some accidents such as escape and payoff scandal have happened between 1996-1997, the transfer of the prison staffs has been taken place periodically. The reason has been explained "for prevention from close relationship between staff and prisoner". Therefore, the staff's work has changed in the cycle of very short period.

Furthermore, because of examination which jobs will be proper for each staff, the all prison staffs have to be interviewed twice a year. At this time, they are checked the information regarding to their privacy.

For these reason as the above, staff always have taken care of not to offend his superior and their moral for their job sagged. These situation of the staff have given bad influence to the treatment of prisoners. The secrecy of facts about the staffs' human rights situation as the Mr. M's case, has hidden these important problems.

#### 14. Conclusion

The current problems and points to improve stated the above are based on many reports by prisoners, the former prisoners, lawyers cooperate with us. The explanation about treatment of prisoners in the Governments' report are never written the right situation in Japan. They are far from practical situations in many institutions. Futhermore, there are a lot of problems which are not mentioned in the Government's report.

It is true that we don't have the unemployment problems unlike most of prisons in the world, further, we haven't had any riot in prison for a long time. The number of prisoners are below the capacity, so that the over-crowding problem doesn't exist in Japan.

Although there are some points that can be appreciated, we can't say "prison administration in Japan is appreciated in the world".

However, the Japanese government complaints against the international criticism to be the criticism ignored "the nature prefer to hardworking and harmony of the Japanese". It is not reasonable . We expect your appropriate comment and recommendation, through the impartial examination, for the Japanese Government to be relieved these obstinate attitude, try to listen to international criticism earnestly, and promise to reform.