

STANDARDS BEHIND BARS

Prescribed rules and recommendations for prisons



ORISSA



CHRI

Commonwealth Human Rights Initiative

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

COMMONWEALTH HUMAN RIGHTS INITIATIVE

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ISBN: 81- 88205- 84 - 2

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CHRI Headquarters, New Delhi

B-117, Second Floor
Sarvodaya Enclave
New Delhi - 110 017
INDIA
Tel: +91-11-4318-0200
Fax: +91-11-2686-4688
E-mail: info@humanrightsinitiative.org

CHRI United Kingdom, London

Institute of Commonwealth Studies
28, Russell Square
London WC1B 5DS
UK
Tel: + 44-020-7-862-8857
Fax: + 44-020-7-862-8820
E-mail: chri@sas.ac.uk

CHRI Africa, Accra

House No.9, Samora Machel
Street Asylum Down
Opposite Beverly Hills Hotel
Near Trust Towers, Accra, Ghana
Tel: +00233-21-971170
Tel/Fax: +00233-21-971170
E-mail: chriaf@africaonline.com.gh

STANDARDS BEHIND BARS

Prescribed rules and recommendations for prisons



ORISSA

ACKNOWLEDGEMENTS

Heavily burdened with problems of unsatisfactory living conditions and prolonged detention; prisons in India have become a staple subject of public debate and criticism. It is about time, we pay attention to the problems that exist and take steps to remedy the conditions. This handbook is an attempt to guide those who are working in the correctional facilities to ensure that inmates are treated more humanely and are provided basic minimum standards of living that are due to them.

This handbook is the result of the efforts of the members of the Prison Reforms Programme at CHRI. Special thanks to Swati Mehta, Pujya Pascal, Priti Bharadwaj, Madhurima and Alexandra Świąćka for their support and involvement in the development of this project.

And as always, we are grateful to Sir Dorabji Tata Trust for their generous financial support.

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Design & Layout: Art Instinct

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NOTE FOR USERS OF THIS HANDBOOK

This handbook is compiled for prison officers, prisoners, members of judiciary, members of state human rights commission, members of the state legal services authority and civil society members advocating for prison reforms. It is designed to be a readily accessible and portable reference, especially for prison officers. It contains a comprehensive collection of point-form standards and duties organised according to fifteen topics and themes, referenced with the respective rule mentioned in the manual. It provides a comparative perspective between the Orissa Jail Manual, 1942, the All India Committee on Jail Reforms, 1980-83 and the Model Prison Manual, 2003.¹



¹ While the Orissa Prison Manual is binding on the Prison Department, the provisions under the All India Committee on Jail Reforms and Model Prison Manual (2003) are proposed standards.

This compilation aims to assist the prison officers by providing the gist of the existing and proposed standards against which to maintain prison conditions. The fifteen issues that are highlighted through this paper are just a few of the many other areas of concern within the existing prison regime. CHRI has chosen these issues to reflect the major concerns often expressed by the complainant prisoners. These issues include: living conditions, sanitation & hygiene; food; water; health care; contact with family & lawyers; classification of prisoners; under-trial prisoners; women prisoners; access to information for prisoners; discipline; grievance redressal mechanism; remission; parole & furlough; prison visiting system; and duties of prison officers.

In compiling the standards, the report looks at the existing legal position as provided under the Orissa Jail Manual, 1942, as well as the standards recommended by the All India Committee on Jail Reforms, 1980-83 (popularly known as the Mulla Committee) and the Model Prison Manual, 2003 (as prepared by the All India Model Prison Manual Committee and approved by the central government in 2004).





Living Conditions, Sanitation & Hygiene

THE ORISSA JAIL MANUAL, 1942

- In healthy non-malarious districts where only two rows of prisoners sleep in the ward between ventilating openings, the superficial area per prisoner should be 36 square feet, whereas cubic space per prisoner should be 540 cubic feet. (Rule 1071(1))
- If the barrack is flat-roofed, there should be ceiling ventilation (size 12" x 5"). The roofs or ceiling need not be more but should not be less than 13 feet high from the floor. (Rule 1071(2) & 1071(3))
- Masonry berth – one for each prisoner – on ground floor should be 6'6"x2' high x 2'3" broad. (Rule 1071(8))
- Timely arrangements shall be made to avoid the confinement of prisoners in excess of the sanctioned number. When the arrival of excess numbers is apprehended, the superintendent shall at once communicate with the Inspector General (IG) of Prisons asking to what jail a stated number of prisoners may be transferred. (Rule 1077)
- Return No. 2 shall be punctually submitted every first and sixteenth of the month to the IG of Prisons, showing the capacity and the number of prisoners who slept in the wards, cells and hospital on the previous night. In case of overcrowding, it shall be stated whether the overcrowding is likely to continue and if so, what relief measures are proposed. (Rule 1078)
- The Superintendent and jailor should give attention to disposal of night soil and refuse matter, and to every detail connected to the cleanliness and neatness of the jail and its surroundings. The entire jail premise should be cleaned daily. The hospital should receive special attention. Drains and latrines must be kept scrupulously clean; each enclosure shall, if possible have a separate day latrine. (Rule 1081 & 1082)



MULLA COMMITTEE

- All old prison buildings having outlived their utility should be demolished. (Rec 31)
- There should be four types of living accommodation: barracks (for not more than 20 prisoners), dormitory (for not more than four to six prisoners), single seated accommodation and cells for segregation. (Rec 36)
- All cells are to be fitted with flush type latrines. The ratio of latrines to prisoners should be 1:6, and the system of open basket type latrines should be discontinued. (Rec 73, 74 & 37)
- Every prison must provide cubicles for bathing at the rate of one for ten prisoners, with proper arrangements to secure privacy. (Rec 78)
- Properly equipped laundries for periodic washing, disinfection and fumigation of clothing and bedding should be set up at each central and district prison. (Rec 80)
- Clothing and bedding supplied to prisoners should be proper and adequate. (Rec 83 & 88)

MODEL PRISON MANUAL

- There should be three types of living accommodation *viz.*, barracks (for not more than 20 prisoners), single rooms, and cells for segregation. (Ch. 2.08)
- The minimum accommodation capacity of barracks, cells, and hospitals (per prisoner) will be according to the following scale (Ch. 2.09):

AREA (PER PRISONER)	SLEEPING BARRACK	CELLS	HOSPITAL
Sq. metre of ground area	3.71	8.92	5.58
Cubic metre of air space	15.83	33.98	23.75
Sq. metre of lateral ventilation	1.12	2.23	

- Near the door of every ward, the size of the room and the number of prisoners it is capable of accommodating, shall be recorded on a plaque embedded in the outer wall of the ward. No ward shall accommodate prisoners beyond its prescribed capacity. (Ch. 6.64)



- Each barrack used for sleeping will have sufficient number of attached WCs, urinals and wash places. The ratio of such WCs will be 1:10 prisoners. The ratio of the WCs, which can be used during the daytime will be 1:6 prisoners. (Ch. 2.13.1)
- Every prison will provide covered cubicles for bathing, at the rate of one for every ten prisoner, with proper arrangements to ensure privacy. (Ch. 2.14.1)
- Taking into consideration that the daily requirement of water of an individual is about 135 ltrs., there will be an arrangement for the adequate supply of water in every prison. (Ch. 2.14.2)
- Areas where prisoners work will have a minimum space of 500 cubic feet per prisoner in structures that will be constructed as workshops or factory buildings. (Ch. 2.17)
- Every prisoner shall be required to wash their clothing once a week for which they shall be supplied in case of (Ch. 6.57):
 - » Male Prisoners - Half a bar of washing soap weighing approximately 500 gms. each per month and 50 gms. of washing powder every week for washing their clothes; and
 - » Female Prisoners - A bar of washing soap weighing approximately 1Kg. per month and 50 gms. of washing powder per week.





THE ORISSA JAIL MANUAL, 1942

- All prisoners shall have three meals a day. It is of great importance that the dietary should be varied as much as possible. (Rule 983 & 993)
- The superintendent and medical officer shall exercise the utmost vigilance in the supervision of food supplies, when the food is cooked, ready for issue, and also after distribution into the prisoners' plates. It shall be inspected by the superintendent and the medical officer, at least every week without prior notice. (Rule 995)
- All items of the dietary shall be weighed out to the cooks in a fully prepared state, or if this is impossible, with full allowance for any loss which must occur in preparation by cooks. All food shall be issued within one hour of its being cooked. (Rule 996)
- No rice less than three months old shall be issued. (Rule 996(1))
- All articles issued for rations shall be frequently inspected frequently by the medical officer, and any defect of quality noted by that officer shall be reported at once to the superintendent by the jailor. (Rule 1003)
- The superintendent and jailor shall be held responsible for making arrangements for timely purchase of grain in the cheapest season. Grain of such kinds as are required, shall be purchased in sufficient quantity to last until the following year's crop. (Rule 1010)

MULLA COMMITTEE

- The system of purchasing food articles through the contract system; and purchasing of cereals and pulses at the cheapest rate wherever in vogue should be discontinued. (Rec 49 & 50)



- There should be provisions for different diets for non-labouring and labouring prisoners, nursing women, and children accompanying women prisoners. Also a provision for special diets on religious festivals and national days should be specified in the rules. (Rec 51, 52 & 56)
- Norms for prison diet should be laid down in terms of calorific and nutritious value, quality and quantity. In order to break the monotony of the diet, menus should be prepared in advance, under the guidance of nutrition experts. (Rec 53 & 60)
- Each prison kitchen should cater to a maximum of 200 prisoners, and should be supervised by prison officials, who have been given special training in dietetics and management of kitchens. (Rec 57 & 62)
- Prisoners shall be given food as is normally eaten in the region. (Rec 65)

MODEL PRISON MANUAL

- While prescribing the scale of diet for prisoners by the state government, due consideration is to be given to the classified needs, habits and modes of living of the prisoners and the climatic conditions of the place. (Ch. 6.05)
- The superintendent may introduce variety in the diet and also lay down a menu for different days of the week. (Ch. 6.09)
- In particular, it is stated that rice should be separated from husk, dust, or other particles, before issuing it for cooking. The quality and seasoning of rice should be such that the weight of the cooked rice is about three times its weight in the uncooked state. This should be frequently tested by weighing. (Ch. 6.15)
- The minimum space requirement in the kitchen will be 150 square metres per 100 prisoners. It will facilitate sufficient space for storage of provisions articles, containers and cooking utensils, vegetables, and preparing and cutting food, etc. (Ch. 2.15.4)
- Subject to certain conditions, under-trial prisoners may be allowed food from outside on a day-to-day basis. (Ch. 22.12)





THE ORISSA JAIL MANUAL, 1942

- Water shall be obtained from the purest water supply source in the neighbourhood as long as it can be obtained in sufficient quantity. (Rule 1094)
- Every sleeping ward and cell shall be provided with drinking water. Prisoners at work should be supplied with as much drinking water as is necessary. (Rule 1100)
- Water used for drinking and culinary purposes shall be analysed once every quarter and bacteriological examination shall be done when required. The examination should be conducted by the officer in charge of the Bacteriological and Pathological Laboratory, Cuttack. (Rule 1101)

MULLA COMMITTEE

- Clean drinking water should be supplied to prisoners and it should be tested periodically. (Rec 66)

MODEL PRISON MANUAL

- Every prison will provide covered cubicles for bathing, at the rate of one for every ten prisoners, with proper arrangements to ensure privacy. Every prisoner will be required to bathe as frequently as necessary for general hygiene according to climatic conditions. (Ch. 2.14.1)
- Taking into consideration that the daily requirement of water of an individual is about 135 litres, there will be an arrangement for the adequate supply of water in every prison. Keeping in view its cost effectiveness and feasibility, new prisons should have arrangements for rainwater harvesting and recycling of water. (Ch. 2.14.2)





Health Care

THE ORISSA JAIL MANUAL, 1942

1. Appointment of Medical Staff

- Subject to the control of the superintendent, in all matters except the medical treatment of the sick, the medical officer shall have charge of the sanitary administration of the prison, and shall perform such duties as are detailed in the Orissa Jail Manual or as are prescribed from time to time by due authority. (Rule 76)

2. Medical Facilities in Prisons

- The hospital should receive special attention. Godowns must be kept clean, well-arranged, and well-ventilated; and its contents should be aired as often as possible. (Rule 1081(6))
- A bed shall be provided for every patient. Each bed shall be covered with a gunny mattress stuffed with straw and be furnished with a folded blanket as a pillow, and each patient shall be provided with a bed-sheet, a tat bed and as many blankets as the medical officer deems necessary. (Rule 1125)

3. Medical Screening on Admission to Prison

- All prisoners shall be seen immediately after admission by the medical subordinate, and if any is found sick or suffering from injuries, wound or other marks of violence, a note of his general condition, prominent symptoms, or in case of injury, the number, situation, size, character and nature of the injury, wounds or bruises shall at once be made in the admission register. (Rule 455(a))
- Prisoners on first admission to jail shall, at the discretion of the medical officer, be kept in quarantine for such period as may in his opinion be necessary. (Rule 455(c))



4. Mentally Ill Prisoners

- In the event of any prisoner confined in any jail exhibiting signs of insanity which, in the opinion of the medical officer, are not feigned, the superintendent shall cause such prisoner to be kept under medical observation in a cell. If the prisoner is an under-trial, the superintendent shall report the circumstances to the trying or committing magistrate for necessary action. (Rule 934(1) & 934(2)(a))
- In urgent and special cases superintendents are authorised to transfer insane convicted prisoners from jails to mental hospitals in anticipation of government sanction; the necessary documents shall in such case accompany the prisoners. (Rule 938)

MULLA COMMITTEE

1. Appointment of Medical Staff

- Every central and district prison should have two or more medical officers. Such medical officers, each serving a term of three to five years, should be deputed from the State Medical Service to prisons. (Rec 121 & 123)
- All central prisons with prisoner population of more than 1000 prisoners should have three medical officers. A prison should have a part-time lady medical officer and if the female prisoner population is more than 25, it should have a full-time lady medical officer. (Rec 123 & 124)
- Adequate incentives should be provided to medical officers, psychiatrists and paramedical personnel deputed to prisons. (Rec 130)

2. Medical Facilities in Prisons

- All central and district prisons should provide hospital accommodation for 5% of the daily average inmate population. (Rec 133)
- Each state should have a fully equipped prison hospital manned by specialists for the treatment of prisoners requiring specialised treatment from all over the state. (Rec 136)
- Required supply of drugs for three months should be stocked in the prison hospital. (Rec 148)
- Proper medical facilities should be provided in sub-jails as well. (Rec 146 & 511)



3. Medical Screening on Admission to Prison

A medical officer is required to maintain a health card for every prisoner containing details on (Annexure VII B - A):

- » Condition of the prisoner on admission;
- » Fortnightly weight;
- » Blood counts once in six months; and
- » Details of immunisation and sickness.

4. Mentally Ill Prisoners

- Every central and district prison should have the services of a qualified psychiatrist, who should be assisted by a psychologist and psychiatric social worker. (Rec 125)
- Adequate incentives should be provided to medical officers, psychiatrists and paramedical personnel deputed to prisons. (Rec 130)

MODEL PRISON MANUAL

1. Appointment of Medical Staff

- Institutional staff shall comprise medical personnel including medical officers, psychiatrist, nursing staff and pharmacist. (Ch. 4.03.2)
- The government shall appoint a chief medical officer/medical officer (in charge) for every prison. (Ch. 7.04)
- The medical personnel are directly responsible for every matter connected with the health of the prisoners, their treatment when ill, as well as the sanitation and hygiene of the prison. (Ch. 7.09)
- Medical personnel are to provide both preventive and curative services. (Ch. 4.07.4)

2. Medical Facilities in Prisons

- One ambulance should be provided to each prison hospital. (Ch. 7.03)
- Hospital accommodation should be provided on the scale of 5% of the daily average of the inmate population in all central and district prisons. (Ch. 7.02, 2.16.1)



- The prison hospitals may be divided into Types 'A' and 'B'. Big hospitals, with 50 beds and above shall be called 'A' type hospitals. Other hospitals, with less than 50 beds, shall be called 'B' type hospitals. The staff for the two types of hospital shall be:

NO.	OFFICERS	'A' TYPE	'B' TYPE
1	Chief Medical Officer (in the rank of Civil Surgeon with postgraduate qualification)	1	1
2	Assistant Civil Surgeon	7	4
3	Staff Nurse	3	6
4	Pharmacist	4	2
5	Male/Female Nursing Assistant	6	3
6	Laboratory Technician (to be trained in handling all equipment including E.C.G., X-ray and portable X-ray machines)	3	1
7	Psychiatric Counsellor	2	1
8	Junior Assistant	1	1

3. Medical Screening on Admission to Prison

- The medical officer will carefully examine the prisoner and will record in the proforma (Appendix -1) for health screening on admission. (Ch. 5.66, 4.07.4)

4. Mentally Ill Prisoners

- Women who are found mentally ill shall not be detained in prison. Arrangements shall be made for their removal to mental homes/ institutions for mentally ill prisoners who happen to be admitted in prisons. (Ch. 24.124)





Contact with Family & Lawyers

THE ORISSA JAIL MANUAL, 1942

- Every newly-convicted prisoner shall be allowed reasonable facilities for seeing or communicating with relatives or friends with a view to the preparation of an appeal or to the procuring of bail. He shall also be allowed to have interviews and write letters to friends once or twice, to enable him to arrange for the management of his property or other family affairs. (Rule 607(i))
- No convicted prisoner shall be allowed to have an interview or to receive or write a letter except with the permission of the superintendent, which shall be recorded in writing. (Rule 610)
- The superintendent shall fix the days and hours at which all interviews shall be allowed, and no interviews shall be allowed at any other time except with the special permission of the superintendent. A notice of the interview hours shall be posted outside the jail. (Rule 612)
- The time allowed for an interview shall not ordinarily exceed 20 minutes but may be extended by the superintendent at his discretion. The number of persons permitted to interview a prisoner during this period shall ordinarily not exceed two, but may be extended to five in the case of near relatives of the prisoner. (Rule 619)
- No letter shall be delivered to or sent by a convicted prisoner until it has been examined by the superintendent or by the jailor or other officer under the superintendent's orders, but no unnecessary delay should be allowed to occur in delivery or despatch. (Rule 621)



- Every interview between an un-convicted prisoner and his legal adviser or near relative shall take place within sight but out of hearing of a jail official. (Rule 629)

MULLA COMMITTEE

- Guidelines for the censorship of letters should be formulated so that censorship of letters is done on the basis of human consideration. (Rec 100)
- There should be no limit on incoming letters for prisoners and there should be no restriction on the number of letters prisoners may send at their own cost. (Rec 97 & 98)
- All illiterate or semi-literate prisoners should be provided help in writing letters. (Rec 99)
- The scale of interviews for convicted and under-trial prisoners should be liberalised. (Rec 101)
- Facilities for interviews of prisoners should be humanised and the conditions/procedures governing the grant of interviews should be rationalised. (Rec 102)
- There should be no restriction on the number of interviews sought by the under-trial prisoners for the sake of legal assistance. Interviews with family members and friends should, however, be restricted to two per week. (Rec 354)

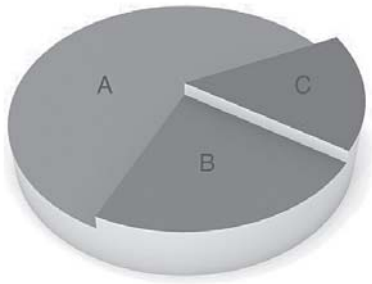
MODEL PRISON MANUAL

- The number of letters a prisoner can write in a month shall be fixed by the government under the rules. However, there shall be no limit on the number of incoming letters to a prisoner. (Ch. 8.01 & 8.29.2)
- Every prisoner shall be permitted to have interviews with his/her family members, relatives, friends and legal advisers once a fortnight. However, the number of persons who may interview a prisoner at one time shall ordinarily be limited to three. (Ch. 8.01 & 8.03)
- Suitable waiting rooms may be provided in every prison to enable visitors to await their turn for interview. (Ch. 8.13)



- The maximum duration of the interview shall be half an hour, which can be further extended by the superintendent of prisons at his discretion. (Ch. 8.26)
- A prisoner may be permitted the use of telephones on payment, to contact his family and lawyers, periodically, wherever such facility is available but only at the discretion of the superintendent of the prison. (Ch. 8.38)





Classification of Prisoners

THE ORISSA JAIL MANUAL, 1942

- In every jail each of the following classes shall be kept entirely separate from others: civil prisoners; under-trials; political prisoners; female prisoners; male criminal prisoners under 18 years of age who have arrived at the age of puberty; male criminal prisoners who have not arrived at the age of puberty; and other male convicted criminal prisoners. (Rule 563)
- Every jail shall, if possible, be provided with proper means of separating habitual or B class criminals from A class prisoners; the classification of a convicted person as a habitual criminal should ordinarily be made by the convicting court. (Rule 565)
- In ascertaining a prisoner's character the superintendent shall be guided by any particulars regarding the nature and circumstances of the crime, or the previous character of the prisoner furnished to him by the convicting officer in the High Court form. (Rule 568)

MULLA COMMITTEE

- The principles of classification included in the report of the All India Jail Manual Committee, 1957-1959 should be adopted on an all India basis. (Rec 190)
- Homogenous groups of inmates should be kept in appropriate classified institutions. (Rec 183)
- The principles of keeping a prisoner as near his home town as possible should be broadly kept in view at the time of classification of inmates. (Rec 193)
- Every prison officer should be given a thorough training in behavioural sciences and techniques of social work. (Rec 200)



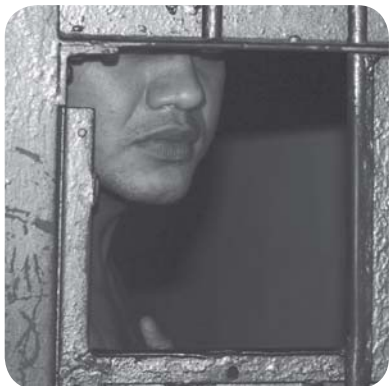
MODEL PRISON MANUAL

- State governments will establish a mechanism for the classification of prisoners to be housed in various types of institutions. (Ch. 2.04)
- Women prisoners shall be classified and kept separately as under(Ch. 24.02):
 - i. Under-trial prisoners shall be kept completely separated from convicted offenders, even when their number is small;
 - ii. Habitual prisoners shall be separated from casual offenders;
 - iii. Habitual offenders, prostitutes and brothel keepers must also be confined separately;
 - iv. Under no circumstances should adolescent girls be confined with adult women prisoners; and
 - v. Political and civil prisoners shall be kept separately from convicts and under-trial prisoners.

Notes:

- No criminal, or non-criminal, mentally ill person will be kept in the prison. Those currently there shall be immediately transferred to appropriate mental health institutions. (Ch. 24.02)
- No classification of prisoners shall be allowed on grounds of socio-economic status, caste or class. (Ch. 24.02)





Under-trial Prisoners

THE ORISSA JAIL MANUAL, 1942

1. General Standards

- There shall be separate accommodation for under-trial prisoners, both male and female [...] The under-trial wards shall be strictly segregated from the rest of the jail. Under-trial prisoners who are known to be habitual criminals shall be kept away from those who are not; juvenile under-trial prisoners shall be segregated from adults; and prisoners committed to the Sessions from those charged with minor offences, as far as possible. (Rule 837)
- An un-convicted criminal prisoner shall be subjected to as little interference as is consistent with maintenance of order and discipline; he shall not be compelled to labour; under-trial prisoners may be permitted to work if they so desire. (Rule 847)
- An un-convicted prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination. (Rule 848)

2. Legal Aid

- No specific rule mentioning the availability of legal aid to under-trial prisoners.

3. Videoconferencing

- The Orissa Jail Manual does not deal with video-conferencing.

4. Jail Adalats

- The Orissa Jail Manual does not mention anything about jail adalats.
- Jail adalats are not being held in the state.



5. Unnecessary Detention

- The superintendent shall report to the Magistrate all cases of under-trial prisoners admitted under bailable offences, specifying the names of prisoners likely to furnish bail. (Rule 841)
- The superintendent shall also submit to the District Magistrate in Return No. 23, fortnightly reminders regarding all cases in which prisoners have been detained under-trial for more than 14 days. (Rule 841)
- The IG of Prisons may call for an explanation from the District Magistrate in cases where under-trial prisoners have been detained in *hajat* for an unusual length of time, and, if the explanation does not seem satisfactory, may bring the case to the notice of the government. (Rule 841)
- Whenever a visitor records the long detention of an under-trial prisoner, a copy of his remarks relating to such matter shall be forwarded to the District Magistrate, and, if the prisoner be under-trial in the court of sessions, a copy shall also be forwarded to the Sessions Judge. (Rule 48)

MULLA COMMITTEE

1. General Standards

- Under-trial prisoners should be lodged in separate institutions away from convicted prisoners. (Rec 341)
- Institutions meant for lodging under-trial prisoners should be as close to the courts as possible and there should be proper arrangement for the transportation of under-trial prisoners. (Rec 342)
- Release of accused persons on personal recognisance should be encouraged. (Rec 345)
- The provisions of Section 167 of the Code of Criminal Procedure (Cr.P.C.), 1973 should be strictly followed by the police and the courts. (Rec 346)
- The classification of under-trial prisoners on the basis of their socio-economic status should be abolished. (Rec 347)
- Under-trial prisoners should be permitted to obtain cooked food from their families. (Rec 351)
- Under-trials who do not have sufficient clothes should be supplied clothes at government cost. (Rec 352)



- There should be no restriction to the number of letters under-trial prisoners may send at their own cost. However, at government cost, they should be permitted to write two letters per week. (Rec 353)
- There should be no restrictions on the number of interviews sought by under-trial prisoners for the sake of legal assistance. Interviews with family members and friends should be restricted to two per week. (Rec 354)
- Habitual under-trial prisoners should be segregated from other under-trial prisoners. (Rec 357)

2. Legal Aid

- Rights of under-trials including facilities of access to legal material, legal counsel and legal aid should be protected. (Rec 349)

3. Videoconferencing

- All under-trial prisoners should be effectively produced before the presiding magistrates on the dates of hearing. (Rec 350)
- Therefore in case of lack of resources to provide escorts for under-trial prisoners, videoconferencing should be used as an effective alternative for hearing and not merely for extension of dates.

4. Jail Adalats

- Neither the Mulla Committee Report nor the Model Prison Manual deal with jail adalats. This is primarily because the term 'jail adalat' is not a statutory one. The term merely refers to the summary disposal, in hearings held within prisons, of those cases in which the accused prisoner is ready to plead guilty.

Note: Although seen as an effective mechanism to reduce overcrowding in prisons, the use of jail adalats should be just and judicious. The Law Commission in its 142nd report correctly recognised the fact that the 95% acquittal rate in criminal trials meant that an accused going to trial with counsel would generally expect acquittal '...rich, influential and well informed accused [those able to afford counsel] would seldom undertake the risk of social and personal consequences of a confession'. Without adequate counsel, 'it is eventually the poor who may come forward to making confessions and suffer the conviction'. The inducement of an early release is enough for a poor person to falsely plead guilty. This does not serve the cause of justice. It is imperative that the accused are properly counselled about the implications of their decision to plead guilty. However, this practice is never followed in reality. The accused plead guilty without any counselling and in the absence of lawyers who can protect their rights.



5. Unnecessary Detention

- A statutory committee at the district level comprising the District Judge, District Magistrate, District Superintendent of Police, Public Prosecutor and the Prison Superintendent shall visit the district/central prison in the district at least once every month. (Rec 12.17.21)
- The District Committee shall meet every under-trial prisoner present on the day that it visits the prison. It shall hold a meeting to review the cases of all under-trial prisoners and see that no under-trial prisoner is un-necessarily detained in the prison. (Rec 12.17.21)
- A statutory committee at the state level comprising a judge of the High Court, the Home Secretary/Secretary dealing with prisons in the Secretariat, the IG of Police, Director of Prosecution, and the IG of Prisons should meet every three months to review the position of under-trial prisoners in the state. (Rec 12.17.21)
- The State Committee should also sort out the problems of coordination among various departments resulting in delay of trials. (Rec 12.17.21)
- The Cr.P.C. should be amended to provide for the immediate and unconditional release of under-trial prisoners as soon as they complete half the period of the maximum awardable sentence upon conviction in detention. This should be the function of the District Committee and such under-trials prisoners should be treated as having been discharged by a court of law. (Rec 12.17.21)
- With respect to sub-jails, the District Magistrate should constitute a committee comprising local police, judiciary, prosecution, district administration and the prison department at a fairly high level. (Rec 18.9.28)
- The committee should visit the sub-jail once a month to ascertain that no person is being detained unnecessarily. (Rec 18.9.28)
- The member secretary of the committee should submit a list of under-trials in the sub-jail and a report of the deliberations of committee to the District Judge and send copies to the IG of Prisons, the District Magistrate and the Superintendent of Police. The IG Prisons should review the situation with the Home Secretary once every three months. (Rec 18.9.28)



MODEL PRISON MANUAL

1. General Standards

- An assistant superintendent should be in charge of all work pertaining to under-trial prisoners. (Ch. 22.02)
- On the initial admission of an under-trial prisoner, a printed card should be sent at government cost to his family. This card should contain information on the following points: the inmate's institutional number and address, brief summary of rules regarding interviews, letters, etc. (Ch. 22.14)
- The entitlement of diet, clothing, bedding and interview will be the same as applicable to other categories of prisons. (Ch. 22.01)

(i) Classification

- » The classification of under-trial prisoners should be done only on the basis of security, discipline and institutional programme. (Ch. 22.01)
- » No classification on the basis of social status should be attempted. (Ch. 22.01)
- » Under-trial prisoners should be classified as under (Ch. 22.01):
 - i. Category 'I': Prisoners involved in terrorist and extremists activities (special security prisoners (limited and with the permission and higher authority);
 - ii. Category 'II': Dangerous prisoners involved in murder, dacoity, robbery, rape cases, habitual offenders, previous escapes and drug peddlers.

(ii) Food

- » Outside food may be allowed subject to the following conditions (Ch. 22.12):
 - i. Food articles will be tasted by the person who delivers the food;
 - ii. Food for only one day's requirement of the under-trial prisoner shall be permitted at one time; and
 - iii. Under-trial prisoners should not be allowed to cook their food separately in the institution.



(iii) Clothing

- » Usual private clothing to meet reasonable requirements should be allowed to under-trial prisoners. (Ch. 22.13)
- » An under-trial prisoner who does not have sufficient clothing of his own may be provided with the same at government cost at the prescribed scale. (Ch. 22.13)

(iv) Interviews & Letters

- » Four letters per calendar month, two at the prisoner's cost, and two at government cost, shall be permitted to be written by an under-trial prisoner. (Ch. 22.15)
- » Additional letters for legal purposes such as arranging defence, bail and security may be permitted normally at the prisoner's own cost. (Ch. 22.16)
- » Every interview between an under-trial prisoner and his legal adviser shall take place within the sight but out of hearing of a prison official. (Ch. 22.18)
- » One interview per calendar week with family members or relatives or close friends may be permitted. (Ch. 22.18)

(v) Work

- » Under-trial prisoners shall clean the yards, barracks and cells where they are kept. (Ch. 22.46)
- » It will also be incumbent on all under-trial prisoners to keep their own clothing, bedding and equipment properly washed, cleaned, and disinfected. (Ch. 22.46)
- » If under-trial prisoners volunteer to work, suitable work, if possible, should be given to them. (Ch. 22.47)
- » Wages may be paid to them according to schedules of standard tasks and wages, as fixed by the state government. (Ch. 22.47)
- » In no case, should under-trial prisoners be employed outside their own enclosure or in workshops and areas where other convicted prisoners are working. (Ch. 22.47)



2. Legal Aid

- The facilities that should be extended to all under-trial prisoners include legal defence, interviews with lawyers or family members, application to courts for legal aid at government cost as per provisions of law, and application to Legal Aid Societies for free legal aid. (Ch. 22.10)

3. Videoconferencing

- An under-trial prisoner shall be produced before the court, on the due date of hearing, in person. However, for extension of detention in custody, the prisoner may be produced before the court either in person or through electronic media like, video-linkage. (Ch. 22.21)

Note: Although videoconferencing is promoted as an answer to the problem of escorts, there is always a danger that the rights of the accused are jeopardised because of lack of legal representation in such cases. The danger of remands being extended routinely becomes all the more pronounced when under-trial prisoners are produced by electronic means in the absence of their lawyers. This also removes the thin line between under-trial prisoners and convicts in the sense that the former at least get to come out of the prison every fifteen days.

4. Jail Adalats

- Neither the Mulla Committee report nor the Model Prison Manual deal with jail adalats. This is primarily because the term 'jail adalat' is not a statutory one. The term merely refers to the summary disposal, in hearings held within prisons, of those cases in which the accused prisoner is ready to plead guilty.

Note: Although seen as an effective mechanism to reduce overcrowding in prisons, the use of jail adalats should be just and judicious. The Law Commission in its 142nd report correctly recognised the fact that the 95% acquittal rate in criminal trials meant that an accused going to trial with counsel would generally expect acquittal '...rich, influential and well informed accused [those able to afford counsel] would seldom undertake the risk of social and personal consequences of a confession'. Without adequate counsel, 'it is eventually the poor who may come forward to making confessions and suffer the conviction'. The inducement of an early release is enough for a poor person to falsely plead guilty. This does not serve the cause of justice. It is imperative that the accused are properly counselled about the implications of their decision to plead guilty. However, this practice is never followed in reality. The accused plead guilty without any counselling and in the absence of lawyers who can protect their rights.



5. Unnecessary Detention

- An under-trial prisoner whose case is being tried by a Magistrate shall be produced before the Magistrate at least once in fifteen days for the purpose of further order. Upon the expiry of each period of remand, the prisoner shall be placed before the Magistrate. (Ch. 22.39)
- A statement in the prescribed form showing details of under-trial prisoners whose cases have been pending for more than three months should be sent on the fifth day of each month to the Sessions Judge or District Magistrate with relevant extracts to the court concerned. (Ch. 22.40)





Women Prisoners

THE ORISSA JAIL MANUAL, 1942

- Female prisoners shall be rigidly secluded from the male prisoners, and the under-trial females shall, if possible, be kept apart from the convicts. (Rule 868)
- No female prisoner shall be allowed on any consideration to leave the female enclosure of the jail or employed outside it. (Rule 872)
- Female prisoners shall ordinarily be employed in spinning yarn (charka), or in the preparation of articles of food, such as pounding, husking or sifting grains and the like. They shall not be employed in grinding grains except as a punishment. (Rule 878)
- Female prisoners shall not be allowed to cook for themselves. (Rule 879)
- Children under 4 years of age may remain with their mothers in confinement. The superintendent may at his discretion permit children of 4 and up to 6 years of age to remain in the jail if the mother so desires. For such children, the medical officer may prescribe the diet and shall also provide suitable clothing. (Rule 881)
- The hair of a female prisoner shall not be cut except by order of the medical officer entered in her history ticket, where by he considers this necessary on account of vermin or disease. (Rule 884)

MULLA COMMITTEE

1. Pre-detention Standards

- Women should not be called to the police station for investigation and all investigations should be carried out in the presence of a relative of the accused or her lawyer or a lady staff member. (Rec 364)



- Women in police custody should invariably be under the charge of women police officials. (Rec 366)
- A separate place with proper facilities should be provided on court premises for women prisoners awaiting production before presiding magistrates. (Rec 368)
- Bail should be liberally granted to women under-trial prisoners. (Rec 369)
- The Probation of Offenders Act should be extensively used for the benefit of women offenders. (Rec 370)

2. Standards Applicable in Judicial Custody

- Women prisoners should be lodged in separate institutions/annexes meant exclusively for them. (Rec 371)
- Enclosures for women in common prisons must have a double-lock system and should be renovated so as to ensure that women prisoners do not come in view of male prisoners. (Rec 372)
- All prisons/annexes for women must be staffed by women personnel only. (Rec 373)
- Women guards should be arranged to look after women prisoners in sub-jails. (Rec 375)
- Newly admitted women prisoners should be medically examined for pregnancy. Pregnant women prisoners should be transferred to the local maternity hospital for delivery. (Rec 378)
- Pregnant and nursing women should be prescribed a special diet and exempted from unsuitable kinds of work. (Rec 380)
- Women should be permitted to retain their *mangal sutras*, glass or plastic bangles, etc. (Rec 384)
- There should be a separate ward for women in prison hospitals. (Rec 383)
- Special consideration should be given to women prisoners in the matter of premature release. (Rec 391)
- State governments should encourage and support voluntary women's organisations in looking after women offenders. (Rec 393)



MODEL PRISON MANUAL

- The state government shall establish separate prisons for women offenders. (Ch. 24.01)
- Women prisoners shall be classified and kept separately as (Ch. 24.02):
 - i. Under-trial prisoners from convicted prisoners;
 - ii. Habitual prisoners from casual offenders;
 - iii. Habitual offenders, prostitutes and brothel keepers;
 - iv. Adolescent girls from adult women prisoners; and
 - v. Political and civil prisoners from convict and under-trial prisoners.
- A register shall be maintained in every prison. It shall contain the following details (Ch. 24.03):
 - i. Information concerning their identity;
 - ii. The reasons for their imprisonment and the authority ordering such imprisonment with full details of such order; and
 - iii. The day and hour of their admission and release.
- Women prisoners shall be searched by female warders in the presence of other senior women personnel/women officers with due regard to considerations of privacy and decency. (Ch. 24.15)
- Every women's prison shall have a ten-bed hospital for women. At least one or more woman gynaecologist and psychiatrist shall be provided. (Ch. 24.97)
- Modern equipment for X-ray, ECG, ultrasound and sonography should be available. (Ch. 24.97)
- A socio-legal counselling cell shall be set up in each institution to be managed by volunteers from a designated law school, school of social work, or a non-governmental voluntary agency. (Ch. 24.99)
- Special consideration shall be given to premature release of women prisoners particularly in cases where they are the sole breadwinner, or where no surrogate care is possible for the dependents of women prisoners. (Ch. 24.103)



- Female prisoners shall be allowed to retain, in moderation, certain ornaments of small value such as mangal sutras, bangles and toe rings. (Ch. 24.25)

1. Diet

- An adequate and nutritious diet should be given to nursing women and to children accompanying women prisoners. (Ch. 24.36)
- The medical officer should ensure that food is cooked under hygienic conditions and is nutritious. (Ch. 24.40)
- There should be a separate kitchen for every 100 prisoners. (Ch. 24.41)
- Clean drinking water should be supplied to prisoners and it should be tested periodically. (Ch. 24.46)

2. Clothing & Bedding

- Women prisoners sentenced to six months imprisonment or below should be issued two saris, two blouses, two petticoats, one towel and two sets of customary undergarments. (Ch. 24.52)
- Women prisoners sentenced to more than six months of imprisonment should be issued three saris, three petticoats, three blouses, two towels and three sets of customary undergarments. (Ch. 24.53)
- Adequate warm clothing, according to local conditions and change of seasons, shall also be provided. (Ch. 24.54)
- Women prisoners should be given one pillow with pillow cover and woolen blankets according to climatic conditions. (Ch. 24.61)
- Women prisoners shall be provided two cotton sheets for every six months. (Ch. 24.62)

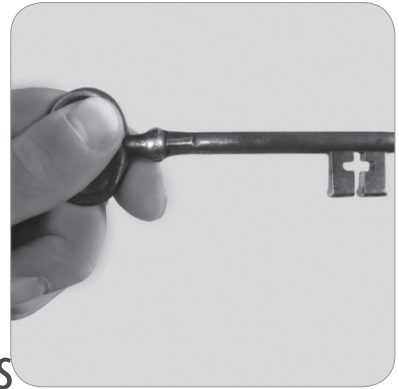
3. Children of Women Prisoners

- A child up to six years of age shall be admitted to prison with the mother if no other arrangements, for keeping the child with relatives or otherwise, can be made. (Ch. 24.26)
- Children born in prison may remain with their mothers up to six years of age, if they cannot otherwise be suitably placed. (Ch. 24.26)



- There shall be a crèche and a nursery school attached to a prison for women where the children of women prisoners shall be cared for. (Ch. 24.29)
- The children of women prisoners living in the prison shall be given proper education and recreational opportunities. (Ch. 24.34)





Access to Information for Prisoners

THE ORISSA JAIL MANUAL, 1942

- Every convict desiring to appeal, and entitled to do so, shall be granted every reasonable facility for the purpose, and his request shall be promptly attended to. (Rule 546)
- The result of an appeal, when received shall be communicated to the prisoner concerned and entered in his history ticket. If the result of the appeal is not communicated to the superintendent, s/he shall send a reminder to the Sessions Court, or to the District Magistrate, enquiring the result of the appeal. (Rule 556)
- If any convicted prisoner desires to appeal and declares that he has no relative, friend or agent who is willing to make an appeal for him, the superintendent shall forthwith apply for a copy of the judgement or order relating to such prisoner from which he desires to appeal. (Rule 550(1))

MULLA COMMITTEE

- Prisoners are entitled to their right to (Annexure IVB):
 - » Effective access to information and all legal provisions regulating conditions of detention;
 - » Consult or to be defended by a legal practitioner of their choice;
 - » Access agencies such as the State Legal Services Authority (SLSA);
 - » Be informed on admission about their legal rights; and
 - » Receive all court documents.



- Every prisoner at the time of his admission should be apprised of his duties, obligations, rights and privileges as laid down in the Prisons Act, 1894 and the rules made under it. A small booklet in the local language containing information regarding regulations governing treatment of prisoners, disciplinary requirements, authorised methods of receiving information, making complaints and all such other matters as are necessary to enable a prisoner to understand both his rights and obligations should be prepared and given to each prisoner within 24 hours of his admission to prison. In case of illiterate prisoners, the required information should be conveyed to them orally. (Rec 8.29)

MODEL PRISON MANUAL

- The Model Prison Manual replicates the recommendations of the Mulla Committee on prisoners' rights to access to law. (Perspective: Model Prison Manual)
- Pamphlets should be printed containing the rights, duties, entitlement, discipline and daily routine of a prisoner so that he/she may follow the dos and don'ts and maintain discipline during his/her confinement. It should be kept in the library for issuance to a prisoner who can read. Illiterate prisoners should be made to understand the contents of the literature by the prison staff or by some literate prisoners. (Ch. 15.05 & 15.06)





Discipline

THE ORISSA JAIL MANUAL, 1942

1. Prison Offences & Punishment

- The Orissa Jail Manual enlists 59 types of behaviour as prison offences. (Rule 656 & 657)
- There are 11 types of minor punishments and 10 types of major punishments - both types include penal diet. (Rule 661)
- Every infringement of jail rules shall be brought to notice of the superintendent, who shall decide whether the infringement reported was committed in such circumstances, e.g., wilfully or without excuse, as to constitute an offence [...] if he finds it to be an offence, he shall award some punishment, and have it recorded in the punishment register and on the prisoner's history ticket. (Rule 662)
- No female or civil prisoner shall be liable to any form of handcuffs or fetters or to whipping as a punishment for a prison offence. (Rule 685)

2. Prisoners' Right Against Arbitrary Prison Punishment

- The State Manual does not address the issue prisoners' right against arbitrary prison punishment.

MULLA COMMITTEE

1. Prison Offences & Punishment

- The powers of the superintendent of a prison regarding use of preventive measures for reasons of safe custody should be clearly laid down. In case such preventive measures are necessary beyond the powers vested in the superintendent, he/she should seek prior approval of the District Judge or the Chief Judicial Magistrate having visitorial powers. (Rec 8.18)



- Fetters and handcuffs should not be imposed on under-trial prisoners except when they have a credible tendency to violence or escape. (Rec 8.19)
- Disciplinary problems in prisons should be tackled with fairness, politeness and firmness. Prison discipline should be based on rewards and positive incentives rather than on the fear of punishment. (Rec 8.34.20)
- Some of the existing prison punishments (imposition of fetters and handcuffs, cellular confinement, separate confinement beyond 30 days, penal diet and whipping) should be abolished and new ones introduced. (Rec 8.26)
- The existing practice of dealing with complaints against prisoners in a summary manner by the superintendent should be stopped. (Rec 8.34.24)
- The inmate should be given a written statement of allegations against him. He should be given an opportunity to put up his defence in person or in writing. (Rec 8.34.24)
- The order inflicting punishment should contain reasons therefore and a copy of the same should be given to the inmate under proper receipt. (Rec 8.34.24)
- The inmate should be allowed the right to appeal to the IG Prisons against major punishments. The appeal should be submitted within three days of the date of order to the superintendent who should immediately forward it to the IG of Prisons. The IG of Prisons should decide the appeal within 15 days of its filing. (Rec 8.34.24)
- In case an appeal is filed within the stipulated period the punishment awarded should remain suspended till the disposal of the appeal. (Rec 8.34.24)
- There should be a section defining the offences that could be committed by prison personnel, procedure for dealing with them and appropriate penalties for the same. (Annexure IVB)

2. Prisoners' Right Against Arbitrary Prison Punishment

- To avoid exploitation of prisoners, their rights need to be laid down in the national prison legislation. Prisoners have the following rights (Annexure IVB):
 - » Right to effective presentation of individual complaints and grievances during confinement in prison to the appropriate authorities;
 - » Right to communicate with the prison administration, appropriate government and judicial authorities, for redressal of violation of any or all prisoners' rights and for redressal of grievances; and



- » Right to entitlement in case of disciplinary violation to:
 - i. Receive precise information as to the nature of violation of the Prisons Act and rules;
 - ii. Be heard in defence;
 - iii. Receive communication of the decision of disciplinary proceedings; and
 - iv. Appeal as provided in the rules made under the Act.

MODEL PRISON MANUAL

1. Prison Offences & Punishment

- The Manual enlists 45 acts as prison offences. The list of punishments is the same as those recommended by the Mulla Committee. (Ch.19.09)
- The minor punishments range from 'a formal warning' to 'fatigue drill/work for a period not exceeding one hour a day up to seven days subject to the prisoner's physical fitness being certified by the medical officer'. The major punishments range from 'loss of privileges of the prisoner from one month to three months' to 'solitary confinement to a maximum of 30 days'. (Ch. 19.11)

2. Prisoners' Right Against Arbitrary Prison Punishment

- The Model Prison Manual takes the same stand as the Mulla Committee in ensuring that the rights of prisoners' against arbitrary prison punishment are not infringed upon. (Perspective: Model Prison Manual)
- In respect of offences committed by prisoners, which are punishable both under the existing criminal laws or jail offences, it should be at the discretion of the superintendent either to use his own powers of punishment or to prosecute the offender before a court of law. (Ch. 19.13)





Grievance Redressal Mechanism

THE ORISSA JAIL MANUAL, 1942

- The superintendent shall hold a parade of all the prisoners once a week, giving every prisoner an opportunity of making any request or complaint. (Rule 592)
- All jail officers shall treat the prisoners with temper, humanity, kindness, and strict impartiality and listen patiently to any complaint or grievance, while at the same time maintaining strict discipline and enforcing the observance of all rules and regulations. It is important that every complaint made by a prisoner should be heard with attention, in order that if real it may be redressed, and that no cause for discontent may be allowed to remain. (Rule 151)
- It is the duty of a prison visitor (official or non-official) to see all prisoners and to hear any complaint that any prisoner may make to him. The visitor should refer to the superintendent if the complaint is regarding a subordinate officer, and if it is against the superintendent then he should refer the matter to the Chairman of Board of Visitors for necessary action. (Rule 47(ii))
- All complaints of prisoners respecting the rations shall be immediately brought to the notice of the superintendent and promptly enquired into, and if the complaint be found true, the superintendent shall record his orders in his minute book. (Rule 588(8) & 1004)

MULLA COMMITTEE

- Letters addressed by prisoners to the government, judiciary, IG of Prisons or high functionaries should be forwarded to them immediately without being censored, and dated receipt should be given to the prisoner. The receiving authority should acknowledge letters immediately and look promptly into them. (Rec 8.34.27)



- The District Judge should visit each prison in his jurisdiction once a month and give opportunity to all the prisoners to put up their grievances or requests, if they so desire, in the absence of prison officers. This should be a statutory function of the District Judge. (Rec 8.34.27)
- Each prison should have a complaint box fixed at a prominent place within the reach of inmates. The key to the lock of the box should remain with the District Judge who should open it at the time of his monthly visit to the jail and take necessary action. The directives issued by the higher judiciary in this regard should be kept in view by the prison administration. (Rec 8.34.27)
- The Board of Visitors should be activated. The visitors should receive and enquire into prisoners' complaints and grievances and send their suggestions to appropriate authorities. (Rec 8.34.27)

MODEL PRISON MANUAL

- The Model Prison Manual proposes the same standards for grievance redressal as the Mulla Committee. (Ch. 19.16)
- An active Grievance Redressal System (G.R.S) should be established in every prison. (Ch. 19.16)
- The key to the lock of the complaint boxes installed in prisons should remain with the deputy superintendent, who shall unlock the box twice a week on days fixed and approved by the superintendent. (Ch. 19.16)
- The superintendent should preside over a permanent committee of G.R.S, comprising himself, the deputy superintendent (the senior most deputy superintendent in case more than one is posted in the prison), the medical officer and the welfare officer. If the prison happens to have a female enclosure then one lady officer not below the rank of deputy superintendent shall be included in the committee. (Ch. 19.16)
- The committee shall meet at least twice a week to look into all the complaints. Complaints to the higher authorities shall be forwarded to them with the comments of the superintendent without delay. (Ch. 19.16)





Remission

THE ORISSA JAIL MANUAL, 1942

- The total remission awarded to a prisoner under these rules shall not ordinarily exceed one-fourth part of his sentence but the IG of Prisons may, in exceptional and suitable cases, grant remission up to a limit of one-third of the sentence. (Rule 726)
- 1. Ordinary Remission
 - Shall be awarded on the following scale (Rule 713):
 - » 2 days per month for thorough good conduct and scrupulous attention to all prison regulations; and
 - » 2 days per month for industry and the due performance of the daily task imposed.
 - Prisoners employed on prison services, such as cooks and sweepers, who work on Sundays and holidays, may be awarded 3 days ordinary remission per quarter in addition to any other remissions earned under these rules. (Rule 717)
 - Ordinary remission shall be awarded by the superintendent or, subject to his control and supervision, by the deputy superintendent or the jailor, or any other officer specially empowered in that behalf by him. (Rule 719)
 - An officer awarding ordinary remission shall, before making the award, consult the prisoner's history ticket in which every offence proved against the prisoner must be carefully recorded. (Rule 720)



2. Special Remission

- Special remission may be given to any prisoner whether entitled to ordinary remission or not other than a prisoner undergoing a sentence referred to in rule 709, for special service. (Rule 723)
- Special remission may be awarded (Rule 724):
 - » By the superintendent to an amount not exceeding 30 days in one year;
 - » By the IG of Prisons or the provincial government to an amount not exceeding 60 days in one year.

MULLA COMMITTEE

- Grant of remission should be properly recorded and authenticated. (Rec 547)
- Prisoners with substantive sentences from two months to five years should be sanctioned remission each month, while those sentenced to over five years (including life convicts) should be granted remission once every quarter. (Rec 548)
- Ordinary remission should be calculated for full calendar months and not for a fraction of the calendar month. (Rec 549)
- The maximum limit of remission, which a prisoner can earn, should be half the substantive sentence awarded to him. (Rec 551)
- Any prisoner eligible for ordinary remission, who has not committed any prison offence for a period of one year, should be awarded 30 days annual remission in addition to any other remission. (Ch. 20.7.4)
- Meritorious work by inmates should be rewarded by grant of special remission in addition to the annual good conduct remission. (Ch. 20.7.6)
- Eligibility for grant of ordinary remission (Ch. 20.7.1):
 - » Prisoners with substantive sentences of not less than two months;
 - » Prisoners sentenced to simple imprisonment for not less than two months who volunteer to work;
 - » Prisoners working on conservancy jobs irrespective of the length of their sentence; and
 - » Prisoners sent for court attendance.



- Non-eligibility for grant of ordinary remission (Ch 20.7.2):
 - » Prisoners with substantive sentences of less than two months;
 - » Prisoners sentenced only in default of payment of fine;
 - » Prisoners transferred from one prison to another on disciplinary grounds;
 - » Prisoners removed from the remission system as punishment;
 - » Prisoners specifically debarred from the remission system under any law or rule; and
 - » Prisoners out on special leave for the duration of such leave.
- Scale of remission for non-habitual convicted persons (Ch. 20.7.3):
 - » Three days per calendar month for good behaviour, discipline and participation in institutional activities;
 - » Three days per calendar month for due performance of work according to prescribed standards;
 - » Seven days per calendar month for prisoners employed on conservancy work or as cooks, or on prison maintenance services requiring them to work even on Sundays and holidays;
 - » Eight days per calendar month for those working as night watchmen; and
 - » One day for each day's stay to prisoners sentenced to imprisonment of one year or more and transferred to open institutions.
- Scale of remission for habitual prisoners (Ch. 20.7.5):
 - » Two days per calendar month for good behaviour, discipline and participation in institutional activities;
 - » Two days per calendar month for due performance of work according to prescribed standards; and
 - » Five days per calendar month for prisoners who are night watchmen or are engaged on conservancy work, or as cooks, or on prison maintenance services requiring them to work on Sundays and holidays.



MODEL PRISON MANUAL

- The Model Prison Manual lays down the same standards as recommended by the Mulla Committee Report. However, they also mention the authority which can grant each remission. (Ch. 16.06,16.10 & 16.13)

ORDINARY REMISSION	The superintendent or any officer nominated by him on this behalf
SPECIAL REMISSION	The superintendent of prison concerned and the IG of the Prison Department
STATE GOVERNMENT REMISSION	The state government

- There shall be a Remission Committee in each institution comprising (Ch. 16.17):
 - » Superintendent in charge of the institution – Chairman;
 - » Deputy superintendent or senior most prison officer available in the institution;
 - » Assistant superintendent/deputy jailor/assistant jailor in charge of the remission section; and
 - » Officer in charge of industries/vocational training.
- Functions of the Remission Committee shall be to (Ch. 16.18):
 - » Attend to all matter pertaining to remission;
 - » Recommend cases of prisoners to the IG/Head of Prisons Department for the grant of special remission as per provisions of this manual; and
 - » Grant special remission as per provisions of this manual.
- The Remission Committee should meet on fixed days in the last week of every month, or as and when required. (Ch. 16.19)





Parole & Furlough

THE ORISSA JAIL MANUAL, 1942

- The Orissa Jail Manual does not address the issue of parole and furlough.

MULLA COMMITTEE

- Rules for eligibility of convicted prisoners for release on leave and special leave should be reviewed, rationalised and liberalised. (Rec 554)
- The IG of Prisons should be the authority competent for grant of release. (Rec 555)

MODEL PRISON MANUAL

- The provisions for grant of leave should be liberalised to help a prisoner maintain a harmonious relationship with his family. The privilege of leave should, of course, be allowed to selective prisoners on the basis of well-defined norms of eligibility and propriety. (Ch. 17.01)
- Head of the Prisons Department/IG of Prisons will be the competent authority for granting release on leave. (Ch. 17.10)



SENTENCE (YEARS)	WHEN DUE FOR FIRST RELEASE ON LEAVE*	WHEN DUE FOR SECOND RELEASE**	WHEN DUE FOR SUBSEQUENT RELEASES**	DURATION OF LEAVE PER YEAR
Less than 5	On completion of 1 year of actual imprisonment	After completion of 6 months of actual imprisonment	After completion of 6 months of actual imprisonment	21 days
More than 5 less than 14	On completion of 2 years of actual imprisonment	After completion of 1 year of actual imprisonment	After completion of 6 months of actual imprisonment	21 days during the first 5 years of confinement and 28 days for the rest of the term
More than 14 or life imprisonment	On completion of 3 years of actual imprisonment	After completion of 1 year of actual imprisonment	After completion of 6 months of actual imprisonment	21 days during the first 5 years of confinement and 28 days for the rest of the term

* To be counted from the date of admission to prison as convict

** To be counted from the date of his last return from leave





Prison Visiting System

THE ORISSA JAIL MANUAL, 1942

- The Revenue Commissioner shall appoint non-official visitors of all jails in the state. There shall be at least six non-official visitors for every central and five for every district jail. There shall also, if possible be two lady non-official visitors for each central and one for each district jail in which female prisoners are confined. (Rule 42)
- These appointments shall ordinarily be made on the recommendation of the Magistrate of the district in which the jail is situated, and shall be notified in the Orissa Gazette. (Rule 42)
- The non-official visitors of each jail shall all be appointed on the same date for a term of two years, and be eligible for reappointment on the expiry of the terms of their office. (Rule 43)
- The official and non-official visitors of a jail shall constitute a Board, of which District Magistrate shall be the ex officio Chairman. It shall be his duty to arrange the roster for weekly visits to the jail. (Rule 45)
- The Board shall meet quarterly on such a day as the Chairman determines. They shall meet at the jail, inspect all buildings and prisoners, hear any complaints and petitions that may be referred. The Board may also inspect the prisoners' food to ensure that it is of good quality and properly cooked, and examine the punishment register to satisfy themselves that it is kept up to date. (Rule 46)
- It is the duty of a visitor to satisfy himself that the law, rules and orders regulating the management of prisons and prisoners are duly carried out in the jail; to visit, if possible, every part of the jail, and to see all prisoners and to hear any complaint that any prisoner may make to him. (Rule 47(ii))
- It is the duty of the official visitors and magistrates that the conservancy is properly carried out. (Rule 1081)



MULLA COMMITTEE

- In each State/Union Territory a Board of Visitors should be set up. (Rec. 112)
- A Board of Visitors should be constituted for each central and district prison consisting of:
 - » Chairman: the District and Sessions Judge; and
 - » Members: Two members of the State Legislature, District Magistrate, District Superintendent of Police, Civil Surgeon, Executive Engineer of the Public Works Department, District Education Officer, District Public Health Officer, District Agriculture Officer, two lady social workers. (Ch. 6.22.3)
- The functions of the Board of Visitors should be to:
 - » Visit the prison/sub-jail and ensure that the care and welfare of the inmates are properly attended to;
 - » Attend to requests of inmates;
 - » Make recommendations about the redressal of grievances and complaints of prisoners and also about living conditions in the prisons; and
 - » Help the prison administration in the development of correctional programmes. (Ch. 6.22.5)
- The Board of Visitors should visit the concerned institution at least once a month. A member of the Board may also visit the institution individually, on any day. (Ch. 6.22.6)

MODEL PRISON MANUAL

- The state government shall by notification constitute a Board of Visitors comprising official and non-official members at district and sub-divisional levels. (Ch. 26.01)
- The task of the Board of Visitors shall include (Ch. 26.02):
 - » Monitoring the correctional work in the prison, with special attention to the degree and quality of training and the effectiveness of infrastructure/facilities in the prison;
 - » Suggesting new avenues leading to improvement in correctional work; and
 - » Investigating individual or collective grievances of the prisoners, and providing redressal in consultation with the prison authorities.



- The Board of Visitors shall comprise the following official members (Ch. 26.03):
 - » District Magistrate (or Sub-Divisional Officer at the sub-divisional level);
 - » District Judge (or the Sub-Divisional Judicial Magistrate);
 - » Chief Medical Officer of Health (or the Sub-Divisional Medical Officer);
 - » Executive Engineer (or Assistant Engineer);
 - » District Inspector of Schools;
 - » District Social Welfare Officer; and
 - » District Agricultural Officer.
- The non-official members of the Board of Visitors are members of the legislative assembly of the state, a nominee of the State Commission for Women, and social workers. (Ch. 26.04)
- The Members of the Board of Visitors shall specially attend to the quality and quantity of prison diet, condition of the kitchen and hospital, availability of medicines, hospital management, medical treatment of the prisoners, sanitary arrangements, aspects of vocational trainings, literacy programme, and library facilities for the prisoners. (Ch. 26.13)
- All visitors, official and non-official, at every visit shall: examine the cooked food; inspect the barracks, wards, work shed and other buildings of the prison generally; ascertain whether considerations of health, cleanliness and security are attended to; whether proper management and discipline are maintained; whether any prisoner is illegally detained, or is detained for an undue length of time while awaiting trial; examine prison registers and records; hear, attend to all representations and petitions made by or on behalf of the prisoners; and direct, if deemed advisable, that any such representations or petitions be forwarded to the government. (Ch. 26.22)





Duties of Prison Officers

THE ORISSA JAIL MANUAL, 1942

1. Superintendent

- Manage the prison in all matters relating to discipline, labour, education, expenditure, punishment and control. (Rule 58)
- Hold an enquiry touching every offence committed by a prisoner, and punish such offence. (Rule 61)
- Accompany the IG of Prisons and Board of Visitors during their inspection of the jail, and also, when desired to do so, the District Magistrate and any official visitor. (Rule 63)
- Visit the jail daily, as soon after sunrise as possible, when his first duty shall be to release time-expired prisoners. He shall inspect the whole jail premises at least once a week. He shall see every prisoner confined in cells daily. (Rule 64)
- Hold a parade of all the prisoners, at least once a week. (Rule 65)
- Keep, or cause to be kept, the following records (Rule 66):
 - » Register of prisoners admitted;
 - » Book showing when each prisoner is to be released;
 - » Punishment book; and
 - » Visitors' book.
- Submit punctually to the IG of Prisons all yearly and other returns and statements etc. (Rule 69)



- Report to the IG of Prisons all serious breaches of jail discipline, escapes, recaptures, suicides, deaths or serious injury to prisoners from accidental causes, any outbreak of epidemic disease or unusual sickness. (Rule 70)
- See that at the proper season when grain is cheapest, a sufficient quantity of each kind of grain required for prisoners' consumption until the next season is contracted. He shall also satisfy himself by frequent inspection of the accounts and of the prisoners' food before and after cooking, and the weighment of the food after distribution, that the prisoners obtain their full rations properly cooked. (Rule 72)

2. Medical Officer

- Have charge of the sanitary administration of the prison. His duties shall embrace every matter affecting the health of the prisoners and the general hygiene of the jail. He shall be under the general control of the IG of Prisons. (Rule 76)
- Maintain a minute book, in which he shall enter his date of visit, observations, recommendations or orders. (Rule 79)
- Visit the jail once a day (except on Sunday and on that day also if necessary) and more frequently, if necessary. He shall at least once in every week inspect every part of the jail and its precincts, and shall satisfy himself that nothing exists therein which is likely to be injurious to the health of the prisoners. He shall also ensure that the drainage is satisfactory; water supply is pure and not liable to pollution; ventilation and cleanliness are provided for and properly attended to; and that due precautions against overcrowding are taken. He shall also frequently inspect the cook-rooms and feeding parades, and shall test the weight and quality of the rations both before and after cooking. (Rule 80)
- Visit the patients in hospital daily as soon after sunrise as he can. He shall also examine prisoners complaining of illness, and admit them, if necessary, to hospital. (Rule 81)
- Inspect all the prisoners at least once a week at a general parade in company with the superintendent and shall from time to time examine the labouring prisoners. (Rule 82)
- Whenever he has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, he shall report the case in writing to the superintendent. (Rule 83)



- Exercise general supervision over the supplies and preparation of food and shall reject any article that he considers unfit for consumption. (Rule 85)
- Shall record in the monthly return his opinion as to the cause of death and any observations, whenever the mortality in a jail during any month exceeds 1%. (Rule 88)
- Daily visit all prisoners confined in cells, and report to the medical officer any complaints that may have been made to him. He shall be responsible for the preparation of all medicines; and for the maintenance of cleanliness, order and discipline in the hospital and see that all jail rules are strictly observed. (Rule 99, 100 & 103)
- Examine all food before it is distributed, and see that it is properly cooked. (Rule 113)

3. Jailor

- Is the chief executive officer of the jail and shall be responsible for the strict implementation of all the rules. (Rule 211)
- Shall, if required, accompany the Magistrate, medical officer, inspecting officers and official and non-official visitors on their visits to the jail. He shall always accompany the superintendent on his visits to the jail. (Rule 215)
- Keep a report book, in which he shall record daily the state of jail and all occurrences of importance, and make reports and representations. In the book he shall enter – the hour when prisoners began and stopped work; how instructions relating to conservancy, general sanitation and personal hygiene of prisoners were carried out by him during the preceding 24 hours, etc. He shall also record all cases in which he may have found it necessary to use restraint to any prisoner, any violent outbreak or serious offence, accident, death, outbreak of epidemic disease or any occurrence out of the ordinary routine. (Rule 216)
- Secure the safe custody of prisoners, enforce discipline among them, ensure that prisoners sentenced to rigorous imprisonment do the work assigned to them and maintain a standard of health among them. He shall visit every part of the jail daily, including cells and hospital, and see every prisoner at least once in every 24 hours. (Rule 217)
- Be always present when the prisoners are locked up at night and taken out of the wards in the morning. (Rule 218)
- Responsible for the custody of all warrants and the strict enforcement of their terms. (Rule 220)



- Assign to each prisoner his work. (Rule 221)
- Note every breach of jail rules in the prisoner's history ticket, but is strictly prohibited from punishing a prisoner. In case of absolute necessity, he may place handcuffs for restraint. (Rule 222)
- Responsible for the proper weighing, issuance of prisoner's rations to the cooks and for seeing that they are properly cooked and distributed. (Rule 225)
- Hold a parade of all prisoners every Sunday and shall, with the medical subordinate: carefully inspect and examine the clothing and bedding of every prisoner. (Rule 229)

MULLA COMMITTEE

1. Superintendent

- The powers regarding use of preventive measures for reasons of safe custody should be clearly laid down. In case such preventive measures are necessary beyond the powers vested in the superintendent, he should seek prior approval of the District Judge or the Chief Judicial Magistrate having visitorial powers. (Rec 8.18)

2. Medical Officer

- Be responsible for the medical care and treatment of all inmates of the prison. (Annexure VII B - A)
- Maintain a health card for every prisoner containing details on: condition of the prisoner on admission; fortnightly weight; blood counts once in six months; and details of immunisation and illness. (Annexure VII B - A)
- Take rounds of the prison premises with the superintendent once a week.
- Take note of the sanitary conditions of the barracks, clothing and bedding. (Annexure VII B - A)
- Inspect the kitchen, its environs and advise on improvement where necessary. (Annexure VII B - A)
- Advise the superintendent on the suitability of work allotted to the prisoners with reference to their physical and mental health. (Annexure VII B - A)
- Arrange for periodic examination and analysis of the water supplied for drinking and cleaning purposes. (Annexure VII B - A)



MODEL PRISON MANUAL

1. Superintendent

- In charge of the executive management of the prison in all matters relating to economy, discipline, labour, expenditure, punishment and control in general, among other things. (Ch. 4.07.2)
- General supervision over security and custody arrangements; supervision over care and welfare of inmates; inmate discipline and morale; classification of prisoners, training and treatment programmes, and correctional activities; inspection and supervision of work, employment and production programmes; inspection of the prison activities, prison hospital, kitchen, canteen, etc.; daily inspection round and weekly night inspection round; and control and maintenance of stock and stores. (Ch. 4.07.3(a))

2. Medical Officer

- Attend not only to the treatment of sick prisoners but also to every matter connected with the health of prisoners and over-all hygiene of the prison. (Ch. 7.01)
- Maintain best health standards in the prisons under their charge. (Ch. 7.01)
- Visit the prison and see ill prisoners every day. (Sundays and holidays, whenever necessary) (Ch. 7.10)
- Conduct complete medical inspection of all the prisoners once a month. (Ch. 7.12)
- Inspect every part of the prison and check all prisoners at least once a week and record the observations in his report to be sent to the superintendent of prisons and IG of Prisons periodically. (Ch. 7.11)
- Shall be present during the superintendent's weekly inspection. (Ch. 7.17)
- Whenever the mortality of a prison in a month exceeds 1% per annum, he shall record an explanation of the cause of such excess mortality in the monthly return. (Ch. 7.26)
- Keep a journal to record every visit to the prison, the parts of the prison or classes of prisoners visited, the number of sick persons in the prison and any other point, which should be brought to the notice of the superintendent. (Ch. 7.28)



- Make specific notes of the following during prison visit: any defects in the food, clothing or bedding of prisoners; in the cleanliness, drainage, ventilation, water supply or other arrangements of the prison which is likely to be injurious to the health of prisoners; suggestions for removing such defects; and any occurrence of importance connected with the hospital administration. (Ch. 7.28)





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.



COMMONWEALTH HUMAN RIGHTS INITIATIVE

B-117, Second Floor
Sarvodaya Enclave
New Delhi - 110 017, INDIA
Tel: +91-11-4318-0200
Fax: +91-11-2686-4688
E-mail: info@humanrightsinitiative.org
www.humanrightsinitiative.org