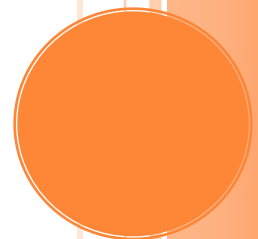
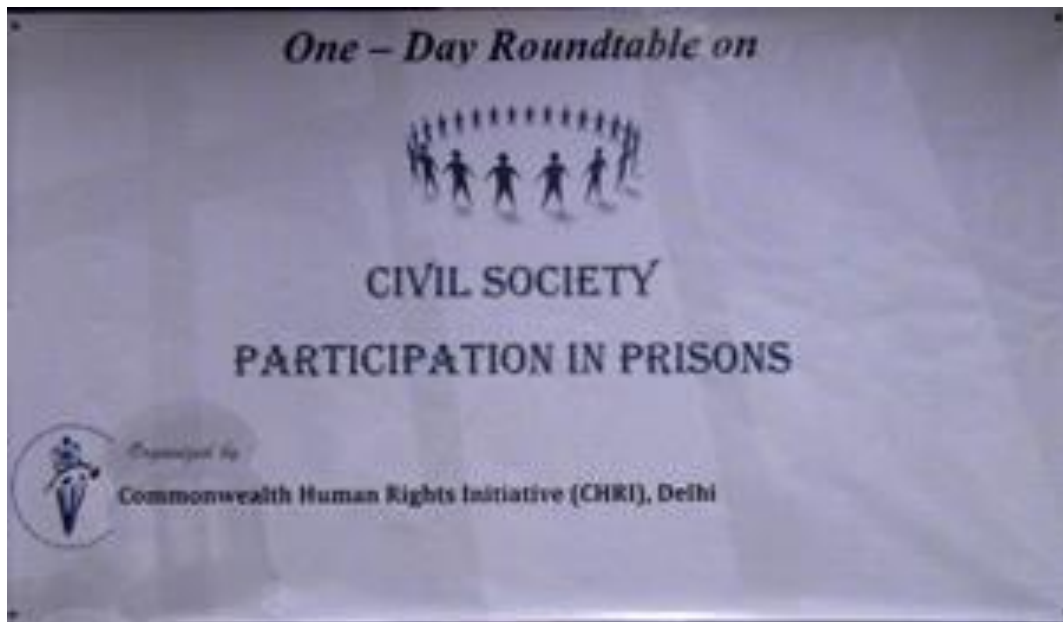


# ONE-DAY ROUNDTABLE ON CIVIL SOCIETY PARTICIPATION IN PRISONS

Date: 27th JUNE, 2013

Venue: Hotel Mapple Abhay, Jodhpur, India



## **GUEST SPEAKERS**

1. Mr. R.K. Saxena, Honorary Consultant, CHRI
2. Ms. Kavita Srivastava, General Secretary, People's Union for Civil Liberties (PUCL)
3. Mr. Hindu Singh Sodha, Seemant Lok Sanghathan, Jodhpur

## **CHRI STAFF – PRISONS REFORM PROGRAM**

1. Ms. Sana Das, Programme Coordinator
2. Ms. Anisha Joseph, Project Officer

## **PURPOSE OF THE WORKSHOP**

Commonwealth Human Rights Initiative (CHRI) conducted a one day Roundtable on Civil Society Participation in Prisons on 27<sup>th</sup> June 2013 at Hotel Mapple Abhay, Jodhpur.

The purpose of this roundtable was to form a civil society network to create synergies between various NGOs working in different fields who can contribute directly or indirectly towards prison reforms. This could include actively using RTI, furthering civilian oversight, aiding family visiting system, working on vulnerable categories in prison, and subsequently aiding advocacy (media advocacy included) on prison reforms.

## **WORKSHOP METHODOLOGY**

The Roundtable was intended to have a close group participation to facilitate greater contribution from each, to encourage quality discussions and focused action plan. Seven civil society organizations participated in the conference, 4 from Jodhpur and 3 from Jaipur. Though the workshop was scheduled to start by 9:30a.m., it started only by 11:00 a.m due to unavoidable reasons.

Mr. R.K. Saxena (Honorary consultant, CHRI), Ms. Kavita Srivastava, General Secretary, People's Union for Civil Liberties (PUCL) and Ms. Sana Das, Programme Coordinator, Prison reforms Program, CHRI formed the core panel and enlightened the participants with the knowledge and understanding of different perspectives of prison reform and how civil society can actively play a role towards the same.

## WORKSHOP PROCEEDINGS

### *I. Aim and Introduction of the Panel*

Roundtable started with the introduction of CHRI and the aim which was delivered by Ms. Sana Das, Coordinator, Prison Reforms. Giving a broad framework of CHRI's work and presence, she detailed the various projects under the prison reforms program of CHRI. This was followed by introduction of the esteemed panel members.

- **Mr. R.K. Saxena**- Retd. IG from Rajasthan prisons and working with CHRI as consultant as well as Vice President in People's Union for Civil Liberties (PUCL), Rajasthan. He has worked extensively in the area of prison reform and is known by many in this field. During his tenure as IG, he made many unconventional changes to the system and had prisoner's rights as his priorities. He worked with CHRI in strengthening the Prison Oversight System and has been a guide in many ways the Prison Reforms Programme of CHRI.
- **Ms. Kavita Srivastava Saxena**, General Secretary, Rajasthan at People's Union for Civil Liberties (PUCL) has been working in the field of human rights for several years. In her capacity as the National Secretary of the PUCL, Ms. Kavita has been active not only in the campaign for release of Dr. Binayak Sen but has also been in the fore front of raising issues of rights violation with impunity by the State of Chhattisgarh and its police force. With a focus on prison regulations and laws, PUCL has been working in central, district and sub jails, juvenile justice homes, women's remand homes as well as children's home, providing legal aid to under- trial, women and child prisoners.

### *II. Introduction and Presentations*

Each participant was asked to give a brief introduction of themselves and the organization they belonged to. Each spoke of how their work intersected with prison work directly or indirectly, issues that they face and any innovation in the field.



**Ms. Varsha Kothari, Programme Coordinator, GRAVIS-** GRAVIS aims at developing self-reliance among rural communities, focusing especially on society's most vulnerable groups. Their core area of work is with the Thar Desert communities in the area of water security, livestock, healthcare, food security, capacity building, and the empowerment of women, labourers, and the elderly. Gravis has also worked in prisons through motivational lectures and livelihood activities for women in prison.



**Mr. Kailash Chand, Advocate, Academy for Socio- Legal Studies (ASLS)-** has a trade unionist background and works towards developing programmes for the weaker and vulnerable sections of society, such as scheduled castes, scheduled tribes, women, economically and socially backward communities and minorities. His organization also aims at providing legal aid to protect their rights. It endeavors to combat the feudal mentality prevailing in the administration of prisons and the management of prisoners therein.



**Mr. Utkarsh Singh, General Secretary, Mother World Foundation –** Mother World Foundation focuses on issues of health and conduct free Homeopathic Medical Camps. They also conduct regular medical camps in Jodhpur Central Prison as well as Nari Niketan on mental health issues. Through his experience in prison, he has come across many cases of depression and people who need psychological help in prisons.

**Mr. Sunil Mohnot, Indra Rehabilitation Vocation Sansthan –** works in prison for undertrial prisoners Session courts. He observed that many a times, adjournment. According to him, video conferencing their trial can be speeded up. He also mentioned are not getting legal aid due to lack of Legal aid undertrial is not happening properly.



**and Recreation** and also in District and undertrial prisoners get should be used so that that undertrial prisoners lawyers. Production of



**Ms. Kamini Mathur, Rotarian, Rotary Club, Jaipur-** She went to visit a Jail few months back and was surprised to see inadequate facilities for food and treatment especially in the female ward. They had opened a school inside the jail but she noticed that it was not working since there was only one teacher who could not continue working. Even the materials that they donate through Rotary Club for the school are either in bad condition or not existent anymore. She felt that there should be proper rehabilitation schemes for women prisoners for their reintegration back into the society.

**Mr. Shashi Bhushan Gupta, Chairman, Legal** worked with the organization for the past 6-7 years. the area of legal aid and understand the huge gap of He brought everyone's notice to the non realization 436A of CrPC due to lack of data maintained in his worry on the issues of delayed trials, ineffective Authority, undertrial prisoners not being segregated offenders put in with habitual offender.



**Helpline Society-** has They have worked in legal representation. of the provisions of prisons. He put forth Legal Service from convicts and petty



**Pastor Binoy John, Fellowship Church of India-** They have been working for more than 20 to 25 years inside prisons. They focus on moral teachings and do prayers for prisoners. He narrated the story of how his father had initiated prison work due to his own experience of being in the prison and the need to bring humanitarian help to people behind bars. Since then, they make frequent visits to prison to provide religious support and prayers as well as donations during special occasions like Christmas, etc.

### *III. Panel Discussion*

**Ms. Sana Das, Programme Coordinator, CHRI** initiated the discussion by highlighting the need for protection of prisoner's rights and how we can address the various ill-legalities behind bars. She emphasized the role of civil society organizations to open up a traditionally closed system of prisons.

She mentioned that under our constitutional scheme, the presumption of innocence is a fundamental right, and liberty, a paramount value. This is coupled with equal access to justice and judicial independence. The Indian Constitution and its interpretations by the Supreme Court of India afford every guarantee for a fair trial to an accused person.



Contrary to our normal belief, civil society organizations have a big role to play in prison reform. To substantiate this, CHRI, together with Prayas, undertook a National Scoping Study of NGOs and CBOs working for prison reform across 14 states. The study highlights examples of best practices ranging from grass root level to policy and law framing level of 129 organizations from 14 states. The study was launched as a publication and served as an important tool in promoting prison reform work and to bring momentum to the level of intervention of civil society organizations. The book brings forward various methodologies that civil societies can adopt towards prison reform whether directly or indirectly. For example, some could provide direct legal representation or work with the legal aid authority. Some may work with vulnerable groups in prison and some could even just file RTIs to get information. Organizations working at the grass root level could connect with family of prisoners and help in creating a support system for the prisoner.

Ms. Sana also briefed on CHRI's demonstration projects of legal aid clinics in Rajasthan and West Bengal mentioning the reasons for their establishment. The need for such legal aid clinics comes from the situation of overcrowding in prisons and the huge amount of undertrials that are languishing in prisons with no end to their detention.





This was followed by a presentation of some of the key highlights of the data that came from Swadhikaar (legal aid clinic in Jodhpur Central Prison) by **Anisha Joseph, Project Officer**. She spoke about the unequal access to justice and the overrepresentation of vulnerable groups of the society also behind bars.

During the period, August 2012 – February 2013, 240 inmates were interviewed through Swadhikaar and the data was analyzed based on various factors. The analysis showed that maximum percentage of people behind bars have low socio-economic backgrounds. Many of them are breadwinners of the family and their detention has negative impacts not only on the individual but also his/her family members. Many a times, families are not even informed of the prisoner's whereabouts. Also, most of the prisoners are accused of serious offences. But during interviews with the prisoners, they claim that they have been charged with multiple false charges. If they have committed only one bailable offence, they come to know later that they have also been charged with other serious crimes which make it impossible for them to prove and get bail. The question then arises if crime cuts across all classes of the society then why is there over representation of people from lower socio-economic backgrounds in prison? For example, even though it is a proven fact that rape cuts across all classes, only people from lower socio-economic background end up in prison for the offence. It shows disparity in access to justice and legal remedies. Data also shows that many people are languishing in prison without legal representation for at least 6 months. In terms of health, there are 17 required posts for a doctor/medical officer in Jodhpur Central Prison against which 9 are sanctioned and only 4 are filled currently. Not only are prisons a dumping ground for the 'unwanted' of the society but has also become a breeding ground for many human rights violations.

With this context, Mr. R. K. Saxena presented his valuable thoughts on the role of civil society in prison reforms as well as to deliver knowledge on the prison visiting system.



**Mr. R.K. Saxena** said that the institution of prisons has very less visibility. At one time, it was assumed that criminals should be removed from the society and put in a dustbin. This social dustbin is a structure which doesn't have many doors. There are prisons in Andaman where prisoners can't even see each other. This is to punish them and to make them feel miserable in this situation. This isolation has been changed to obscurity. This has been intentional so that whatever one does with prisoners, no one is there to ask.

He brought everyone's notice to the fact that if a survey is done of any government department anywhere; the least visibility is for prisons. Lack of visibility creates lack of accountability. However, to deconstruct this process, it was necessary to establish a system through which prison conditions can be monitored. It was accepted many years ago in 1894 when the Prisons Act accepted that a system of visitors would be of value in providing aid to prison inmates secluded from the society. Section 59 of the Prisons Act gave way to the making of PRISON VISITING SYSTEM which is functional in many states today.

The visiting system comprises of official as well as non-official visitors. Official visitors are from the various government departments like IG, Police, District Magistrates, etc. and non-official visitors find a place for civil society actors from the community to monitor. CHRI was able to catalyze the appointment of 28 NOVs and the extension of term of appointment of 150NOVs in prisons across Rajasthan.

He mentioned that though this provision is progressive, but the implementation has a very different picture. From the experience of working on this issue, he has seen that many a times, people who are appointed as NOVs have political affiliation and hardly come to visit prisons. Most times, when they do visit, it is because they have a relative inside the prison or there is a festival being celebrated.

If we as civil society members become part of this visiting system then we should not only look at illegalities behind bars but also legalities. There are cases where the prisoners have got bail but are still languishing in prison since they cannot produce sureties. However, CrPC clearly mentions that in a bailable offence, if the person is not able to produce sureties then after 7 days he/she should be considered indigent and released on personal bond.

He suggested that each organization can work in various different areas of prison reforms starting from even detecting how many women are in jail. One could also look at the conditions of children of prisoners in prison. Though rotary club donates materials for school and teacher, what is required is a monitoring system over that. One should have a weekly/monthly report on how the school is performing and how are things being utilized. One can also look at the rehabilitative perspective and appoint tailoring and sweater knitting teachers for women prisoners.

He reiterated that the role of civil society is not just limited to donations but also close monitoring to ensure that the rights of prisoners are protected. For this system to work, it is required that we organize all the interventions and through our collective efforts and make prisons a place for rehabilitation and not punishment.

Mr. Saxena's valuable inputs and comments created an interest in the participations to know more about the system of prison visiting and how they can be part of it. Also, Periodic Review Committee was briefed to help them understand a mechanism already in place for prisoners. The participants were interested in knowing the list of NOVs and asked CHRI to share the list. Ms. Kavita (PUCL) also suggested that the monitoring report should be published on their website as long as it doesn't have content which affects the prisoners.

**Ms. Kavita Srivastava Saxena, General Secretary, Rajasthan at People's Union for Civil Liberties (PUCL).**

**PUCL** brought the notice of the participants towards her own experience with visiting prisons and how different visits have given her different perspectives and the need for civil society to participate in its reform. She spoke about a range of issues that prison has which needs to be addressed not just within the system but also outside. She initiated her talk with the statement that when we think of vulnerable groups behind bars, the truth remains that ALL are vulnerable behind bars. However, within them there are special categories which need more attention and more steps should be taken to ensure that their rights are protected.



She particularly spoke about Seema Azad, a grassroots journalist and a well know civil liberties activist who was wrongfully detained along with her husband Vishwa Vijay, under the Unlawful Activities (Prevention) Act, for their alleged links with the Maoists. She explained the condition of prisoner's children through one of Seema's poems that was written while she served her sentence

behind bars named "Jail mai sitaraon ke bina yeh duniya". The poem spoke about the children of prisoners who grow up seeing prison walls and never get to see the stars as they are inside their cells by night.

She also spoke about the lack of libraries in prison which prisoners can utilize and become more aware. PUCL is ready to donate books but there are no libraries in prisons. Many a times, even the jail manual is not given to the prisoners intentionally so that they are unaware of their rights.

She brought the attention of the participants on the overrepresentation of Muslims in prisons and referred to a study done by TISS, Mumbai which said that around 33% in Maharashtra prisons are Muslims. The caste system that exists outside also exists inside and only certain caste get certain type of jobs. Mr. Saxena added that the prison manual clearly mentions that a person from upper caste can only be in the kitchen and cook food. The family visiting system is also degrading because they have to wait for many hours to meet their family member in prison. After coming from a long travel, they give their applications in the morning to meet their families. However, the entire process takes several hours and the family is able to meet the prisoner only in the evening.

Referring to the case of Soni Sori, a tribal schoolteacher who was languishing in a Raipur jail on charges of aiding Maoists, she spoke about the delay in trial due to lack of police escorts. In Soni Sori's case, the trial was being continuously delayed since there were not enough police escorts to take her through a long distance of appearing before a trial court. Taking the point of a participant, that video conferencing is a progressive option, she advocated against the use of the same. She said that video conferencing has given way to unnecessary delay of cases and non representation of lawyer in many cases. She herself has witnessed one of them and has seen that there are many lacunas in the process. It is the right of the accused to be presented before the court and appropriate steps have to be taken to realize that right and not create alternatives to it.

Another set of prisoners who need special attention are disabled and old prisoners. During her visits she has seen that this category of prisoners suffer due their condition and are discriminated in many ways. PUCL has written a letter to the prison department regarding release of old prisoners and is awaiting action. Along with these issues Ms. Kavita also spoke about other issues like that of horrible treatment in jails of Kashmir , juveniles in Kashmir who are sometimes kept along with adult prisoners, no women guards in sub jails, jail deaths, etc.

All these issues call for an urgent need for civil society organizations to monitor prison conditions and implement safeguards for protection of their rights.



Post-lunch session started with the session by **Mr. Hindu Singh Sodha, Seemant Lok Sangathan** who is a well known activist for the cause of Pakistani Refugees in India.

Drawing from his rich experience with fighting for the protection of rights of Pakistani refugees in India, he said that the visible issue of Muslims in India covers the forgotten state of Hindus in Pakistan. Situation in Pakistan started becoming worse due to aftermath of Babri mosque demolition on 6.12.1992. Minority Hindus were attacked & persecuted in various manners. He then



decided to work exclusively for the cause of refugees and since then which is more than 21 years from then, he still making efforts to help the refugees. Most of them are Meghwals(SCs) and Bhils (STs) from Pakistan.

Due to his efforts, for the first time refugees coming on pilgrim visa were permitted to live in India by government of India. In Pakistan he met almost every political party to make the common consensus on the issue & due to his efforts in September & December 2012 serious debate in both the houses of parliament effected in which all Political parties favored the cause of Pakistani refugees. He himself led a demonstration in front of State Assembly again in October 2012.

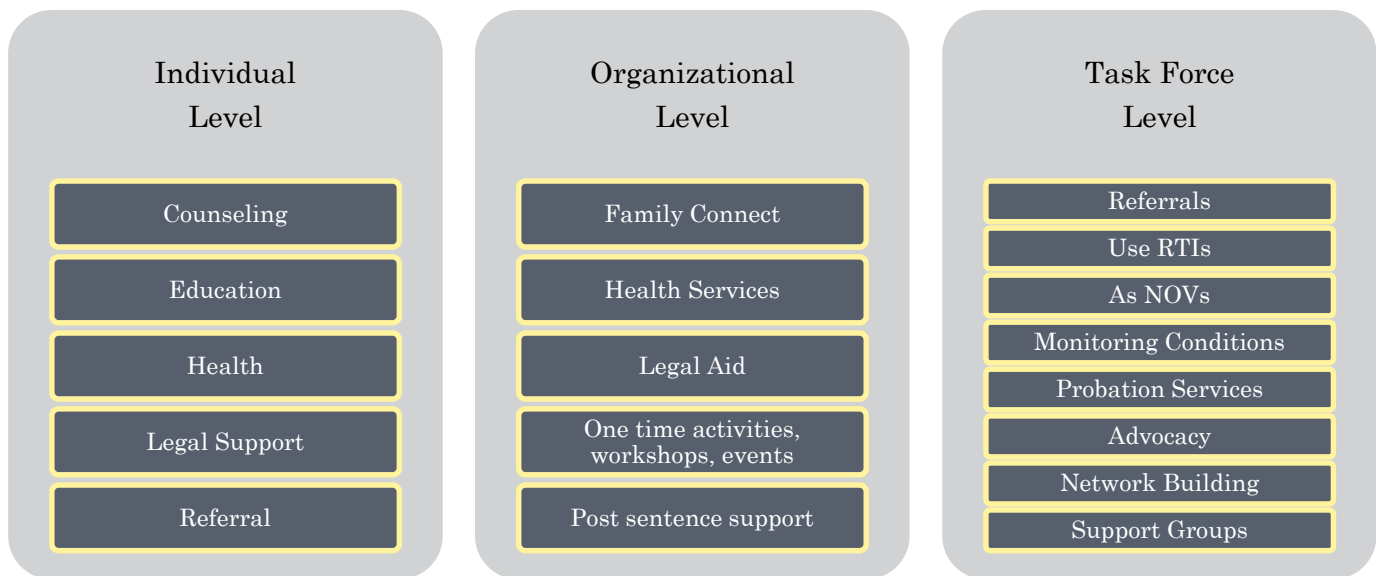
Through his work he demonstrated the strength and the need for civil society partners to work collectively for protection of people who are put behind bars. If these refugees were not recognized, they would be prosecuted behind bars. There are many refugees who face similar fate of imprisonment because they do not have a voice. The law allows for their imprisonment but if such cases go unmonitored, they will continue languishing in prisons for long. He urged the civil society organizations to take this roundtable not just as a discussion time, but also a platform to generate an action place for vulnerable groups as these.

#### **IV. Vulnerabilities behind Bars**

Following this, Ms. Anisha Joseph presented a Power Point on '**Vulnerabilities and Socio-Legal Issues in Prison and Role of Civil Society**'. She reiterated the common thread of the roundtable that ALL prisoners are vulnerable towards various types of abuses. The prisons are increasingly becoming a dumping ground for 'criminals' and that the rehabilitative aim of prisons is being overshadowed by the punitive aim. The intrinsic abusive atmosphere of prison was presented by drawing a parallel with the Stanford Prison Experiment in 1971 led by Philip Zimbardo of Stanford University. The study showed the negative psychological effects of becoming a prisoner (or prison guard) and human response to captivity. However, there are special groups in prisons who require special attention because of their disadvantaged position even in the society like Poor and Indigent, Juveniles, Women, Mothers & Children of Prisoners, Disabled – Physical and Mental, Terminally Ill, Elderly, LGBTQ, Foreign Nationals, Death Row Prisoners, Caste and Other minorities. Some of the issues that bring about these vulnerabilities were discussed to show avenues where civil society organizations could intervene and can find their space. Like:

- ⊙ Lack of Legal Awareness
- ⊙ Lack of Representation
- ⊙ Unnecessary Overstay and Remand
- ⊙ Inadequate Health Services – Ambulance
- ⊙ Family Connect & Mulaqat
- ⊙ Mental Health Services
- ⊙ Rehabilitative measures
- ⊙ Prison Conditions – Irregularity of Monitoring System

After identifying areas of vulnerabilities, Ms. Anisha spoke about two modes of contributions by civil society organizations: *Changing Socio-Economic Impacts of Detention & Prison Reform*. This then translates into three levels of interventions depicted in the figure below:



After this, the table was open for discussion and various suggestions came forward. One of the participants suggested that CHRI should have a meeting with the CJMs on remand and bail practices. The concern over lack of data was raised which becomes a road block to strategize and create solutions. Ms. Sana spoke about the relevance of RTI tool here and mentioned that it is precisely for this reason that civil societies should actively use RTIs. A simple RTI like on the number of health care professionals in prison, deaths in custody, etc. can ensure civil monitoring of the closed system. For the records that are not maintained, RTI can push for them to be maintained. A participant suggested that proactive disclosure should be the methodology adopted by the prison department. Though there are several software for maintaining data, the issue boils down to lack of trained staff and the workload which also make it difficult to maintain basic data. Ms. Kavita suggested the way every police station should have a board on rights of accused, similarly prisons should have one too. She also shared a best practice wherein the Jail Superintendent keeps aside one day, Monday, to meet every inmate personally. This shows that willingness of the Jail Superintendent to have a one-on-one connect with each prisoner and making possible options that are conventionally assumed to be unachievable.

### ***V. Participant's Initiatives***

Post this discussion, every participant was encouraged to take up one initiative that they would take at on an individual or organizational level to contribute to the larger goal of prison reforms. Following were the initiatives taken by the participants:

#### **Ms. Varsha Kothari, Programme Coordinator, GRAVIS**

- ❖ To conduct health camps in prison
- ❖ They are open to file an RTI with CHRI on health
- ❖ They could arrange for an Ambulance for the prison
- ❖ They can help CHRI in locating family of prisoners in places where they have their presence.

#### **Mr. Kailash Chand, Advocate, Academy for Socio- Legal Studies (ASLS)**

- ❖ They would provide lawyers for legal aid for prisoners
- ❖ They would file an RTI to get a list of bail & no surety cases
- ❖ They would open accounts of minors or even for prisoners beyond 18 years who have mental illness

**Mr. Sunil Mohnot, Indra Rehabilitation Vocation and Recreation Sansthan**

- ❖ They would want to initiate work on Post release rehabilitation
- ❖ They would be interested to work on the elderly – recreational activities

**Ms. Kamini Mathur, Rotarian, Rotary club**

- ❖ They would be interested in providing material for tailoring and painting for women in prisons
- ❖ They would also provide benches for visitors in Jaipur prison
- ❖ They would make regular visits to monitor the things given by their organization like children's toys, etc.

**Mr. Shashi Bhushan Gupta, Chairman, Legal Helpline Society**

- ❖ They would file an RTI and get the number of prisoners eligible for 436A
- ❖ They would provide free legal aid to prisoners
- ❖ They would provide books and reading material from their organization for prison library

**Pastor Binoy John, Fellowship Church of India**

- ❖ They would regularly visit prison and provide counseling help to prisoners

**Ms. Kavita Srivastava, General Secretary, PUCL**

- ❖ They are doing an initiative wherein they are getting around 200 interns who will go and visit prisons and may help in connecting prisoners with their families. T
- ❖ They are keen on supporting the Mulaqat system
- ❖ They would file an RTI on how many children are in Jails

The roundtable came to an end at around 6 pm and all the participants showed their willingness to stay in touch with CHRI and left with the hope that the program will definitely help them.



**Annexure 1: List of participants**

S.NO.	NAME OF THE ORGANISATION	ADDRESS & CONTACT NUMBERS	CONTACT PERSON
1	Mr. Radha Kant Saxena Retd. IG Prisons, Rajasthan and Consultant, Prison Reform Programme (CHRI)	P-27, Madhuvan west, 2nd Tonk Road, Jaipur- 302015	
2	People's Union for Civil Liberties (PUCL)	865, Kailash Mangal, Kisan Marg, Barkat Nagar, Jaipur-302015 0141-2594131, M: 09351562965 Fax: 0141-27110170 Email: pucl.rajasthan@gmail.com kavisriv@gmail.com	Kavita Srivastava General Secretary
3	Fellowship Church of India, Parta C-Road, Jodhpur	Prarthana Bhavan, Plot No45 IT Colony, Paota C Road, Jodhpur Tel: 0291-2545818, M: 09602009535 binoyjohn25@gmail.com	Pastor Binoy John
4	Legal Helpline Society	799, Barkat Nagar, Tonk Fatak Jaipur-302015, Rajasthan T -0141-2592084, M: 09414238324 legalhelpline123@yahoo.com guptashashi799@yahoo.co.in	Shashi Bhushan Gupta Chairman
5	Academy for Socio- Legal Studies (ASLS)	49, Vivek Nagar, Station Road, Sindhi Camp, Jaipur -302006, Rajasthan Tel: 0141-2206139, M: 09414788415 Email: aslsraj@gmail.com	Kailash Chand, Advocate
6	Mother World Foundation Trust	138, Mother World House, Ajeet Colony, Ratanada, Jodhpur. pin- 342006 Tel: 0291-2634500, Mobile No : 009571081021 <a href="mailto:mwftrust@gmail.com">mwftrust@gmail.com</a> , <a href="mailto:uttkarshnordad@gmail.com">uttkarshnordad@gmail.com</a>	Utkarsh Singh, Treasurer
7	Rotary club	73, Raj Bahwan Road, Civil Lines, Jaipur-302006 M: 093140 16534 <a href="mailto:kuchhalhari@yahoo.com">kuchhalhari@yahoo.com</a>	Ms. Kamini Mathur Rotarian
8	Indra Rehabilitation Vocation AND Recreation Sansthan	40- B, Old Public Park, RAI Ka Bagh, Umed Club Road, Umed Chowk Jodhpur, Jodhpur – 342002 (91)-(291)-2511509 M: 09414039010 sunilsinghmohnot@yahoo.co.in	Mr. Sunil Singh Mohnot
9	Seemant Lok Sangathan	2, Dilip Singh Colony, Residency Road, Jodhpur- 342001 Tel: (0291) 2626171, M: 09414243331 Email: hssodha@gmail.com	Mr. Hindu Singh Sodha
10	Gravis	3/437, 458, Milkman Man Colony Pal Road, Jodhpur- 342 008, INDIA 91 291 2785 116, 91 291 2785 317, M: 09461992263 <a href="mailto:email@gravis.org.in">email@gravis.org.in</a> , <a href="mailto:varsha@gravis.org.in">varsha@gravis.org.in</a>	Varsha Kothari Programme Coordinator