

CHAPTER 5 CORRECTIONAL SERVICE

I. INTRODUCTION

The administration of penal institutions and the treatment of prisoners are regulated by such basic laws and regulations as the Prison Law of 1908, the Prison Law Enforcement Regulations (Ministry of Justice Ordinance, 1908), the Ordinance for Prisoners' Progressive Treatment (Ministry of Justice Ordinance, 1933), the Prisoners' Classification Regulations (Minister of Justice Directive, 1972) and by other directives issued by the Minister of Justice.

The Juvenile Law of 1948 and the Juvenile Training School Law of 1948 govern the administration of juvenile training schools and juvenile classification homes. The Women's Guidance Home Law of 1958 governs the administration of the women's guidance home which is an institution for giving protection and living guidance to prostitutes to get them rehabilitated.

II. EFFECTIVE TREATMENT OF PRISONERS

A. Trends of Prison Population

Japanese prisons have not suffered from a severe overcrowding situation except for a limited period during social unrest World War II. The average daily population of convicted prisoners was 42,611 in 1998, occupying 89.1 percent of the total capacity for convicted prisoners, while the average daily population of unconvicted prisoners was 9,060 in the same year, occupying 57.2 percent of the total capacity for unconvicted prisoners. Incidentally, the total number of inmates was 52,715 in all the penal institutions at the end of December in 1998 and the incarceration rate of the total capacity showed 82.9 percent²³.

Several reasons can be identified as to why prisons in Japan remain free from the overcrowding which some other Asian and Western nations face. First of all, in Japan, the incidence of crime is rather low. Secondly, the authorities effectively and appropriately utilize vested discretionary powers to divert offenders at each stage of the criminal justice system. Prosecutors make use of suspension of prosecution. Judges also utilize the penalty of fine and suspension of execution of imprisonment sentence according to the seriousness of the offence. Consequently, there is a need to confine only selected offenders. In 1998, among a total of 66,290 offenders who were sentenced to imprisonment with determinate terms at the first instance court, 42,031 of them were granted suspension of their sentence, 24,259 of them were sentenced to imprisonment without suspension²⁴.

In Japan, the majority of offenders are placed under treatment in the community. Thus, in Japan, many factors working against the inflow of offenders into the prisons have kept them from becoming overcrowded, and thereby have contributed to the well-maintained security.

B. Philosophy on the Treatment of Prisoners

The confinement of prisoners in penal institutions, especially of convicted prisoners is, on the one hand, expected to segregate from society those who have done it harm and to satisfy society's desire for retaliation. On the other hand, it is expected to have the rehabilitative function of resocializing offenders. In Japan, the idea of rehabilitating prisoners had its inception in an early stage of the modern age. Early in this century, penal institutions had already initiated rehabilitative treatment programs for their inmates. In the early 1930s, most present-day systems to promote the rehabilitation of inmates came into being. These systems have been further improved since the Second World War up to the present by the development and adoption of various measures including scientific approaches based on classification systems.

23 Annual Report of Statistics on Correction for 1998

24 Annual Report of Judicial Statistics for 1998

C. Progressive Treatment and Classification System

The progressive treatment program for convicted prisoners started in 1934 with the enforcement of the Ordinance for Prisoners' Progressive Treatment, which aimed at encouraging prisoners to make efforts towards self-improvement and rehabilitation, as well as to eventually adjust themselves to normal social life. Progressive treatment divides the term of imprisonment into several stages through which prisoners are allowed to gradually progress from the lowest grade upon admission to a higher grade on a good behavior basis. According to a prisoner's grade, he/she is provided with gradually expanded advantages and less restrictions on their freedom, with a view to making prison life more like a normal social setting, as well as prisoners evaluating their own responsibility for community life.

It should be stressed, however, that each institution does not automatically practice this progressive treatment system. Rather, it selects programs deemed most suitable for each inmate in view of his/her character and problems, and has them participate in those programs. Treatment based on classification systems is one of the methods which enables prison officials to decide on the most appropriate treatment programs for each inmate. The prisoner classification program is designed to identify the most appropriate institutional allocation and the best suitable treatment program for each prisoner on the basis of scientific investigation with the purpose of expediting resocialization of the prisoner. The first classification program in Japan was implemented in 1948 and 1949 on a nationwide scale. It developed into the present-day form by the issuance of the Prisoners' Classification Rules in 1972.

The offender classification program has been a symbolic representation of the all-out efforts to individualize correctional treatment in the Japanese prison system. Likewise, the aforementioned progressive treatment program also contributes to the individualization of correctional treatment in the sense that treatment conditions change with the progress of individual achievement.

D. Prison Industry and Vocational Training

Another characteristic feature of the Japanese system is its well functioning prison industries, and positive implementation of various vocational training programs for youthful prisoners. Work is compulsory by law for those sentenced to imprisonment with prison labor, accounting for the majority of convicted prisoners. Working hard in the daytime helps to raise the morale of inmates and to maintain discipline. Next, as to vocational training, a total of 3,633 inmates were given qualification certificates or licenses upon the successful completion of training courses during the fiscal year of 1998²⁵. There are three different types of vocational training modalities at the General Vocational Training Center, where intensive vocational training is provided for those recruited on a nationwide basis. Also, 26 specific prisons designated as "Concentrated Vocational Training Institutes" offer special vocational training courses for those trainees recruited within each correctional region. Likewise, various other kinds of courses are occasionally planned and implemented in 41 prisons, selecting trainees from among their own inmates.



Prison Work

E. Educational Programs

Educational programs in Japanese penal institutions mainly include: orientation at the time of admission and release; academic training (for inmates who have not completed compulsory education up to junior high school) to earn a diploma; correspondence courses for those who wish to receive higher education

25 White Paper on Crime 1999

at the senior high school or college/university level; living guidance; etc. All of these programs are carried out not only by the prison staff but also by the assistance of volunteers from outside. Extramural curricula are also provided in terms of social services such as cleaning parks and graveyards, attendance at public lectures or local recreational events, visits to factories, and taking examinations outside the prison to obtain various kinds of qualifications and licenses. Recently, many institutions have started special intensive programs for specific groups of inmates such as stimulants abusers, traffic offenders, violent offenders etc, which are designed to meet their unique needs. In these intensive programs, methods such as audio-visual education, in-class lectures, group discussion or counseling, role-playing (a kind of psychotherapy), psychodrama and diary-keeping or theme composition are widely utilized.



Academic Training

F. Grievance System

A prisoner who has a complaint may have the right to litigate and ask for judicial relief. The types of litigation which a prisoner can pursue, for example, are administrative suits and national compensation suits. Also, there are two types of grievance mechanisms available to a prisoner within the framework of the correctional administration. One is an interview with the warden of the institution where the prisoner is currently detained. The other is a written petition to the Minister of Justice, or either a written complaint to, or an interview with, an inspector who, under the order of the Minister of Justice, visits the institutions. The inspector is a senior official attached to the Ministry of Justice who is ordered to examine administration practices in each institution. Although bearing no legal obligation to reply to the complainants, the inspector is expected to conduct a complete examination of the real situation related to the complaint, and the results are generally made known to the complainant. If necessary, these grievance mechanisms are utilized to reform the correctional administration, and practical measures are taken to improve the treatment of the inmate concerned.

G. Well-maintained Order and Discipline

In Japan, the rehabilitation and the resocialization of prisoners are the guiding principles for correctional officers and the ethic in the enforcement behind their duties. This idea has been widely supported and well accepted by the general public. However, to accomplish this ideal, discipline needs to be duly enforced and order must reign within the prison walls. Other than through disciplinary training, repeated efforts are made through orientation and daily guidance to have inmates better understand that a rule-abiding attitude is indispensable to maintaining safe and peaceful group-life in prison. Such efforts seem to contribute to the quite low occurrence of prison incidents in Japanese penal institutions. In the year 1998, there were 19 prison incidents throughout the system, with 10 suicides and 9 inmates fighting resulting in injury²⁶. To prevent such incidents and maintain order and discipline, in recent years, security devices such as TV cameras, radio communication systems and night patrol location indicators have been installed in many penal institutions.

H. Public Perception toward the Treatment of Offenders

Japanese prisons have been functioning efficiently so far for the purpose of rehabilitation. Statistics show that some 45 percent of all releasees never return to prison. This may seem unfavorable, but given that convicted prisoners in Japan are carefully “selected” offenders from the beginning, it can safely be contended that Japanese prisons function well as a system for rehabilitating offenders.

26 White Paper on Crime 1999

In 1986, a public opinion poll on the function of prisons was taken by the Research and Training Institute of the Ministry of Justice. The outcome was incorporated in the 1987 White Paper on Crime in an article entitled “The Perception of the People toward Crime and the Treatment of Offenders”. According to the survey results, 36.8 percent of the general population samples and 53.0 percent of the samples extracted from prisoners’ families regarded prisons as helpful for resocializing offenders, while 12.6 percent of the former and 9.5 percent of the latter disagreed.

III. TREATMENT OF INMATES IN JUVENILE TRAINING SCHOOLS

In 1998, 54 juvenile training schools daily accommodated 3,916 juvenile delinquents, including 407 girls, on average. Property offenders led all other offenders in number, followed by violent offenders²⁷. As prescribed in the Juvenile Law, the commitment of a juvenile to the juvenile training school is a protective measure taken by the Family Court. Usually, juveniles who are sent to the juvenile training school are kept in custody in Juvenile Classification Homes from 2 to 4 weeks during the hearing. At the juvenile classification home, a psychologist studies the background and personality of the juvenile and prepares a report that will assist the Family Court in making the proper decision. This report will also aid officers who are in charge of the enforcement of protective measures. In 1998, there were daily 1,267 juvenile delinquents including 147 girls, in 52 juvenile classification homes and one branch home²⁸.

Juvenile training schools are classified as Primary, Secondary, Special and Medical, and offer rehabilitative services for juvenile delinquents until they become 20 years of age. However, incarceration in a Special Juvenile Training School may, if necessary, continue until the juvenile becomes 23 years of age, and, if psychiatric care is needed, the juvenile may be kept up to 26 years of age in a Medical Juvenile Training School. Institutions are to exclusively accommodate one of the two sexes (with the exception of the two Medical Training Schools where both sexes are accommodated separately on the same premises).

To provide effective and efficient services, extensive reform has been made to the administration of juvenile training schools since 1977. The major reforms are 1) the introduction of short-term courses, 2) the standardization of services offered at juvenile training schools by setting national guidelines, and 3) the establishment of services to juveniles with special needs (e.g. juveniles of different nationality, juveniles who committed heinous crimes). The core of the treatment for juvenile inmates consists of living guidance, academic education, vocational guidance, physical and health education, and medical treatment. If necessary, the superintendent of a juvenile training school may entrust the execution of a part of its treatment, with the approval of the superintendent of the regional correction headquarters where the juvenile training school is located, to the public (e.g. schools, hospitals, private enterprises, or individuals).

A. Living Guidance

Living guidance is offered to prepare juveniles for a more disciplined life by equipping them with more socialized way of thinking and behaving. Juveniles are expected to change their attitude and behavior through group activities, counseling, lectures, psychotherapy sessions, etc.

²⁷ Annual Report of Statistics on Correction for 1998

²⁸ Annual Report of Statistics on Correction for 1998

B. Vocational Guidance

Vocational guidance is offered to motivate juveniles to work in the society, as well as to train them so that they may gain knowledge and skills useful in their future employment. In addition, assistance and advice in finding an appropriate job is provided. Various kinds of training are offered. Juveniles receive training in woodwork, ceramics, gardening, carpentry, construction, welding, farming, office-work, handicrafts, sales-attendant work, etc. The juveniles who engage in vocational guidance are awarded remuneration. If a juvenile suffers injury or death in the course of guidance, state compensation is paid.



Vocational Training

C. Academic Education

Academic education offered at the juvenile training school includes both remedial education and formal education. The latter should follow the direction of the Ministry of Education. Juvenile training schools offer elementary and/or junior high school education for those juveniles who have not finished these yet, and some juvenile training schools offer higher education.

D. Physical and Health Education

Physical and health education is provided so that juveniles can become healthy. Through physical education, they are expected to learn the enjoyment of sports, which can fill their leisure time after release, and the value of effort, which can help them in adverse circumstances. Through health education, they are expected to learn the skill and importance of self-care, which can ultimately augment feelings of self-worth.

E. Medical Care

Ordinary juvenile training schools have medical sections (with a physician) which perform substantially the same function as ordinary medical clinics. Also, two Medical Training Schools are devoted to providing medical treatment for physical diseases or mental disorders.