

# STANDARDS BEHIND BARS

Prescribed rules and recommendations for prisons



## RAJASTHAN



# CHRI

Commonwealth Human Rights Initiative

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

## COMMONWEALTH HUMAN RIGHTS INITIATIVE

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

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# STANDARDS BEHIND BARS

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Wall Painting from Rajasthan

RAJASTHAN

# 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 Święcka for their support and involvement in the development of this project.

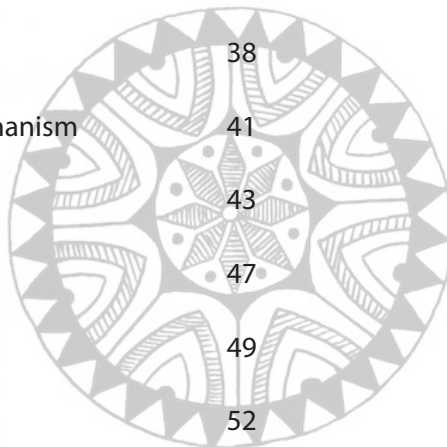
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## NOTE FOR USERS OF THIS HANDBOOK

This handbook is compiled for prison officers, inmates, members of the judiciary, members of state human rights commissions, members of state legal services authorities 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 Rajasthan Prison Manual 1951, the All India Committee on Jail Reforms, 1980-83 and the Model Prison Manual, 2003.



This compilation aims to assist 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 Rajasthan Prison Manual 1951 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

### RAJASTHAN PRISON MANUAL, 1951

- In every sleeping ward a certain amount of superficial area, cubic space and lateral ventilation shall be allowed for each prisoner and the minimum allowance is stated below: (Part VI, Section II, Rule 6)

	SUPERFICIAL AREA PER PRISONER (SQUARE M.)	CUBIC SPACE PER PRISONER (CUBIC M.)
In Barracks	36	500
In Hospitals	34	900
In Cells	75	1000

- The minimum allowance for lateral ventilations 10 for barracks, hospital, and cells; the height of the walls of a ward shall not be less than 13 feet. (Part VI, Section II, Rule 6)
- The superintendent and the medical officer shall be respectively responsible that no prisoners in excess of the authorized accommodation are confined in any ward or in hospital. (Part VI, Section II, Rule 11)
- In case of overcrowding, the superintendent shall at once communicate with the Inspector General (IG), to what jail a stated number of prisoners may be transferred. On receipt of a reply from the IG, the superintendent shall transfer a sufficient number of prisoners. (Part VI, Section II, Rule 12)
- All parts of the jail shall be kept thoroughly clean, and care should be taken that rubbish and dirt are not allowed to accumulate in any part of it. (Part VI, Section IV, Rule 35)





- Each enclosure shall, if possible, have a separate day latrine on the approved plan and shall have a sufficient number of seats to allow the latrine parade to be carried out rapidly. About one seat to 5 prisoners is usually sufficient (Part VI, Section IV, Rule 36)
- Convicts sentenced to simple imprisonment and under-trial prisoners shall be permitted to wear their own clothing. (Part IX, Section IV, Rule 87)
- It shall be the duty of the superintendent, the medical officer and the jailor to satisfy themselves respectively that:
- Every prisoner is provided with sufficient clothing and bedding to secure his health.
- Every prisoner entitled to prison clothing and bedding is duly supplied therewith according to the prescribed scale applicable to the class to which such prisoner belongs.
- All clothing and bedding supplied is of the prescribed description and quality, clean, in good condition and in all respect suitable for use by prisoners.
- All articles of clothing or bedding obtained and stored in the jail are frequently inspected. (Part IX, Section IV, Rule 94 a, b, c, d)

### **MULLA COMMITTEE 1983**

- 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.





### RAJASTHAN PRISON MANUAL, 1951

- No reduction in the sanctioned diet scales shall be made except in the case of prisoners who are on penal diet. (Part IX, Section I, Rule 1)
- The IG, with the previous sanction of the government, shall fix the scale of prison diet to be provided in respect of each class of prisoners. (Part IX, Section I, Rule 5)
- It shall be the duty of the superintendent, the medical officer and the jailor at all times to satisfy themselves, respectively that:
  - » Every article at any time issued, or intended to be issued, for the food of any prisoner, is of the prescribed quantity and quality, and is good, wholesome and fit for human consumption.
  - » Every article of food supplied to any prisoner in a cooked state is properly and cleanly cooked in such manner as to be wholesome and reasonably palatable.
  - » Every article of food is subjected to proper examination before issue for consumption. (Part IX, Section I, Rule 20 (b, c, d))
  - » It is of great importance that the dietary shall be varied as much as possible. (Part IX, Section I, Rule 41)
- The superintendent and medical officer shall exercise utmost vigilance in the supervision of food supplies, and when the food is cooked and ready for issue. Once in every week, without any previous notice the superintendent of jail and the medical officer shall inspect the food to see that it is properly prepared. At this inspection, the weight of the food distributed to several prisoners should be tested. (Part IX, Section II, Rule 46)



### **MULLA COMMITTEE 1983**

- 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 2003**

- 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)





## Water

### RAJASTHAN PRISON MANUAL, 1951

- It shall be the duty of the superintendent, the medical officer and the jailor at all times to satisfy themselves respectively that: pure and wholesome water is provided for consumption by the prisoners, and that supply of such water is at all times freely available to every prisoner for drinking purposes. (Part IX, Section I, Rule 20a)
- Every possible precaution shall be taken to prevent the pollution of the water supply, either at its source or in distribution. (Part VI, Section IV, Rule 45)
- When a new water supply is obtained, or when there is suspicion that the water is impure, samples shall be sent to the Chemical Examiner for analysis. (Part VI, Section IV, Rule 46)
- Every sleeping ward shall be provided with drinking water, and the prisoners at work shall be provided with drinking water as is necessary. (Part VI, Section IV, Rule 51)

### MULLA COMMITTEE 1983

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

### MODEL PRISON MANUAL 2003

- 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

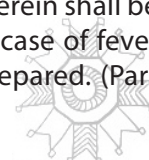
### RAJASTHAN PRISON MANUAL, 1951

#### 1. Appointment and duties of Medical Staff

- The medical officer shall be responsible for the maintenance of cleanliness, order and discipline in the hospital, and see that all jail rules are strictly observed in it. (Part XXV, Section XIII, Rule 321)
- The duties of a medical officer embrace every matter connected with the health of the prisoners, their treatment when sick and the hygiene of the jail. (Part XXV, Section XIII, Rule 323)
- The medical officer shall visit the jail daily; and every part of it and the premises belonging or attached thereto at least once a week, and oftener in times of sickness. (Part XXV, Section XIII, Rule 324)
- Compounders of all jails shall be duly qualified compounders who have passed the tests prescribed by the government of Rajasthan. (Part XXV, Section XIII, Rule 343)
- The medical officer shall give his careful attention not only to the treatment of the sick but to every matter connected with the health of the prisoners and the hygiene of the Jail. (Part XXV, Section XIII, Rule 279)

#### 2. Medical Facilities in Jails

- No prisoner may be detained in the hospital more than 24 hours under medical observation without being brought on the hospital registers. (Part XXV, Section XIII, Rule 308)
- Over every occupied bed in hospital shall be placed a ticket wherein shall be recorded the medical history and progress of the case and in case of fever lasting more than a few days a temperature chart shall be prepared. (Part XXV, Section XIII, Rule 309)



### 3. Medical Screening on Admission to Prison

- The medical officer shall examine every prisoner on the day of his arrival at the jail or at the latest by the following day and shall record, or cause to be recorded, in the proper register, specified information (ex. height, weight, class of labour, identification marks). (Part XXV, Section XIII, Rule 281)

## MULLA COMMITTEE 1983

### 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 2003

#### 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 prison. (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

### RAJASTHAN PRISON MANUAL, 1951

- Every newly convicted prisoner shall be allowed reasonable facilities to seeing or communicating with his relatives, friends and legal adviser, with a view to the preparation of an appeal or revision or to the procuring of bail. (Part XXII, Section II, Rule 25)
- In addition to other privileges, every convict shall be allowed to have an interview with his relatives or friends and to write and receive a letter once in 2 months during his term of imprisonment (subject to good conduct). (Part XXII, Section II, Rule 31)
- A convict may, with the permission of the superintendent substitute a letter with reply for an interview. (Part XXII, Section II, Rule 31, Note 2)
- The superintendent may at this discretion grant interview or allow the dispatch or receipt of letters at shorter intervals. (Part XXII, Section II, Rule 32)
- No letter shall be delivered to or sent by a prisoner until it has been examined by the superintendent or by the jailor or some other officer authorised by the superintendent in this behalf, but no unnecessary delay shall be allowed to occur in its delivery or despatch. (Part XXII, Section II, Rule 33)
- Writing material, including service post card, shall be supplied in reasonable quantities to any prisoner permitted to write a letter. A fixed day of the week, preferably Sunday, shall be set apart for letter writing. Service postage shall be provided at government expenses for the dispatch of prisoner's letters. (Part XXII, Section II, Rule 36)
- All petitions shall be deposited in a petition-box kept in a conspicuous place at the main gate of the jail. (Part XXII, Section II, Rule 41)



- Every interview shall take place in a special part of the jail set apart for the purpose, if possible, around or near the main gate subject to the following condition:
  - » Interviews with female prisoners shall, if practicable, take place in the female enclosure.
  - » If a prisoner is seriously ill, the superintendent may permit the interview to take place in the hospital.
  - » A condemned convict shall ordinarily be interviewed in his cell. (Part XXII, Section II, Rule 43a)
- Not more than three adults shall be allowed to interview at prisoners at one interview. (Part XXII, Section II, Rule 43b)
- The time allowed for an interview shall not ordinarily exceed 20 minutes, but may be extended by the superintendent or the officer in charge of interviews at his discretion. (Part XXII, Section II, Rule 47)

### **MULLA COMMITTEE 1983**

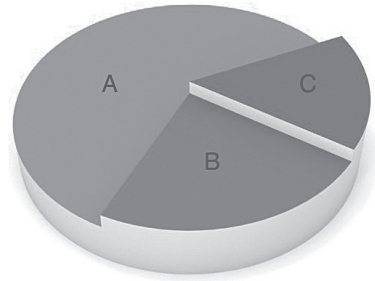
- Guidelines for the censorship of letters should be formulated so that censorship of letters is done on the basis of human consideration. (Rec 100)
- There should be no limit on incoming letters for prisoners and there should be no restriction on the number of letters prisoners may send at their own 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 2003

- 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

### RAJASTHAN PRISON MANUAL, 1951

- A prisoner confined in a jail may be (Part XV, Section I, Rule 1):
  - i. A criminal prisoner (an under-trial and a convicted prisoner)
  - ii. A detenu or a prisoner to be detained in prison without trial under any law relating to preventive detention
  - iii. Civil prisoner
- In every jail, prisoners of each of the following categories shall be kept separate from those of the other categories (Part XV, Section I, Rule 9):
  - » Civil prisoners
  - » Under-trial
  - » Other male “habitual” prisoners
  - » Other male “non-habitual” prisoners
  - » Security prisoners and
  - » Detenus
- All convicts shall, as far as the requirements of labour and the cell accommodation of the jail will allow, be kept separate from each other both by day and by night. (Part XV, Section I, Rule 13)
- The class system shall be explained to all prisoners on admission. They shall be cautioned that they will be liable to punishment if they converse or communicate with any prisoner of a different class or one confined in a different section, yard or barrack. (Part XV, Section I, Rule 33)





### **MULLA COMMITTEE 1983**

- 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 2003**

- 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

### RAJASTHAN PRISON MANUAL, 1951

#### 1. General Standards

- Every under-trial prisoner shall be permitted to purchase or receive from private sources, food, clothing, bedding and other other items of necessity subject to some restrictions. (Part XXV, Section IX, Rule 223)
- Under-trial prisoners may, if they so wish, be permitted to work at any trade or profession inside the jailor the lock-up, provided the necessary arrangements can be made in the jail or the lock-up. (Part XXV, Section IX, Rule 225)
- The assistant jailor should not allow an under-trial prisoner to cut his hair or shave in a way that would alter his personal appearance so as to make it difficult to recognise him. (Part XXV, Section IX, Rule 209)

#### 2. Legal Aid

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

#### 3. Videoconferencing

- The manual does not deal with video-conferencing.

#### 4. Jail Adalats

- The manual does not mention anything about the jail adalats.

#### 5. Unnecessary Detention

- The assistant jailor should satisfy himself by examination of the warrant, that, except in case of persons committed for trial to a court of Session, no under-trial is detained longer than 15 days without a fresh remand. (Part XXV, Section IX, Rule 206)



- Every case of an under-trial prisoner pending before a court over a month shall be brought to the notice of the District Magistrate or the Senior Judge. Detention of under-trial prisoners for over 3 months shall be reported to the Commissioners of the Division direct; Detentions of under trials for over 6 months should be specially reported to the Inspector-General, with a view to the matter being brought to the notice of the government. (Part XXV, Section IX, Rule 215)

## MULLA COMMITTEE 1983

### 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 2003

### 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 condition (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 worksheds 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

### RAJASTHAN PRISON MANUAL, 1951

- In the female division of every jail, there shall be a block of cells in sufficient number for use as punishment cells and to afford separate accommodation for female under-trial prisoners. (Part XXV, Section X, Rule 240)
- A child under the age of four years, the offspring of a female prisoner, whether a convict or under-trial, shall, if it has not been weaned or if it has been weaned and no friend or relative can be found to take charge of it, be admitted to jail with its mother. (Part XXV, Section X, Rule 242)
- When a female prisoner (convict or Under-trial) admitted in jail is certified by the medical officer to be pregnant, the fact shall invariably be reported to the IG prisons with particulars as to date of admission, term of sentence and duration of pregnancy.
- No male officer shall on any pretext enter the female prisoners' enclosure without the paid matron or, if there be no matron, without the jailor and he shall not separate whilst in the enclosure. (Part XXV, Section X, Rule 247)

### MULLA COMMITTEE 1983

#### 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 2003

- 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)

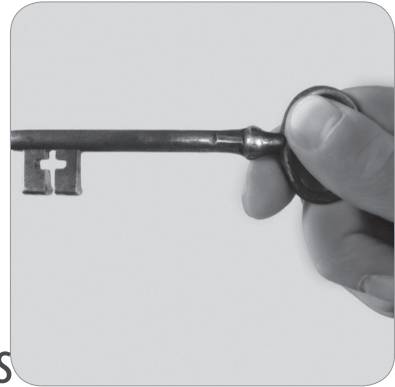
## 2. Clothing & Bedding

- 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

### RAJASTHAN PRISON MANUAL, 1951

- The superintendent shall inform every convicted prisoner on first admission to jail after conviction of the period within which an appeal from the order under which he has been committed to jail, may be filed. (Part XXII, Section I, Rule 1)
- An application by a prisoner for a copy of judgment or order will be at once forwarded either to the District Magistrate or the court of Session. (Part XXII, Section I, Rule 6)

### MULLA COMMITTEE 1983

- 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 2003**

- 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

## RAJASTHAN PRISON MANUAL, 1951

### 1. Prison Offences & Punishment

- There are 43 acts declared to be prison offences. (Part II, Rule 1)
- 11 punishments are listed as minor and 11 as major punishments. (Part II, Rule 5)
- The superintendent of the jail may use or require to be used such force as may, in his opinion, be necessary to compel obedience on the part of any male prisoner to any lawful order issued by him. (Part II, Rule 7)
- Every infringement of jail rules shall be brought to the notice of the superintendent, who shall decide whether the infringement reported was committed in such circumstances, e.g., wilful or without excuse, so as to constitute an offence. (Part II, Rule 8)
- It shall be in the discretion of the superintendent to determine, with respect to any other act which constitutes both a prison offence and an offence under the Indian Penal Code, whether he will use his own power of punishment or move the Magistrate exercising jurisdiction to enquire into it in accordance with the Code of Criminal Procedure, 1898. (Part II, Rule 2, point 2)

### 2. Prisoners' Right Against Arbitrary Prison Punishment

- The manual does not address the issue of arbitrary prison punishment.

## MULLA COMMITTEE 1983

### 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 2003**

#### **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

### RAJASTHAN PRISON MANUAL, 1951

- The superintendent shall on all occasions be ready to enquire to any complaint and to listen to any application from a prisoner. (Part VIII, Section VII, Rule 69)
- At every parade (preferably on Monday) the superintendent shall hear and enquire into and pass orders on any complaints that the prisoners may make. It shall be his duty to listen to these complaints in a patient and considerate manner and to afford the prisoners facilities for making any representations that they may like to make. (Part VIII, Section VII, Rule 81 g)

### MULLA COMMITTEE 1983

- 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 2003**

- 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

### RAJASTHAN PRISON MANUAL, 1951

#### 1. Ordinary Remission

- Ordinary remission shall be awarded on the following scale (Part III, Rule 5 a, b) :
  - » Two days per month for thoroughly good conduct and scrupulous attention to all prison regulations;
  - » Two days per month for industry and the due performance of the prescribed daily task.
- Ordinary remission shall be awarded by the superintendent, or, subject to his control and supervision and to the provisions contained in the prison rules, by the deputy superintendent, jailor, or any other officer specially empowered in that behalf by him. (Part III, Rule 12)

#### 2. Special Remission

- Special remission may be given to any prisoner, whether entitled to ordinary remission or not, for special services, such as:
  - » Assisting and detecting or preventing breaches of prison discipline or regulations;
  - » Marked diligence in teaching to read and write;
  - » Marked diligence in teaching handicrafts;
  - » Special excellence in work, or greatly increased out-turn of work of good quality;
  - » Protecting an officer of the prison from attack;



- » Special assistance to an officer of the prison in case of an out-break, fire or other similar emergency;
- » Special economy in wearing cloths;
- » Donating blood to seriously ill patient in hospitals. Special remission being for 15 days in each case (Part III, Rule 16 i-viii )
- » Attaining literacy while in jail, the scale of special remission being as follows (Part III, Rule 16 ix):
 

i. For passing the 1st primary	10 days
ii. For passing the 2nd primary	10 days
iii. For passing the 3rd primary	10 days
iv. For passing the 4th primary	20 days
- Special remission may be awarded (Part III, Rule 17):
  - » By the superintendent to an amount not exceeding 30 days in 1 year;
  - » By the IG to an amount not exceeding 60 days in 1 year.

### **MULLA COMMITTEE 1983**

- 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 2003

- 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

### RAJASTHAN PRISON MANUAL, 1951

- The manual does not address the issue of parole and furlough, although Rajasthan government has legislated, “The Rajasthan Prisoners Release On Parole Rules 1958” which contain the following provisions:
  - » A prisoner sentenced to imprisonment for not less than one year may, subject to exceptionally good behaviour, be allowed by the jail superintendent to submit application for parole. (Rule 3)
  - » The superintendent of jail will release the prisoner on parole when he has furnished personal bond and security to the District Magistrate and has thoroughly understood the conditions of his release while on parole or any other condition which the District Magistrate may like to impose on such prisoner. (Rule 7)
  - » A prisoner, who has completed with remission, if any, one-fourth of his sentence and subject to good conduct in the jail, may be released on 1st parole for 20 days including days of journey to home and back, and for 30 days on second parole provided his behaviour has been good during 1st parole and for 40 days on third parole provided his behaviour has been good during the second parole. If during the third parole also the prisoner has behaved well and he is not likely to replace into crime, his case may be considered by the Government for permanent release on conditional parole. In case the permanent release on parole is rejected, the prisoner will be eligible for release on parole for 40 days every year subject to the same conditions for the remaining period of his sentence; provided that cases of a prisoner covered by Section 433A of Cr.P.C shall not be considered for permanent release on parole unless he has served 14 years of imprisonment excluding remission. (Rule 9)
  - » In emergent cases the superintendent of jail shall grant parole up to a



period of 7 days only subject to confirmation by the IG of Prisons, and for a period of not more than 15 days by the IG of Prisons. (Rule 9A)

### MULLA COMMITTEE 1983

- 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 2003

- 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

### RAJASTHAN PRISON MANUAL, 1951

- The number of visits to be paid by official visitors in the year, shall be unlimited, but shall not be less than three. (Part XXIII, Rule 2)
- The government of Rajasthan may appoint for all prisons in the State non-official visitors. Their number shall ordinarily be six for each Central Prison, three for each district prison and two for each lock-up jail. (Part XXIII, Rule 3 a)
- The government of Rajasthan may also appoint two more lady visitors to such prisons as accommodate females. (Part XXIII, Rule 3 b)
- A Board of Visitors shall be selected biennially by the Collector and District Magistrate from amongst the official and non-official visitors of each prison and shall inspect the prison twice a year on dates to be fixed by the superintendent in consultation with the president and members of the board. The Board shall consist of two official and two non-official members, one of whom, shall be nominated Chairman. (Part XXIII, Rule 7)
- It is the duty of a visitor to satisfy himself that the law and rules regulating the management of prisons and prisoners are duly carried out in the prison, to visit all parts of the prison and to see all prisoners and to hear and inquire into any complaints that any prisoner may make to him. (Part XXIII Rule 11 a)
- The superintendent shall at once forward a copy of the Inspection notes recorded by the visitors in the visitors book through the District Magistrate to the Inspector-General. (Part XXIII Rule 13 a)

### MULLA COMMITTEE 1983

- 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 2003

- 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

### RAJASTHAN PRISON MANUAL, 1951

#### 1. Superintendent

- The superintendent shall visit the jail daily as soon after sun rise. (Part VIII, Section VII, Rule 64)
- The superintendent shall see every prisoner who is in solitary or separate confinement at least thrice a week. (Part VIII, Section VII, Rule 67)
- The superintendent shall inspect the barracks, cells and every other part of prison including latrines and urinals once a week. (Part VIII, Section VII, Rule 68)
- The superintendent shall on all occasions be ready to enquire into any complaint and listen to any application from a prisoner. (Part VIII, Section VII, Rule 69)
- The superintendent shall visit the hospitals daily and shall see that proper arrangements are made for the safe custody of the of sick prisoners and discipline is maintained in the hospital as far as consistent with the medical treatment of the prisoners. (Part VIII, Section VII, Rule 70)
- The superintendent shall be responsible for seeing that the whole area of the jail are kept in the highest possible condition of cleanliness. (Part VIII, Section VII, Rule 71)
- The superintendent shall inspect daily rations prepared for the issue to the prisoners, and shall satisfy himself that they are of good quality and of proper weights. (Part VIII, Section VII, Rule 72)
- The superintendent shall cause a copy of the rules relating to the appeals, offences and punishments and remission of sentences to be affixed on the wall of each barrack, and shall cause these rules to be read and explained to prisoners within 48 hours of his admission to jail. (Part VIII, Section VII, Rule 110)



## 2. Medical Officer

- The medical officer shall visit the jail diary; and every part of it and the premises belonging or attached thereto at least once in every week, and more often in times of sickness. (Part XXV, Section XIII, Rule 324)
- The medical officer shall occasionally inspect the grounds of the jail and shall satisfy himself that they are maintained in a satisfactory sanitary condition. (Part XXV, Section XIII, Rule 328)
- The medical officer shall at once, in writing, bring to the notice of the superintendent any case of cholera or of any other infectious disease in the prison or its neighbourhood. (Part XXV, Section XIII, Rule 336)
- The medical officer shall periodically examine the wells, tanks or other sources of water supply. He shall the filters, water boilers and all vessels in which water for drinking or cooking is stored. (Part XXV, Section XIII, Rule 338)
- He shall daily inspect the latrines and urinals and see that they are kept clean. He should also see that the order about ventilation of hospital wards, sleeping barracks and work-shops are properly attended to according to the season of the year. (Part XXV, Section XIII, Rule 339)

## 3. Deputy Superintendent

- The deputy superintendent shall do all acts and things which may be necessary or expedient for ensuring the safe custody of all prisoners as well as enforcing and maintaining discipline and order, through his subordinates. (Part VIII, Section VIII, Rule 127)
- It shall be the duty of the deputy superintendent to exercise proper control over all officer officers of the subordinate to him. (Part VIII, Section VIII, Rule 134)

## 4. Jailer

- He shall visit every part of the jail daily, including cells and hospital, and see every prisoner at least once in every 24 hours. (Part VIII, Section IX, Rule 146)
- The jailer shall see that prisoners are clean in their person and clothes, that they have authorised amount of clothing and bedding. (Part VIII, Section IX, Rule 150)
- The Jailer is personally responsible for seeing that all orders affecting the safe custody of prisoners are understood and carried out by his subordinates. (Part VIII, Section IX, Rule 164 c)



## **MULLA COMMITTEE 1983**

### **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 2003**

### **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.



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