



INSIDE

Prisons and the Rights of Detainees

A Photo Exhibition on Prison Conditions in Nepal



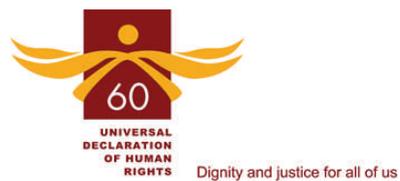
INSIDE: Prison and the Rights of Detainees

A Photo Exhibition on Prison Conditions in Nepal

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Celebrating the 60th Anniversary of the
Universal Declaration of Human Rights

10 December 2008

INTRODUCTION

The Office of the High Commissioner for Human Rights in Nepal (OHCHR-Nepal) was established in May 2005, following the signing of an agreement of cooperation between the OHCHR and the Government of Nepal. The Office has a mandate to monitor the observance of human rights and international humanitarian law, with a view to advising the authorities of Nepal on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights in Nepal.

Since May 2005, OHCHR-Nepal has visited most of the prisons in Nepal to monitor and to report on conditions of detention. The Office has provided recommendations to the relevant authorities on individual cases as well as on general concerns about the prison management and the rights of detainees.

The exhibition, "Prison and the rights of detainees", is an awareness raising project to celebrate Human Rights Day on 10 December 2008 and to commemorate the 60th Anniversary of the Universal Declaration of Human Rights (UDHR).

The overall objective of the project is to create greater awareness amongst stakeholders, authorities, donors and civil society in Nepal of detention conditions in prisons and of the day-to-day lives of inmates and personnel working in prisons, and to illuminate steps that may be taken to improve the situation, both for prisoners and personnel working in the prisons.

As part of the project, OHCHR-Nepal, with the support of the Home Ministry and the Prison Management Department (PMD), visited and took pictures in the prisons of Mahottari, Siraha, Central Jail (Kathmandu), Dillibazar, Dhulikhel and in the Reform Centre for Juveniles in Sanothimi (UCEP- Nepal, Sanothimi, Bhaktapur).

OHCHR-Nepal would like to acknowledge the collaboration of the authorities in this project and to thank in particular the Home Ministry, the PMD, the personnel in charge of the prisons and the Reform Centre for Juveniles, without whom the project would not have been possible.

A special thanks also to the children, juveniles, women and men who are today detained in the prisons of Nepal, and who voluntarily participated in making possible this exhibition.



Under risk: Detainees gather in a room with a cracked ceiling. The overall condition of the prison building is wretched.

Prison Situation in Nepal

Most of the prisons in Nepal were built during the Rana regime (1846-1951) and few renovations or improvements have been carried out. Over the last few years, the overall situation in prisons has declined, due to the lack of budget allocated to the Department of Prison Management (PMD) and to the apparent indifference of the authorities towards the problems faced by inmates and prison personnel. Prison facilities range from poor to dilapidated; the prisons are overcrowded and usually lack the minimum resources needed to provide inmates with medical care, food, hygiene and other basic items. Other needs such as education, rehabilitation programmes and work opportunities are rarely met.

In regard to the management of prisons, a few issues require specific attention:

- The lack of coordination mechanisms between the prison authorities (jailer and PMD), the CDO and the security forces.
- The lack of support from national institutions - judiciary, police, district administrations and governmental medical, education and social welfare services - which are not fulfilling their responsibilities.
- The lack of competent personnel in sufficient numbers. Most of the jailers recognised that a posting within the PMD is not viewed as rewarding and acknowledged the problem of low self-esteem

OHCHR-Nepal would like to encourage the Government of Nepal to create a prison service, manned by well-trained professionals, considered as an important component of the

state apparatus and offering career opportunities within the prison service.

Addressing Prison Issues

In September 2007, OHCHR-Nepal and the International Committee of the Red Cross (ICRC) organised a workshop on the management of prisons and prisoners. Participants included personnel from the PMD, jailers of the 11 main prisons in Nepal, members of the police in charge of securing prison facilities and members of the Prison Reform Suggestion Committee (PRSC). During this workshop, the participants drafted recommendations for improving the prison system.

This exhibition is an opportunity to share with the Government of Nepal the recommendations issued by both PRSC and OHCHR-Nepal jointly with ICRC. OHCHR-Nepal would like to encourage the Government of Nepal, and also the stakeholders, the donor community, the international and national organizations in Nepal to improve the situation in the prisons of Nepal.

Summary of concerns

Professionalism of prison staff

All the participants recognised a need to improve the professional skills of jailers and other personnel in the prisons. They acknowledged that when posted in the prisons, they received no specific training, not even an introduction to the Laws and Regulations governing the prisons.

Participants recommended a fundamental change in the organisation of the prison services, with the creation of a corps of professional jailers (prison governors).

Internal Management System

The internal management system run by prisoners (*chaukidars* and *naikes*) was recognised as a necessity in the current organisation of the prisons, and particularly given the lack of staff and funding. The holders of these positions assist in the provision of services to the inmates (food, health care,

etc.). They also provide a first control over the detained population, thus preventing escapes. On the one hand, they act as intermediaries between the prison officials and inmates, thus assisting the authorities to fulfil their obligation to provide services to the inmates. On the other hand, the participants underlined that the existence of this internal management system limits the contacts between the jailers and the other inmates. Additionally, *chaukidars* and *naikes* often abuse the power delegated to them in the prison regulations, creating internal rules that eventually result in the jailers' losing overall control of the jails. More importantly, the *chaukidars* and *naikes* introduce discrimination among the inmates, leading to tension, conflicts and a general feeling of insecurity for many prisoners.

The workshop participants recommended both short-term and long-term corrective measures.

Short-term

Participants recommended that the jailers should be regularly present in the detention quarter and should listen to all inmates, not only the *chaukidars* and *naikes*; jailers should be appointed for fixed terms and longer periods in order to get to better know their jail and inmates; *chaukidars* and *naikes* should be provided with basic training on their duties and rights, and these duties and rights should be posted in the jails so that their tasks and the limits of their powers are clear for every inmate.

Long-term

In order to truly address this issue and bring Nepal's prison system in line with international standards, the participants recommended a radical change in policies: the government should allocate enough employees to the jails so that they can effectively run the prisons, thereby eliminating entirely the institutional role currently assigned to *chaukidars* and *naikes*.



Tattooed: An inmate's tattooed arm. Most prisoners get tattoos believing that they will endure after their death.

Separation of inmates and new facilities

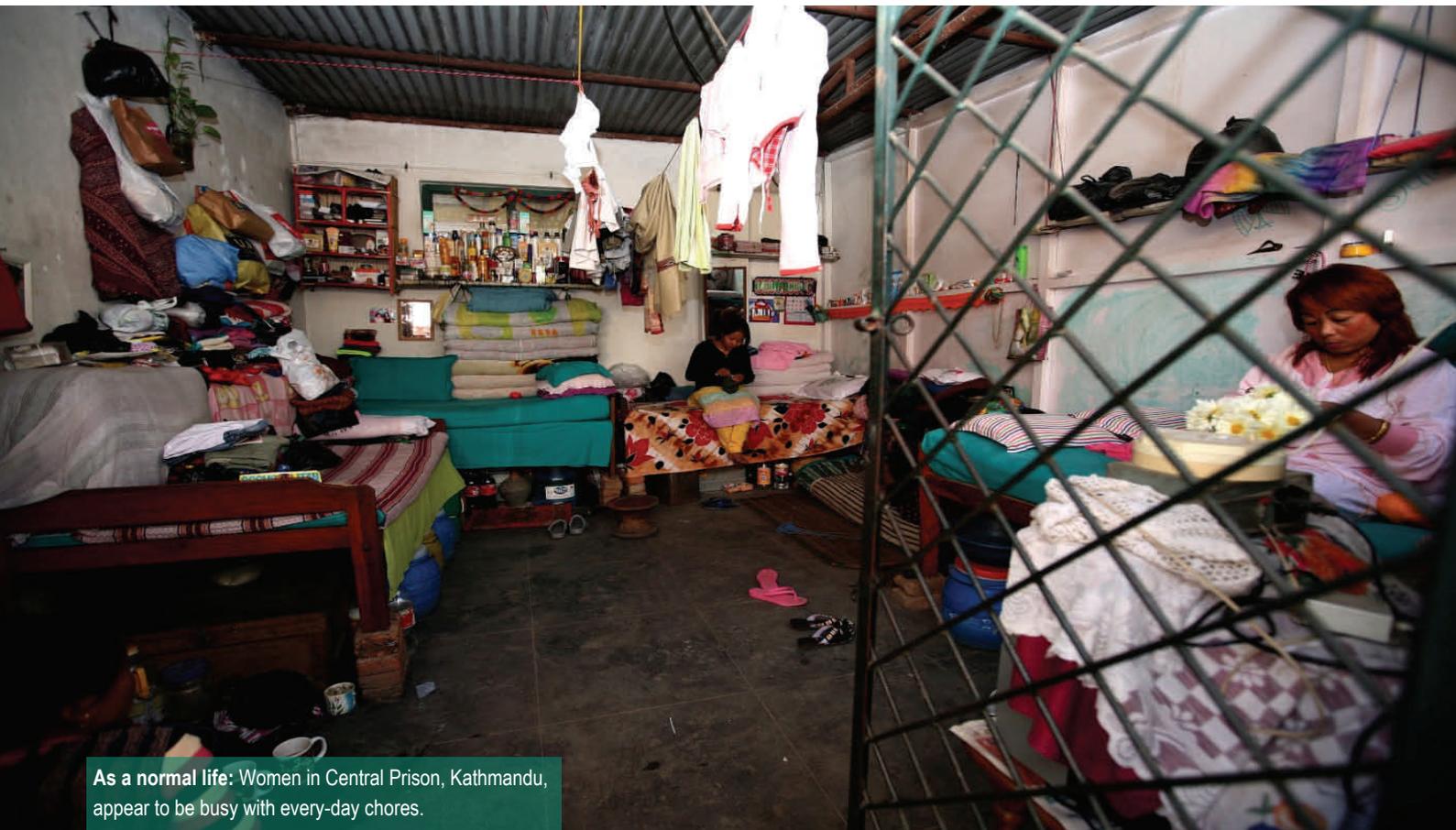
Participants listed as a priority the construction of jails that would facilitate better management of the prison population, specifically smaller quarters that allow separation by categories. In most prisons, international standards on the separation of petty criminals from hardcore ones, convicts (prisoners) from accused (detainees) and young inmates from adults are not respected.

Participants considered that vulnerable groups (women, children, the sick, foreigners, etc.) would highly benefit from the construction of new prisons. Additionally, these new structures, if not hastily planned, could solve many current shortcomings, such as the lack of space for family and legal counsellors' visits, the lack of infrastructure for prisoners to access education and work, leisure, and poor hygiene facilities, etc.

Judicial procedures

The lack of timely handling of cases by the judiciary was recognised as a major reason for the increasing overcrowding in all prisons (and Districts Police Offices) of the country. Detainees are awaiting trial much longer than the maximum one year allowed under Nepali law.

Participants recommended that the judiciary be encouraged to ensure that detainees receive their sentences within one year of their arrests. Additionally, prisoners should be properly and swiftly informed about the sentences passed on them, including decisions on appeals.



As a normal life: Women in Central Prison, Kathmandu, appear to be busy with every-day chores.

Monitoring / inspection mechanisms

Participants suggested that judges undertake regular visits to the prisons and focus on the legal process related to the detainees.

The chief district officers (CDOs), as those responsible for the prisons in their districts, should also be required to regularly visit the prisons.

Jailers said they would welcome a regulation concerning the visits of representatives of NGOs to prisons. They suggested that NGOs should support the authorities in properly managing detainees and not focus only on human rights principles.

Management of the prisons' populations

Participants emphasised the lack of a central register, preventing the PMD from effectively managing the jail population. A process should be set up to register the inmates when they enter the prisons, which would track them until their liberation.

Protection from violations

Participants underlined that prisoners' rights are often violated, either by prison personnel (including security guards) or by those in the internal management system (*chaukidars* and *naikes*); law enforcement agencies occasionally harass recalcitrant detainees with additional investigations. Participants also acknowledged that due to lack of knowledge and training, detainees and prisoners are sometimes tortured (e.g. shackled for long periods of time). They also recognised that the *chaukidars* and *naikes* sometimes treat inhumanely inmates who do not follow the rules they set.

Participants proposed that prison personnel be trained about human rights. They considered that a complaints mechanism should be at the disposal of prisoners, and that prison officials, *chaukidars*, *naikes* and security personnel should be held accountable for their actions.



Leisure: Detainees watching television in their free time. Watching TV is one of the pastimes available in prison.

Provision of services

The conditions in which the inmates are kept as well as the working conditions of prison staff were considered appalling by participants, who suggested that the prison infrastructure be repaired. Participants also noted the general lack of services provided to the inmates, and proposed a series of measures to remedy the most acute problems. This included an increase in the budget allocated to feeding detainees; provision of clothing and bedding upon arrival in the jail, and renewed / cleaned regularly; vocational training organised in the prisons by the government or by a mandated NGO(s). They also recommended that education be provided to detainees.

Medical Care

Participants noted that detainees were not given a medical

check-up upon arriving in jails. They recommended proper medical care, which, among other things, would permit identification of sick detainees and their separation from other inmates in order to facilitate treatment and avoid the spread of contagious diseases.

The absence of a proper mechanism to transfer sick prisoners to hospital was also underlined. Participants recommended that serious cases be immediately referred to a hospital, upon the decision of the jailer, without interference of the CDO. They also recommended revision of the security constraints to facilitate swifter transfers to hospital. Finally, they recommended that main hospitals be equipped with a unit able to accommodate prisoners receiving medical treatment, which would permit several inmates to be guarded by the same security personnel.



Not face-to-face: A detainee talks to a visitor via intercom. For most inmates, this is their only means of communication with family and friends.

Contacts with the outside

The lack of facilities allowing detainees to have proper contact with their family members was raised, together with the lack of budget for the provision of reading materials (newspapers in particular).

Participants recommended applying a uniform policy throughout prisons regarding inmates' access to telephones. They also recommended that newspapers be provided to

inmates, together with an adequate library. Participants emphasised the need to organise rooms for family meetings that would allow direct contact between the detainee and his/her family. They also recommended additional personnel at these areas to ensure that no prohibited items were smuggled into the prison during such visits; space should also be provided for confidential meetings between detainees and their lawyers.



No more space: More than 300 prisoners are kept in this prison although it has a capacity of 135.

Nepal: Prison figures as of November 2008

Prisons	73
Official Capacity	5 000
Prison population	8 810
Occupancy level	176.2 %
Prison population rate	32
(per 100 000 of national Population)	Based on an estimated national population of 27 millions (United Nations)
Men	7 618
Women	538 (6%)
Dependants	62
Juveniles	166 (2 %) as recorded in Correction Centre
Foreigners	488

Convicted	3 068 M/247 F=	3 315	(40.6%)
Pre-trial/remand	4 550 M/291 F=	4 841	(59.4 %)

(NB: current figures are based on PMD figures of convicted and pre-trial (total of 8 156) excluding juveniles and foreigners, for which figures are not centralised).

The majority of the population in detention have been arrested and detained in connection to serious crimes representing 68 % of the overall population including Homicide (29 %), Rape (9 %), Dacoity (12%), Narcotics (13 %) and Trafficking (human) (5%).

Recent population trend	1999	5878	(25)
(year, prison population total, prison population rate)	2002	7132	(29)



Daily routine: Women inmates chat in groups in the evening. Chatting is part of their daily routines as they have few other options for passing the time.

Mahottari prison (Jaleshowr, Central Terai)

Jailer name	Arjun Prasad Sharma, 37 years of civil service including the last 3 years as Jailer.
Prison built	145 years ago
Capacity	135
Current population	339
Male	323
Female	16 plus 3 dependants (below 4 years old)
Age range	13-75 years
Origin	25 pahadi and 314 madhesi and others (dalit, tharu, other indigenous)
Prison staff	11 work for the administration, including jailer, doctor, peons, accountant 17 work for security (Nepal Police)

Profile of the detainees by category (status, gender and charges)

69% of the overall population are awaiting trial (70% of men and 50% of women) while 31% have been convicted. The majority of the detainees were arrested in connection with homicide (36%) including 81% of women; arms and ammunition (26%) and robbery (20%); abduction and rape represented respectively 5% and 4% of the population.

Detainees receive	45 NRs + 700 grams per day as allowance (to buy additional food and wood for cooking) 475 NRs for clothes in the winter 400 NRs in summer
Every two years	1 blanket, bed sheet and simple mattress

Special concerns:

Drinking and washing water are not limited in this prison. Male section has 6 toilets and 3 urinals for 323 inmates.



Inside/Outside: Prisoners wait at a barrier for their friends and loved ones.

Siraha prison (Lahan, Eastern Region)

Jailer name	Doctor is acting Jailer since September 2008 (subsequent to the prison break in August 2008)
Prison built	145 years ago
Capacity	150
Current population	107
Male	102
Female	5
Age range	14-65
Origin	From throughout Nepal
Prison staff	8 work for the administration including jailer, peons, accountant 21 work for security (Nepal Police)

Profile of the detainees by category (status, gender and charges)

72% of the overall population are awaiting trial (80% of women) while 28% have been convicted.

The majority of the detainees were arrested in connection with homicide (26%) including 80% of women; arms and ammunition (21.5%) and dacoity (13%). rape offences represent 7.5% of the population.

Detainees receive	45 NRs + 700 grams per day as allowance (to buy food, goods) 475 NRs for clothes in the winter 400 NRs in summer
Every two years	1 blanket, bed sheet and simple mattress

Special concerns:

On 7 August 2008, 48 detainees escaped from the prison; one was killed during the break and 48 are yet to return. Since the break, family visits are a concern as the administration has imposed a 15-metre gap between detainees and visitors, including relatives.

Drinking and washing water are not limited in this prison. Male section has 6 toilets and 3 urinals



Unity in diversity: Detainees from two different religions, sit together.

Dillibazar prison (Kathmandu, Central region)

Jailer name	Chandra Shumsher 36 years of civil service, including the last 1½ years as Jailer.
Prison built	Approx. 95 years ago
Capacity	150
Current population	395
Male	395, including 27 foreigners
Female	none, as it became a male-only prison in 2007
Age range	15-68
Origin	From throughout Nepal
Prison staff	11 work for administration including Jailer, doctor, peons, accountant 125 work for security (Nepal Police)

Profile of the detainees by categories of detainees (status and charges)

68% of the overall population are awaiting trial while 32% have been convicted.

The majority of detainees were arrested in connection with narcotics: users, smuggling (30%), dacoity (11%), trafficking in humans (10%) and homicide (10%).

Detainees receive	45 NRs + 700 grams per day as allowance (to buy food, goods) 475 NRs for clothes and 1,000 NRs for blankets in the winter
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Special concerns:

Drinking and washing water are limited in this prison.

The prison is equipped with 10 toilets and 3 urinals.

The detainees' association purchased two computers and is conducting computer training for detainees. 35 detainees currently attend the course.

Babies and children living in prison with their mothers

According to Article 8 of the Prison Act (1963) on

“Care of a child in Prison:

1. *If any detained or imprisoned woman gives birth to a baby in prison or has a baby below two years of age with her, the mother can keep the baby with her if she wants even if there is a caretaker outside the jail. After the baby passes two years of age, unless necessary, s/he should be handed over to a caretaker or guardian outside.*
2. *If any detainee or convict has a minor to be taken care of and there is no one else to look after the minor’s upbringing, care and education of such minor shall be performed under the expense of His Majesty’s (sic) Government as prescribed as long as s/he is detained or imprisoned.”*

In practice, children remain with their detained parent until the age of 4 or 5 in all of Nepal’s prisons before being transferred to a children’s home. These homes are generally located in the Kathmandu Valley, preventing regular contacts between the mother (the family) and the child if the family is from outside of the Valley. Children who do not live in prisons will usually visit their imprisoned parent or relative during *Dashain*, living several weeks in the prison.

No specific arrangements are provided in prisons for mothers (or fathers) and their babies or children living with them.

Central Jail, Women’s Section (Kathmandu, Central region)

Jailer name	Shankar Prasad Aryal 24 years in the civil service including the last 1½ years as Jailer.
Prison built	Approx. 95 years ago
Capacity	150
Current population	173
Female	173 plus nine dependants (below 5 years old)
Age range	16-71
Origin	From throughout Nepal
Prison staff	23 work for the administration including Jailer, doctor, peons, accountant 150 work for security (Nepal Police)

Profile of the detainees by category (status and charges)

48% of the overall population are awaiting trial while 52% have been convicted.

The majority of women detainees were arrested in connection with: homicide (31%), trafficking in humans (29%) and narcotics (28%).

Detainees receive	45 NRs + 700 grams per day as allowance (to buy food, goods) Plus 10 NRs for each dependant 500 NRs twice a year for clothes
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Special concerns:

Pregnant women have regular check-ups and are taken to the hospital for delivery. On 15 November 2008, four pregnant women were present in the prison.

Drinking water and cleaning water are not limited in this prison.

The prison is equipped with 16 toilets.



Learning: Women detainees at literacy class.



Close: Women detainees take comfort in each other's company.

Central Jail, Jaganal Dewal Section, (Kathmandu, Central region)

Jailer name	Shankar Prasad Aryal 24 years of civil service including the last 1 ½ years as Jailer
Prison built	Approx. 95 years ago
Capacity	600
Current population	774
Male	774, including 49 foreigners.
Age range	13-71
Origin	From throughout Nepal
Prison staff	23 work for the administration including Jailer, doctor, peons, accountant 150 work for security (Nepal Police)

Profile of the detainees by category (status and charges)

59% of the overall population are awaiting trial while 41% have been convicted.

The majority of detainees were arrested in connection with: homicide (21%), narcotics users, smuggling (20%, including one-half of the foreigners and dacoity (14%).

Detainees receive	45 NRs + 700 grams per day as allowance (to buy food, goods) 475 NRs for clothes and one quilt every two years
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Special concerns:

Drinking and washing water are not limited in this prison. The prison is equipped with 30 toilets for the two male sections (representing more than 1,000 inmates). A new, large two-storey building is under construction to provide additional facilities, in particular bedrooms and bathrooms.



Concentration: Many mentally disabled inmates pass hours every day sitting quietly. They don't work or take part in any activities. Their food is cooked by the other detainees.

Dhulikhel Prison, including facility for mentally disabled detainees (Kavrepalanchok, Central region)

Jailer name	Matrika Dahal 9 years of civil service including 6 years experience in prisons
Prison built	Approx. 95 years ago
Capacity	60
Current population	111
Male	111, including 37 detainees under treatment (mentally disabled)
Age range	15-65
Origin	From throughout Nepal
Prison staff	6 work for the administration including Jailer, doctor, peons, accountant 20 work for security (Nepal Police)

Profile of the detainees by category (status and charges)

64% of the overall population are awaiting trial while 36% have been convicted.

The majority of detainees were arrested in connection with homicide (51%), dacoity (13%) and rape (11%). 84% of the mentally disabled detainees are detained in relation to homicide.

Detainees receive

5 metres (twice a year) of material for clothes, which they use as bed sheets Plus 100 NRs for tailoring in the winter and 75 NRs in summer
A simple thin mattress/blanket on arrival

Special concerns:

This prison is divided into three sections, one for severely mentally disabled detainees (27) while 10 others considered less serious are mixed with the other detainees in one of the two other sections.

The section provided for mentally disabled detainees represents the poorest living conditions that OHCHR-Nepal has witnessed in a place of detention in Nepal, and amount to cruel and inhumane treatment. The only stimulation offered to the detainees is an old TV.

In addition, the lack of appropriate medical treatment and follow-up of these detainees raises serious concerns. For the last seven months the detainees have been under the responsibility of a psychiatrist from Patan Hospital. Although he visits regularly (every two weeks), he has 37 inmates to attend to, 26 of them having serious mental illnesses. He also monitors and adjusts treatment given by a detainee (trained and acting as medical staff during the absence of the psychiatrist).

Despite the Supreme Court mandamus order to Government authorities on 16 October 2008 to hospitalise mentally disabled detainees and ensure they receive proper treatment, no corrective action was taken as of 26 November 2008.



Shadows of life: Shadows of juvenile inmates seen on the wall while they play outside.

Juvenile Correction Center Home, Sanotimi (Bhaktapur, Central region)

The centre is run by the NGO UCEP-Nepal under the responsibility of the Minister of Women, Children and Social Welfare.

Director in charge	Rajeshwore Devkota
Centre created	1978
Capacity	60
Current population	83
Boys	78
Girls	5
Age range	12-20
Origin	From throughout Nepal
Centre staff	5 work for the administration including those doing legal and social counselling, teachers and caretakers 11 work for security and wear civil dress (Nepal Police)

Profile of the detainees by category (status, gender and charges)

64 of juveniles, including 86 of girls, are awaiting trial while 36% have been convicted.

The majority of the juveniles in the UCEP centre were arrested in connection with rape (37%), homicide (18%) and dacoity (13%).

Special concerns:

The centre offers full treatment for juveniles, including education, vocational training, medical support and entertainment, as well as legal assistance.

Unfortunately, there is only one juvenile correction centre in Nepal so the juveniles come from all regions, separating them from their families, which makes visiting difficult and could represent a risk to family bonds.

On the past few years, UCEP and the DPM have recommended duplicating the centre in other regions, but the proposal has not been implemented until now due to lack of resources.

Basic Principles for the Treatment of Prisoners

Adopted and proclaimed by United Nations General Assembly resolution 45/111 of 14 December

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.
4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.
5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.
6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.
8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.
9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.
10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.
11. The above Principles shall be applied impartially.



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