

CHAPTER I

INTRODUCTION

"Man in modern days abhor crime; he lives by the rule of law, yet crime continues to be a national disgrace and a worldwide problem."

- Karl Menninger¹

In Malaysia, the crime rate is rising rapidly. Tables 1.1, 1.2 and 1.3 illustrate the number of reports pertaining to certain grave criminal offences namely, murder, attempted murder, gang robbery and robbery.

¹Karl Menninger, "The Crime of Punishment" in Contemporary Punishment: Views, Explanations and Justifications edited by Rudolph J. Gerber and Patrick D. McAnany, University of Notre Dame Press London, 1972, p. 178.

TABLE 1.1

CRIME STATISTICS : PENINSULAR MALAYSIA

PERIOD	MURDER <u>TOTAL REPORTS</u>	ATTEMPTED MURDER <u>TOTAL REPORTS</u>	GANG ROBBERY <u>TOTAL REPORTS</u>	ROBBERY⁺ <u>TOTAL REPORTS</u>
1963	116	41	203	910
1964	164	37	208	1,077
1965	135	32	191	1,027
1966	127	31	265	1,307
1967	167	46	301	1,876
1968	161	64	284	1,977
1969	318	60	138	1,353
1970	133	44	66	805
1971	154	34	78	884
1972	130	41	80	1,146
1973	127	42	164	1,404
1974	(a)	(a)	(a)	(a)

KEY: + INCLUDES PIRACY
(a) NOT AVAILABLE

SOURCE: MALAYSIA, 1974 OFFICIAL YEAR BOOK; KUALA LUMPUR, GOVERNMENT PRINTERS, 1975.

TABLE 1.2

CRIME STATISTICS: SABAH

PERIOD	MURDER	ATTEMPTED MURDER	GANG ROBBERY
	TOTAL REPORTS	TOTAL REPORTS	TOTAL REPORTS
1963	28	9	36
1964	31	11	28
1965	20	11	9
1966	16	29	11
1967	14	18	12
1968	16	21	6
1969	18	28	10
1970	15	41	10
1971	14	40	12
1972	20	4	23
1973	14	17	20
1974	12	7	28

SOURCE: MALAYSIA, 1974 OFFICIAL YEARBOOK, KUALA LUMPUR,
GOVERNMENT PRINTERS, 1975.

TABLE 1.3

CRIME STATISTICS - SARAWAK

OFFENCE	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974
<u>AGAINST LAWFUL AUTHORITY</u>												
AGAINST PUBLIC ORDER	62	32	43	31	22	12	5	6	6	3	5	-
PERJURY	3	6	-	3	3	3	-	1	-	-	-	1
ESCAPE AND RESCUE	1	17	4	8	11	9	7	5	17	12	5	2
<u>AGAINST PUBLIC MORALITY</u>												
RAPE AND INDECENT ASSAULT	10	11	19	17	20	21	12	14	18	12	12	13
UNNATURAL OFFENCES	-	2	1	2	-	-	-	5	-	2	4	4
OTHERS	2	3	-	3	6	5	3	1	4	4	6	1
<u>AGAINST THE PERSON</u>												
MURDER AND MANSLAUGHTER	17	14	22	15	16	19	19	42	59	58	37	31
ATTEMPTED MURDER AND ATTEMPTED SUICIDE	99	15	22	16	26	28	33	32	31	49	70	37
GRIEVOUS HARM, WOUNDING, ETC.	71	68	52	87	88	84	100	69	47	38	28	98
ASSAULT	62	122	72	73	266	23	44	52	65	37	27	55
OTHERS	79	134	167	72	125	103	111	122	129	260	242	252
<u>AGAINST PROPERTY</u>												
THEFT AND OTHER STEALING	1572	1786	1863	1683	1894	1744	1650	1982	2242	2399	2300	2476
FALSE PRETENCES, CHEATING, FRAUD	12	23	15	19	21	23	26	42	35	45	41	44
BURGLARY, HOUSE AND STORE-BREAKING	140	152	130	162	276	308	238	285	264	244	234	196
RECEIVING STOLEN PROPERTY	9	10	13	12	6	14	11	9	5	17	24	4
ARSON	15	8	14	12	36	2	6	5	4	18	5	30
ROBBERY AND EXTORTION	101	111	999	101	135	127	121	124	93	95	97	102
OTHERS	118	220	244	263	146	134	174	158	111	153	184	70
<u>ALL OTHER OFFENCES AGAINST PENAL CODE</u>												
FORGERY AND COINAGE	12	25	24	32	55	8	3	7	5	1	7	10
OTHERS	60	85	103	92	131	68	75	47	95	111	50	82

SOURCE: SARAWAK CONSTABULARY, MALAYSIA, 1974 OFFICIAL YEARBOOK; KUALA LUMPUR, GOVERNMENT PRINTERS, 1975.

The Tables are only an illustration of the seriousness of the crime problem in Malaysia. The statistics only reveal the number of reports made on the commission of criminal offences. The writer is fully aware that there are numerous offences which are not reported to the police and that these unavailable statistics have to be added to give a true picture of the crime rate in this country.² Further, between 1970 and 1976 there was a 311.9% increase in theft, 288.9% in robbery and 109.7% in housebreaking.³

The presence of thirty penal institutions in Malaysia is a constant reminder of this failure to curb criminal activities effectively. Table 1.4 lists out the number of penal institutions and their inmates in Malaysia.

²The writer has not made a more detailed study into the actual crime rate as this Paper is based on the study of the Special Prison and the crime rate only serves as an illustration to the necessity of having an effective rehabilitation programme in the prison.

³The Sunday Times, 30 May 1972, p.1 col. 1.

TABLE 1.4

PENAL INSTITUTIONS IN MALAYSIA (JANUARY 1974)

TYPE OF PENAL INSTITUTION	PENINSULAR MALAYSIA		SABAH		SARAWAK		TOTAL	
	NUMBER OF INSTITUTIONS	POPULATION	NUMBER OF INSTITUTIONS	POPULATION	NUMBER OF INSTITUTIONS	POPULATION	NUMBER OF INSTITUTIONS	POPULATION
PRISONS	9	1,998	5	254	4	295	18	2,547
BORSTALS	4	461	1	-	-	-	5	461
REHABILITATION CENTRES	1	145	-	-	-	-	1	145
DETENTION CAMPS	2	255	1	2	2	627	5	884
PRISON OFFICERS' TRAINING DEPOT	1	-	-	-	-	-	1	1

SOURCE: PRISONS DEPARTMENT, MALAYSIA.

Within these thirty penal institutions are four-thousand and thirty-seven inmates as in January 1974 and this number has increased and will continue to increase rapidly. Such a situation should therefore be considered seriously and steps taken to control it.

The prison in Scremban is called the Special Prison as it specially caters for persons detained with a view to banishment. However, since the number of such persons is very low, the Special Prison also houses long-term and hard-core prisoners. As such, the writer feels it appropriate to make a study into the efforts of the Prison Authority in that Prison in providing an effective solution to the aforesaid problem.

Table 1.5 on the following page serves as an illustration of the prison population in the Special Prison.

TABLE 1.5

PRISON POPULATION IN THE SPECIAL PRISON
AS IN JANUARY 1976.

TERM OF SENTENCE	NO. IN DECEMBER 1975	NO. IN JANUARY 1976	BALANCE AFTER RELEASE
Less than a week	-	-	-
1 week - 1 month	-	-	-
1 month - 3 months	-	8	8
3 months - 6 months	1	5	4
6 months - 1 year	12	16	12
1 year - 3 years	32	51	47
3 years - 6 years	34	36	36
6 years - 10 years	15	15	15
10 years - 20 years	3	3	3
Life sentence	20	20	20
Warrant of Arrest and Detention	13	13	12
Banishment Prisoners	6	6	6
Illegal Immigrants	2	2	2
Public Order for Prevention of Crime	2	2	2

Source: Data Charts of The Special Prison, January 1976.

B. Objectives

Offenders are sent to prisons and other penal institutions for many reasons. Since they have "sinned" against society, society wants to punish them by putting them away behind guarded walls and locked doors. Further, society wants to be protected from criminals, the ordinary man wants to live in peace without harassment or threat of any kind, therefore those found guilty of criminal activities should be locked away. In addition, society tries to deter potential criminals by imprisoning convicted ones. Harsh penalties are therefore enforced so that would-be offenders would ponder on the consequences before commencing on any criminal activities. Offenders are also sentenced to serve time in an effort on the part of society to reform them. The evolution of this aim is due to the realisation that it is only through reformation of offenders' minds that they will cease their anti-social acts permanently and not only during the period of imprisonment. The objective of the writer, therefore, is to discuss these various justifications for imprisonment and she will try to establish that rehabilitation is not only the most noble but also the most effective form of punishment.

Every convicted offender is subject to administrative procedure while in prison. On admission, there is the reception procedure provided by the Prisons Ordinance 1952 and the classification process according to Rule 34, Prison Rules 1953. Further, every inmate is subject to Prison Discipline which is based on the Prison

Rules. The objective of the writer is, to analyse these provisions and procedure which are being carried out by the Prison Authority of the Special Prison in order to assess whether such methods are in accordance with the rehabilitative trend of today.

Penal facilities are provided in the Special Prison in the form of vocational training, educational development, recreational facility and spiritual welfare. Such facilities are intended to assist convicted offenders in their rehabilitation. However, the continued presence of recidivists in penal institutions may reflect to some extent the ineffectiveness of this programme. The writer intends to describe these existing penal facilities, assess their effectiveness, recommend new innovations, so that, in the future, the rehabilitation programme will be able to reach its goal, that is, to turn criminals into law-abiding, employed citizens.

Inmates, though segregated from society, do live in a social world though a limited one. As "free" people often develop codes of conduct in their relationship with one another, likewise the inmates also have their own social code. Such codes of conduct are illustrated and analysed by the writer in an attempt to provide a deeper insight into the minds of the inmates. The treatment-men, that is, the Prison Officers have to have some knowledge of the social relationship between inmates

and others before they can plan a really effective rehabilitation programme.

Recidivism is a prevailing problem closely associated with the crime rate increase problem. The writer has made case-studies into the criminal records of four recidivists, so that the general characteristics of these hard-core criminals can be revealed, and, steps can be taken to remove undesirable behavioural traits and encourage desirable ones.

The Prisons Ordinance 1952 and Prison Rules 1953 provide the law regarding the administration of prisons and the treatment of inmates. Unlike other statutes, very few provisions were amended since the date of their incorporation and some of the existing provisions are, to the writer's mind, unsuitable today. She has attempted therefore to comment on certain provisions. Since Prison administrators carry out their duties according to the penal statutes, it is extremely vital that such provisions pave the path for rehabilitation rather than hinder it.

G. Methodology

Since the study is a specific one, the work is mainly done in the Special Prison in Seremban itself.

Statistics is an important item in any study of penal institutions. The writer has employed the use of Prison Data Charts which show monthly statistics of the number of inmates,

their educational status, their religion, their prison offences and the number of times they have been convicted. Such statistics are helpful for analytical and illustrative purposes.

Recourse has also been made into the criminal records of individual prisoners to study the background, nature of crimes committed by the inmates. However, only the records of first time offenders and recidivists were looked into, the records of banishment prisoners being confidential.

No study would be complete without any remarks from those who are being studied, namely, the inmates and Prison Officers. Some inmates were obliging enough to grant interviews with the writer who conducted them in Bahasa Malaysia and Chinese. Prison Officers were given questionnaires to answer. The contents of these questionnaires deal with their daily routine as well as their views on certain aspects of the rehabilitation programme. The gathering of such information and opinions of the people concerned, the writer submits, is more important and revealing than any textbook on the matter.

The effectiveness of the rehabilitation programme can also be seen from the complaints and requests of inmates as well as Prison Officers. The Visiting Justices' Book is a major source of such material and the writer has used it to illustrate the shortcomings of the rehabilitation programme.

The writer has also made use of the Prisons Ordinance 1952 and Prisons Rules 1953 and their relevant amendments to point out the legal rights of prisoners and treatment which should be accorded to them.

Relevant textbooks have been referred to as a guideline and a source of more advanced treatment programme.

D. Scope and Limitation

The scope of this paper is limited in the sense that only the prevailing problems and rehabilitation efforts of the Special Prison are highlighted and analysed. The writer submits, however, that the conditions of this Prison may reflect the prevailing conditions in other penal institutions as well and that the recommendations forwarded by the writer may be applicable to other institutions as well. Wolff said, "in the nature of things one institution is bound to differ from another, especially if the classification of prisoners has become at all sophisticated. And yet it has been found time and again that there are enough common factors to make the study of one particular prison a perfectly valid yardstick by which to measure and analyse the typical population."⁴

Further, it is only through the study of a specific prison that the effectiveness of the rehabilitative programme

⁴ H. Wolff, Prison, Eyre and Spottiswoode Publishers Ltd., 1967, p.29.

can be assessed in the sense that the views and problems of inmates and Prison Officers can be revealed and analysed.

Finally, though the Special Prison is built especially for banishees, this paper is not solely on them, rather, it is based on the rehabilitation of all the inmates of the prison and their problems.