CHRI News, *Autumn 2003*

Health in Madhya Pradesh Prisons

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Barring a few exceptions, the conditions of detention in most parts of the world are shockingly poor. Prisons are plagued with problems of overcrowding, corruption, violations of human rights, abuse and violence amongst inmates themselves and vis-à-vis authorities, lack of medical care, structural and physical deficiencies, and shortage of staff. The prison environment in most parts of the world is not really conducive to good health, Indian prisons being stark examples. It is a fact that the majority of prisoners come from underprivileged sections of society. These vulnerable poor bring with them aspects of drugs, mental illness, malnutrition, alcoholism etc which quickly aggravate in conditions of overcrowding, exposure to heat, unsatisfactory sanitation and poor quality of food. With mental pressure, tension, depression and stress being unduly high during incarceration, diseases flourish in such environments. As if to add to their woes, prisoners are hardly ever informed about hygiene, health care or disease. Any chance of catching diseases at their early stages are minimized by the continued ignorance of prisoners and neglect and apathy of staff.

Even the relatively healthy are at a high risk in such conditions of near contact with the unhealthy to catch communicable diseases. On release, many of these prisoners take back into their society and communities, dangerous diseases that were either acquired while incarcerated or remained untreated, while behind bars. Unfortunately, in the age of SARS/AIDS, prison and public health authorities seem unconcerned about the ability of short-term prisoners and those with chronic illnesses to carry their maladies on release into the outside environment.

Proper health care is definitely a right of all people, which include prisoners and detainees. The argument that prisoners deserve a lower standard of health care does not really stand valid for in depriving a person of his liberty it becomes the responsibility of those under whose protection he is that his right to proper and timely medical aid is not violated.

Various international instruments such as Article 12 of the International Covenant on Economic, Social and Cultural Rights, recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Principle 9 of the U.N.

Basic Principles for the Treatment of Prisoners provides that prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation. Rule 26 of the Standard Minimum Rules requires that amongst others, the Medical Officer shall regularly inspect the quantity, quality, preparation and service of food and the hygiene and cleanliness of the institution and prisoners. There are several European bodies also in charge of monitoring prisoners' rights such as the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which overlooks ill treatment and other facets of prisoners' conditions such as health.

Closer home, The Indian Prison Act of 1894 lays down certain legal provisions to ensure that health aspects of prisoners are considered. It therefore becomes mandatory under this law to have a hospital or proper place for the reception of sick prisoners at every jail.

There is also supposed to be a medical officer in every jail who shall have charge of the sanitary administrations of the prison. The Act also specifies that any prisoner who is ill or wanting medical attention will be immediately shown to a doctor.

Jail Manuals devote portions exclusively to the health care of prisoners. The Madhya Pradesh Jail Manual specifically requires the Director of Health Services to not only function as an official visitor to the prison but also be a consultative officer on all subjects connected with the general hygiene, and sanitary arrangements of jails. The medical officer is supposed to visit the jail daily and examine every prisoner on his arrival in the jail. It is also in his jurisdiction to order any addition or alteration of diet for the sick, aged and infants. He is not only expected to ensure that the food is of good quality and properly cooked but also that the barracks and other areas are clean and hygienic. It is also his duty to see that every prisoner is provided with sufficient clothing and bedding.

Reality, however, is a far distance from these rules. Amidst pain, sorrow, frustration, loneliness and some hope etched on their faces, lies a sordid tale of the prisoners' quest for justice and what is rightfully his. Though human rights instruments voice the need for the same kind of health care to prisoners as the outside community, this is far from the truth. These closed institutions do not provide the same facilities under custodial care, as is available elsewhere. With other issues being given more consideration, medical care becomes a low priority for prison officials. However the fact that prisoners generally come from the marginalized sections of society and may be suffering from bad health, which, enhanced in the unfavorable conditions in prisons makes it all the more necessary to provide better health care and treatment facilities.

If Madhya Pradesh, the size of France and generally regarded as a well-run state is any example, things are only much worse elsewhere. Medical facilities are in complete disarray in most of the 109 jails. There is a severe dearth of medical personnel, which not only includes doctors but also laboratory technicians and operators. In many jails, equipment lies completely disused, as there is no paramedical staff available to run it. There are no incentives provided to attract doctors to work in jails. In sub jails all over the State, government doctors are appointed on a part time basis with a remuneration of only Rs 175 per month (3.5 US$) for holding additional charge of prisons. Low remuneration acts as a disincentive with the result that many doctors refuse to work.

There is a lack of police escorts to refer ill prisoners to outside hospitals, which is evident from the fact that in 2002, only 2,968 police personnel were provided against a requirement of 12,726 escorts. This is even less than 25% of the actual requirement. This drastic shortage means that timely medical treatment is most often an exception rather than the rule. In most jails there are no vehicles available to transport prisoners to hospitals during exigencies. Unfortunately in many instances, authorities often misuse these vehicles for personal work. Tuberculosis is rampant and accounts for approximately 40% of deaths in the jails in M.P. There are no TB specialists and hence diagnosis of the disease becomes a major problem.

Other major diseases afflicting the prisoners are anaemia, dysentery, abscesses, boils, skin diseases and respiratory problems. There are no lady doctors though there are about 407 women prisoners and there is no question of any special attention for gynecological problems. Many and even a majority of the prison population are just those awaiting trial, people who may be innocent or in for minor crimes unable to get bail. These prisoners should not be and indeed by law may not be forced into risky and life threatening situations of ill health that they would not face on the outside. High health risks coupled with the already well known risks of physical abuse and violence that are wide-spread in prison amounts to additional punishment over and above the years of restraint that the guilty are paying with and the innocent must put up with. In this world both real and unreal, where time stands still for most of those incarcerated, it then becomes the responsibility of the state to at least ensure that these men, women and children behind iron grills are not deprived of their rights to good medical care.

CHRI News, *Autumn 2003*

Right to Information Implementation Audit

- Testing the extent of real access to information in Bangalore

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The Right to Information has gained considerable importance in recent years in India, with initiatives being taken by a number of states to enact specific legislations to provide for access to information. These legislations are seen as vital tools to ensure effective participation in governance and to counter corruption by increasing transparency in government functioning. Karnataka, one of the six states[1] in India to have enacted its own right to information legislation has taken a monumental step towards empowering citizens with the right to access information from the government. While the law was enacted in 2000, it was only in July 2002 that the rules were notified and the Act came into effect. On paper, the Karnataka Right to Information Act is seen as one of the better laws in the country. However, its real value and effectiveness will be only tested through analyzing the practical implementation of the law.

In order to test effective implementation of the Act, Commonwealth Human Rights Initiative (CHRI) in New Delhi and Public Affairs Center (PAC) in Bangalore embarked on a joint effort to conduct an "Implementation Audit" of the Act in November 2002.

The intention was to see if various government departments were implementing the law and also to identify barriers to effective implementation. In the first phase, CHRI and PAC brought together a cross-section of volunteers from across Bangalore to participate in the implementation audit. The Audit sought to answer the simple question of whether the Right to Information was working in Bangalore or not. It was hoped that the findings of the Audit would stimulate the various public authorities to put in place systems to implement the Act more effectively.

The methodology followed was fairly simple - volunteers were oriented on the working of the Act and the various procedures involved in seeking information. Once trained, the volunteers identified their information needs and filed applications to various agencies in terms of the Act. Over a five-month period,

100 applications were filed to 20 public authorities. To ensure full documentation of experience each volunteer was given a Field Assessment Observation Schedule (one for every application submitted), which would serve as a record sheet of observation for each agency visited. The experiences of the volunteers were varied - very often their applications were not accepted and even if accepted they often did not receive a response.

In many cases where information was finally provided, the volunteers found this information incomplete. In all cases, the volunteers had to constantly follow up and visit the public authorities before receiving a response to their applications. From the twenty public authorities approached, eleven did not even respond to the applications and to add to government apathy, most of the public authorities approached at that time had not even appointed their competent authorities.

Except for one public authority, the suo moto disclosure provisions which puts an obligation on all public authorities to display relevant information on notice boards outside their offices was not being fulfilled.

The audit clearly revealed a lack of general awareness of the law among the government officials as also a lack of clarity on how to go about implementing the law.

These findings were communicated in an open public meeting held at the City Mayo Hall (Bangalore) on 16th May 2003, attended by key officials of various government agencies, media persons and a cross-section of civil society. The meeting provided an opportunity for the public to interact with the concerned officials and raise questions on the lack of implementation of the Act. Once the findings of the implementation audit were presented, PAC and CHRI put forth some recommendations to ensure the effective implementation of the Act. Particular emphasis was placed on the work of the Department of Personnel and Administrative Reforms, the nodal agency for implementation. It was suggested that they should conduct training sessions for all officers, especially for Competent and Appellate authorities. Also on the front burner, was the need for strict adherence to prescribed time limits for disclosure, and the necessity for the imposition of penalties for lack of response to appeals against delays and refusal to provide information.

Responding to feedback generated by the implementation audit, the Municipal Commissioner affirmed that he will shortly put up all BMP Councils' Resolutions on the agency's website and that while there is nothing to hide there is a, " mindset not to divulge information and this needs to be overcome". He further said, "having gone through the quality of responses, as a citizen I would have sought more information."

The implementation audit served its purpose in that:
(a) one of the key agencies, the municipal corporation conducted training programmes for their offices and also set up information centres across the city in order to effectively implement the Act;
(b) it helped generate valuable feedback and showed the lack of implementation of the law, where previously the government has no record on the status of implementation of the Act; and
(c) the process created awareness not just among citizens who participated in the implementation audit but also among government officials, because in many cases the volunteers attached copies of the law in order to inform ignorant government officials of their duties. An implementation audit of this nature is easily replicable in any jurisdiction and can be a useful methodology through which citizens can monitor the implementation of their access to information laws.