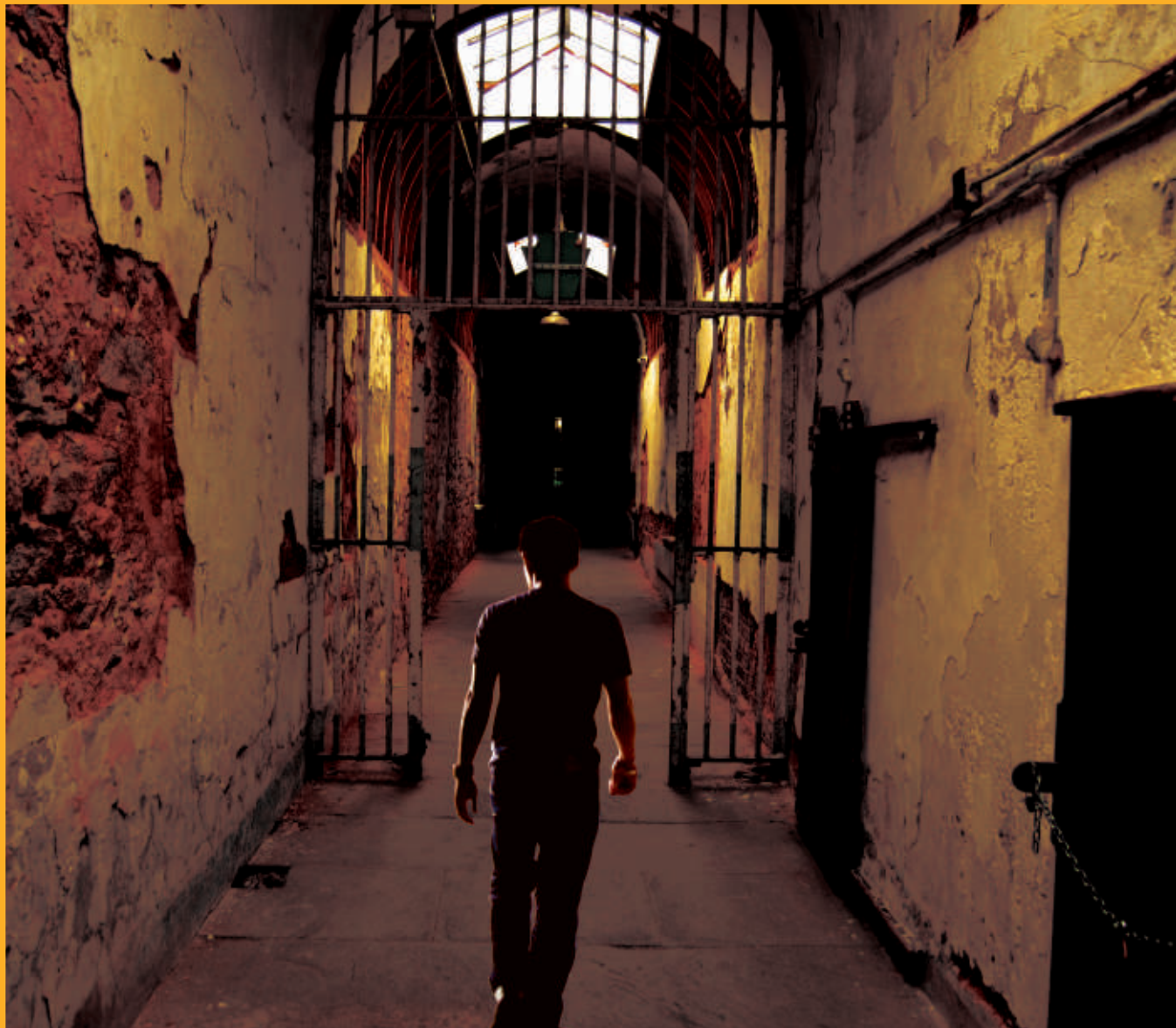


CHRI 2017

MONITORING PRISONS

A Visitor's Guide



CHRI

Commonwealth Human Rights Initiative

working for the *practical* realisation of human rights in
the countries of the Commonwealth

Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-profit, non-partisan, international non-governmental organisation, mandated to ensure the *practical* realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the organisation provided member countries a shared set of values and legal principles from which to work.

CHRI's objectives are to promote awareness of and adherence to the Commonwealth Harare Principles, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights in Commonwealth member states.

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PREFACE

This handbook is a re-print of the 2010 edition and is being re-printed in light of the directive of the Supreme Court of September 2017 to constitute Board of Visitors (BoVs) for each prison by November 2017. Prison reforms remain at low priority for governments and have also led to negligence in the implementation of statutory provisions, in particular the constitution of BoVs.

Looking into the Haze – A Study on Prison Monitoring in India, a CHRI study of 2016 indicates a near-complete absence of independent oversight of prisons in most parts of the country. The report analyses data, received through Right to Information applications, from 27 states & union territories and indicates that only 4 states had Board of Visitors constituted in all prisons, while 10 states had constituted them for some prisons. This is so despite the Ministry of Home Affairs' advisory of February 2011 on 'appointment and working of Non-Official Visitors for Prisons' to all state home departments.

The on-going petition in the Supreme Court – *Re Inhuman Conditions in 1382 Prisons* (WP 406 of 2013) has given an affirmative push to reforms as well as increased monitoring by state governments on reviving prison oversight mechanisms. In its order of 15 September, 2017, the court has directed, *"The constitution of a Board of Visitors which includes non-official visitors is of considerable importance so that eminent members of society can participate in initiating reforms in prisons and in the rehabilitation of prisoners. Merely changing the nomenclature of prisons to 'Correction Homes' will not resolve the problem. Some proactive steps are required to be taken by eminent members of society who should be included in the Board of Visitors. The State Governments are directed to constitute an appropriate Board of Visitors in terms of Chapter XXIX of the Model Prison Manual indicating their duties and responsibilities. This exercise should be completed by 30th November, 2017."*

This handbook is a valuable resource to build the capacities of those tasked with monitoring prisons. Prisons have become opaque and completely unaccountable. This can change through a process of robust oversight.

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INTRODUCTION

This handbook has been prepared by the Commonwealth Human Rights Initiative (CHRI) for use by prison visitors, officials and non-governmental organisations working in the area of prisons and prisoners' rights. The term 'prison visitors' as used in the book is not only confined to those who are part of the prison visiting system, but also represents persons who by virtue of their office, or by order of the court, or because of their interest in prison reforms, visit and monitor prisons.

This book is an updated and revised version of the 'Handbook for Prison Visitors' which was authored by R. Sreekumar and published by CHRI in 2003. The earlier version was based primarily on the prison set-up in Madhya Pradesh. This version has been modified to include examples and relevant provisions from other states as well. The handbook includes suggestions and methodologies that a prison visitor might find useful in the performance of his/her work. This edition can be seen as a resource material for both government officials and citizens who want to participate in reforming prisons.

For the past decade, CHRI has worked to strengthen the prison visiting system, through which the traditionally closed institution of prisons can be opened to public vigilance in order to scrutinise and prevent human rights violations. Though the concept of 'prison visiting system' has been in place from time immemorial, its dismal functioning can be primarily attributed to:¹

- The ignorance of visitors about their duties and powers
- Visitors' uncertainty regarding what initiatives to take and how to effectuate change which leads to ineffectiveness of the system
- Irregular constitution of the Board of Visitors which leads to lack of continuity
- Lack of training for prison visitors.

Thus, lack of adequate information and uncertainty on the part of appointed visitors seem to have led to the unsatisfactory functioning of the prison visiting system in India. To overcome these hurdles and to achieve a proper understanding of the duties and responsibilities of a

¹ These concerns were voiced at a two day seminar organised by CHRI in Bhopal in July 2000. The seminar was attended by members of the Madhya Pradesh Human Rights Commission, non-official prison visitors, prison officers, NGOs and members of the judiciary.

prison visitor, this book has been compiled for use by a prison visitor as a quick guide.

The book is divided into four parts. **Part I** deals with the concept of the prison visiting system, prison visitors, board of visitors, and describes the duties and restrictions of a prison visitor. **Part II** deals with the practical aspects of prison visits and gives suggestions on how to overcome problems encountered by a prison visitor during his visits. **Part III** outlines the problems and impediments faced by the prison staff. And finally, **Part IV** concludes and lays down recommendations for visitors.

SIGNIFICANCE OF THE HANDBOOK

The compilation deals with every aspect of prison visiting in detail and includes relevant examples of good practices. The recommendations given by the All India Committee on Jail Reforms 1983 and the Model Prison Manual, 2003 as prepared by the Bureau of Police Research & Development have also been included.

The suggested mode of intervention is of positive engagement as opposed to outright confrontation. There is better chance of achieving prison reforms if prison visitors encourage prison officers and staff to pursue good work as part of a common mission. One must note that the success of the external oversight mechanism of prison visitors lies in the cooperation of the prison visitor with the prison staff.

CHRI encourages readers to, as far as possible, persuade, motivate, mobilise, cooperate and coordinate with all the partners concerned, to pool their resources and strengths to solve the problems embedded within the prison system. The goal should not be merely to point out problems, but to find long-term solutions of a positive nature and be a part in implementing them. Suggestions in this handbook are not meant to be exhaustive or conclusive. Users should test the practicality of recommendations provided in their day-to-day work. CHRI invites readers to share their own successful strategies to enable us in circulating them to as many people as possible.

Remember cooperation does not mean that one has to compromise and be a silent spectator of illegal acts, brutality and corruption. Where nothing seems to stop such acts, visitors must rightly act and speak out.

PART I

PRISON VISITING SYSTEM: A MECHANISM TO MONITOR PRISONS

Prisons have traditionally been and still remain closed institutions. 'The physical structure of prisons and the archaic rules of management of these "punitive" institutions endow them with a cover of obscurity in which fundamental human rights can be unofficially violated and officially denied.'² Given this, the potential for human rights violations in prisons is immense. Prisoners are under the complete control and supervision of the prison staff for all their basic needs and necessities. The traditional practice of locating prisons outside the city adds to the fear of human rights violations. The atmosphere of secrecy which surrounds prisons, not only closes them to public participation and scrutiny, but also perpetuates the growth of corruption and violence within the prison system. Over the years, prisons have become places of 'low visibility where inhuman and even cruel conditions have prevailed. The possibility of inflicting injury and injustice on inmates has always lurked in these closed institutions. Unfortunately, the state's supervision over day-to-day happenings within such institutions has become a mere formality and the surveillance of society is conspicuous by its absence.'³

To prevent such situations it is important to establish systems through which prison conditions and staff functioning in prisons can be monitored. The need for external oversight or citizen sector intervention in prisons is not a new concept. It was recognised more than a century ago in 1894 when the Prisons Act⁴ accepted that a system of visitors would be of value in providing humanitarian aid to prison inmates secluded from society. The Cardew Committee appointed by the British Government in that year devoted a whole chapter to making this system more effective and efficacious. Addressing the need for external supervision on prisons, the Committee wrote:

*The plan of appointing persons, official and non-official, to serve as visitors to jails seems to us to form a very valuable part of the Indian system of jail administration. In the first place, it insures the existence of a body of free and unbiased observers, whose visits serve as a guarantee to the Government and to the public, that the rules of the Prisons Act and Prison Manuals are duly observed, and that abuses, if they were to spring up, would be speedily brought to light. In this respect the Indian system is, we think, superior to that followed in other countries where the visitors become a part of the prison organization, with definite powers and duties, and so become more or less identified with the prison administration. In India, they remain impartial and independent. In the second place, the existence of non-official visitors is specially valuable as supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners. **It is of great importance to create such an interest in the public mind and the appointment of non-officials is one of the best methods of promoting this end.** Although, therefore, some of our witnesses have criticized the system, we think it has only to be extended and improved in order to be productive of even greater advantages in the future than in the past.*

(Report of the Indian Jails Committee, 1919-20 – para 511.)

As a result, the concept of non-government intervention in the management of prisons was for the first time conceived in the Prisons Act of 1894. However, this concept did not find place in the body of main provisions of the Act. Under section 59, which speaks of powers to frame rules consistent with this Act, the state governments are empowered to make rules “for the appointment and guidance of visitors of prisons” in Sub-Section (25)’. Thus originated the concept of the Prison Visiting System, which is functional in most states of the country today. The present provisions for official and non-official visitors in Prison Manuals of various states are the result of this Sub-Section (25) of Section 59 of the Prisons Act of 1894.

The Prison Visiting System as it exists today is a mechanism where people from the outside community are appointed by governments to enter prisons and monitor the human rights situations there. In the *Sunil Batra case*⁵ the Supreme Court observed that the Board of Visitors is important for the protection of the rights of prisoners. It stated that the board, which includes judicial officers and people from varied social backgrounds and is vested with ‘visitorial powers’, could be an instant administrative grievance redressal mechanism to protect the rights of prisoners. The directions given in the *Sunil Batra case*, were further reiterated by the Supreme Court in the *Rakesh Kaushik case*.⁶ The Court emphasised the ‘visitorial’ role of the judiciary and directed that district magistrates and sessions judges should visit prisons on a periodical basis. It was further observed that part of their function was to acquaint themselves with the condition of tension, vice and violence and prisoners’ grievances.

This system of oversight is also beneficial for women prisoners. Though the percentage of women prisoners is low, they are in need of special care and attention. The problems that they face necessitate proper attention. The report of the National Expert Committee on Women Prisoners⁷ endorses the involvement of women social workers in prison visiting and oversight. The committee was of the view that: ‘panels of visitors should be appointed on a permanent basis to all prisons. Such panels should draw their membership on a rotative basis from among the enlightened, committees and activist women and meet monthly.’⁸ The terms of reference for the committee should include monitoring of the prison and prisoners’ conditions; implementation of jail reform; legal, mental health and rehabilitative assistance required to be rendered; staff conduct and difficulties; and prison grievance and discipline problems.⁹

The prison visiting system thus works as a ‘monitor’ of prison conditions and simultaneously acts as a ‘check’ on the prison administration.

1. PRISON VISITORS

Under the Indian Constitution ‘prisons’ as a subject of legislation is placed in the State List i.e. Entry 4, List II of the Seventh Schedule. As a result, prisons in different states vary in their organisation, management, rules and models. Accordingly, the rules for constituting the prison visiting system differ across states. In 1920, the Indian Jail Committee Report recommended that the local government may direct the appointment of sufficient number of official and non-official visitors in every central, district and subsidiary jails.¹⁰ It further states that for all central and district jails where female prisoners are confined, lady visitors shall be appointed.¹¹

A. Categories of Prison Visitors

Generally, the Prison Visiting System comprises official visitors (also known as ex-officio visitors) and non-official visitors. The official visitors consist of persons who are members of the prison visiting system by virtue of the post they hold at that time, i.e. ex-officio. For example in Madhya Pradesh, the Commissioner of Division, Inspector General of Police, Director of Health Services, District & Sessions Judge, District Magistrate, Deputy Inspector General of Police, Additional District Magistrate, Sub-Divisional Magistrate, Civil Surgeon or Medical Officer, are the ex-officio visitors to prisons within their respective jurisdictions.¹²

Non-official visitors are people from the community appointed by the government for a period of two to three years and they are eligible for re-appointment. A table listing different trends regarding appointment of prison visitors in some states is given on the following pages.¹³ It is apparent from the table that the rules pertaining to appointment of prison visitors, frequency of their visits and constitution of the Board of Visitors differs from state to state.

Data Table 1: Composition of Board of Visitors in select States of India.

Sl. No.	Name of State	No. of Visitors	
		Official Visitors (OVs)	Non-Official Visitors (NOVs)
1.	Andhra Pradesh	Sessions Judges and Additional Sessions Judges, Chief Metropolitan Magistrate-Hyderabad, District Collectors, Director of Medical and Health Services, District Educational Officers, Director of Industries, Chief Inspector of Factories, Senior Fire Officer.	Central - 6 (including 2 females) District - 3 (including 1 female) State Jail for women - 5 females
2.	Bihar	Inspector General of Civil Hospitals, Director of Public Health, Director of Industries, Assistant Inspector-General of Prisons. Of all central and district jails within their respective areas: Commissioner of the Division, Judicial Commissioner of Chotanagpur, District and Sessions Judge, Magistrate or Deputy Commissioner of the district, Sub-divisional Magistrate at district headquarter, District Inspector of Schools at Patna, Gaya, Munghyr, Bhagalpur and Hazaribagh, the Civil Surgeon, if not also Jail Officer and Sub-divisional Magistrate at Buxar.	Central - 6 District - 3
3.	Delhi	Home Secretary, Delhi Administration, Commissioner of Police, District and Sessions Judge, District Magistrate, Director Social Welfare Department.	As many as the Administrator sees fit
4.	Goa, Daman and Diu	District Magistrate, District and Sessions Judges, Superintendent of Police, Chief Engineer, Director of Health Services, Director of Industries and Mines, Director of Agriculture, Director of Animal Husbandry and Veterinary Services, Director of Education, Director of Social Welfare, Director of Psychiatry and Human Behaviour, Executive Engineer, Block Development Officer.	2 for each Jail

Chairperson of Board of Visitors	Members of Board of Visitors	Frequency of Visits	
		Board of Visitors	OVs or NOVs
District Collector Ex-officio Chairperson	Official, ex-officio and NOVs	--	Weekly
The Commissioner of the Division when the jail is situated at the headquarters of the division and the District Magistrate in other cases.	OVs and NOVs	Quarterly	Central - fortnightly District - weekly
District Magistrate	2 ex-officio and 1 NOV	Quarterly	Monthly
District Magistrate	Ex-officio and NOVs	Bi-annual	Fortnightly

Sl. No.	Name of State	No. of Visitors	
		Official Visitors (OVs)	Non-Official Visitors (NOVs)
5.	Kerala	Sessions Judges, Collectors and District Magistrates of Trivandrum, Trichur and Cannanore. District Educational Officer. Inspector General of Police, Director of Health Services, Director of Industries, Director of Agriculture, Director of Public Instruction, Chief Inspector of Factories.	As many as the government thinks fit
6.	Madhya Pradesh	Commissioners of Divisions, Inspector General of Police, Director of Health Services, District Sessions Judges, Additional Sessions Judges where there is no District and Sessions Judge, District Magistrate, Deputy Inspector General of Police, Additional District Magistrate and Sub-Divisional Magistrates. Civil Surgeons or Medical Officers (not in central jail).	Central - 6 District - 3 Subsidiary - 2
7.	Maharashtra	Sheriff of Bombay, Presidency Magistrates Greater Bombay, Sessions Judges, District Magistrates, Taluka Magistrates, IG Police, Commissioner of Police, Greater Bombay, DIG Police, District Superintendent of Police, Commissioners of Divisions, Superintending Engineers, Executive Engineers, Surgeon General with Maharashtra Govt., Civil Surgeons (not medical officers of prisons), Director of Public Health, District Health Officers, Director of Education, Director of Social Welfare, Educational Inspectors.	Prisons in Greater Bombay - 11 Central - 9 District - 6 Remaining Prisons - 4

Chairperson of Board of Visitors	Members of Board of Visitors	Frequency of Visits	
		Board of Visitors	OVs or NOVs
District Collector Ex-officio Chairperson	OVs and NOVs of each prison	--	Fortnightly
Collector Where subsidiary jails are not at headquarters the Additional Magistrate or the Sub-divisional Magistrate	Chairman, 1 OV and 2 NOVs	Quarterly	Monthly
District Magistrate Chief Presidency Magistrate, Bombay District Magistrate - elsewhere	Ex-officio and NOVs	--	Weekly

Sl. No.	Name of State	No. of Visitors	
		Official Visitors (OVs)	Non-Official Visitors (NOVs)
8.	Orissa	<p>Of all Jails in the State-Revenue Divisional Commissioner, Inspector General of Police, Director of Health Services, Director of Industries, Director of Agriculture, Director of Fisheries, Director of Textiles, Director of Adult Education, Joint Director of Public Health.</p> <p>Of all Jails within their respective jurisdiction:</p> <p>District and Sessions Judges, Magistrate or Deputy Commissioner of the District, District Superintendent of Police, Additional District Magistrate (Executive and Judicial), Sub-divisional Magistrate and Officer at District headquarters, Chief District Medical Officer, Executive Engineer, Inspector of Schools, District Agriculture Officer, District Health Officer, District Industries Officer, Fisheries Officer, Chairman of Municipality/Notified Area Council.</p>	<p>Central/Circle - 6 (including 2 females)</p> <p>District and Other Jails - 5 (including 1 female)</p>
9.	Punjab	<p>Commissioners of Divisions, District and Sessions Judges, District Magistrates, Sub-divisional Magistrates, Deputy Inspector-General of Police, Superintendents of Police, Reclamation Officer, Director of Industries, Civil Surgeon of the District, Director Social Welfare.</p>	<p>As the State Government sees fit</p>

Chairperson of Board of Visitors	Members of Board of Visitors	Frequency of Visits	
		Board of Visitors	OVs or NOVs
District Magistrate Ex-officio Chairperson	OVs and NOVs	Quarterly	Weekly
District Magistrate	2 OVS and 1 NOV	Quarterly	Monthly

Sl. No.	Name of State	No. of Visitors	
		Official Visitors (OVs)	Non-Official Visitors (NOVs)
10.	Rajasthan	IG of Civil Hospitals, IG of Police, Director of Public Health, Deputy I.G. Police (CID) Director of Industries, Collector and District Magistrate, District and Sessions Judges, DIG Police, Sub-divisional Magistrate, Deputy Director of Agriculture, Inspectors of Schools, Members of the Rajasthan Legislative Assembly, Civil Surgeon - where he is not holding a medical charge.	Central - 6 District - 3 Lock up - 2
11.	Tamil Nadu	Collectors, Sessions Judges, Assistant Sessions Judges, Chief Judicial Magistrates, Sub-divisional Judicial Magistrate, Metropolitan Magistrate, Commissioner of Police Chennai, Director of Medical Services and Family Welfare, Chennai, Assistant Director of Public Health and Preventative Medicine, District Health Officers, Municipal and Corporation Health Officer, District Educational Officers, Director of Agriculture, District Agricultural Officers, District Employment Officers, District Veterinary Officers, Senior Fire Officer, Executive Engineer.	Chennai City - 10 Other districts - 6 (including 2 females)

Chairperson of Board of Visitors	Members of Board of Visitors	Frequency of Visits	
		Board of Visitors	OVs or NOVs
The Board shall consist of 2 official and 2 non-official members, one of whom shall be nominated Chairman by the Collector and District Magistrate	2 OVs and 2 NOVs	Twice a year	OV - not less than three per year
District Collector and Commissioner of Police in Chennai.	OVs and NOVs	--	Weekly

Sl. No.	Name of State	No. of Visitors	
		Official Visitors (OVs)	Non-Official Visitors (NOVs)
12.	West Bengal	<p>Of all jails and subsidiary jails in this state - Director of Health Services.</p> <p>Of all jails and subsidiary jails within the respective areas under their official charge or within their jurisdiction - Commissioner of a Division, Magistrate or Deputy Commissioner of a district, Additional District Magistrate and Senior Deputy Magistrate at headquarters, District Judge, Sub-divisional Magistrate, Chief Medical Officer of Health, Sub divisional Health Officer, District or Assistant Inspector of Schools.</p> <p>Of the Presidency Jail-Commissioner of Police, Kolkata, the Sheriff of Kolkata, Additional Chief Presidency Magistrate, Kolkata, Professor of Medical Jurisprudence, Medical College, Kolkata, Deputy Commissioner of Police, Kolkata, District Inspector of Schools for the 24-Parganas.</p>	<p>Central - 3</p> <p>District - 2</p> <p>Subsidiary - 1</p>

Chairperson of Board of Visitors	Members of Board of Visitors	Frequency of Visits	
		Board of Visitors	OVs or NOVs
District or Subdivisional Magistrate	Resident officers among the OVs and the NOVs of each jail.	Quarterly	OVs Commissioner of Police - Once in 3 months Session Judges - once a month District Magistrate - once a fortnight NOVs - Weekly

B. Criteria for Appointment of Non-Official Visitors

The Indian Jails Committee Report had recommended that a person selected for the position of a non-official visitor of a jail should be chosen on the grounds of definite qualifications such as an interest in prison matters or other social work, or ability and willingness to assist in finding work for prisoners on release. Thus, a person who has served as a member of the governing body of the local discharged prisoners' aid society would generally be suitable for appointment as a non-official visitor.¹⁴ It further recommended that non-official visitors should possess the same powers and be entrusted with the same duties as official visitors.¹⁵ The Model Prison Manual 2003 recommends that non-official members of the Board of Visitors should comprise members of the legislative assembly of the state, a nominee of the State Commission for Women and social workers.¹⁶

The criterion for appointment of non-official visitors can be found in only a few of the state prison manuals. In West Bengal and Maharashtra, members of the state legislature are appointed as non-official visitors.¹⁷ Their prison manuals further allow the appointment of persons of position in the locality who are likely to take an interest in the welfare of the prisoners and are willing to accept this duty.¹⁸ In other states, the manuals simply empower the state government to appoint non-official visitors and do not specify any qualifications.

2. BOARD OF VISITORS

To coordinate the efforts of the official and non-official visitors, there is a provision for the establishment of a 'Board of Visitors' for each jail. Thus, the Board of Visitors is the collective voice of both official and non-official prison visitors.¹⁹ In 1983, the Mulla Committee Report recommended that, 'A Board of Visitors should be constituted for each central and district prison consisting of: Chairman - the District and Sessions Judge; and Members: 2 members of the state legislature, District Magistrate, District Superintendent of Police, Civil Surgeon, Executive Engineer of Public Works Department, District Education Officer, District Public Health Officer, District Agriculture Officer, 2 lady social workers.'²⁰ The Model Prison Manual, 2003 also recommends a similar constitution of the Board of Visitors as given in the Mulla Committee Report.²¹ The frequency of prison visits by the Board of Visitors also differs from state to state.²²

The functions of the Board of Visitors as gathered from different committee reports and state prison manuals include:

- (i) Visiting the prison - central/district/sub jail - and ensure that care and welfare of the inmates are properly attended to.²³
- (ii) Attending to requests of inmates.²⁴
- (iii) Making recommendations about the redressal of grievances and complaints of prisoners and also about living conditions in prisons.²⁵
- (iv) Helping prison administration in the development of correctional programmes.²⁶

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- (v) Monitoring the correctional work in the prison, with special attention to the degree and quality of training and the effectiveness of infrastructure/facilities in the prison.²⁷
- (vi) Suggesting new avenues leading to improvement in correctional work.²⁸
- (vii) Going into individual or collective grievances of the prisoners, and providing redressal in consultation with the prison authorities.²⁹
- (viii) Attending to the quality and quantity of prison diet, condition of the kitchen and hospital, availability of medicines, hospital management, medical treatment of the prisoners, sanitary arrangements, aspects of vocational trainings, literacy programmes, and library facilities for the prisoners.³⁰
- (ix) Regulating periodic prison visits by official and non-official visitors through the 'roster of visitors'.³¹
- (x) Ensuring at least one visit to the prison per month by an agency other than the officials of the department.³²
- (xi) Involving all persons nominated as official or non-official visitors and to give each one of them some occasions to visit the prison.³³ and
- (xii) Providing a forum to discuss the problems of prisons and prisoners outside the intervention of the prison department.³⁴

3. DUTIES OF A PRISON VISITOR

With every post of responsibility, come certain duties that must be fulfilled for the proficient performance of any work. Though the duties of prison visitors vary across states, broadly stated they include:³⁵

- (i) Visit all parts of the jail and see all prisoners.
- (ii) Satisfy themselves that the law and rules regulating the management of prisons and prisoners are duly carried out in the jail.
- (iii) Listen to and inquire into any complaint that any prisoner may make.
- (iv) Examine the cooked food.
- (v) Inspect the barracks, wards, workshops and other buildings of the prison generally.
- (vi) Ascertain whether considerations of health, cleanliness and security are attended to.
- (vii) Ascertain whether proper management and discipline are maintained.
- (viii) Find out if any prisoner is illegally detained, or is detained for an undue length of time while awaiting trial.
- (ix) Examine prison registers and records.
- (x) Hear, attend to all representations and petitions made by or on behalf of the prisoners and direct, if deemed advisable, that any such representations or petitions be forwarded to government.
- (xi) Visit prisons at regular intervals. Only repeated visits can indicate the real situation inside prisons that are often tagged as 'model' prisons.

- (xii) Enter observations, remarks, complaints and suggestions in the Visitors' Book in their own handwriting.
- (xiii) Mention in the Visitors' Book the cases referred to the District Magistrate or the government, etc.
- (xiv) Encourage the prison staff to view their prison visits as an opportunity for collaboration to improve conditions and solve problems.

4. OBLIGATIONS & RESPONSIBILITIES OF OFFICIAL VISITORS³⁶

Designation	Obligation	Responsibilities
Commissioner of Division	<ul style="list-style-type: none"> ■ Constitute Board of Visitors ■ Visit the Jail once every three months 	<ul style="list-style-type: none"> ■ Visit the jail personally ■ If that is not possible in a particular instance, depute another responsible officer to visit and report ■ Obtain government orders in response to visitors' notes
Inspector General of Police	<ul style="list-style-type: none"> ■ Ensure an adequate number of police guards to accompany prisoners to courts and hospitals 	<ul style="list-style-type: none"> ■ Visit personally at least once every quarter ■ If that is not possible then obligate the DIG to visit and report
Director of Health Services	<ul style="list-style-type: none"> ■ Find out the status of medical facilities in the jail, health problems of prisoners and provide solutions to them ■ Depute adequate number of well-qualified and experienced doctors to all prisons in the state 	<ul style="list-style-type: none"> ■ Visit personally ■ Otherwise ensure that the Civil Surgeon or Medical Officer of the district visits the jail regularly and discharges his/her duties professionally

Designation	Obligation	Responsibilities
District Magistrate	<ul style="list-style-type: none"> ■ Organise quarterly meetings of Boards of Visitors ■ Be personally present at such meetings ■ Attend to matters concerning probation, parole, temporary leave, emergency leave, delay in preventive detention matters etc. ■ Take interest in solving other problems of prisoners 	<ul style="list-style-type: none"> ■ Visit personally ■ Otherwise ensure that the Additional District Magistrate/SDMs visit and report to the DM on a monthly basis. ■ Call for periodic status reports from the Superintendents ■ Take appropriate decisions on visitors' notes and ensure their timely implementation
District and Sessions Judge	<ul style="list-style-type: none"> ■ Dispose off the cases of under-trial prisoners in an appropriate and timely manner ■ Take timely action on the appeals of prisoners ■ Ensure that copies of the decision and order are supplied on the day of judgement itself ■ Take instantaneous action on the applications and requests of prisoners during visits to jails. 	<ul style="list-style-type: none"> ■ Visit personally ■ Otherwise ensure that the Additional District & Sessions Judge/Judicial Magistrate visit and report to the Sessions Judge on a monthly basis ■ Call for periodic status reports from the Superintendent ■ Take appropriate decisions on visitors' notes and ensure the timely implementation of the directions of the Supreme and High Courts

Seeking Attention of the District & Sessions Judge

The Sessions Judge is one of the most important official visitors to any prison. Since offenders are sent to prison under the orders of the court, Sessions Judges are directly responsible for the prisoners as their custodians. The Mulla

Committee report also recommended that in each prison the Sessions Judge be made the Chairperson of the Board of Visitors.³⁷ In 2000, Justice J.S. Verma, former Chief Justice of India and the then Chairperson of the National Human Rights Commission had sent a letter to all Chief Justices of states asking them to direct the Sessions Judge to visit the jails.³⁸ The letter stated, “The state prison manuals contain provisions for District & Sessions Judges to function as ex-officio visitors to jails within their jurisdiction so as to ensure that prison inmates are not denied basic minimum standards of health hygiene and institutional treatment. The prisoners are in judicial custody and hence it is incumbent upon the Sessions Judges to monitor their living conditions and ensure that humane conditions prevail within the prison walls also.”

However, at times the Sessions Judge is preoccupied with other judicial work and may not visit prisons often or pay much attention to them. To catch the attention of the Sessions Judge a non-official visitor can take note of the following suggestions:

1. Find out whether the Sessions Judge is visiting the jail or not. If not, a delegation of the other visitors must apprise the Judge of the condition of the jails and problems therein.
2. Invite the Sessions Judge to visit the jail on any day. If the Judge is unable to visit during working days due to excessive work pressure, arrange the visit on a Sunday or a day of special significance (for e.g. Independence Day, Republic Day or Gandhi Jayanti, etc.).
3. During the Judge’s visit get the prisoners themselves to speak about their problems.
4. Consult the superintendent beforehand about the issues to be raised with the Sessions Judge and the manner in which they may be broached.
5. Ensure that the visit is properly organised in conjunction with the Superintendent or Jailor about the issues to be placed before the Sessions Judge.
6. A way to emphasise the prolonged detention of under-trial prisoners could be to line them up in single rows or form groups according to the duration of their pendency, i.e. pendency of their cases.
7. A similar approach can be adopted to point out the courts where the pendency of cases is high. The prisoners can be organised into single rows or groups in accordance with the courts where their cases are pending.
8. On noticing this, the Sessions Judge can take necessary steps to find out the reasons and give appropriate directions to the concerned Magistrate or Additional Sessions Judge to speed up the cases.
9. Bring to the Session Judge’s attention, cases of under-trial prisoners who are eligible for release on bail/personal bond under Sections 436 or 436A CrPC.
10. Other legal problems such as legal aid, lack of surety, etc. should also be brought to the Sessions Judge’s notice. Specific remedies may be suggested which the Sessions Judge could take note of.

5. RESTRICTIONS

Even though prison visitors are endowed with a number of broad powers and responsibilities, they are bound in their work by certain restrictions. Thus, a prison visitors must:

- (i) Abstain from abusing their roles.
- (ii) Not abuse his/her powers by weakening the moral authority of the prison staff over the prisoners.
- (iii) Not demand special treatment for a relative or acquaintance who may be lodged in the prison. S/he should advocate for fair and just treatment for all prisoners alike.
- (iv) Not seek publicity from the plight of poor and disadvantaged prisoners. Such an attempt is highly unethical, immoral and counter-productive,
- (v) Not issue any order or instruction to any subordinate jail officer. All recommendations should be made in the visitors' Book kept especially for that purpose.
- (vi) Refrain from visiting the prison for reasons that are extraneous to their responsibilities. The purpose of visit should always be bonafide.
- (vii) Not indulge in corrupt practices with prisoners or prison staff.

PART II

PRACTICAL ASPECTS OF PRISON VISITS

It is important that prison visitors are able to distinguish between what they are shown and what is actually happening in the prison. Covering up is relatively easy when there is prior information of a prison visit. Clean-ups, whitewashing and arranging good quality food at short notice are all preparations that they should be wary of when inspecting prisons. A few pointers and indications that can give visitors some clues in interpreting what is shown to them are discussed in the following sections.

A GLANCE AT CONDUCTING A PRISON VISIT

Stage of Visit	Action to be taken
Before the Visit	<ul style="list-style-type: none"> ■ Collect available information ■ Know the facts, rules and relevant legal provisions ■ Define the objectives of the visit
During the Visit	<ul style="list-style-type: none"> ■ Initial talk with Superintendent/Jailor ■ Visit of the prison premises ■ Consultation of registers ■ Interview prisoners in private ■ Talk to other prison staff ■ Make notes in the Visitors' Book ■ Final talk with the Superintendent/Jailor
After the Visit	<ul style="list-style-type: none"> ■ Follow-up by visits and correspondence ■ Investigation of prisoners' complaints

1. CONDUCTING A PRISON VISIT

A. Before a Prison Visit

To get the most out of a prison visit, it is important to prepare beforehand. The prison visitor should be himself/herself thoroughly prepared before every prison visit. While preparing oneself, the following can be kept in mind:

- i) **Collect available information:** The prison visitor should try and collect all available information for the prison to be visited. This can be done by either summarising information obtained during earlier visits, or researching other sources such as newspaper reports and the internet. Communicating with lawyers in the locality could also be a reliable source of information. Recent incidents or known problems of the prison could provide valuable information to keep note of.
- ii) **Know the facts, rules and other relevant legal provisions:** Facts such as the number of total inmates, percentage of under-trial prisoners,

number of female inmates, etc. for that particular prison as well as their condition is useful information about which a prison visitor should be aware. In addition, the prison visitor should find out the authorities directly responsible and the authorities to whom they can report. Knowledge of relevant rules and legal provisions pertaining to prison conditions and prisoners' rights would benefit the prison visitor in getting more out of their prison visit. Some sources of information would be the State Prison Manual; where available, the state legislation on prisons; Supreme Court judgements; High Court judgements and the guidelines issued by the National Human Rights Commission (NHRC).³⁹

- iii) **Define objectives for the visit:** The number of issues and concerns within a prison can be numerous. Therefore, defining specific objectives beforehand would assist the prison visitor in coming to concrete conclusions regarding the prison conditions. For instance, objectives may include a general evaluation of the conditions of detention, a follow-up visit to check on specific aspects of imprisonment, a follow-up on individual cases or complaints, etc. Preparing a check list⁴⁰ for quick reference in line with the objectives could be useful tip to obtain the desired results from the prison visit.
- iv) **Team visits:** Where a team is visiting, it would be advantageous if the team members would identify any one team member to head the team. This person would then divide the tasks amongst the members. Each member would then share information with the other team members. Once the objectives have been discussed and the other details of the visit have been worked out, the team should prepare a check-list of the prison conditions as a means of guaranteeing standardised collection of information. This would help in compiling and documenting information after the prison visit.

B. During a Prison Visit

Monitoring prison conditions is a delicate task and requires great attention to be paid to every minuscule detail of the visit. During the visit, a prison visitor must remember to respect all internal regulations of the jail. They should refrain from requesting any special dispensation from the prison staff. Respect for the staff and for those incarcerated is also an important point to remember when conducting the visit. Prison visitors should refrain from adopting the naive approach of seeing things in terms of the good guys, i.e. prisoners and the bad guys, i.e. prison staff.⁴¹ A prison visit can be conducted as follows:

Step 1. Initial talk with the Superintendent/Jailor

The first visit to a prison should begin with a meeting with the person in charge

of the prison. This talk is the first step in establishing a dialogue with the prison authorities. During the conversation the prison visitor can:

- a) Introduce himself/herself and other members of the team(if present)
- b) Explain the objectives and duration of the visit
- c) Request information about the place of detention
- d) Ask for the opinion of the superintendent/jailor on the conditions of imprisonment and any problematic aspects
- e) Fix a meeting to talk about the results of the visit.

Step 2. Visit the prison premises

If it is the first visit, it is particularly important to see all the areas of the prison. All prison visitors should be acquainted with the layout of the prison premises. It would be helpful if this is done with the Superintendent/Jailor or any other official who is able to provide useful information about the premises. The visit would help the prison visitor gain a first impression of the atmosphere in the prison. The visitor can locate the prisoners' living area as, kitchen, bathing area as, leisure areas, workshops, fields, etc. The visitor can also get an overview of the services rendered, such as health services, provisions for vocational trainings as, legal aid services, etc. A prison visitor can decide which areas to visit for all other subsequent visits depending upon the desired objectives. However, it would be advisable to render absolute priority to areas such as living barracks and the cells of prisoners, provisions for hygiene and sanitation, food provisions, health provisions etc. See *Annexure II* for a list of key points to be observed during a visit to the prison premises.

Step 3. Consult the registers

Registers are an important source of information, which reveal a good deal about the living conditions of prisons and the efficacy of the prison administration. Depending on the State Prison Manuals, there can be different kinds of registers. For instance, the Maharashtra Jail Manual mentions 52 records that must be kept and maintained by the prison officials.⁴² These registers are required to be completed on a routine basis by the prison staff. If there is any irregularity in completing them, it is a sign of mismanagement by the prison staff.

Step 4. Interview the prisoners in private

Building confidence amongst prisoners is an important aspect which a prison visitor should work on. To facilitate this it is important to prison visitors interact with prisoners during the visit. This can be done either in a group or individually. Group talks make it possible to obtain general information and grievances about the prison. However, it would not be advisable to discuss sensitive issues such as relations with the staff or disciplinary questions in a group. Individual talks provide more substantive information on prison conditions and the actual

facts about prison management. Treatment by the prison staff, facilities and conditions of services are issues which can be discussed with the prisoner, individually. Usually a prison escort is present; but it is not necessary that s/he always be in earshot of the prison visitor and the prisoner. These visitors should gather only relevant information which is necessary to assess the prison conditions. Efforts should be made to prevent the interview from resembling an interrogation.

Step 5. Talk to other prison staff

During the prison visit, the visitor should meet prison staff from all departments within the prison. The visitor should seize every opportunity to talk to them, as casual conversations can, over time, help establish constructive working conditions.

Step 6. Make notes in the Visitors' Book

An undocumented prison visit is as unhelpful as no visit at all. Therefore, it is important that once the prison visit is made, the visitors should prepare notes. This would enable the Superintendent, the Inspector General of Prisons and the government to take necessary steps to address any issue raised by the visitor.

Step 7. Concluding talk with the Superintendent/Jailor

It is important to formally end the prison visit by letting the Superintendent/Jailor know of your observations and communicate a summary of your visit. Any recommendations that the prison visitor wants to suggest can be discussed with the Superintendent at this final stage.

C. After a Prison Visit

i) Follow-up

Simply writing notes in the Prison Visitors Book or maintaining their own records is not enough. On subsequent visits, a prison visitor should insist on checking the progress made on the notes and suggestions laid down earlier while following up on the progress, it would be fruitful to invite collaboration to speed up the process. Yet, being persistent is also necessary and a prison visitor should pursue the matter with higher officials, if required. Being communicative, consistent, and firm about one's expectations can help ensure that the visitor's suggestions are taken seriously.

However, if the visitor feels that the orders issued are not being complied with and their notes are not being taken seriously, then the visitor must approach other agencies of the government for assistance. Consequently, a visitor may approach the District Magistrate, the Commissioner of the Division, the Sessions Judge, the Chief Justice of the High Court, the Inspector General or Director

General of Prisons, the Jail Minister, the Principle Secretary (Jail) or the National and State Human Rights Commissions.

Before doing so, it is important that the prison visitor should determine the cause of inaction and identify the individual responsible for staging the problem. It is important to remember that certain systemic issues such as overcrowding and delay in trial, are beyond the control of prison officials. A prison visitor should also remember to inform the prison officials before informing any outside agency. This might itself lead to an improved response; if not, then the prison visitor should, without delay, contact the agencies and officials mentioned above.

Conducting a follow-up visit is a useful method to find out whether the visitor's suggestions have been implemented or not. Therefore, soon after the initial visit, the prison visitor may plan another visit after a few weeks. This will be a persuasive strategy to create pressure on the prison administration to implement recommendations of the visitor. In addition, if other higher officials are involved in implementing the recommendations, a follow-up correspondence can also be an important and effective tool. Regular correspondence seeking updates on orders issued and work carried out are crucial.

ii) Investigation of Prisoners' Complaints

When a prison visitor receives a complaint from a prisoner or a group of prisoners, they should not jump to conclusions and rush to the prison official or other agencies for its redressal. Instead, a three-fold approach may be adopted to arrive at the truth.

- First, *interview the particular prisoner* or prisoners concerned, and find out the details of the matter.
- Second, *interview the authorities* to find out their position on the prison system as a whole, conditions of imprisonment and problems encountered thereof.
- Third, *form your own independent and impartial judgement* after gathering the full body of information.

Verification of facts

It is essential that all facts of the complaint are verified before responding to it. One should never reprimand the prison staff without verification of the complaint. This can hamper speedy redressal of problems and heighten the stress. Moreover, the investigations should be thorough so as to limit false complaints. False complaints often weaken the morale and spirit of prison officials and may also lead to problems of disorderliness and indiscipline among officials and inmates.

Thus, a prison visitor should gather facts to determine the validity of a complaint. To carry this out, it is important to conduct interviews privately and extract as many substantiated details as possible. If an escort has been sent along, then the prisoner must be taken aside and spoken to outside in private.⁴³ If it seems inappropriate to interview the prisoner in the presence of the escort, then the prison visitor should devise a plan accordingly. The important facts to be gathered are:

- a) The exact date and time of the incident.
- b) Names of all the people involved including witnesses.
- c) The name of the person who committed the act complained about, and this person's designation or position in the prison administration.
- d) Whether the act was carried out alone, in a group, or in collusion with other prisoners or officials.
- e) The motive as alleged by the complainant.
- f) In addition, try and determine if there is corroboration for the prisoner's account by talking to multiple co-inmates and witnesses.

Interviews with the prisoner and prison staff should be completed on the same day. The prison visitor should be both persistent and meticulous about finding time to determine the jail staff's version of events through the same process described above. The complainant should be protected from being forced to change his/her statement. This can be done by letting all parties know that you have collected evidence from numerous sources and will follow the matter to a conclusion.

If after getting the facts verified from all sources and having logically mulled over them, the prison visitor comes to the conclusion that the allegations are true, the visitor must approach the prison authorities. If they are not prepared to accept responsibility for the same, then approaching the District Magistrate or Sessions Judge should be considered. Once they have been informed, the prison visitor must ensure the safety of the prisoner. If necessary, a transfer to a safer prison can be recommended.

Where the complaint is of violence, the official records must be verified by himself/herself. The reasons cited for resorting to violence should be closely scrutinised. There is no justification for prison officers to unleash violence on anyone except in self-defence, when a riot breaks out or to control a prisoner who is bent upon attacking or injuring another prisoner.

Once all the facts pertaining to the complaint have been verified, the prison visitor should arrive at some conclusions. Depending on the nature of the complaint,⁴⁴ the complainant should be encouraged to the matter with the jail official who is immediately responsible for the welfare and discipline of prisoners. If there is fear or suspicion that redress will not be forthcoming from that

particular officer, then the visitors should encourage the prisoner to approach a higher official. A prisoner should also be encouraged to stand by his/her allegations.

As far as possible, prisoners' petty complaints such as verbal abuses should be sorted out among themselves. Prisoners should be encouraged to foster respect for each other. A prison is a highly charged and tense place, thus efforts should be made to prevent small disputes blowing up into major problems.

2. IMPORTANCE OF 'VISITORS NOTES'

To bring change in prison conditions it is important that visitors not only spell out the flaws but also attempt to find practical solutions. To this end, keeping accurate notes is an indispensable tool. The visitor's notes help the prison visitor follow up on their recommendations. They are also invaluable for the prison administration and staff, as they may list out possible solutions to improve prison conditions and thus assist them in their work. Moreover, keeping notes reduces the possibility of overlaps in discussion on the same issues during each visit.

It is advisable for the prison visitor to maintain a personal record of every prison visit.⁴⁵ This would help the prison visitor to keep track of suggestions made, and would be a useful source of information for preparation for future visits. This record can also help the government to evaluate the visitor's performance at the end of the term. The following should be kept in mind while making visitors' notes: (internal visit note)

1. Visitors must be regular in writing notes, jotting down specifics immediately, such as the time they arrived and the time they left the prison.
2. The notes in the Visitors' Book should be made in his/her own handwriting.
3. An entry should be made every time a visit is conducted.
4. Notes should identify problems along with their actual causes and possible solutions.
5. They should contain the name of particular prison officials to whom any suggestions or requests were made.
6. They should also note any follow-up action taken by the visitor and the prison authorities.
7. The remarks may include complaints made by the prisoner, which in opinion deserve the notice of the government.
8. The visitor may also record any remarks or suggestions with regard to the internal arrangement of the jail or the state of discipline maintained therein.

9. Notes should be comprehensive and focussed on target issues. They should avoid generic language and words that do not convey anything substantial about the prisons conditions. For instance, a visitor should refrain from making a note such as “condition in prison was found to be ok”. This does not convey any specific information regarding the various different areas relating to prisons such as food, living conditions, hygiene, clothing, water supply etc.

3. VISITORS' TASKS⁴⁶

Asking the right questions, discovering problems, and providing constructive solutions to overcome the problems is the Prison Visitors' main task.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
Buildings Are the buildings safe? Do they need repair, plastering, etc?	The Public Works Department (PWD) does not pay proper attention to letters sent by the Prison Department and at times pleads lack of funds.	<ul style="list-style-type: none"> ■ Point out problems clearly and suggest the appropriate course of action. ■ Being members of society, visitors should bring adequate public pressure on the Commissioner of the Division and other authorities to set things right.
Overcrowding If there is overcrowding, what arrangements are being made for prisoners' safekeeping?	<ul style="list-style-type: none"> ■ More people are being sent to prison under Sections 151, 107, 116 of the CrPC. The processing of applications by eligible prisoners for release on probation, parole, temporary release, 	<ul style="list-style-type: none"> ■ Convince the Sub Divisional Magistrate to release less dangerous prisoners on personal bond rather than send them to prison. ■ Ensure that applications for release on probation are disposed of within a maximum

Questions to ask	Possible obstacles/problems faced by prison staff in implementing visitor's suggestions	Suggestions for action
	<p>etc. is often delayed by officers in the district administration and other wings of the criminal justice system.</p> <ul style="list-style-type: none"> ■ Prolonged overstay of undertrial prisoners is a recurrent problem. ■ Parole is not granted on a regular basis. 	<p>period of 2 months after being sent from the prison.</p> <ul style="list-style-type: none"> ■ Advocate that more weight be given to the objective and informed opinion of the Probation Officer than that of the District Magistrate and Superintendent of Police. ■ Advocate with the Governor and Chief Minister to award pardon and remission to eligible prisoners undergoing life sentences. ■ Advocate for the implementation of section 436A/436 CrPC. Approach the judiciary and higher officials to work out a plan to do this on a regular basis.
Drainage Is the drainage system functioning well? If not, what are the defects? Are drains cleaned periodically?	<ul style="list-style-type: none"> ■ The PWD is responsible for the maintenance of pipes and drains. More often than not, they plead lack of funds. 	<ul style="list-style-type: none"> ■ Exercise your influence with officials of the PWD to do their job in a timely and effective manner.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
Water Supply Is water available in sufficient quantities? Is the mode of storing water safe?	<ul style="list-style-type: none"> ■ Water is not available in sufficient quantities from the water supply board. ■ Water purification sets are not available in jails. ■ There is a lack of adequate facilities to store water in proportion to the number of prisoners. ■ At times, sufficient quantities of water are not made available by the water supply board even for bathing purposes. 	<ul style="list-style-type: none"> ■ Influence the municipal corporation to provide more water to the jail and charge less in terms of taxes and levies. ■ Help in the installation of water purification sets and water coolers. ■ Help with the implementation of rainwater harvesting techniques in jails situated in arid, semi-arid, remote, and backward areas.
Water Wells (if present) Are the wells cleaned regularly?	<ul style="list-style-type: none"> ■ Earlier, prisoners were deputed for this task and they earned remission for the same. The present lot of prisoners is not interested and perceives this task to be dangerous. 	<ul style="list-style-type: none"> ■ Put pressure on the PWD to do this job. ■ If that is not forthcoming, work on determining an alternative course of action.
Food Are food items being stored properly? Are they of good quality?	<ul style="list-style-type: none"> ■ With increase in overcrowding, it is difficult to find adequate space to store food items hygienically. 	<ul style="list-style-type: none"> ■ Suggest construction of temporary store-houses.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
Weight and Quality of Vegetables Do the vegetables match the weight as given in the prescribed weight chart? Are they clean and of good quality?	<ul style="list-style-type: none"> ■ When vegetables are peeled for cooking, their weight goes down whereas in buying them peeled, their nutrients are lost. 	<ul style="list-style-type: none"> ■ Check the guidelines in the Jail Manual and ensure they are duly followed.
Is the quantity of food issued correct and properly cooked?	<ul style="list-style-type: none"> ■ In the absence of a trained cook, the food prepared is not very tasty. ■ Inmates get items issued from the store to cook food themselves. This is bound to create problems. 	<ul style="list-style-type: none"> ■ Suggest initiatives for the appointment of cooks in the jails. ■ Cooking lessons for convicts sentenced to life imprisonment and others who volunteer.
Ration Are full rations available for all prisoners?		<ul style="list-style-type: none"> ■ If the visitors note any problem or discrepancy in the quantity & quality of rations then they should pursue the matter with the jail authorities.
Oil and Condiments Are oil and condiments added to the curry in the presence of responsible officer?		<ul style="list-style-type: none"> ■ Check the Store Requisition Book and in case of any discrepancy take necessary action.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitor's suggestions	Suggestions for action
Clothing Do prisoners have the prescribed quantity of clothing and bedding in their possession? Is the prescribed extra blanket issued during cold months? Are they in serviceable order? Is the bedding put out in the sun every day or whenever possible?	<ul style="list-style-type: none"> ■ Many prisoners do not take care of their clothing and they either tear or burn it. 	<ul style="list-style-type: none"> ■ Visitors may counsel prisoners who show deviant behaviour.
Bathing Are the prisoners required to bath regularly?	<ul style="list-style-type: none"> ■ Some prisoners do not wish to bathe regularly since their personal hygiene suffers, they get ill. ■ When some of them are forced to take a bath, they complain to the courts of being tortured! 	<ul style="list-style-type: none"> ■ Visitors may give suggestions for the maintenance of hygiene of such prisoners. Health education instructions may increase prisoners' interest in maintaining personal hygiene.
Labour Is productive work available for labouring prisoners? Who checks the work done in the evening? Is the output of each convict properly recorded on the work tickets?	<ul style="list-style-type: none"> ■ Traditional industries have become obsolete and unprofitable. ■ Factory sheds are being converted into dormitories because of overcrowding. ■ Since jail industries are closing down there is not enough 	<ul style="list-style-type: none"> ■ Formulate ideas on how those sentenced to rigorous imprisonment can be dealt with in the absence of any work in the jails. ■ Research the possibility of starting productive industries to create work for prisoners.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
	<p>work available for prisoners.</p> <ul style="list-style-type: none"> ■ Hence, prisoners sentenced to rigorous imprisonment cannot be put to work. 	
<p>Remission Is ordinary remission for industry given with reference to the actual tasks performed?</p>	<ul style="list-style-type: none"> ■ Prisoners convicted under the Narcotic, Drugs & Psychotropic Substances [NDPS] Act and for other serious offences like dacoity with murder, etc. are not given the benefit of remission. ■ Hence, they do not take any interest in completing the tasks assigned to them. ■ With such prisoners, the threat of punishment is ineffective. 	<ul style="list-style-type: none"> ■ Take up this matter at parliamentary and state legislative levels to ensure the necessary amendments. ■ Check with individual convicts in your jail, to see whether remission is being awarded for the actual work done and determine if there are any malpractices.
<p>Are there any convicts who are not receiving remission for industry for failure to perform tasks? If so, have efforts been made to enforce work by means of punishment?</p>		<ul style="list-style-type: none"> ■ Find out ways of motivating disinterested and demotivated prisoners to work without being punished.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
Punishment Is the ratio of punishments in the jail unduly high?		<ul style="list-style-type: none"> ■ Discuss ways to ensure discipline and control prohibited behaviour inside the jail without resorting to punitive action.
Discipline Are convicts regularly searched for contraband? Are convicts prevented from wandering about?	<ul style="list-style-type: none"> ■ Due to a shortage of guards, this duty cannot be successfully discharged. ■ Using convicts to monitor other prisoners is insufficient. 	<ul style="list-style-type: none"> ■ Advocate for the immediate recruitment of an adequate number of prison guards and staff members.
Are gangs of convicts marched in proper order?	<ul style="list-style-type: none"> ■ Due to a shortage of guards, this duty cannot be successfully discharged. ■ This shortage also creates security problems. 	<ul style="list-style-type: none"> ■ Advocate for the immediate recruitment of an adequate number of prison guards and staff members.
Habitual Offenders Are habitual offenders separated from others at night and is their separation from others by day carried out as far as possible?	<ul style="list-style-type: none"> ■ The problems of overcrowding and lack of adequate staff create obstacles in implementing this rule. ■ Hence habitual offenders end up influencing circumstantial and first time offenders negatively. 	<ul style="list-style-type: none"> ■ Advocate with the government for the expansion of existing jails, construction of new ones and recruitment of adequate staff members. ■ Each state should have a separate jail for all such habitual and/or

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
		<p>hardened criminals.</p> <ul style="list-style-type: none"> ■ Suggest new measures for segregating habitual offenders from first time offenders.
<p>Under-trial Prisoners Are there any under-trial prisoners who have been detained in jail unduly long?</p>	<ul style="list-style-type: none"> ■ The courts take an unduly long time in processing their cases. ■ Due to a shortage of police escorts, a majority of under-trial prisoners are not produced in courts on their due dates. ■ Not all prisoners are produced before their judges by the accompanying police escorts. In such instances, their remand dates get extended for unduly long periods. ■ Video conferencing is being used, but there are no safeguards to ensure its appropriate use. ■ Audio-visual quality is impaired. ■ This leads to anger, frustration, and 	<ul style="list-style-type: none"> ■ An adequate number of police escorts must be provided to satisfy the requirements of the jail. ■ The presiding judges should hear all prisoners lodged in court lockups in person and on the same day. ■ If you come across any prisoner whose case should be brought to the notice of the state government, refer the case to the state and if the case of any under-trial prisoner has been unduly delayed, draw the District Magistrate's attention to the case.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
	even illness amongst these prisoners.	
Mentally Ill Persons Are there any mentally ill civil offenders in jail who have been detained under observation longer than the period allowed by law and if so, on whose warrant?	<ul style="list-style-type: none"> ■ Non-criminal mentally ill people are arrested under Section 151 of the CrPC and sent to prison as a matter of routine. Such a situation creates lots of problems. 	<ul style="list-style-type: none"> ■ Pressurise the district administration to shift them from prisons to better mental institutions outside the jail. As per the Mental Health Act, 1987, non-criminal mentally ill persons cannot be confined in prisons.
Women Prisoners Are women prisoners thoroughly screened from the view of male prisoners?	<ul style="list-style-type: none"> ■ Female offenders come in the view of male prisoners when they are being taken out to court and being brought back. 	<ul style="list-style-type: none"> ■ Ensure that directions given in RD Upadhyay vs State of Andhra Pradesh are enforced.
Adolescents Are all adolescent prisoners of ages 18 to 20 or 22 separated at night, both from juveniles and adults?		<ul style="list-style-type: none"> ■ See if this rule is being violated. ■ Suggest concrete and comprehensive plans of action for their education, training and rehabilitation.
Cells & Solitary Confinement Are prisoners kept in solitary confinement as a matter of routine		<ul style="list-style-type: none"> ■ Note the harmful effects of placing people in solitary confinement and suggest viable

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
<p>and administrative convenience? Are prisoners handcuffed and fettered for unduly long periods of time including at night?</p>		<p>alternatives.</p> <ul style="list-style-type: none"> ■ Enquire about the necessity of such procedures and find out whether a medical officer is visiting such inmates every day. ■ Enquire whether there are legitimate reasons with permission from courts for such treatment and suggest alternatives.
<p>Appeals Has there been any undue delay in forwarding appeals to courts, or in the receipt of courts orders on appeals?</p>	<ul style="list-style-type: none"> ■ Copies of orders, etc. are not made available to prisoners on time from courts to enable them to appeal from jails. ■ The delay occurs in other departments like the Court Registry and at times, it takes up to 10-12 years for the final decision to be taken, even at the High Court level. 	<ul style="list-style-type: none"> ■ The judge should hand over the copy of the judgement and order to the convict at the very time of reading it out. ■ Visitors should take the initiative in addressing and solving these problems. ■ Check with the district and state level legal services authorities and make arrangements for provision of timely and effective legal services to prisoners.

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitors' suggestions	Suggestions for action
Garden Is the whole vegetable supply of the jail obtained from the jail garden? If not, can this be done?	<ul style="list-style-type: none"> ■ There is no equipment to irrigate, sow and maintain the gardens. ■ In several places, there is no barbed wiring or fencing and therefore vegetables are eaten by animals or stolen by people. 	<ul style="list-style-type: none"> ■ Contact Agricultural research institutes and the Institute of Rural Management [IRMA] at Anand, Gujarat and Mitraniketan, Trivandrum, Kerala about techniques for increasing productivity, soil conservation, water-shed management, etc. ■ Donate farming equipment suited to the needs of the prison.
Medical Health Are doctors, nurses and compounders (both male and female) present in the jail?	<ul style="list-style-type: none"> ■ The posts are vacant. ■ They are not in adequate numbers. ■ They do not visit regularly or discharge their duties professionally. 	<ul style="list-style-type: none"> ■ Raise the matter with the government seriously. Use all your contacts including positive political influence to get sincere doctors appointed to the prison. ■ Assist the Director of Health Services in your state in identifying experienced and committed doctors and medical experts from your local area who could be associated with the

Questions to ask	Possible obstacles/ problems faced by prison staff in implementing visitor's suggestions	Suggestions for action
		<p>jail hospital on an honorary basis until full time doctors are appointed.</p> <ul style="list-style-type: none"> ■ Seek out a good and experienced doctor from the area and take him/her to the Superintendent. Work out a programme for utilising his/her services. ■ For female prisoners, arrange for a sincere, committed female doctor along with a female nurse.

4. PRISON VISITORS & SUGGESTIONS FOR SPECIFIC CATEGORIES OF PRISONERS

A. Convicted Prisoners

A prison visitor can:

- i) Help jail authorities in introducing vocational courses and industrial activities which have a high market value and at the same time are suitable to the social and cultural background of the inmates. With a better means of livelihood and social support on their release, they will be empowered to stand up on their own and move forward in life.
- ii) Generate awareness and willingness in society to accept reformed prisoners back into the social mainstream.
- iii) Help them get jobs when they are released.
- iv) Invite private employers in different trades to see the work programmes; assess the training requirements inside prison and the quality of work done by prisoners.
- v) Encourage the formation of Ex-prisoners Aid Societies, at district and state level to assist in the rehabilitation of released prisoners. Such societies can help in establishing after-care homes or transit camps for those prisoners who do not have any place to go to immediately on release. These societies could also maintain regular contact with prospective employers in order to help ex-prisoners get jobs.⁴⁷
- vi) If prisoners have lost contact with their family members, the prison visitor may help to re-establish contact. S/he may write letters for illiterate prisoners and/or organise literate prisoners to teach others.

B. Under-Trial Prisoners

A prison visitor can:

- i) With the cooperation of the Superintendent of the prison, ensure that no prisoner accused of a bailable offence is detained in prison beyond 7 days after his/her date of arrest.⁴⁸
- ii) Help in filing bail applications for those prisoners who have completed their maximum or one-half of the maximum term prescribed punishment for the offence they are accused of.⁴⁹
- iii) Seek information on availability of legal aid for prisoners. The visitor should ensure that routine legal aid is made available, wherein lawyers from the district/state legal aid services authority visit prisons on a weekly or monthly basis.

- iv) Find out if availability of escorts is a problem which is causing prolonged detention of prisoners. If yes, then possibilities of using video conferencing facilities can be explored.
- v) If video-conferencing facilities are already being used in the prison then the visitor should ensure that the quality of video/audio is good and regularly monitored; the fear of coercion by prison staff is absent; all prisoners are being regularly produced; use of video conferencing is limited only to extension of remand dates and not for conducting trials etc.
- vi) If jail adalats are being held to try minor offences, then the visitors can ensure that proper guidelines, such as counselling of prisoners are being followed.⁵⁰

C. Women Prisoners & Their Children

Questions to ask:

- i) Are women prisoners completely segregated from male prisoners and guarded round the clock by female staff?
- ii) Are there female doctors and female attendees for women prisoners?
- iii) Are there sufficient facilities for them to remain in touch with family members? Are their family members coming to meet them regularly? Are family members offering all the necessary emotional, social and legal support? If not, why?
- iv) Are there sufficient facilities for pre-natal and post-natal care for a pregnant prisoner? Are medicines readily available? Is the prescribed diet being given?
- v) Is legal aid available to women prisoners?
- vi) Are there proper arrangements for engaging women prisoners in productive activities?
- vii) Are adequate wages being paid to women prisoners?

What a prison visitor can do:

- i) If a woman's family has stopped coming to visit her in prison, the prison visitor may use his/her authority as a prison visitor and talk to family members to remove their un-informed biases and try to re-establish familial and social contact.
- ii) If there are no facilities for pre-natal and post-natal care and treatment, talk to the Superintendent and doctor and get them to make arrangements. If they are unable to make arrangements due to certain reasons beyond their control, help them access alternative resources from the outside community.

- iii) If need be, arrange for delivery at a hospital outside the jail. If for practical reasons, this is not possible, get a qualified and experienced mid-wife to be present and ensure that the premises are completely sanitised before delivery.
- iv) If a child is born inside the jail, ensure that this is not mentioned in the birth certificate to prevent the child from being stigmatised in the future.
- v) Check that all children accompanying female prisoners are properly immunised against diseases.
- vi) If there are women nursing infants, arrange for a nursery or a crèche so that infants are placed in proper care when their mothers are taken to court.
- vii) When a woman prisoner's child has come of age before the end of her sentence, make arrangements for their education and welfare outside the prison. For assistance, a prison visitor may contact the Superintendent and charitable organisations and trusts in society.
- viii) A prison visitor may, with the collaboration of the Superintendent or Jailor, arrange for admitting children staying with their parents in jail to a good residential school. With a good education, they will not be forced into crime or affected by the stigma attached to their parents.
- ix) If legal aid is not readily available, the prison visitor should approach the Sessions Judge who is the ex-officio Chairperson of the District Legal Services Authority and seek his assistance.
- x) A prison visitor may also contact a female judicial magistrate or a leading female lawyer to visit the prison over the weekend. The female prisoners can apprise her of their situation and the prison visitor should motivate her to take up the issue with the judiciary.
- xi) If there are no arrangements to keep women prisoners engaged in creative and productive activities, the prison visitor should help the prison administration in providing such services.
- xii) The visitor can make arrangements for worthwhile literacy programmes. Educated prisoners can be motivated to teach fellow inmates. Help can also be sought from the local branch of the National Literacy Programme.
- xiii) The visitor can arrange work for them from the outside community. For example, handicrafts such as stitching, knitting, weaving can be encouraged.
- xiv) The visitor should ensure that all such work programmes have a market value, are dependant on market requirements and suited to the women's background and creative interests.
- xv) The prison visitor can contact cooperatives managed by women and introduce them to micro credit schemes, Cottage Industries Promotion Councils, in the area and encourage them to form self-help groups that can work together after their release from prison.

- xvi) If adequate wages are not provided, the prison visitor should find out the existing mechanism for payment of wages from the prison authorities. If there are defects, the visitor can discuss solutions with the prison authorities and help them to open bank accounts in good cooperative banks so that all earnings from prisoners' work are accumulated into one consolidated amount.

PART III

PRISON STAFF: UNDERSTANDING THEIR PROBLEMS AND IMPEDIMENTS

Prison personnel are not only expected to detain prisoners sent to them by courts, but are also expected to convert offenders through corrective treatment and rehabilitate them into responsible citizens in to the society. It is necessary to understand the genuine problems of the prison staff before judging them unfairly. Prison personnel face a host of problems. These are highlighted below:⁵¹

1. PROBLEMS FACED BY PRISON STAFF

Risky Working Conditions and Overload of Work:

- i) A prison is an extremely hostile, volatile and dangerous place where criminals are kept for terms ranging up to life imprisonment. Prison personnel have to deal with offenders for a longer period than any other branch of the criminal justice system.
- ii) Amidst the congregation of all kinds of criminals in the prisons, staff are not only engaged in hazardous and exacting tasks but are required to work under conditions of physical risk for prolonged hours. They face perpetual threats to themselves and their families.
- iii) They are expected to remain calm even in the face of verbal abuse and taunts by murderers, rapists, dacoits and terrorists.
- iv) On an average, the guarding staff in prisons work for 12 hours a day. During emergencies, this period extends even up to 14-16 hours a day.
- v) Severe shortage of staff leads to over deputation of the existing staff.
- vi) Leave reserve staff is inadequate. As a result, long leaves cannot be granted to prison personnel. On most occasions, even a week off is generally not possible.

Inadequate Salaries and Irrational Pay Scales:

- i) The work performed by prison staff is no less risky or arduous than that performed by police officials. Even police officials admit that managing a prison is a more difficult job as they have to face the abuses and threats of hostile and dangerous criminals round the clock.
- ii) Yet in many places, their salaries and other allowances are below that of police personnel. They are expected to feed and clothe prisoners to the best of standards when their own pay is insufficient to make ends meet in their homes and provide nutritious food and a good education for their children. This often leads to conflicting questions in their minds about their role.

Poor Housing Facilities:

- i) In most places, there is a lack of sufficient and properly maintained residential quarters for prison personnel. Their houses look worse than stables and without proper toilets and other basic facilities.⁵²

- ii) Owing to their association with the criminal elements of society, prison guards develop vested interests in prison inmates either for material advantages or to avert physical threats to themselves and their families.

Few Promotional Avenues and Lack of Social Recognition for Their Work:

- i) In most places, prison officers recruited as Assistant Jailors retire at the same rank even after 30 years of service.
- ii) Lapses in prison administration generally find wide coverage in the mass media whereas the good work done by most of them is seldom reported.
- iii) Problems commonly faced by prison personnel at various levels are hardly ever discussed at common forums.

Lack of Staff Welfare Schemes:

- i) In several prisons, welfare schemes, such as payment of compensation to the staff for injuries sustained in the discharge of their duties, staff welfare fund, cooperatives, medical and educational facilities for their families and children, subsidised canteens, messing facilities, are almost non-existent.

Uninformed and Unsympathetic Attitudes of Other Members of the Criminal Justice System:

- i) Often, prison personnel do not receive due cooperation and respect from the other members of the criminal justice system. Prison staff are perceived to be managers of the waste bins of society.
- ii) They are held responsible even for acts of omission and negligence on the part of the other members of the criminal justice system.

2. CONSEQUENCES OF PROBLEMS FACED BY PRISON STAFF

- i) The morale of prison personnel is often low.
- ii) The accumulated discontent of prison staff erupts in the form of mental and physical ill health, violence against prisoners, subordinates and family members, and strikes and agitations.
- iii) Poor working conditions become an excuse for the staff to avoid taking responsibility for problems.
- iv) They fear that treating offenders humanely as emphasised by the courts through their judgements will make conditions unsafe. Untrained and unqualified staff have taken such healthy directions in the wrong spirit and has interpreted them as leading to unbridled laxity in prison discipline.

3. SUGGESTIONS TO OVERCOME PROBLEMS

Without resolving some of the basic disparities and problems afflicting the prison staff, such as their inordinately low pay scales; insecure working conditions; non-cooperation from other institutions of the criminal justice system; and absence of recognition and cooperation from society, we cannot realistically expect the prison cadre to adhere to standards of human rights protection. Listed below are some suggestions for prison visitors to overcome these problems.

(i) *Broad Recommendations of the Mulla Committee*

- a) No department endeavouring to improve its personnel structure and trying to build up professionally efficient services can ignore the service conditions it offers to its employees.
- b) A natural precondition for attracting persons of requisite calibre and qualities would be to create appropriate service conditions in the prison department. Without proper and attractive service conditions people with appropriate qualifications, right attitude and requisite intelligence would not be attracted to a service which not only requires great humanism but is also exacting and sometimes even monotonous.
- c) In order to ensure a constructive interaction between prison staff and the inmates it is necessary that the former are contented with their service conditions and are socially recognised for their services. This fact is very well recognised in other advanced countries in the world.
- d) To cite the example of Japan, where correctional services are supposed to be of a higher order, officers of prison and other allied services are paid higher salaries than those of their counterparts in other civil services of the country. This is done in recognition of the nature of their duties and the social handicaps under which they have to function.
- e) Strengthening welfare programmes will go a long way, not only in raising the morale of the prison personnel, but also in strengthening ties between them and the government.
- f) Residential accommodation of good quality should be provided to all prison personnel. This will also ensure the ready availability of a force within the prison campus, round-the clock, to meet any emergent situation. In any circumstances proper residential accommodation for the staff is an essential ingredient of better institutional management.
- g) Treatment programmes conducted in prisons and other good work done by prison personnel should be given proper publicity and be highlighted through the media. This will help in boosting their morale.

(ii) *CHRI's suggestions for Visitors*

Visitors should:

- a) Establish an ongoing working relationship with the prison authorities of your jail based on honesty, integrity, and for solving problems. Work in a cooperative manner, avoiding unnecessary confrontation.
- b) Introduce yourself to all the jail staff and inform them that subject to your capacity, you are willing to assist them on any legitimate issue. This will help you win the confidence of officials and improve the overall prison environment.
- c) Identify all problems for which the prison personnel are not responsible. Liaise and advocate with the people or institutions which are responsible for them. Make them realise the consequences their negligence has on the prisoners, their families, and the prison staff. Then work out a plan of action in tandem with all concerned parties.
- d) However, remember that working in a cooperative manner does not mean that you will compromise when encountering prison personnel committing inherently brutal or corrupt acts.
- e) In situations where you are convinced that prison personnel are violating prisoners' rights without any regard for human dignity and legal norms, as a prison visitor, you have the obligation and power to set matters right.

Prison staff and their children also have needs. Staff parents are often overworked and grossly underpaid, leading to the neglect of their own families and increased tension and stress while on the job. Providing activities for staff children or easing the burden of staff parents in other ways can improve the prison atmosphere for everyone.

PART IV

CONCLUSION, RECOMMENDATIONS & POINTS TO REMEMBER

1. CONCLUSION

It is important to remember that prisons do not exist in isolation from society. All organs of the criminal justice system are responsible in a direct or indirect manner to the prison institution. In addition to this, a persuasive political will to usher reforms and favourable public opinion is also an important aspect for effectuating prison reforms in a systemic manner. For the present system to work, an informed coordinated approach is essential. Therefore, all the concerned governmental agencies assigned the task of administering prisons and the outside community, for whose benefit the system has been created, should work together in a coordinated manner. 'A purposeful and constructive local cooperation of officials of prison, police and the judiciary can go a long way in ameliorating the sufferings of prison inmates. And, if some well-meaning non-government social organisations are involved in the corrective process of prisons, it can make the rehabilitation of offenders after their release, much smoother.'⁵³

'It is in the creation of this congenial atmosphere that the role of prison visitors – official and non- official – can be best appreciated and obtained. It is they who can best (and in the spirit of a constructive approach) bring to the government's notice. the deficiencies of the system at appropriate times so that they do not accumulate or grow to unmanageable proportions. It is they who can help prison administration in securing the cooperation of non-government agencies engaged in philanthropic work to extend their activities within prison walls where a neglected mass of human beings awaits the support of society. It is they, again, who can prepare society in shedding to their rejective prejudices for casual offenders who make mistakes in haste and repent at leisure.'⁵⁴ The institution of Prison Visitors is, thus, not only desirable but essential for the development of a correctional atmosphere in prisons. It has to be retained and reinforced, if we want to open a casement on prisons for involving the society in general to improve prison conditions and help the less fortunate in captivity to make their period of incarceration less dehumanising and more productive.

2. RECOMMENDATIONS

- i) A prison visitor should refrain from becoming a part of the 'blame-game'. Experience shows that focussing blame on prison officers without addressing systemic and other issues has neither improved prison conditions nor reduced the instances of human rights violations of prisoners.
- ii) Visitors should get their names, addresses and telephone numbers displayed prominently near the main gate of the prison. These details can also be published in the local newspapers, police stations, etc. so that family members of prisoners, NGOs and social workers can contact them easily.

- iii) Where a formal Board of Visitors has not been constituted the non-official visitors themselves can form an association and go as a delegation to the Commissioner of the Division requesting for the constitution of a Board.
- iv) It would be a good idea for a non-official visitor to visit the prison along with an official visitor. This might lead to a practical and hands-on appraisal for problems in the prison.
- v) A prison visitor should invite collaboration on solutions, and be persistent in pursuing matters with higher officials if necessary.
- vi) Being communicative, consistent and firm about expectations will ensure that the prison visitor is taken seriously.
- vii) In order to save time, and perform its functions more efficiently, the Board of Visitors can divide their duties amongst the members according to each person's background. For instance, a lawyer on the Board, can focus on legal matters such as delayed trials for under-trial prisoners, premature release of convicts, remission for work performed, parole, wages of prisoners etc. Similarly, a doctor can focus on matters pertaining to health services and hygiene in the prison.
- viii) The convenience of the prison staff should also be taken into consideration while conducting a prison visit. Wherever possible, a prison visit should be scheduled at a time when neither the prisoners are in lock up nor are the prison staff busy in other administrative work.
- ix) A prison visitor should understand the different levels in the staff hierarchy and their respective responsibilities so as to be able to address problems at the right level during talks with the authorities and in the recommendations made.⁵⁵
- x) A collaborative rather than adversarial relationship should be pursued so that officials become facilitators of reform instead of obstacles to change.

3. KEY POINTS TO REMEMBER WHEN MONITORING PRISONS

- i) The visitor's approach should be corrective and restorative and not retributive.
- ii) The aim should be to point out mistakes and short-comings in a positive and constructive manner and give the other party an opportunity to correct their behaviour.
- iii) Chances of success in a prison set-up are higher if the visitor works with the prison staff in a cooperative manner.
- iv) As far as possible, the goal should be to correct human rights violations and not simply to punish those responsible.

- v) The visitor should avoid taking a confrontational stand. Begin by describing the consequences of his/her act to the erring prison official.
- vi) The visitor should describe the unjust harm caused to the prisoner as well as the penal consequences for the official that may follow if the act is exposed.
- vii) If the official refuses to listen; does not rectify his or her behaviour; does not redress the harm caused and does not refrain from behaving in a similar manner in the future, the visitor must report the incident to the official or authority immediately senior to the official concerned.
- viii) The visitor should then monitor whether corrective action is taken by the erring official and his/her superior.
- ix) If no such action is taken, then the visitor must take up the matter with a higher authority.
- x) Initially an attempt should be made to ensure the anonymity of the violator and the victim while taking up the matter with the higher authority. By highlighting only the wrong, you can ensure that neither the victim nor the violator is wrongly victimised.
- xi) Keeping the matter within the prison initially, prevents the prison official from feeling unnecessarily threatened or challenged. It is only if no positive response or rectifying action is forthcoming, that external agencies need to be notified.
- xii) It is important to keep the Prison authorities informed of all important developments or incidents which come to light from interaction with prisoners, that have the potential to jeopardise the security and discipline of the prison. This will earn the trust and confidence of the prison authorities.
- xiii) The identity of the prisoner must always be protected to prevent undue victimisation.
- xiv) Refrain from making Frivolous or false complaints must be avoided.
- xv) The prison staff's genuine complaints and grievances should be heard. This will win them over and enable them and the visitor to accomplish more through cooperation.
- xvi) The visitor should share their skills you possess with jail officials. That will open the channel of trust and cooperation.
- xvii) Don't simply criticise if remedial action cannot be provided.
- xviii) Unless the root cause of the problem is addressed, mere punishment will not prevent the problem from recurring.

ANNEXURE I

CHECKLIST FOR A PRISON VISIT⁵⁶

1. MATERIAL CONDITIONS

(i) Capacity and occupancy of the establishment (at the time of the visit)

- _ Number of detainees by category – convicts/under-trials/women/adolescents.
- _ Percentage of foreign nationals.
- _ Breakdown by sex and age.

(ii) Cells (by geographical sections)

- _ Size and occupancy levels/effective average number per cell.
- _ Material conditions: lighting, ventilation, furniture, sanitary facilities.
- _ Hygiene conditions.

(iii) Food

- _ Meals (quality, quantity, variety, frequency).
- _ Special dietary regimes (for medical, cultural, or religious reasons).

(iv) Personal hygiene

- _ Showers (number, cleanliness, state of repair, frequency).
- _ Sanitary facilities (inside cells, outside, access, cleanliness).
- _ Bedding (quality, cleanliness, frequency of change).

2. REGIME AND ACTIVITIES

(i) Administration of time

- _ Time spent in the cell daily.
- _ Time spent for daily exercise.
- _ Time spent daily working.
- _ Time spent daily outside the cell.
- _ Time used for sports per week.
- _ Time used for other activities.

(ii) Activities offered

- _ Work: access to work; type of work; percentage of prisoners working; obligation to work; remuneration; social coverage; description of the working premises.
- _ Education: access to studies, types of studies offered (literacy and numeracy, high school, vocational, university studies), frequency of courses, organisers of courses, teaching staff, percentage of detainees studying.
- _ Leisure: types of leisure activities, access, description of leisure rooms and sport facilities; library.

- _ Religious activities: religious representatives (religions represented, conditions of access; frequency and duration of visits); religious services (access, premises); opportunity to follow religious practices, such as washing and diet.

(iii) Contacts with the outside world

- _ Visits: access, frequency, conditions for receiving visits, duration and regularity of visits, visits by relatives/children/spouses, description of visiting rooms.
- _ Correspondence and parcels: frequency, censorship.
- _ Telephone conversations: frequency, conditions, foreign nationals.

3. MEDICAL SERVICES

(i) Access to medical care

- _ Medical examination upon entry.
- _ Procedure for accessing medical care.
- _ Infirmary: number of beds, equipment, medication.
- _ Number of inmates receiving treatment.

(ii) Medical staff

Number and availability of doctors, nurses, psychiatrists and psychologists, other personnel.

4. PRISON STAFF

- _ Number of staff (by categories).
- _ Relationship between guards and detainees; relationship between management and the detainees.
- _ Training of the staff (basic and on-going).

5. TREATMENT

- _ Allegations of torture and ill-treatment.
- _ Use of force or other means of restraint.
- _ Use of solitary confinement.

6. PROTECTION MEASURES

(i) Informing detainees

- _ Information upon arrival.
- _ Possibility to inform a third person.
- _ Accessibility of the internal rules and procedures.

(ii) Disciplinary procedure and sanctions

- _ Brief description of the procedure.
- _ Composition of the disciplinary authority.
- _ Possibilities for appeal, including with representation.
- _ Types of sanction and frequency (proportionality).
- _ Examination by a doctor upon arrest.
- _ Statistics of sanctions by type and reasons.
- _ Disciplinary cells.

(iii) Complaint and inspection procedures

- _ Existence of complaints and inspection procedures.
- _ Independence of the procedures.
- _ Accessibility of the procedures.

(iv) Separation of categories of detainees

(v) Registers

ANNEXURE II

POINTS TO BE OBSERVED BY A PRISON VISITOR⁵⁷

1. Outside the Gate

Are there proper arrangements for visiting family members and legal counsel outside and inside the prison? Are there arrangements such as toilets, drinking water facility, shade in the waiting area and a detailed notice board with information on rules of prison visits in accordance with the prison manual? Does the prison have a brochure on visitation rights and rules? Is there a system to guide prison visitors and provide information orally?

2. Interview

Are there proper facilities for decent and meaningful interviews between visitors and inmates? Are visitors allowed to use all 30 minutes of the legally permitted interview time? Is there proper lighting, space and seating arrangements for the benefit of visitors and to prevent any illegal transaction? Are too many and unreasonable restrictions imposed at interviews in the name of security? Can they be rationalised? Visiting judicial officers may direct a few questions to visiting family members of prisoners and legal counsels about the problems they face and suggest appropriate measures for improvement.

3. Admission

A typical scene any visitor may encounter between the first and second main gate of the prison is newly admitted prisoners waiting almost naked or half naked. This is justified in the name of recording identification marks and to prevent contraband. Surely there are other, dignified ways of ensuring these intended objectives. The present practice, in fact, serves the purpose of humiliating and thoroughly breaking down the prisoner at the entrance itself. It can be done away with, if the visiting judicial officers give proper instructions to the prison officials.

4. Infrastructure

Are buildings and barracks secure and in good repair? Is the actual useable accommodation sufficient for the average prison population? Is the segregation of different categories of offenders, and of sick prisoners from the healthy ones possible in the existing situation? Is there a proper enclosure for women inmates where they can be kept safely under custody without causing undue and unlawful discomfort? Do women inmates have access to all facilities that male inmates have?

5. Overcrowding

Is there any overcrowding in any particular barrack or the entire prison? What is the average overcrowding during the year? Are dilapidated and closed barracks still used to accommodate excess prisoners? In every prison one may find one or two barracks without any overcrowding and with well dressed and well fed prisoners. Does this reflect a practice of favouritism and discrimination?

6. Water Supply

What is the source of water supply? Is the water supply sufficient and good and the means of supply suitable? Are drinking water wells, pumps and storage tanks cleaned regularly? This ensures the prevention of water-borne diseases, which are common in all prisons.

7. Food

The prison doctor has the duty to ensure the quality of the diet. Is he allowed to check the quality of food every day? Does he write his opinion on the quality of the diet every day in the prison medical journal? Are his instructions for improvement of diet duly carried out? Are rations issued in accordance with the prescribed scales for different categories of inmates? Do prisoners have any complaints about prison diet? Are women inmates allowed to cook for themselves?

8. Clothing

Do prisoners have the prescribed amount of clothing and bedding in their possession during different seasons of the year? Is it in serviceable order? Are under-trials who lack the means to arrange for private clothing, supplied with prison clothing?

9. Labour

Have prisoners who are eligible to work been assigned work? Do prisoners know about their category of work and the wages they are entitled to it? Are they informed of their earnings and paid every month? What are the arrangements to pay for the wages to those who have left or were transferred to other prisons? Is the record of 'work done' properly kept? Are the prescribed wages paid and accounted for?

10. Discipline

Do inmates exhibit confidence in the prison staff? Are inmates and their living places properly and periodically checked for contraband? Are all inmates given an opportunity to participate in the management of internal prison life? Are there too many unreasonable and/or unjust restrictions on prison life in the name of discipline?

11. Prison Offences and Punishment

Are all prison offences duly enquired into as per the rules prescribed in the Prison Manual? Are the prisoners accused of prison offence given a proper hearing before deciding the case? Is the punishment imposed proportionate to the indiscipline proved? Are prison punishments given frequently? Is anyone confined in a solitary cell when the records say s/he is in separate confinement? Is there any instance of unlawful or torturous punishment not prescribed under the rules? Are all punishments properly recorded? Are all procedures of enquiry

followed before determining the prison offence and punishments for inmates? Are there any discriminations and complaints from inmates in this regard?

12. Under-trial Prisoners

Are under-trial prisoners regularly produced before respective courts on their dates of hearing? Is sufficient police guard available for the purpose? Are all cases of undertrial prisoners who have spent long periods awaiting trial reported to the 'Undertrial Prisoners Review Committee' that meets once every three months? Are reports of shortage of police escort to court placed before the High Level Committee which meets every month? Are under trial cases scanned in accordance with court rulings? Are there arrangements for access to free legal aid at every stage of a case for eligible undertrial prisoners? Is there a proper facility where undertrial prisoners can meet their lawyers? Are their appeals processed within the stipulated time limits? Are they provided prompt information on the status of their cases before the courts? Are they informed of the various bail provisions and the option of personal bond? Are the cases of terminally ill undertrial prisoners promptly placed before the court for decision?

13. Adolescents

Are all adolescent prisoners of age ranging from 19 to 21 years sent to the Borstal Schools/Juvenile Homes? Are they segregated? Are there inmates who complain that their age is 18 or below 18? Are they given ossification tests?

14. Medical Care

Does each prisoner have the mandatory health screening at the time of admission? Is a medical professional readily available on call for the care of the sick? Are there minimum laboratory facilities available within prison? Is 'in-door medical care' readily available in the prison or is there a properly equipped ambulance facility available for prisoners and prison staff? Are services of women medical professionals available in prisons where women inmates are in sufficiently large numbers? Do mentally sick criminal prisoners get regular and appropriate psychiatric treatment? Do sick inmates get medical escorts on any day other than Saturday? Are cases for terminally ill forwarded to the government for consideration of premature release?

15. Parole and Furlough

Are parole and furlough liberally granted to all eligible convicts? Are cases of second or subsequent parole subjected to less stringent scrutiny than the first? Does the viewpoint of police and district administration on parole exhibit the understanding that this facility is of great importance in the social adjustment and assimilation of offenders? Are there any complaints from inmates of discrimination in granting parole?

16. Advisory Board

Are meetings of the Advisory Board held regularly to review cases of premature release, particularly those of lifers? Is there any lifer whose case has not been put up before the Board even after completion of the eligible period of imprisonment?

17. Conservation of Human Rights

Is there any instance of violation of the human rights or of the residuary rights of prisoners? Is there any case that needs the attention of the National or State Human Rights Commissions? Is there any situation that may lead to general or specific violation of such rights of persons in custody?

18. Rehabilitation Programmes

Are programmes of academic and vocational education taken up in the prison? Are there enough teachers and vocational instructors for the number of prisoners? Are the services of voluntary organisations used for the purpose? Are inmates exposed to the outside world through print or electronic media? Is there any facility for games, sports or any other healthy engagement?

19. Infants with Women Inmates

Are infants living with women offenders taken care of properly as per the Supreme Court direction in the case R.D Upadhyay vs. State of AP? Can their nutrition, dress, education, and entertainment be supplemented by any concerned non-governmental agency?

20. Grievance Redressal

Is there an established system for complaints and the redress of grievances of inmates? Is the mandatory 'grievance box' kept and operated regularly? Is the atmosphere in the prison such that prisoners can feel free to present their difficulties to visiting judicial officers? Do prisoners express the desire to talk to visitors in private? Do prisoners ask that what they reveal to visitors be kept confidential?

ANNEXURE III

RECORDS/REGISTERS MAINTAINED ACCORDING TO THE MAHARASHTRA JAIL MANUAL

1. History Sheet (Open Prison)	The Superintendent shall prepare a history sheet for selection of prisoners for confinement in any open prison.
2. Remission Register	The Record of Remission shall be maintained at the prison.
3. Medical Officer's Journal	Suggestions and Observations of the medical officer. Orders issued by the Superintendent of the prison and the actions taken by the Jailor.
4. Register of Prisoners Showing Particulars of Health (Health Register)	Register of Prisoners showing particulars of health on their admission/discharge from the prison/jail.
5. Register of Sick Prisoners	Mentions the name, serial no., age, disease, date of admission to the hospital, date of discharge, etc.
6. Register of Convalescents, Old and Infirm	Mentions the Name of the convict, Medical reason for Classification, etc.
7. Register of Extra Diet	Mentions any article provided to the prisoner in and outside the hospital in excess of the respective hospital or prison diet.
8. Requisition Book	Mentions the name of the article, number or the quantity required.
9. Register of Dead Stock or Instruments and Appliances or Books of the Veterinary/Civil Hospital	Mentions the description of articles, opening balance, purchased articles, disposed and balances in stock.
10. Register of the Clothing of the Prisoners	Mentions strength of under trails and convicts, received clothing from the factory, deducted clothing (mending/repairing), on prisoner's body and in store.

11. Record of Hospital Equipments	
12. Expense Book	
13. Medical Case Record	Mentions name of the hospital, ward no., doctor attending, name of the prisoner, age, occupation, address, provisional diagnosis, final diagnosis, etc.
14. Register showing the details of furniture hired out to the prison staff	Mentions the name of the staff and his designation, name of the article, no. of articles hired, rate of hire charges, page no of the Register 26 where accounts of amount due and received is maintained.
15. Register of Advances	Register shall have a record of the details of the amounts advanced, treasury voucher numbers and dates of the paid bills or the travelling allowance bills from which the advances have been recovered.
16. Jailor's Report	Senior Jailor/Superintendent shall see that all prison guards invariably sleep in the quarters allotted to them and shall occasionally call them out at night and ascertain that none has left the premises without permission. Such calls must be reported in the jailor's register.
17. Order Book of Jail Superintendent	Mentions the orders of the Superintendent and the reports of the Jailor etc. on Superintendent's orders. E.g. Record of punishment awarded by superintendent to any jail officer. Order Book contains the duties prescribed by the Superintendent to every jail officer.

18. Gate Register	Mentions the name of every person entering and leaving the prison, the total number and the register number of every gang of prisoners passing in and out, with the name of the officer in charge and list of articles taken in and out of the prison. Record of the visits made by the superintendent to the women's prison is also maintained.
19. Head Load and Cart Load Register	Mentions brief description of the load with the details of quantity and number and designation where it is being sent, name of the official in charge, designation of the sender, when the load was received.
20. Night Report Book	Same as the Lock-up register. Also mentions details of the staff on night duty, details of night visits, etc.
21. Register of Under-trial Prisoners	Mentions the personal details of the prisoner, date of arrest, date of admission to prison, health on admission, offence of which accused, by whom committed for trial, etc.
22. Register of Private property of Convicted Criminal/Under-trial Prisoners	Mentions the name, particulars of receipts, amount, particulars of expenditure, etc.
23. Register showing the Description of Convicted Criminal Prisoners.	Mentions the personal details of the convict and the details of present conviction.
24. Release Diary of Convicted Criminal Prisoners	Mentions the name of the convict, date of sentence, period of sentence, amount paid to the convict on release, articles of jewellery handed over on release, etc.

25. Register of Punishments Inflicted on Prisoners.	When a prison offence is committed, the type of punishments that are inflicted on the prisoners. e.g. minor punishments, major punishments etc. are recorded.
26. Register of Escapes	Mentions the name, register number of prisoner, crime, date/ length of sentence, number of previous convictions, date of escape, full particulars of escape and whence and from whose charge the prisoner escaped, result of enquiry before the Magistrate and whether the warder of other prison official was punished, etc.
27. Register of Visitors	Whenever a woman is taken out of the prison or women's section of a prison, an entry shall be made in this register giving the name and number of the woman, purpose for which, and time when she was taken out and when she was brought back to the prison or section.
28. Register of Prisoners sent to Courts under the Prisoner's Act, 1900	
29. Register of Appeals	The requisite particulars in respect of every appeal shall be entered in Register of Appeals which shall be placed before the Superintendent regularly every Monday. The superintendent shall pass such orders as are deemed necessary about the issue of reminders for copies of judgements or results of appeal.
30. Employment Register	Mentions the name of the prisoner and type of work assigned to him, etc. (Under-trials not to be employed.)

31. Grain Store Register	Mentions the amount and quantity of grains and other food material kept in the store.
32. Register of Grinding and Wastage Account book	Mentions the amount of grains wasted in the cleaning and grinding process. (Separating the grains from the impurities.)
33. Ledger of State Journal	
34. Ledger of Raw Materials	Mentions the amount and quantity of raw materials available.
35. Prison Cash book	Mentions particulars of the prisoner, permanent advance, prisoner's private cash, garden realisations, contingencies, miscellaneous receipts security deposits, etc.
36. Register of Contingent Charges	
37. Receipt Book.	Proper accounts of the receipt and expenditure (of prisoner' welfare fund) shall be maintained by the treasurer (superintendent) and checked by the secretary (senior jailor).
38. Factory Contingent Register.	Records any amount withdrawn from the treasury or any abstract bill given to contractor or supplier.
39. Factory Cash Book.	
40. Store Requisition and Receipt book(Contingencies)	Mentions the articles that are to be used in the prison, supplier, for what purpose, no. of quantity in hand, monthly consumption, no. of quantity required in case of any contingency.
41. Money Order Book	

42. Garden Register	Mentions the name of the Agriculture Officer or the Agricultural Assistant Officer, number of dairy and drought cattle, stock of fodder.
43. Register of daily manufacture of articles showing the expenditure of raw materials	
44. Register of Manufactured Articles	
45. Store Requisition Book	Mentions the name of the articles that are used in the store in case of any contingency.
46. Muster Role	The number of prisoners confined in each circle, separate cells and in prison hospital shall be recorded in this register.
47. Sales Journal	Mentions the sales from the prison canteen.
48. Register of daily manufacture of articles showing the expenditure of raw materials	
49. Factory Order Book	
50. Store Requisition Book	Mentions the articles that are to be used in the prison, supplier, for what purpose, no. of quantity in hand, monthly consumption, no. of quantity required.
51. Lock Up Register.	Circle-wise details, total number of prisoners, number of women prisoners, number of men prisoners, under-trials, prisoner sentenced to S.I., R.I., for life, death, juveniles, escapees, habituals, criminal-psychotics etc.

<p>52. Register of receipts and disposal of valuable articles and jewellery of convicted/under-trials</p>	<p>Mentions the name, date of admission, description of jewellery, estimated value of the article/ jewellery, etc.</p>
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ANNEXURE IV

EXAMPLE OF INTERNAL VISIT NOTE/PERSONAL RECORD OF PRISON VISITOR⁵⁸

1. GENERAL INFORMATION ABOUT THE ESTABLISHMENT

- _ Name of the establishment:
- _ Type of establishment:
- _ Address:

2. AUTHORITIES ON WHICH THE ESTABLISHMENT DEPENDS

- _ Name of the person in charge of the place:
- _ Name of the deputy or deputies:

3. GENERAL INFORMATION ON THE VISIT

- _ Date of the visit:
- _ Type and/or objective of visit:
- _ Date of the previous visit:
- _ Names of the members of the visiting team:

4. INFORMATION ON THE ESTABLISHMENT

(i) Capacity of the establishment

- _ Administrative capacity:
- _ Average capacity:
- _ Number of persons deprived of their liberty at the first day of the visit (by category/sex/nationality):
- _ Percentage of foreign prisoners:
- _ Origin of foreign prisoners:
- _ Distribution according to sex:
- _ Minor detainees:
- _ Elderly detainees:

(ii) Structure of the establishment

- _ Description of the building (number of buildings, age of the building, and wear and tear, if any):
- _ Maintenance (security conditions):
- _ Description of the cells and common facilities:

5. INFORMATION ON THE VISIT

(i) Talk at the start of the visit—issues discussed

(ii) Aspects of detention and recommendations

- _ According to the persons deprived of their liberty:
- _ According to the director and personnel:
- _ According to the facts observed by the visiting team:

(iii) Talk at the end of the visit

_ Issues discussed:

_ Answers received:

(iv) Actions to be undertaken

_ Short term:

_ Mid term:

(v) Contacts to make:

(vi) Frequency of visits:

(vii) Points to verify at the next visit:

ANNEXURE V

MINISTRY OF HOME AFFAIRS'
ADVISORY, DATED, 18 FEBRUARY,
2011, FOR APPOINTMENT AND
WORKING OF NON-OFFICIAL
VISITORS FOR PRISONS

F.N. 16014/4/2005-PR
Government of India/ Bharat Sarkar
Ministry of Home Affairs/ Grih Mantralaya

New Delhi, the 18th February, 2011

To

The Principal Secretary (Prison/ Home in charge of prison)
All States/ UTs

**Subject: Advisory for appointment and working of Non-Official
Visitors for Prisons.**

Sir/ Madam,

As you are aware that a transparent, open and accessible prison system is likely to be accountable and successful in maintaining human rights standards. Prison visiting system is a system to bring more transparency and accountability. It has two types of visitors namely Official Visitors (OVs) and Non-official Visitors (NOVs). The prison visiting system relating to Non-official Visitors needs to be streamlined. Since prison administration is under increasing public scrutiny and the role of civil society is important, it is essential that only enlightened & concerned citizens be appointed as Non-official Visitors.

2. Non-Official Visitors may be appointed for all prisons without delay. The system of appointment should be transparent and democratic with prescribed criteria. The members who are selected as NOVs should have knowledge and/ or expertise in areas such as prison reforms, legal rights, counseling, social work, criminology, adult education, vocational training courses for adult populations, diet and nutrition, child care, music, yoga etc. Minimum number of NOVs to each category of prisons must be clearly mandated. NOV system must become operational on a regular and stable basis. Women visitors may also be appointed as Non-official Visitors to look into the issues of women prisoners. The State Human Rights Commission suggestions on appointment of Non-Official Visitors should be taken into consideration by the State Government.

3. The terms of reference for the panel of NOVs should include monitoring of prison conditions, implementation of prison reforms, legal, mental and rehabilitative assistance, prisoners' grievance and staff problems.

4. The number of visits made and the quality of service rendered must be the criteria for re-appointment or termination of the services of NOVs.

The NOV's appointed to each jail may also be paid reasonable honorarium to cover their incidental expenses on transport, stationery, etc.

5. To coordinate between the Official Visitors and Non-official Visitors, there is provision in the Jail Manuals for establishment of a Board of Visitors to be constituted by the Deputy Commissioner / District Magistrates for each jail. The meeting of the Board of Visitors should be held once in a quarter. The Deputy Commissioners/ District Magistrates should be impressed on the need for paying special attention in constituting the Board of Visitors and to ensure that the meeting of the Board is held regularly. At the first meeting, roster of visits should be prepared for the next 12 months which permits a monthly visit to each jail by a visitor either official or non official. In addition every NOV may also visit the prison once in a month at a time outside the prescribed roster.

6. The non-official visitors appointed by the Government have to discharge their duties within the parameters of the functions of the Board of Visitors, which are (a) to visit the prisons regularly, (b) to help the administration in correctional matters, and (c) to attend to the requests and complaints of the prisoners pertaining to their care and welfare. After completion of the visit, the visitor should enter his remarks in the Visitor's Book, as required by Rules and advise the Superintendent to take such remedial measures as are required with utmost expedition.

7. Guidelines for Interviewers and Non-Official Visitors as have been prepared by the Bureau of Police Research and Development/ MHA, should be supplied to the Superintendent of each Jail. He/she should give a copy of these guidelines and also a copy of the Chapter in the Prison Manual covering visitors' duties to the Non- Official Visitors at the time of their appointment.

8. On the appointment of Non-Official Visitors, they must be sensitized and trained about their duties, role and responsibilities. Sensitization and training programmes must be organized for Non-Official Visitors by the prison headquarters in association with the Training Institutes like ICA, Chandigarh, TISS Mumbai, APCA Vellore, RICA West Bengal and RICAs in other States. A workshop of NOV's from across the State should be organized once a year by the State prison training institute for sharing their experiences/ learning and documentation of good practices models.

9. The DG /IG (Prisons) should obtain for six-monthly reports from the prison superintendents about the regularity of visits and the nature of work done by NOV's. The Board of Visitors should submit quarterly reports to the State Government under intimation to the State Human Rights Commission. Prison authorities must provide action taken reports to the

Board of Visitors and the concerned State Human Rights Commission. This mechanism will ensure accountability of not only the visitors but also the prison administration and help in bringing improvements in the prison administration.

The receipt of the same may kindly be acknowledged.

Yours faithfully

Sd/-

(K.K. Pathak)

Joint Secretary to the Government of India

Tel: 23092630

Fax: 23092675

ENDNOTES

- ² RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.
- ³ RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.
- ⁴ The Prisons Act, 1894, Act IX of 1894.
- ⁵ Sunil Batra (II) v Delhi Administration, AIR 1990 SC 1579.
- ⁶ Rakesh Kaushik v BL Vig, Superintendent Central Jail, New Delhi AIR 1981 SC 1767.
- ⁷ The committee was set up in 1985 under the Chairmanship of Justice VR Krishna Iyer.
- ⁸ Report of the National Expert Committee on Women Prisoners (1987), Department of Women and Child Development, Ministry of Human Resource Development, Government of India, New Delhi, pg 252.
- ⁹ Report of the National Expert Committee on Women Prisoners (1987), Department of Women and Child Development, Ministry of Human Resource Development, Government of India, New Delhi, pg 252.
- ¹⁰ Rec 512, Report of the Indian Jails Committee, 1919-20.
- ¹¹ Rec 522, Report of the Indian Jails Committee, 1919-20.
- ¹² Rule 814, the Madhya Pradesh Jail Manual.
- ¹³ The table has been prepared from the prison manuals/rules for each state.
- ¹⁴ Rec 515, Report of the Indian Jails Committee, 1919-20.
- ¹⁵ Rec 519, Report of the Indian Jails Committee, 1919-20.
- ¹⁶ Ch 26.04, Model Prison Manual, 2003, BPR&D.
- ¹⁷ Rule 56(1), WB Jail Code 1967, Chapter XV Rule 5, 6, Maharashtra Jail Manual.
- ¹⁸ Rule 56(2), WB Jail Code 1967, Chapter XV, Rule 6, Maharashtra Jail Manual.
- ¹⁹ Pamphlet on Prison Visiting System, CHRI, pg 3.
- ²⁰ Ch 6.22.3, Report of the All India Committee on Jail Reforms, 1983.
- ²¹ Ch 26.03, Model Prison Manual, 2003.
- ²² See Data Table 1 on pg 12.
- ²³ Ch 6.22.5, Report of the All India Committee on Jail Reforms, 1983.
- ²⁴ Ibid.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ Ch 26.02, 26.13 Model Prison Manual, 2003.
- ²⁸ Ibid.
- ²⁹ Ibid.
- ³⁰ Ibid.
- ³¹ RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.
- ³² RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.
- ³³ RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.
- ³⁴ RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.
- ³⁵ Ch 26.22, Model Prison Manual, 2003.
- ³⁶ The table has been prepared by Dr Lalji Mishra, former Superintendent, Central Jail, Jabalpur and has been modified suitably.
- ³⁷ All India Committee on Jail Reforms, Volume I, pg 80.
- ³⁸ National Human Rights Commission, Letter dated 1 January 2000.

³⁹ For a summary of landmark judicial pronouncements and NHRC guidelines please refer to Rights Behind Bars, CHRI, New Delhi, 2009.

⁴⁰ See Annexure I.

⁴¹ Association for Prevention of Torture, Monitoring Places of Detention: A Practical Guide for NGOs, pg 57.

⁴² See Annexure III, which enlists all the registers mentioned under the Maharashtra Jail Manual.

⁴³ In Sunil Batra (II) v Delhi Administration, AIR 1990 SC 1579 the Supreme Court ruled that prisoners can be interviewed within the eyesight but outside earshot of prison staff.

⁴⁴ Where the complaint is regarding abuse by prison official, or any such discreet matter, the prison visitor should approach the official himself/herself. If that doesn't help then higher officials should be contacted.

⁴⁵ See Annexure IV, this is a format for maintaining an internal visit note or personal record for each visit.

⁴⁶ Taken from the Handbook for Prison Visitors, CHRI, 2003 and modified accordingly.

⁴⁷ 'Community Involvement in Corrections', Mulla Committee Report 1983, Volume II, pg 260.

⁴⁸ As per section 436 of the Code of Criminal Procedure, 1973.

⁴⁹ As per section 436A of the Code of Criminal Procedure, 1973.

⁵⁰ Priti Bharadwaj, 'Liberty at the Cost of Innocence: A Report on Jail Adalats in India (2009)' <http://www.humanrightsinitiative.org/publications/prisons/liberty_at_the_cost_of_innocence.pdf>.

⁵¹ Based on Chapter 24, 'Development of Prison Personnel' and Chapter 5, 'Prison Buildings', All India Committee on Jail Reforms (1980-1983) Volume II, Ministry of Home Affairs, Government of India.

⁵² Often, due to lack of accommodation, prison guards are constrained to live in those areas of the city which are infested with anti-social elements close to the underworld of crime.

⁵³ RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.

⁵⁴ RK Saxena, 'Prison Visiting System in India (2005)' <http://www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>.

⁵⁵ Association for Prevention of Torture, Monitoring Places of Detention: A practical guide for NGOs, p 57.

⁵⁶ Checklist, Monitoring Places of Detention: A Practical Guide, Association for the Prevention of Torture, pg 235.

⁵⁷ Dr Murali Karnam, Former Consultant, Prison Reforms Programme, CHRI.

⁵⁸ Association for Prevention of Torture, Monitoring Places of Detention: A Guide for NGOs.

CHRI PROGRAMMES

Commonwealth Human Rights Initiative (CHRI) believes if human rights, genuine democracy and development are to become a reality in peoples' lives then the Commonwealth members, an association of 52 former British Colonies, must be held accountable for good governance. CHRI promotes it through international advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. There are three principal programmes:

1. Access to Justice

Police Reforms: In far too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reforms and accountability so that the police act as upholders of the rule of law. In India, CHRI's programme aims at disseminating information and views based on ground realities and supporting police reform. In South Asia, we work to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI works on increasing transparency of a traditionally closed system and exposing malpractices. A major area highlights the failures of the legal system that result in massive overcrowding and unconscionably long pre-trial detention and prison overstay. We look at reviving oversight system and believe that focus on these areas can bring improvements to the corrective system as well as have an effect on the administration of justice.

2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement effective Right to Information (RTI) laws. It assists in the development of legislation and has been successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh and Ghana. In Ghana, CHRI is the Secretariat for the RTI Civil Society Coalition. We critique new legislations and intervene to bring best practices into the knowledge of the governments and civil societies both when laws are being drafted and at the time of first implementation. The experience of working in hostile environments, as well as culturally varied jurisdictions, allows CHRI to bring insights. In Ghana, for instance, it has been promoting knowledge about the value of Access to Information which is guaranteed by the Constitution while at the same time pushing for the introduction of an effective and progressive RTI law.

3. International Advocacy and Programming

CHRI monitors Commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. We strategically engage with regional and international bodies including the Commonwealth Ministerial Action Group, the United Nations and the African Commission for Human and People's Rights. Ongoing initiatives include: reviewing Commonwealth members human rights promises at the United Nations Human Rights Council and the Universal Periodic Review; advocating for the protection of human rights defenders, free media and civil society space; and monitoring the performance of National Human Rights Institutions while pressing for their strengthening.



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