

CHRI 2010

Maharashtra's Abandoned Prisons

A Study of Sub-Jails



CHRI

Commonwealth Human Rights Initiative

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Commonwealth Human Rights Initiative

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Maharashtra's Abandoned Prisons

A Study of Sub-Jails

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INTRODUCTION

There is little information available in the public domain about sub-jails and their functioning. Perhaps because they house fewer prisoners, and that too for a short period compared to the central and district jails, neither the media nor civil society organisations have paid attention to these institutions.

...the jail departments of India...are a disadvantaged department. No secretary is really interested in jails. The police get the lion's share of government consideration, because of internal security.... The [prison] department is likely to get bottom consideration in the priority list.... [Yet] there is much truth in the assertion that the jail department should have a higher status in government consideration than the police department, because jails can do, if given the opportunity, a constructive job of rehabilitation.

- Dr. W.C. Reckless, *Jail Administration in India* (1953)¹

Laws Governing Prisons in India

The Constitution of India lists prisons as a state subject. Consequently, each of the 27 state governments is responsible for the administration of prisons in its territory. Arunachal Pradesh is the only state which does not have any prisons of its own and its convicts and under-trial prisoners are housed in the prisons of Assam. The central government administers prisons in the union territories. Delhi and Puducherry are exceptions to this rule; their prisons are under the administrative control of their elected governments, and not the central government.

Indian prisons are largely governed by the colonial Prisons Act of 1894. States that have enacted their own prison acts have closely modeled these on the Prisons Act.² This law was introduced in India amidst a climate of fear, repression, security concern and terror, regulating the incapacitation of swathes of the indigenous population. It contained no provisions on prisoners' rights; for their rehabilitation or reformation, or for their reintroduction into society on completion of sentence. The Prisons Act codified a colonial policy suspicious of the indigenous population, providing for restricted access and little oversight, and for the imposition of disciplinary punishments at the discretion of prison superintendents, including solitary confinement, beatings with chains and whips and transportation in irons.

It is scandalous that a 60 year apathy for reform should see such an Act, drafted and adopted under a hostile administration, survive and govern the contemporary correctional system. The day-to-day administration of prisons is governed by rules framed under the Prisons Act by the state governments. These rules, interpreted and formulated into state jail manuals, are antiquated and demand revision. This

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does not, however, imply that there have been no attempts to reform the prison system in independent India.

Apart from the various state governments, the Government of India has set up several committees to suggest ways to reform the correctional system. The most well-known and comprehensive of these is the *Report of the All India Committee on Jail Reforms, 1980-83*, popularly known as the *Mulla Committee Report* (after retired Senior Judge of the Allahabad High Court, Mr. Anand Narain Mulla), which submitted 639 recommendations to the central government on all arenas of prison administration and prisoner rights.³ Almost all of the recommendations of this and other committees, however, lie gathering dust without the political will to implement them.

The judiciary and the Supreme Court, in particular, have played a crucial role in changing the philosophy of the correctional system. In *Sunil Batra's* case, the Supreme Court observed that the "court has a distinctive duty to reform prison practices and to inject constitutional consciousness into the system".⁴ It further noted that it must adopt a proactive attitude with regard to problems of prison administration, because a convict is in prison under the order and direction of courts. Nevertheless, translating the writ of the courts into reality for the almost four lakhs of people in prisons across the country remains a challenge.

Studying Sub-jails in Maharashtra

There is little information available in the public domain about sub-jails and their functioning. Perhaps because they house fewer prisoners, and that too for a short period compared to the central and district jails, neither the media nor civil society organisations have paid attention to these institutions. CHRI and Voluntary Action for Rehabilitation and Development (VARHAD) studied the sub-jails in Maharashtra to assess their condition and the rights of those who are housed in them. Maharashtra not only has the highest number of jails (153) in the country, but also records the highest number of sub-jails (114). For the National Crime Records Bureau (NCRB) - the only department that publishes national statistics on prisons - the high number of sub-jails in the state reveals "a well organised prison set-up even at the lower formation."⁵ This report aims to provide a broad overview of the sub-jail system in the state and examine whether the NCRB is correct in inferring that the jail system at the "lower formation" is "well organised".

The reason for choosing Maharashtra is, however, not just its high number of sub-jails, but also the system of their governance. The sub-jails in the state are not administered by the prison department, but by the revenue department. This study examines the impact of placing the management of prisons in the hands of a department (revenue) that is not trained to administer them. It sheds light on the functioning of sub-jails in Maharashtra by focusing on the:

- rules and regulations applicable to their functioning;
- kinds of statistics that are available on these jails;
- administration of sub-jails in the state;
- oversight mechanisms like the Prison Visiting System; and
- general conditions in these jails, including food, clothing, basic amenities, sanitation, hygiene, medical facilities and security arrangements.

Methodology and Limitations

There are hardly any studies on sub-jails and information available on them is sketchy. Given the lack of adequate secondary materials, the report relies heavily on a field study conducted by Mr. Ravindra Vaidya and his team from VARHAD. The team of three researchers visited 32 sub-jails, of which 24 are functioning and eight are closed [see Annexure II].⁶ The research team visited these sub-jails in 12 districts of Maharashtra covering five of the state's six revenue divisions from May 2008 to September 2008. The team met with and interviewed prisoners, jail officials, revenue officials, police officials, and executive magistrates.⁷ The team also collected secondary data in the form of files, reports and statistics from the state prison headquarters in Pune. This report, therefore, relies on information, data and statistics that were available from the sub-jails, prison headquarters and NCRB report.

A serious limitation of the study is that it is based on official accounts of how sub-jails are governed. The research team could not obtain formal authorisation to visit these prisons and interview prisoners. In fact, the Inspector General (IG) of Prisons claimed to be unable to grant permission to visit these jails on the grounds that these prisons are not under the prison department, but the revenue department. The Sub-Jail Manual (1954) specifies that the superintendents of sub-jails are subject to the "final control of the Inspector General of Prisons," yet the research team was unable to get formal permission to visit these prisons. However, since these jails are located in revenue office buildings, the team visited individual revenue offices

and requested the concerned superintendents to provide information about the functioning of their sub-jails, and also observed their conditions. The ability of the research team to procure documents and speak with prisoners without the presence of jailors was limited because of the lack of formal permission to do so.

This report does not claim to be the final word on sub-jails in Maharashtra. It seeks to highlight the glaring lack of information on these prisons, as well as provide an overview of how they function. The aim is to catalyse a debate on sub-jails in Maharashtra. This report encourages government bodies and civil society to collect data and information on the functioning of these jails and recommends the transfer of their administration and control to the prison department.



OVERVIEW

Sub-jails in India form a majority of prisons (60 per cent) and yet one of their distinguishing features is their limited capacity to hold prisoners (13.5 per cent) compared with other jails. The 115 sub-jails in Maharashtra (of a total of 153 prisons), for example, have an authorised capacity of 1,739 in contrast to the remaining 38 prisons with a capacity to house 19,162 prisoners.

Sub-jails in India form a majority of prisons (60 per cent) and yet one of their distinguishing features is their small capacity to hold prisoners (13.5 per cent) compared with other jails. The 115 sub-jails in Maharashtra (of a total of 153 prisons), for example, have an authorised capacity of 1,739 in contrast to the remaining 38 prisons with a capacity to house 19,162 prisoners.⁸

Data on Sub-Jails

Credible data on sub-jails are conspicuous by their absence. Through 2006, the NCRB statistics recorded 172 sub-jails in the state, not knowing that only 115 were functional and that 57 had been closed for up-to decades. (This change is reflected in the 2007 NCRB statistics, though in the meantime, one more has closed, leaving the count of functional sub-jails at 114.) Statistics on these closures were updated because the prison department has this information - not as part of any regular collection of data on the part of the prison department, but because it was forced to do so in response to a question raised by a legislator on the functioning of sub-jails in the state.⁹ Despite its research, the Office of the IG Prisons was not aware that there are still other sub-jails that are listed as functional, but are effectively closed as they hold no inmates.¹⁰

All the closed sub-jails that the research team visited are used as warehouses for the revenue department or the police. There is no information in the public domain on why 58 sub-jails were closed and the period for which they have remained non-functional. Despite best efforts, the research team could not get any such information from the Office of the IG Prisons. The team visited eight of the 58 closed sub-jails and tried to gather information about their closures. They met with superintendents and other senior staff in the revenue offices who had served in the *taluka* (sub-divisional district) office for the last 25-30 years; however, these officers had no concrete information regarding the closures. The senior staff claimed that their seniors told them that there had been sub-jails functioning in these buildings, and that the *taluka* magistrate used to be the superintendent, but no one knew when they had closed down or why.

An analysis of the available data on closed sub-jails reveals a potential regional trend. The state of Maharashtra is divided into four prison regions: east, west, south and central. There are 30 sub-jails in the eastern region, of which only 3 are

functioning and 27 are closed. The central region has 55 sub-jails, of which 36 are functioning and 19 are closed. The western region has 56 sub-jails, with 51 functioning and five closed. The south region has 31 sub-jails, of which 24 are functioning and seven closed. Notably, of the 58 closed sub-jails, 46 are in the eastern and central region – both of which were not a part of the erstwhile State of Bombay (prior to the creation of the State of Maharashtra). The central region was a part of Marathwada (which was a part of Hyderabad) and the eastern region was a part of Central Provinces & Berar before the formation of Maharashtra in 1960. There could be a link between the transfer of these jurisdictions to Maharashtra and the closure of their sub-jails.

Table 1: Regional Distribution of Functioning and Closed Sub-Jails

No.	Region	Sanctioned Sub-Jails	Functioning Sub-Jails	Closed Sub-Jails
1	Eastern (Vidharbha)	30	3	27
2	Central (Marathwada)	55	36	19
3	Western (Pune)	56	51	5
4	South (Mumbai)	31	24	7
	Total	172	114	58

Management and Administration

The fact that the local revenue department manages sub-jails in Maharashtra makes the state somewhat unusual. This is not a common feature in sub-jails across the country. In Andhra Pradesh, Rajasthan and West Bengal, for example, all the sub-jails are under the direct control of the prison department. Karnataka, however, has 28 of its 41 *taluka* sub-jails under the revenue department.

The sub-jails in Maharashtra have existed since before Independence. They were initially categorised as headquarter sub-jails and *taluka* sub-jails. The *taluka* sub-jails were managed entirely by the revenue department, while the headquarter sub-jails were managed by a jailor from the prison department under the supervision of

a revenue official (the *tehsildar*, or *taluka* magistrate). Over a period of time, the headquarter sub-jails were converted into district prisons, Class II and Class III. These are under the direct control of the IG Prisons.

The rules that govern the administration of sub-jails in the state are found in the Sub-Jail Manual, 1954. Prior to this, the Sub-Jail Manual of 1928 was applicable to both headquarter and *taluka* sub-jails. Many of the reforms introduced in the period after 1930s were applied to the headquarter sub-jails, but were not extended to the *taluka* sub-jails. The Sub-Jail Manual of 1954 was an attempt to compile a manual applicable only to *taluka* sub-jails, containing the latest (at that point of time) changes and corrections. Consequently, this manual is “applicable only to those Class III sub-jails which are entirely managed by staff not belonging to the jail department.”¹¹

Notably, all the existing sub-jails in the state are managed entirely by the revenue department, except eight, where a clerk from the prison department is deputed as a jailor who works under the supervision of the *tehsildar*.¹² However, even in these sub-jails, the Sub-Jail Manual, and not the Prison Manual, comprises the only relevant governing body of rules.

The revenue staff managing the sub-jail—*tehsildar* and the clerk (*awal karkun*) as the superintendent and the jailor, respectively — are not remunerated for their “extra” work. In conversations with the research team, they expressed the belief that sub-jails should be the responsibility of the prison department. They view their role in managing them as an additional burden without any benefit. The prison department, on the other hand, believes that it has no responsibility for these prisons except to release funds for food and other expenses for prisoners.

Those managing the sub-jails are not trained correctional officers. They have no knowledge of prisoners’ rights. Prisoners must be dealt with in accordance with the Sub-Jail Manual, judgements of the Supreme Court and High Court, and the government orders passed by the IG of Prisons. Many sub-jails do not even have the Sub-Jail Manual, let alone other documents on managing prisons. Neither the state government nor the prison department makes any effort to train those who administer sub-jails and deal with people in state custody. During a visit to Wai sub-jail, a senior revenue official informed the researchers that the prison department

provided training to revenue officials about 35 years ago. He underwent a 40-day training around 1969 on the important provisions of the Code of Criminal Procedure (Cr.P.C.), important jail circulars and the responsibilities of jail staff. He informed the team that Yerawada Jail provided three months' training to jailors of sub-jails, but this practice stopped in the early 1970s. He strongly believed that such trainings must be provided to all officials who are required to administer prisons and deal with prisoners.

Budget

The Office of the IG Prisons funds the functioning of sub-jails under five headings: salary, diet, office expenses, traveling expenses for staff and other expenses.¹³ Among these, the largest chunk is incurred on diet for prisoners. In contrast to the five categories of funds intended for sub-jails, the prison department itemizes 20 categories of funds for prisons directly under its control.

Table 2: Allocation of Grants from Prison Department to Sub-Jails (2004-2007)

Item	2004-05 (in thousands of INR)	2005-06 (in thousands of INR)	2006-07 (in thousands of INR)
Salary	600	855	786
Diet	3959	7135	5899
Office expenses	300	434	353
Travel	111	17	19
Other expenses	268	566	355
Total expenses	5238	9007	7412

The Physical Premises

Sub-jails in the state are usually located at the headquarter of a *taluka*. All the sub-jails are located in areas that either have a court of the Judicial Magistrate (First

Class) or a Sessions Court. Except in one or two cases, sub-jails are housed in the same buildings as revenue offices, local police station, the treasury or the court of the *taluka* (Sub-Divisional) Magistrate.

Who is Housed in Sub-jails and for How Long?

The Sub-Jail Manual provides for three categories of people who can be housed in sub-jails:

1. Criminal prisoners (convicts) who are:
 - a. from the *taluka* in which the sub-jail is located or from any other *taluka* specified by the District Magistrate, and
 - b. punished with imprisonment not exceeding a fortnight or such short term as the District Magistrate prescribes based on local circumstances;
2. Criminal prisoners (convicts) who are being transferred to any other place of confinement, though they cannot be confined in the sub-jail for more than seven days; and
3. Under-trial prisoners, provided there is no other place of confinement where they might be more conveniently confined.¹⁴

Under-trial Prisoners

Although the sub-jail manual mandates that under-trial prisoners will be housed in sub-jails only if “there is no other place of confinement where they might be more conveniently confined”, in practice, they largely house under-trial prisoners. There is no uniformity across the sub-jails in Maharashtra regarding the duration for which they house under-trial prisoners. The revenue officials (superintendents and jailors) managing the 24 functional sub-jails that the team visited informed that under-trial prisoners are kept in their jails for short periods, ranging from a few hours to seven months. Some sub-jails function merely as transit jails and keep the under-trial prisoners for a few hours or one day before transferring them to a district or central prison.

The Gondia sub-jail, for example, keeps prisoners for a maximum period of one day before transferring them to the district prison. Some other sub-jails, including Nandgaon, Sakri, Bhadgaon, Parola and Shirpur, house prisoners for 2-3 days, after which they are sent to the respective district prisons. In Mangaon, the jailor informed the research team that they keep prisoners for a longer period (maximum of seven

months). This is because Mangaon now has a Sessions Court, which can try people housed in the sub-jail without having them transferred to the district jail. According to the jailor, they try not to keep prisoners for a longer duration because long-term inmates tend to create problems for the administration and other prisoners. The research team discovered that most sub-jail guards and staff consider keeping prisoners in sub-jails risky. They fear escapes and/or suicides because of lack of adequate security.

Interestingly, often, patterns of the functioning of sub-jails within a given district were similar. Sub-jails in Ahmednagar district house under-trial prisoners for longer periods, usually till the completion of the trial. Sub-jails at Rahuri, Shrirampur and Newasa keep under-trial prisoners for longer durations and transfer them to district or central prisons only if they convicted. In Newasa sub-jail, the research team found an under-trial prisoner (arrested under the *Narcotic Drugs and Psychotropic Substances Act, 1985*) who was in that jail for 17 months. This study does not have sufficient information to determine whether the long-term stay of an under-trial prisoner in the Newasa sub-jail is an exception or the rule. The research team was not allowed to inspect any documents or interact with prisoners in the absence of a jailor or superintendent in any of the sub-jails. Indeed, in Mangaon, one prisoner informed the research team that he had been in the prison for eight months. When the jailor corrected him and said that he had been there only ten weeks, the prisoner agreed that he had been there for ten weeks.

Convicts

Convict prisoners are usually not kept in sub-jails. The jailors of the sub-jails visited, informed the research team that they keep only those convicts who are sentenced for a period of up to a fortnight. In most cases, after conviction, prisoners are sent to the nearest district or central prison. During all field visits, the research team came across only one convict prisoner (at Sindkhed sub-jail) who was awaiting police escort for his transfer to the district prison.

Women Prisoners

The NCRB recorded the total capacity of Maharashtra's sub-jails as 1,739 in 2007 and 2,361 in 2006. It recorded the capacity for female inmates as 568 in 2007 and

nil in 2006. Yet it shows that the inmate population in 2006 included 155 males and nine females (2007: 125 males, 9 females).¹⁵ This implies that either the NCRB statistics are incorrect when they recorded that there was no authorised capacity for housing females in Maharashtra sub-jails, or that the Maharashtra government was housing females in the same cells as male prisoners in gross violation of prison rules and Supreme Court judgements.

A perusal of the records from the Office of the IG Prisons reveals a different story. At least in the official state records, out of the 114 working sub-jails, only 19 do not have any capacity for women prisoners. The other 94 sub-jails have a separate cell for them.¹⁶ The authorised capacity for housing female inmates in sub-jails is 579. Of the 24 functioning sub-jails visited, only four did not have any cells for women: Bhadgaon, Sakri, Mangaon and Vadgaon Maval.

In practice, very few sub-jails keep female prisoners. They are usually transferred to the nearest district or central jail. This is primarily because of the lack of female guards to ensure their security. For example, in Mangaon sub-jail, the authorities keep female prisoners only for 2-3 days; in Mahad, they do not keep any female prisoners and transfer them immediately. The research team learned from the local revenue staff administering Bhadgaon sub-jail that it does house female prisoners for a short period, despite the fact that there is no ear-marked female cell for housing them.

A Positive Trend

In areas that have sub-jails, people arrested under the preventive sections of Cr.P.C. are not sent to prison after or during the magisterial inquiry under Chapter VIII of the Code. The *taluka* magistrate, who also functions as the superintendent of the sub-jail, is empowered to deal with these cases and does not send them to prison. They are required to execute a bond with or without sureties to appear for the magisterial inquiry. On the other hand, where the sub-jails are closed, persons arrested under the preventive powers of Cr.P.C. are sent to prison only if they do not/are unable to execute a bond with surety.

Security

There are two aspects to security with regard to prisons. First, the state must ensure the security of prisoners against physical and mental injury from the prison staff, police guards, fellow inmates and themselves. Second, the state must ensure the safety of the society at large by ensuring that the prisoners do not escape. With respect to the second aspect, there does not appear to be much danger. During the field visit to the 24 functional jails, the research team could only get information about two instances of escape (from Gondia and Muktainagar sub-jails); however, none of the sub-jails in Maharashtra have adequate provisions to guard against the first aspect of security. The team came across five instances of custodial deaths (including two suicides) that took place in the last seven years.¹⁷

Separation of Under-trial Prisoners and Convicts

The sub-jail manual categorically provides that “unconvicted criminal prisoners shall be kept apart from convicted prisoners.”¹⁸ However, in none of the 24 functional sub-jails did the research team witness any such separation, or, in jails without convicts, the notion of such separation. This can have grave consequences for first-time offenders or innocent suspects who may be housed with hardened criminals, and potentially victimised or trained into a life of crime.

Separation between Judicial and Police Custody

In some sub-jails, there was no physical separation between judicial custody remand prisoners and police custody remand prisoners. For example, Wai sub-jail, which has two separate cells for male and female prisoners with an authorized capacity of five persons in each cell, has only one cell functioning as a sub-jail. The other cell is used to house those sent into police custody. When they get female prisoners, they use one cell to house them, and the other cell houses male prisoners sent to both judicial and police custody. This is also the practice in Shahada. In Jamner sub-jail, also, the research team was informed that there was no strict differentiation in terms of housing those in judicial custody and police custody. This is in grave violation of judicial orders and the safety they represent for the under-trial prisoners. If the police that arrest and accuse a person of committing an offence can have access to those who have been remanded in judicial custody, the threat of ill-

treatment and torture is high. In Taloda sub-jail, the authorities housed the prisoners sent for judicial and police custody together in the sub-jail; however, after an incidence of suicide in 2006, they do not keep any prisoners sent to police custody in the sub-jail.

Throughout the state (except Gondia sub-jail), sub-jails are constructed such that police lock-ups are right next to the magisterial cells. In several places visited by the researchers, it was impossible to distinguish between sub-jail, treasury, and police custody cells, which are adjacent to one another. At Bhadgaon sub-jail, the station house officer sat at the gate of the sub-jail.

Guards

Police officials guard the police lock-ups, the magisterial cells (sub-jails) and the treasury. Most jurisdictions have four police officials (one head constable and three constables) as guards. In Shrirampur, however, there were five guards. Notably, some sub-jails that house female prisoners do not make any provision for female guards. For example, the research team found female prisoners in Nandgaon, Taloda and Yawal sub-jails at the time of its visit; however, these sub-jails did not have any female guards deployed at the time. In fact, the Sub-Jail Manual does not mandate having female guards outside the female cells in sub-jails. The manual merely requires that female prisoners shall be searched by women only. The jailor of the Taloda sub-jail expressed concern about keeping female prisoners in sub-jails without the presence of female guards. He mentioned that the keys of the sub-jail are with the guards during the night and this raises the risk of harassment and abuse of women prisoners.

Impact of Escapes and Custodial Death on the Functioning of Sub-Jails

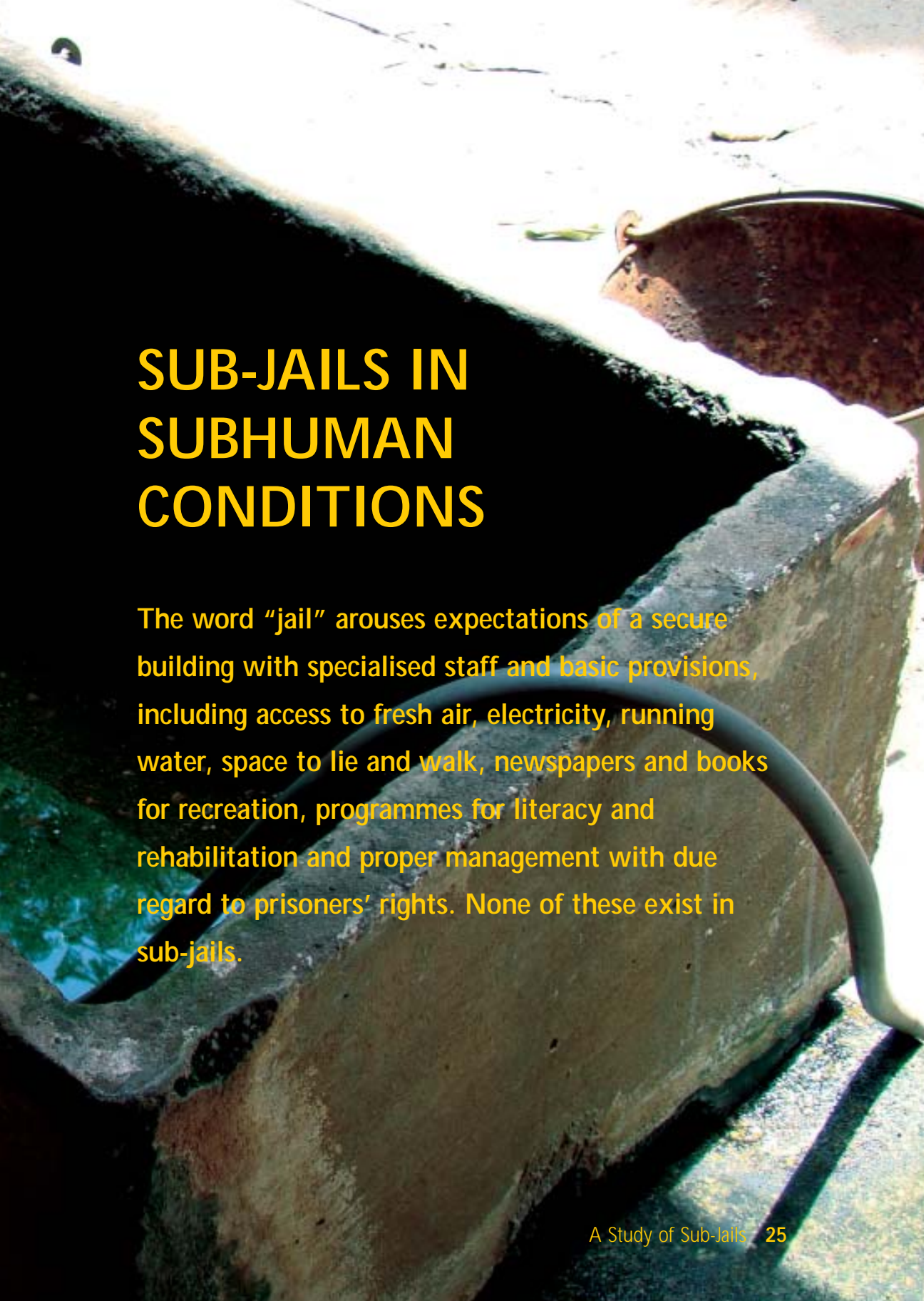
The research revealed that even the Office of the IG Prisons does not have information about the recently 'closed' sub-jails. Of the 24 'functioning' sub-jails visited, the research team found six — Bramahapuri, Varora, Muktainagar, Raver, Jamner and Pachora — were effectively closed. All these sub-jails are functioning according to the records at the prison headquarter; however, the research team was informed that they have not housed any prisoners for at least 1-2 years. In some, such as

Varora, the research team was informed that the jail had not housed prisoners for the past five years. While the reasons for closing some sub-jails were not clear, others were closed because of specific, local reasons, including prisoner escape and suicide.

One of the major reasons for sub-jails not functioning and for prisoners not being held in sub-jails is the lack of facilities and security for the prisoners. In some cases, incidents relating to escape, custodial death and suicide of prisoners in sub-jails led to the authorities deciding not to keep prisoners there. The research team was informed that the police guards and revenue staff of the concerned sub-jails face disciplinary inquiries as well as suspension and/or criminal cases against them when such incidents occur. The police guards and the revenue staff saw themselves as being forced to do work beyond their core duties and then being punished in the aftermath of such incidents. Therefore, they favoured transferring the prisoners to the district or central prisons that are under the prison department. The trends, however, vary.

In Taloda, the research team was informed that the suicide of a prisoner led to a strict separation between police and judicial custody. In Gondia, the researchers were told, the escape of five prisoners in 2006 led to a policy of not keeping prisoners beyond one day. Muktainagar sub-jail saw an incidence of escape as well as one case of suicide in 2007. After these incidents, the guarding staff was suspended and the police personnel refused to bear the risk of keeping prisoners in the sub-jail. The research team visited seven of the eleven sub-jails in Jalgaon district and found that four of these house no prisoners after the incidence of suicide and escape in Muktainagar.¹⁹ Notably, three of the seven sub-jails visited in the same district (Jalgaon) were functioning. Similarly, Rahuri sub-jail, which also reported a custodial death – an under-trial prisoner died while being transferred to the hospital, according to the guards – continues to house prisoners and has not closed down.





SUB-JAILS IN SUBHUMAN CONDITIONS

The word “jail” arouses expectations of a secure building with specialised staff and basic provisions, including access to fresh air, electricity, running water, space to lie and walk, newspapers and books for recreation, programmes for literacy and rehabilitation and proper management with due regard to prisoners’ rights. None of these exist in sub-jails.

Housing any prisoner in sub-jails in Maharashtra is a gross violation of their fundamental rights. In fact, it is a misnomer to denote these judicial custody cells as sub-jails. The word “jail” arouses expectations of a secure building with specialised staff and basic provisions, including access to fresh air, electricity, running water, space to lie and walk, newspapers and books for recreation, programmes for literacy and rehabilitation and proper management with due regard to prisoners’ rights. None of these exist in sub-jails. Both the departments – prison and revenue – responsible for their upkeep believe that sub-jails are an extra responsibility for them, and the other department should be doing more to improve their conditions.

Buildings

All the sub-jails in the state are housed in buildings that serve primarily as local revenue offices at the *taluka* headquarters. Often constructed as U-shaped structures, these buildings have police custody cells, sub-jails, a treasury office and a police station right next to each other in one corner of the building.

These buildings, many of which were constructed before Independence, are outdated, often damaged, and in need of urgent repairs. In fact, the two cases of escape that the research team learned of during its visits to the sub-jails were attributed to the dilapidated condition of the buildings. The team was informed that in both Gondia and Muktainagar sub-jails, five prisoners escaped by breaking the rear wall of the prison, which needed repairs and was on the verge of collapse at the time of the escape. Only one of the 24 functioning sub-jail buildings that the team visited had been white-washed recently (Wai sub-jail). The rest were dirty, full of cobwebs and had broken floors and walls blotted with betel leaf stains and spit. The prison department does not provide funds for maintaining these prisons, and the revenue department does not seem to consider this a priority.

Air and Ventilation

The sub-jails comprise two or three cells arranged adjacently in a row. Three sides of these cells are dirty walls. The rear wall has a small, grilled ventilation window near the roof. The iron grills were almost always brownish-black in colour and covered with cobwebs. The front wall of the cell has a small door with iron bars. The remaining portion of the front wall is a short, concrete wall – about four feet

in height – embedded with iron bars that reach the roof. There is a narrow cemented pathway outside the cell, which is covered with a shed, meant to protect the cells from rain.

These cells do not have adequate access to sunlight or air. Prisoners have access to natural light and fresh air only through the small ventilation window, the iron door and the bars. Furthermore, those staying in these cells are also deprived of electricity for a light or fan; the research team noticed that all the sub-jail cells have electric lights installed in front of the cells, but there were no light bulbs inside the cells.

On inquiring about the reasons for depriving the prisoners of these basic provisions, the team received varied responses. In Wai, they were told that the prisoners might commit suicide if there were any electrical points inside the cell. In Mahad, the clerk from the prison department, who functions as the jailor of the sub-jail, mentioned that these are old rules and he could not do anything about them; yet he could not point to any such law or rule, nor could he explain why prisoners can have lights and fans in district or central prisons but not in sub-jails. In Mangaon, the team raised concerns with the jailor about the heat in summers, especially if the jails are overcrowded. Before he could respond, the police guard sitting right outside the prison glared at the prisoners, and angrily asked the research team members why “these people” should get any amenities. The prisoners, all under-trials from poor families, were stripped of dignity in the presence of outside researchers. The team’s attempt to remind the police officer about prisoners’ rights only made him angrier.

Bedding and Clothing

The Sub-Jail Manual mandates that all prisoners sentenced to rigorous imprisonment must wear prison clothing and use prison bedding.²⁰ An under-trial prisoner or a prisoner sentenced to simple imprisonment may be made to use prison clothing and bedding, if necessary.²¹ The manual also prescribes the clothing and bedding to which a prisoner is entitled. These consist of one cotton-woolen *chaddar* or cotton sheet depending on the climate, one cotton sheet, one loom carpet, one shirt, one cotton-woolen jacket in winter, two cotton trousers or shorts, one *lungi*, and one cotton cap. Women are also entitled to two sarees and two cotton bodices.²²

Given that sub-jails transfer convicted prisoners as soon as possible, they do not have any provision for providing clothes to the prisoners. Prisoners wear their own clothes. Parola sub-jail has a shocking practice of not allowing prisoners to wear anything besides undergarments. (It does not house any female prisoners.) When the research team asked the reason for treating the prisoners in this humiliating way, they were told that some prisoners had tried to commit suicide in the sub-jail by hanging themselves with their clothes. Since this incident, none of the prisoners are allowed to wear any clothes in the sub-jail except their undergarments.

Most of the sub-jails that the research team visited did not have sufficient bedding. What passes as bedding in these jails was in poor condition: one could only see a few old, dirty and torn sheets and/or mats lying on the floor. It did not look as though the sheets had ever been washed. The team was informed that the prison department does not provide bedding for prisoners, despite repeated requests from the sub-jail staff. Very few sub-jails – Mahad, Mangaon, Shirpur and Yaval – have received bedding from the prison department in the past few years. Bhadgaon sub-jail has requested for bedding from the prison department for the last five years to no avail. The research team was told that they had to resort to using bedding purchased by the police department for the prisoners in its custody. And Bhadgaon is not alone: Jamner sub-jail last received bedding from the prison department a decade ago. The staff of sub-jails at Nandgaon, Gondia, Bhadgaon and Parola presented the team with letters they had written requesting for bedding from the prison department. The requests went unanswered. Some of the sub-jails have purchased bedding from the market using funds earmarked for other expenses in the budget.

Food and Water

Sub-jails do not have kitchens or other arrangements for food preparation. Prisoners' food is provided by private contractors. The superintendent of a sub-jail invites tenders from local food contractors for the supply of food to the prisoners. The Sub-Jail Manual prescribes the diet (and the scale) to which prisoners are entitled.

The quality of food supplied varies across sub-jails, depending on the contractor and rates agreed. According to the information gathered by the research team, the rate of contract ranges from Rs. 70 per day per prisoner in Mahad to Rs. 50 in Wai,

Rs. 42 in Rahuri, Rs. 38 in Margaon and just Rs. 22 in Raver. In most places, the contract includes two meals (lunch and dinner) and morning tea. The food supplied to prisoners appeared thin and watery; most of the suppliers do not meet the quality and quantity standards agreed to in their contracts.

According to the Sub-Jail Manual, the prisoners must receive *roti*, rice, *dal* and vegetables; however, wherever the research team could observe, the prisoners did not get all this. In some places, they were just given *jawar roti* and vegetable curry, the cheapest option for the contractor. The Sub-Jail Manual mandates the superintendent to inspect the quality of the provisions issued to prisoners weekly and make appropriate entries in the prescribed register.²³ The jailor is required to inspect the food daily and satisfy himself that the quality and cooking is good and the quantity is in accordance with the sanctioned scale. He should also make an entry of such an inspection in the other prescribed register.²⁴ None of the sub-jails visited by the research team had these registers. There were no weekly or daily inspections to ensure the quality of food. The prisoners are left instead to the mercy of the lowest-bidding contractor. Even under-trial prisoners, who are entitled to receive food from their families, according to the manual,²⁵ are usually denied this right and required to eat sub-jail food. However, in Shirpur and Vadgaon Maval, under-trial prisoners are allowed to receive food from home. In Margaon and many other sub-jails, under-trial prisoners are permitted fruits and biscuits - but not cooked food - from their families and friends.²⁶

The Sub-Jail Manual does not contain any provision on drinking water. The research team found only four sub-jails that have taps with running water inside the cells – Jamner, Bhadgaon, Mahad and Wai. Other sub-jails that they visited did not have any provision for running water, whether drinking or otherwise, inside the cells. Drinking water is supplied from outside. Often the contractors who supply food also supply drinking water. In some cases, as in Gondia, drinking water is kept in a bucket just outside the cells so that prisoners can get it on their own. In other cases, they need to request the guards to provide them water every time they are thirsty.

Hygiene and Sanitation

All the cells of the 24 functioning sub-jails that the research team visited had attached toilets, except in Pachora and Yewala. A toilet consists of a small hole in

one corner of the cell. The height of the wall that separates the toilet from the rest of the cell is approximately three feet and affords little privacy (except in Mahad, where the height would afford some privacy). The toilet space is partitioned into two small enclosures by a wall of the same height. One side functions as the bathing area and the other is equipped with an Indian style commode. The entry to both these areas is open on one side and affords no privacy. There is no adequate supply of water inside the cells. As mentioned, only four sub-jails had provisions for running water inside the cells. In a few toilets that the research team was able to see from the inside the conditions were pathetic. In some, like Gondia, human feces went unremoved; the place was stinking and filthy when the team inspected it. Conditions in the sub-jails are extremely unhygienic due to the lack of proper cleaning facilities, which exacerbates health challenges inside prisons. The cells are cleaned by inmates, who lack the necessary supply of phenol and water.

Health and Medical Attention

The Sub-Jail Manual mandates the medical officer to visit the prison at least twice a week and at other times, when he may be called to attend cases of serious illness or to examine newly admitted prisoners. The medical officer must also advise the superintendent on sanitation of the jail premises and health of the prisoners. Except for Wai, where the research team was told that the medical officer from the rural hospital visits the prison every week and examines the prisoners, none of the other sub-jails the team went to have ever been visited by medical officers except in emergencies. The prisoners are not medically examined at the time of admission and there are no regular medical check-ups. Only when a person falls seriously ill is she or he transferred to the local hospital. It is not difficult to get police escorts to take prisoners to the hospital because the police station is next to the sub-jail, except in Gondia, where getting police escorts is problematic.

None of the sub-jails the research team visited had a stock of medicine or took any steps to maintain the health of the prisoners. Lack of proper food, water, hygiene and any form of physical exercise complicates pre-existing conditions and encourages injury and the spread of disease. Since toilets are inside the cells, prisoners are never let out of their cells unless they have to be produced before the court, or are very ill and need to be transferred to the hospital.

Family Contact

The Sub-Jail Manual allows under-trial prisoners all reasonable facilities for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers. Regarding convicted prisoners, the manual allows only “newly” convicted prisoners to see or communicate with their relatives or friends. These meetings or communications are allowed for the purpose of “procuring bail”, preparing an appeal, or arranging the payment of fine in cases where the person is imprisoned in default of payment of fine.²⁷ They are also allowed to write letters to enable them to manage their property or family affairs.

Sub-jails allow family visits liberally. The research team was informed that since the majority of the population is under-trial, the sub-jail officials allow family visits. In many sub-jails, family members can visit during any time of day at reasonable hours. There is no fixed place or day for interviews between prisoners and families. In Mahad, up to five members of the family can visit once a week between 8 a.m. and 1 p.m. and between 4 p.m. and 7 p.m. (except on holidays). The meeting duration varies between 10-30 minutes across sub-jails.

There is no visiting area and all relatives stand or sit at about 7-8 feet from the cells, which can be chaotic and confusing if there are too many visitors. The sub-jail officials were of the opinion that this does not happen and everyone is happy with the arrangement. The family members do not need to file formal applications to meet them as in other prisons. In many sub-jails, they are also allowed to give fruits and biscuits, and at times even toothpaste and toothbrush, to the prisoners.





ACCOUNTABILITY

With respect to sub-jails in Maharashtra, the fact that two departments are involved in dealing with these prisons has led to each department blaming the other, with no effective accountability for either.

All state agencies must be held accountable not only for misconduct, but also for their performance. The office of IG Prisons, Sub-Jail Superintendent and Jailor are all required to perform their duties in accordance with the Constitution (as interpreted by the Supreme Court), the Prisons Act of 1894, and the Maharashtra Prison/Sub-Jail Manual (whichever is applicable). All these documents lay down the rights of the prisoners and the duties of the state agencies and officials.

Both the internal (departmental) system and the external agencies (judicial and civilian oversight) have an important role to play in holding the sub-jail and the prison department accountable for non-performance of their duties and violations of the rights of prisoners. There is a fair debate between those who support internal versus external mechanisms of prison accountability. Those who advocate for the internal approach argue that external accountability agencies will not receive cooperation from the prison department and officers, who will clam up immediately against suspicious outsiders, preventing them from obtaining a complete and true picture. It is the internal chain of command and internal disciplinary processes, they argue, that can address the problems swiftly and effectively. Those supporting external accountability mechanisms argue that the internal mechanisms have never been effective and the prison officers collectively come in the way of effectively addressing misconduct as well as non-performance. A transparent and independent mechanism is needed to make the prison department accountable because external civilian mechanisms are independent of the department and are thus capable of assessing the situation objectively and suggesting both individual and organisational remedies.

The emerging best practice in dealing with accountability issues shows that it is not enough to merely have either internal or external mechanisms of accountability. It is necessary to create a multiplicity of accountability systems, both within the department and the government. A positive and respectful attitude and cooperative working relationship between the prison management and independent oversight structures will result in the best arrangements for accountability.²⁸

Internal Accountability

The departmental hierarchy in the prison plays an important role in checking abuse of powers and ensuring proper performance of functions. However, it is a broadly accepted fact that internal departmental accountability systems in India have become

defunct. Inspections and filling registers are compulsory activities that are rarely undertaken, and when they are, it is without serious effort.

With respect to sub-jails in Maharashtra, the fact that two departments are involved in dealing with these prisons has led to each department blaming the other with no effective accountability for either. The revenue department officials are of the view that they should not be burdened with the responsibility of sub-jails. They do not have the resources, time or training to properly administer prisons. The prison department is clear that they have no control over, and therefore cannot be held accountable for, any problems in the sub-jail. They only provide funds under five budgetary headings to the sub-jail. The revenue department claims that they are entitled to receive clothes, bedding and stationery from the prison department in addition to the budgetary specifications; they do not receive these, despite persistent requests. The research team's conclusion is that they cannot be expected to maintain adequate standards of living in the absence of full support by the prison department.

Most sub-jails do not even have a copy of the Sub-Jail Manual, let alone the requisite registers prescribed for the proper administration of these prisons. Non-availability of the manual implies complete ignorance of the prescribed procedures for managing the sub-jails and maintaining information. What the revenue staff in these jails knows about management of sub-jails is based on information passed on by their predecessors in conversation, rather than written manuals or procedures. The research team visited three of the eight sub-jails that have clerks from the prison department posted as jailors to the sub-jails (Shrirampur, Taloda and Mahad). Of these jails, only Mahad did not have the Sub-Jail Manual. All these sub-jails had more registers than the others, and these were reportedly being filled by the jailors.

The Sub-Jail Manual requires that the following standard registers are maintained at all sub-jails:

- 1) Form A – Register of under-trial prisoners
- 2) Form B – Register of convicted prisoners
- 3) Form C – Register of daily totals
- 4) Form E & F – Registers of en-route under-trial and convicted prisoners
- 5) Diet Register
- 6) Desk diary (Register for entry of all incoming and outgoing prisoners)
- 7) Register No. 13 – Jailor's Report Book

- 8) Register No. 14 – Official Visitors’ Book
- 9) Register No. 22 (A) – Dead Stock Register.
- 10) Register No. 32 – Medical Officer’s Journal in which the medical officer will record his visits and particulars regarding sick prisoners and issue of extra diet.²⁹

The purpose of having these registers is that they can be inspected regularly to identify any errors and omissions in the management and functioning of the sub-jails. However, the Sub-Jail Manual does not prescribe the authority who should inspect these documents. The only mention of inspection in the manual is found in Rules 11, 22 and 44. Of these, Rules 11 and 22 pertain to inspection of the quality of food by the Jailor and the Superintendent, respectively. The Maharashtra Prison Manual, on the other hand, mandates that all these registers must be inspected regularly. It requires the inspecting authority to examine the following points:

- (a) whether the register is written correctly;
- (b) whether the register is written in time;
- (c) whether the checking officials are doing their work properly;
- (d) whether the entries in the register are initialed by the concerned officials;
- (e) whether the scorings are properly authorised and attested by the competent official; and
- (f) whether the total work of the branch is functioning along on proper lines.

The Prison Manual also clarifies that the inspecting officials are responsible for the overall efficiency of the section, branch or sub-branch as the case may be. It mandates the Deputy Superintendent/Superintendent to record any defects noted at the time of inspection in Register 12, giving detailed instructions to the concerned staff members. The Maharashtra Prison Manual also mandates the auditors of the prison department and the inspecting parties of the Regional Deputy Inspector General and the Inspector General of Prisons to examine the implementation of these instructions at the time of audit and inspection. Clearly, none of this is happening with respect to sub-jails.

Hardly any sub-jail maintains all the prescribed registers. The only information that is regularly maintained in all the sub-jails is on the diet of prisoners and statistics on the sub-jail population, which are sent regularly to the Office of the Inspector General of Prisons. Some sub-jails keep additional registers, but this is uncommon. Apart from these items, there is no maintenance of records or inspection thereof.

The internal systems of accountability fail to the detriment of those who live in sub-human conditions in these sub-jails.

External Accountability

Many countries have dedicated agencies to oversee the functioning of prisons. In UK, for example, Her Majesty's Inspectorate of Prisons for England and Wales (HMI Prisons) is an independent inspectorate which reports on conditions and treatment of those in prison, young offenders institutions and immigration detention facilities. HM Chief Inspector of Prisons is appointed from outside the Prison Service, for a term of five years. The Chief Inspector reports to ministers on the treatment of prisoners and conditions in prisons in England and Wales.³⁰ India does not have any external agency dedicated to holding the prison department to account. However, there are two agencies whose duty it is to oversee the prisons – the human rights commissions (national and state) and the prison visitors (the official and the non-official visitors, as well as the Board of Visitors). In addition, the judiciary and the legislature can also act as external oversight agencies.

The human rights commissions are mandated to visit prisons to study their living conditions and make appropriate recommendations.³¹ However, neither the National nor the State Human Rights Commission (SHRC) has conducted any such study on sub-jails in Maharashtra. On being interviewed, one of the members of the SHRC informed the researcher that as a former Inspector General of Prisons, he had suggested to the state government that it transfer control of sub-jails from the revenue department to the prison department, to enhance consistency and accountability. His proposal was shelved because of the financial implications. Financial costs are apparently more important than the rights of prisoners or the law of the land. The SHRC, as an oversight body, however, has made no such recommendation to the government.

The Prisons Act envisages a limited system of oversight and community involvement and empowers the state government to frame rules for the appointment and guidance of prison visitors.³² These visitors comprise official (by virtue of their post) and non-official visitors. The Indian Jails Committee, 1919-20 found this system of “appointing persons, official and non-official, to serve as visitors to jails” valuable:

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 organisation, 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.**³³

Like the Prison Manual of Maharashtra, the Sub-Jail Manual also makes detailed rules for the appointment and functioning of prison visitors, although there are some important differences between the two. The Sub-Jail Manual provides that the Board of Visitors shall comprise two non-official visitors and fourteen official visitors. The visitors are empowered to inspect every part of the "premises of the sub-jail, interrogate prisoners and examine warrants, sub-jail registers and records".³⁴ They may also "direct that any representation or petition made to them by a prisoner shall be forwarded to government".³⁵ The visitors must record the date and time of their visit in the visitors' book and enter their remarks in it. These entries must be forwarded to the Inspector General of Prisons and the copy of his orders, if any, should be sent to the visitor.³⁶ The Board of Visitors must meet once in every quarter of the year to carry out their duties.³⁷

The District Magistrate as an official visitor and the Sub-Divisional Magistrates under him shall inspect the sub-jails and send their reports to the Inspector General. These reports should contain special remarks about the irregularities and defects noticed by them in the course of their inspections, as well as the instructions issued and orders passed by them on the spot to the Superintendent to remove those defects and irregularities.³⁸ During its visits, the research team found that the majority of the sub-jail staff was not aware of the Board of Visitors. This was mainly because the non-availability of the sub-jail manual was coupled with

overwork and apathy. No non-official visitors had been appointed in any of the sub-jails that the research team visited. No sub-jail staff could recall any meeting of such a Board, except in Sindhked (which has a limited Board of Visitors without any non-official visitors). None of the official visitors - except the revenue officials and occasionally the civil judge – had ever visited the sub-jails. Of all the sub-jails, the research team found the Visitors' Book (Register No. 14) only in three sub-jails - Sindhked, Yaval and Shrirampur. Even in these sub-jails, the team did not find any entry in the Visitors' Book except in Sindhked. The official visitors had noted that the prisoners sent to both judicial custody as well as police custody were housed together in the sub-jail. There was no further direction on record to house them separately.

Clearly, the prison visiting system and the State Human Rights Commission have both failed as external oversight mechanisms in holding the Prison and the revenue departments accountable for the awful conditions in which prisoners in the sub-jails are housed.

Grievance Redressal

The system fails prisoners in sub-jails at every turn. The law is merely a word, which is of no help to them. The accountability systems prescribed by the law do not function. There is no effective grievance redressal system for the prisoners, despite the fact that the Supreme Court has mandated setting up grievance deposit boxes to be maintained by or under the orders of the District Magistrate and the Sessions Judge. These are to be opened as frequently as required and suitable action will be taken on the complaints made. The Apex Court also mandates the District Magistrate and the Sessions Judge to visit prisons in their jurisdiction, give opportunities for airing legal grievances, make expeditious enquiries and take suitable remedial action.³⁹ In the absence of any effective oversight or grievance redressal system, prisoners in sub-jails remain at the mercy of the over-worked and under-resourced revenue staff, who are in no way equipped to deal with them.

CONCLUSION

In popular perception, the Indian criminal justice system deals with two categories of people: those who live above the law and those who are crushed by it. An overwhelming majority of prisoners fall in the second category: they have no voting rights, have limited access to the outside world, and are under the complete control of the prison authority. They cannot talk to the press, write letters or speak with their families without the permission of and/or censorship by the prison department. In India, the majority of these voiceless people are presumed guilty pending trial or conviction for any offence. The 2007 statistics reveal that over 66 per cent of prisoners in India are under-trials.⁴⁰ The occupancy in prisons exceeds by 41.4 per cent its sanctioned capacity. In Maharashtra, the Comptroller and Auditor General of India claims the rate is 147 per cent, with one prison overcrowded by 402 per cent.⁴¹ A majority of these under-trial prisoners are poor, and are denied bail for want of monetary security. Trials take years. Moreover, those who are forced to live in the dank, dark cells of sub-jails do not have access to any kind of exercise or recreation, adequate food and water, medical care or legal assistance.

The study could find no discernable reason – except lack of political will – for keeping the management of Maharashtra's sub-jails in the hands of revenue officials. These officers are overworked and not trained in correctional work. They are unaware of prisoners' rights as enunciated by the judiciary and prescribed by the Prisons Act. They are not trained to collect and maintain information relating to sub-jails in the prescribed format, which is why the national statistics provide an inaccurate picture of these jails. In the absence of accurate and adequate information, the government is unwilling and unable to channel resources into sub-jails as a matter of priority. This report strongly recommends that the sub-jails of Maharashtra be operated under the direct control of the prison department.

The study recognises that there are some benefits of having prisons at the *taluka* or *sub-divisional* level. The most important being that prisoners are close to their families, who thus do not have to spend too much money to meet their spouses or children. Another benefit is that the close proximity to the police station implies that police escort is usually not a problem for producing the accused in the local court or to take a prisoner to a hospital close by. However, these minor benefits do not in any way compensate for the degradation and debasement suffered by human beings who are forced to live in these sub-jails.

According to information gathered by the research team, in 1999, the IG Prisons at the time requested the state government to bring all sub-jails under the direct control of the prison department.⁴² However, the government rejected this demand on the basis of financial implications of the proposal.⁴³ Notably, the central government has given hundreds of crores of rupees to the state government (96.87 crores till 2008) to build new prisons and renovate existing ones under its Prison Modernisation Scheme.⁴⁴ Given this, the state's financial defence against bringing sub-jails under the direct control of the prison department is weak, especially since the transfer is primarily administrative. The state government should, in fact, build proper, small prisons - instead of the existing cells that pass off as prisons - at the *taluka* level to house some under-trials near their families. The prison department should maintain these jails. According to the data received from the Office of the IG Prisons, the total authorised capacity of all functional sub-jails in the state is 1739. Until new prisons are built at the *taluka* level, prisoners must be accommodated in neighbouring district prisons. These prisons benefit from the central government's scheme to improve infrastructure and construct new barracks, and though they remain understaffed, underfunded, and overcrowded, they still offer more humane conditions – and skirt fewer legal obligations – than sub-jails.

RECOMMENDATIONS

This study recommends that:

Legislators

- Must demand that the state government provides an explanation for entrusting the management of sub-jails to the revenue department.
- Must demand that the state government justifies how it can keep citizens of this country in conditions that blatantly violate their fundamental rights.
- Must push the state government to transfer the control of sub-jails to the prison department.

Judiciary

- Must take *suo moto* action to ensure that the rights of people in judicial custody are not violated by conditions of their detention.
- Must direct subordinate judicial officers to inquire about conditions directly from prisoners housed in sub-jails, and pass appropriate directions.
- Must direct subordinate judges to regularly visit sub-jails and other prisons in their jurisdiction and inquire into the grievances of prisoners, as directed by the Supreme Court in *Sunil Batra (II)* AIR 1980 SC 1579.

State Government

- Must initiate a detailed study of the condition of sub-jails in the state.
- Must bring all sub-jails under the direct control of the prison department.
- Must, until such time that the transfer of control of the sub-jails to the prison department can be implemented, ensure that the revenue staff dealing with sub-jails is properly trained, equipped and resourced to manage sub-jails properly.
- Must ensure that the conditions of sub-jails are comparable with those of other prisons in the state.
- Must appoint non-official visitors to the sub-jails.
- Must revise the archaic Sub-Jail Manual.

State Human Rights Commission

- Must fulfill its statutory duty to visit sub-jails to study their living conditions and make appropriate recommendations.⁴⁵
- Must take *suo moto* action to protect the human rights of the prisoners in sub-jails.

Prison Department

- Must train the revenue officials dealing with sub-jails on the rights of prisoners and standards of prison conditions under the manual, as well as in properly managing jails and maintaining records and information.
- Must provide the sub-jail staff with an adequate budget for prisoners, including for clothing, bedding and utensils.
- Must provide the sub-jails with copies of the Sub-Jail Manual and other relevant circulars.
- Must ensure that there are regular inspections of sub-jails and records maintained therein.
- Must push for regular meetings of the Board of Visitors.

Revenue Officials Managing the Sub-Jails

- Must demand from the state government and the prison department adequate resources to maintain the sub-jails.
- Must equip themselves to properly manage the sub-jails by demanding adequate training and by reading the Sub-Jail Manual and judicial pronouncements.
- Must ensure that people in police custody are not kept with those in judicial custody and that the rights of those in judicial custody are not violated.
- Must bring to the attention of the state government, prison department and the local judiciary any violation of prisoners' rights because of lack of sufficient resources.

Civil Society

- Must study and monitor the condition of sub-jails and those living in them.
- Must bring the plight of those living in sub-jails to the attention of the state government, judiciary, state human rights commissions and the media.
- Must push the state government to transfer the control of sub-jails to the prison department.
- Must assist with training for managers of sub-jails.

ANNEXURE I

List of Sub-Jails in Maharashtra

(The ones in red are closed according to the records of the prison department)

Western Region (56 Sub-Jails)

	Pune (11)	Sangali (6)	Satara (9)	Solapur (8)	Ahmednagar (12)	Kolhapur (10)
1	Ambegaon	Islampur	Dahiwadi	Barshi	Akole	Aajra
2	Baramati	Jat	Karad	Karmala	Jamkhed	Budargarh
3	Dound	Shirala	Khandala	Madha	Karjat	Chandgarh
4	Indapur	Tasgaon	Koregaon	Malshiras	Kopargaon	Gadhinglaj
5	Junnar	Vita	Medha (Jawali)	Mangalwedha	Newasa	Kagal
6	Khed	Miraj	Patan	Mohol	Parner	Panhala
7	Purandar		Waduj	Pandharpur	Pathardi	Radhanagari
8	Shirur		Wai	Sangola	Rahuri	Shahuwadi
9	Vadgaon Maval		Mahabaleshwar		Sangamner	Shiroli
10	Velha				Shevgaon	Gaganbavada
11	Mulshi				Shrigonda	
					Shrirampur	

Eastern Region (30 Sub-Jails)

	Amravati (3)	Yawatmal (4)	Buldhana (5)	Akola (3)	Chandrapur (3)	Nagpur (4)
1	Chandur (Bajar)	Darwha	Chikhali	Akot	Brahamapuri	Katol
2	Daryapur	Kelapur	Jalgaon Jamod	Balapur	Varora	Ramtek
3	Morshi	Pusad	Khamgaon	Murtijapur	Rajura	Savner
4		Wani	Malkapur			Umred
5			Mehekar			
	Wardha (2)	Bhandara (1)	Gadchiroli (2)	Washim (2)	Gondia (1)	
1	Aarvi	Sakoli	Gadchiroli	Mangrul Pir	Gondia	
2	Hinganghat		Sironcha	Washim		

South Region (31 Sub-Jails)

	Sindhudurg (5)	Raigarh (11)	Ratnagiri (7)	Thane (8)
1	Devgarh	Karjat	Chiplun	Dahanu
2	Kankavali	Khalapur	Dapoli	Mokhada
3	Malwan	Mahad	Devrukh	Murbad
4	Vengurla	Mangaon	Guhagar	Palghar
5	Kudal	Matheran	Khed	Shahapur

	Sindhudurg (5)	Raigarh (11)	Ratnagiri (7)	Thane (8)
6		Murud	Lanja	Wada
7		Pen	Rajapur	Bhiwandi
8		Roha		Wasai
9		Panvel		
10		Sudhagad		
11		Uran		

Central Region (55 Sub-Jails)

	Usmanabad (3)	Latur (4)	Nanded (5)	Aurangabad (3)	Nashik (13)	Hingoli (3)
1	Kalamb	Ahmedpur	Kandhar	Kannad	Chandwad	Basmat
2	Paranda	Latur	Biloli	Gangapur	Dindori	Hingoli
3	Umarga	Nilanga	Deglur	Vaijapur	Igatpuri	Kalamnuri
4		Udgir	Hadgaon		Kalwan	
5			Kinvat		Malegaon	
6					Nandgaon	
7					Niphad	
8					Peth	
9					Baglan	
10					Sinnar	
11					Surgana	
12					Yewla	
13					Pimpalgaon	
	Dhule (3)	Beed (2)	Jalgaon (11)	Nandurbar (4)	Jalna (4)	
1	Sakri	Ambejogai	Amalner	Nandurbar	Ambad	
2	Shirpur	Gewrai	Bhadgaon	Navapur	Bhokardan	
3	Sindkhed		Chalisgaon	Shahada	Jalna	
4			Chopada	Taloda	Partur	
5			Muktainagar			
6			Erandol			
7			Jamner			
8			Pachora			
9			Parola			
10			Raver			
11			Yawal			

ANNEXURE II

List of Sub-Jails visited by the research team

Sr. No.	Name of Sub-Jail	District	Open / Closed
1.	Akot	Akola	Closed
2.	Balapur	Akola	Closed
3.	Murtijapur	Akola	Closed
4.	Gondia	Gondia	Open
5.	Brahamapuri	Chandrapur	Open
6.	Rajura	Chandrapur	Closed
7.	Varora	Chandrapur	Open
8.	Drahava	Yewatmal	Closed
9.	Pusad	Yewatmal	Closed
10.	Newasa	Ahemadnagar	Open
11.	Rahuri	Ahemadnagar	Open
12.	Sangamner	Ahemadnagar	Open
13.	Shrirampur	Ahemadnagar	Open
14.	Bhadgaon	Jalgaon	Open
15.	Jamner	Jalgaon	Open
16.	Muktainagar	Jalgaon	Open
17.	Pachora	Jalgaon	Open
18.	Parola	Jalgaon	Open
19.	Raver	Jalgaon	Open
20.	Yaval	Jalgaon	Open
21.	Sakri	Dhule	Open
22.	Shirpur	Dhule	Open
23.	Sindkhed	Dhule	Open
24.	Shahada	Nadurbar	Open
25.	Taloda	Nandurbar	Open
26.	Nandgaon	Nashik	Open
27.	Yewla	Nashik	Open
28.	Mahabaleshwar	Satara	Closed
29.	Wai	Satara	Open
30.	Mahad	Raigarh	Open
31.	Mangaon	Raigarh	Open
32.	Vadgaon Maval	Pune	Open

ANNEXURE III

Authorised Capacity of Sub-Jails in Maharashtra

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
WESTERN REGION				
	Pune District	69	37	106
1.	Ambegaon	4	4	8
2.	Baramati	10	5	15
3.	Dound	20	10	30
4.	Indapur	5	5	10
5.	Junnar	4	4	8
6.	Khed	5	5	10
7.	Purandar	10	0	10
8.	Shirur	4	4	8
9.	Vadgaon Maval	7	0	7
10.	Mulshi (Closed)	-	-	-
11.	Velha (Closed)	-	-	-
	Satara District	68	26	94
12.	Dahiwadi	3	3	6
13.	Karad	40	2	42
14.	Khandala	2	0	2
15.	Koregaon	6	6	12
16.	Medha (Jawali)	2	0	2
17.	Patan	4	4	8
18.	Vadun (Khatav)	6	6	12
19.	Wai	5	5	10
20.	Mahabaleshwar (Closed)		-	-
	Sangali District	36	20	56
21.	Islampur	6	0	6
22.	Jat	7	2	9
23.	Shirala	6	6	12
24.	Tasgaon	10	5	15
25.	Vita	7	7	14
26.	Miraj (Closed)	-	-	-

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
	Kolhapur District	73	32	105
27.	Aajra	10	10	20
28.	Bhudargarh	18	0	18
29.	Chandgarh	10	5	15
30.	Gadhinglaj	3	3	6
31.	Kagal	8	8	16
32.	Panhala	4	0	4
33.	Radhanagari	6	6	12
34.	Shahuwadi	5	0	5
35.	Shirol	9	0	9
36.	Gaganbavada (Closed)	-	-	-
	Solapur District	176	54	230
37.	Barshi	32	8	40
38.	Karmala	10	4	14
39.	Malshiras	24	8	32
40.	Mangalweda	24	8	32
41.	Madha	24	8	32
42.	Mohod	8	4	12
43.	Pandharpur	30	6	36
44.	Sangola	24	8	32
	Ahmednagar District	149	71	220
45.	Akola	12	0	12
46.	Jamkhed	12	3	15
47.	Karjat	12	6	18
48.	Kopargaon	13	4	17
49.	Newasa	12	6	18
50.	Parner	6	6	12
51.	Pathardi	27	9	36
52.	Rahuri	12	6	18
53.	Sangamner	7	7	14
54.	Shevgaon	15	15	30
55.	Shringonda	12	6	18

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
56.	Shrirampur	9	3	12

CENTRAL REGION

	Aurangabad District	6	6	12
57.	Kannad	6	6	12
58.	Gangapur (Closed)	-	-	-
59.	Vaijapur (Closed)	-	-	-
	Latur District	51	32	83
60.	Ahmedpur	20	10	30
61.	Latur	8	4	12
62.	Nilanga	15	15	30
63.	Udgir	8	3	11
	Jalna District	-	-	-
64.	Ambad (Closed)	-	-	-
65.	Bhokardan (Closed)	-	-	-
66.	Jalna (Closed)	-	-	-
67.	Partur (Closed)	-	-	-
	Jalgaon District	131	59	190
68.	Amalner	12	3	15
69.	Bhadgaon	10	0	10
70.	Chalisgaon	12	6	18
71.	Chopada	7	7	14
72.	Eron dal	4	4	8
73.	Jamner	8	8	16
74.	Muktainagar	18	9	27
75.	Pachora	22	1	23
76.	Parola	8	8	16
77.	Raver	10	6	16
78.	Yawal	20	7	27
	Nanded District	8	4	12
79.	Kandhar	8	4	12

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
80.	Biloli (Closed)	-	-	-
81.	Deglur (Closed)	-	-	-
82.	Hadgaon (Closed)	-	-	-
83.	Kinwat (Closed)	-	-	-
	Beed District	-	-	-
84.	Ambejogai (Closed)	-	-	-
85.	Gewrai (Closed)	-	-	-
	Dhule District	23	16	39
86.	Sakri	7	0	7
87.	Shirpur	10	10	20
88.	Sindkhed	6	6	12
	Nandurbar District	70	46	116
89.	Nandurbar	25	10	35
90.	Navapur	15	15	30
91.	Shahada	16	14	30
92.	Taloda	14	7	21
	Hingoli District	-	-	-
93.	Basmat (Closed)	-	-	-
94.	Hingoli (Closed)	-	-	-
95.	Kalamnuri (Closed)	-	-	-
	Usmanabad District	-	-	-
96.	Kalamb (Closed)	-	-	-
97.	Paranda (Closed)	-	-	-
98.	Umarga (Closed)	-	-	-
	Nashik District	93	76	169
99.	Baglan	2	2	4
100.	Chandwad	5	5	10
101.	Dindori	8	8	16

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
102.	Igatpuri	16	16	32
103.	Kalwan	6	6	12
104.	Malegaon	12	4	16
105.	Nandgaon	8	8	16
106.	Niphad	8	4	12
107.	Peth	4	4	8
108.	Sinnar	4	4	8
109.	Surgana	10	5	15
110.	Yewala	10	10	20
111.	Pimpalgaon (Closed)	-	-	-

EASTERN REGION

	Nagpur District	-	-	-
112.	Katol (Closed)	-	-	-
113.	Ramtek (Closed)	-	-	-
114.	Savner (Closed)	-	-	-
115.	Umred (Closed)	-	-	-
	Amravati District	-	-	-
116.	Chandur (Closed)	-	-	-
117.	Daryapur (Closed)	-	-	-
118.	Morshi (Closed)	-	-	-
	Akola District	-	-	-
119.	Akot (Closed)	-	-	-
120.	Balapur (Closed)	-	-	-
121.	Murtijapur (Closed)	-	-	-
	Bhandara District	-	-	-
122.	Sakoli (Closed)	-	-	-
	Chandrapur District⁴⁶	10	10	20
123.	Varora	5	5	10
124.	Brahamapuri	5	5	10
125.	Rajura (Closed)	-	-	-

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
	Yawatmal District	-	-	-
126.	Darwha (Closed)	-	-	-
127.	Kelapur (Closed)	-	-	-
128.	Pusad (Closed)	-	-	-
129.	Wani (Closed)	-	-	-
	Wardha District	-	-	-
130.	Aarvi (Closed)	-	-	-
131.	Hinganghat (Closed)	-	-	-
	Buldhana District	-	-	-
132.	Chikhali (Closed)	-	-	-
133.	Jalgaon Jamod (Closed)	-	-	-
134.	Khamgaon (Closed)	-	-	-
135.	Malkapur (Closed)	-	-	-
136.	Mehekar (Closed)	-	-	-
	Gadchiroli District	-	-	-
137.	Gadchiroli (Closed)	-	-	-
138.	Sironch (Closed)	-	-	-
	Gondia District	14	7	21
139.	Gondia	14	7	21
	Washim District	-	-	-
140.	Mangrul Pir (Closed)	-	-	-
141.	Washim (Closed)	-	-	-

SOUTH REGION

	Thane District	33	22	55
142.	Dahanu	6	5	11
143.	Mokhada	5	0	5
144.	Murbad	3	3	6
145.	Palghar	4	4	8
146.	Shahapur	10	5	15

Sr No.	Name of Sub-Jail	Authorised capacity		
		Male	Female	Total
147.	Wada	5	5	10
148.	Wasai (Closed)	-	-	-
149.	Bhiwandi (Closed)	-	-	-
	Ratnagiri District	25	16	41
150.	Chiplun	3	2	5
151.	Dapoli	4	0	4
152.	Devrukh	6	6	12
153.	Guhagar	4	4	8
154.	Khed	4	0	4
155.	Lanja	4	4	8
156.	Rajapur (Closed)	-	-	-
	Sindhudurg District	27	21	48
157.	Devgarh	6	6	12
158.	Kankavali	12	6	18
159.	Malwan	4	4	8
160.	Vengurla	5	5	10
161.	Kudal (Closed)	-	-	-
	Raigarh District	108	24	132
162.	Karjat	10	5	15
163.	Khalapur	14	0	14
164.	Mahad	10	4	14
165.	Mangaon	21	0	21
166.	Matheran	5	0	5
167.	Murud	40	10	50
168.	Pen	5	5	10
169.	Roha	3	0	3
170.	Uran (Closed)	-	-	-
171.	Sudhagarh (Closed)	-	-	-
172.	Parvel (Closed)	-	-	-

ENDNOTES

¹ A report prepared for the Government of India by an expert from the Technical Assistance Administration of the United Nations (p. 11).

² A notable exception is the State of West Bengal, which enacted the West Bengal Correctional Services Act in 1992 (though it came into force only in 1997). This law contains provisions on prisoners' rights and rehabilitation.

³ See *Report of the All India Committee on Jail Reforms, 1980-1983*, Ministry of Home Affairs, Government of India.

⁴ *Sunil Batra vs. Delhi Administration and Ors.* AIR 1978 SC 1675 at 401.

⁵ *Prison Statistics India*, National Crime Records Bureau, 2007, p. 2

⁶ On some occasions, a representative from the Prison Reforms Programme of CHRI accompanied the VARHAD research team during these prison visits.

⁷ All interactions with prisoners were in the presence of a jailor and the veracity of the information shared cannot be vouched for.

⁸ *Prison Statistics India*, National Crime Records Bureau, 2007.

⁹ Vidhan Sabha, unstarred question No. 72123. Since the question was raised, the prison department is making an effort to collect data regularly.

¹⁰ Of the 24 functioning sub-jails we visited, we found that six were effectively closed. For further information, see the section on security ("Impact of escapes and custodial deaths on functioning of sub-jails") later in this chapter.

¹¹ Rule 2, Sub-Jail Manual, 1954.

¹² These eight sub-jails are Udgir, Nandurbar, Mahad, Taloda, Malegaon, Karad, Shrirampur and Latur. Despite its best efforts, the research team could not determine why these are the only sub-jails to have a clerk from the prison department.

¹³ Salary is for the eight clerks posted from the prison department as jailors to the sub-jails.

¹⁴ Rule 4, Sub-Jail Manual, 1954.

¹⁵ *Prison Statistics India*, National Crime Records Bureau, 2007, Table 2.4, p. 23.

¹⁶ See Annexure III.

¹⁷ In Taloda, Muktainagar, Yewala, Rahuri and Mangaon sub-jails.

¹⁸ Rule 114 (2), Sub-Jail Manual, 1954.

¹⁹ Muktainagar, Raver, Jamner and Pachora have all effectively closed down, as they do not keep any prisoners. It must be pointed out that the reasons for not housing prisoners were

intimated to the researchers by the sub-jail staff and there was no way to verify the information provided.

²⁰ Rule 169, Sub-Jail Manual, 1954.

²¹ Rule 175, Sub-Jail Manual, 1954.

²² Rule 173, Sub-Jail Manual, 1954.

²³ Rule 11, Sub-Jail Manual, 1954.

²⁴ Rule 22, Sub-Jail Manual, 1954.

²⁵ Rule 163, Sub-Jail Manual, 1954.

²⁶ In Vadgaon, the research team was unable to speak with the revenue officials and could only interview the police guards. The police officials told the research team that the sub-jail has no provision for providing food to any prisoners and all of them get food from outside for the one day that they stay in the sub-jail. They are then transferred to Yerwada Prison.

²⁷ Rule 96, Sub-Jail Manual, 1954.

²⁸ Walker, S. (2001), *Police Accountability: The Role of Civilian Oversight*, Wadsworth: Belmont, C.A.

²⁹ Rule 253, Sub-Jail Manual, 1954.

³⁰ See: <http://inspectrates.homeoffice.gov.uk/hmiprison/about-us/> (as on 3 June 2009).

³¹ Section 12 (c) read with Section 29, *The Protection of Human Rights Act, 1993*.

³² Section 59(25) *The Protection of Human Rights Act 1993*.

³³ Report of the Indian Jails Committee, 1919-20, Paragraph 511.

³⁴ Rule 38, Sub-Jail Manual, 1954.

³⁵ Rule 38, Sub-Jail Manual, 1954.

³⁶ Rule 39, Sub-Jail Manual, 1954.

³⁷ Rule 41, Sub-Jail Manual, 1954.

³⁸ Rule 44, Sub-Jail Manual, 1954.

³⁹ See *Sunil Batra (II) v. Delhi Administration*, AIR 1980 SC 1579.

⁴⁰ *Prison Statistics India*, National Crime Records Bureau, Ministry of Home Affairs, Government of India, 2007, p. i. This is the latest year for which data has been compiled.

⁴¹ "Maharashtra jails overcrowded, lack security: CAG," *Indo-Asian News Service*, 12 June 2009.

⁴² Letter dated 9 August 1999.

⁴³ JLD/3995/7/102 –PRIS, dated 29 July 2000.

⁴⁴ See p. 17, Request for Proposal (2008) *Consultancy Services for Mid-Term Evaluation of the Scheme on Modernisation of Prisons*, Government of India. RFP No. 11018/1/2008. Available at: http://www.mha.nic.in/writereaddata/12190730671_tr_CSII110808.pdf

⁴⁵ Section 12 (c) read with Section 29, The Protection of Human Rights Act, 1993.

⁴⁶ There is conflicting data for the sub-jails in Chandrapur district. While in one document, the authorised capacity of the sub-jails in the district is 10, it is shown as 20 in another. Both the documents were procured from the prison department. We have taken 20 as the correct figure.

CHRI PROGRAMMES

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. Accordingly, in addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

Human Rights Advocacy:

CHRI makes regular submissions to official Commonwealth bodies and member governments. CHRI conducts fact finding missions periodically and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit ensures that human rights issues are in the public consciousness.

Access to Information:

CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation, and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy-makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

Access to Justice:

Police Reforms: In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

Prison Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractice. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.



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