

STANDARDS BEHIND BARS

Rules & Recommendations for Correctional Homes



WEST BENGAL



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.

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

Through its reports and periodic investigations, CHRI continually draws attention to progress and setbacks to human rights in Commonwealth countries. In advocating for approaches and measures to prevent human rights abuses, CHRI addresses the Commonwealth Secretariat, member governments and civil society associations. Through its public education programmes, policy dialogues, comparative research, advocacy and networking, CHRI's approach throughout is to act as a catalyst around its priority issues.

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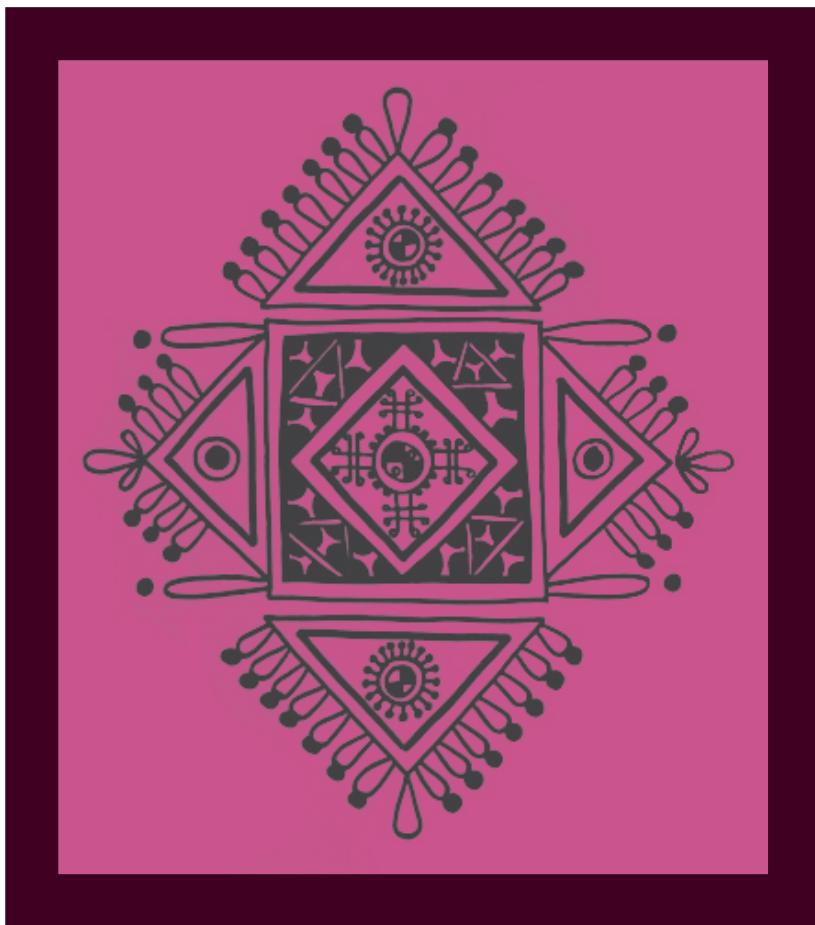
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Wall painting from West Bengal

WEST BENGAL

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

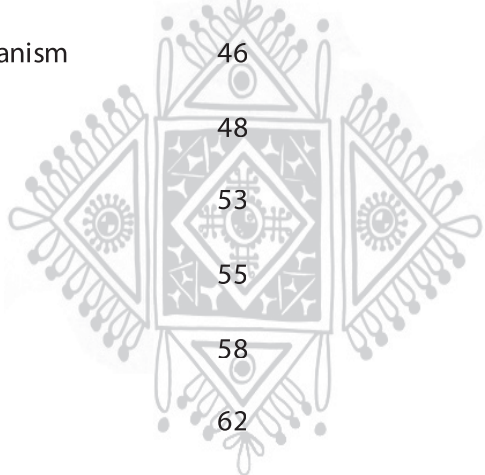
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NOTE FOR USERS OF THIS HANDBOOK

This handbook is compiled for correctional home 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 correctional home officers & staff. It contains a comprehensive collection of point-form standards and duties organised according to sixteen topics and themes, referenced with the respective rule mentioned in the manual. It provides a comparative perspective between the West Bengal Correctional Services Act of 1992, the West Bengal Jail Code 1968, the All India Committee on Jail Reforms, 1980-83 and the Model Prison Manual, 2003.

Disclaimer: At present the West Bengal Jail Code 1968 is being revised to bring it in conformity with the provisions of the West Bengal Correctional Services Act, 1992. This is to say that till the revision is complete, the Jail Code will remain in force.



This compilation aims to assist correctional home officers by providing the gist of the existing and proposed standards against which to maintain correctional home conditions. The sixteen 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; rights of prisoners and duties of prison officers. In compiling the standards, the report looks at the existing legal position as provided under the West Bengal Correctional Services Act of 1992, the West Bengal Jail Code 1968 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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- The function of a correctional home shall be to provide the prisoners with food, clothing, accommodation and other necessities of life and adequate medical treatment and care in case of illness. (Ch. III, Section 4e)
- The prisoners shall generally be accommodated in cells and wards. In every correctional home there shall be adequate numbers of cells for segregation of prisoners. (Ch. X, Section 32)
- In no case more than one prisoner shall be accommodated in one cell. (Ch. X, Section 32)
- The cells and wards shall be well ventilated and the doors and windows thereof shall be fitted with iron bars and iron netting, and adequate anti-mosquito measures should be taken in such cells or wards. (Ch. X, Section 32.6)
- Every ward shall be provided with suitable number of ceiling fans during the months of May to August so that there shall be one ceiling fan for six prisoners operating during the prescribed hours. (Ch. X, sec. 32.8)
- Every prisoner shall be supplied with clothing of such quality, type, and quantity as may be prescribed. (Ch. X, Section 34.1)
- There shall be constructed in each correctional home adequate number of sanitary privies and latrines to meet the needs of the prisoners. (Ch. XII, Section 37.5)
- Every prisoner shall be given facilities of having rest and recreation for such period as may be prescribed. (Ch. XIV, Section 49.1)



THE WEST BENGAL JAIL CODE 1968

- In every sleeping ward, superficial and cubical space shall be allowed for each prisoner, as stated below, according to the conditions specified (Rule 1179 (1)):

	SUPERFICIAL AREA PER PRISONER (SQUARE M.)	CUBIC SPACE PER PRISONER (CUBIC M.)
In wards in which the prisoners sleep in 2 rows	4.18	16.99
In wards in which the prisoners sleep in 4 rows	4.65	21.24
In wards in which the prisoners sleep in more than 4 rows	9.29	35.4

- Thorough ventilation of the sleeping barracks is of the greatest importance; at least 0.93 sq. m. of ventilation area per prisoner should be provided. (Rule 1181)
- Over the door of every ward there shall be an inscription, either in letters painted on the wall or on a tablet of wood or metal, showing the class of prisoners for which it is intended, the number of cubic and superficial metre it contains, and the number of prisoners which it is capable of accommodating [...](Rule 1182)
- Care shall be taken to see that the lock-up Register shows the accommodation available in each ward, so as to enable the superintendent to judge at a glance whether any particular ward is overcrowded or not. (Rule 1182)
- 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 IG's office by letter or, if urgent, by telegraph, asking to what jail a stated number of prisoners may be transferred. (Rule 1185)
- Each enclosure shall, if possible, have a separate day latrine and there shall be a sufficient number of seats to allow the latrine parade to be carried out rapidly. The number of seats shall be sufficient to complete the latrine parade in half an hour, allowing each prisoner five minutes, and more if necessary. When overcrowding occurs, additional temporary latrines must be promptly provided. (Rule 1190)



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 2003

- 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.



Food



WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- Every prisoner shall be served breakfast, midday meal and evening meal, as prescribed. (Ch. X, Section 33.1)
- In every correctional home, the medical officer shall inspect the quality of the articles of food before they are put in the cooking pot. (Ch. X, Section 33.3)
- The superintendent of a correctional home may permit any civil prisoner or any under-trial or convicted political prisoner or political detenu to have his food supplied by his relative or friend from outside. The medical officer shall examine the provided food and shall not allow it to be issued if it is likely to be injurious to the health of the prisoner. (Ch. V, Section 20.2)

THE WEST BENGAL JAIL CODE 1968

- All prisoners shall have three meals a day. (Rule 1093)
- It is of great importance that the dietary shall be varied as much as possible. Subject to the prescribed diet scales in respect of quantity and items of food such variation as the occasional issue of animal food and issue of different kinds of pulses, vegetables and antiscorbutics should be made. (Rule 1104)
- Due attention should be given to the quality, proper preparation and cooking of the food and its issue in full quantity. The superintendent and the medical officer shall therefore exercise the utmost vigilance in the supervision of food supplies. When the food is cooked and ready for issue, and also after distribution into the prisoners' plates, it shall at least once a week, be inspected without a previous notice, by the superintendent and by the medical officer, to see that it is properly cooked and distributed. At this inspection the weight of the food given to a number of prisoners should be tested. (Rule 1106)



- Only succulent vegetables shall be issued. (Rule 1111)
- The superintendent and the jailor shall make arrangements in due time for storing at the cheapest season grain of such kinds as are required in sufficient quantity to last until the following year's crop can safely be used. (Rule 1120)
- The jailor shall be responsible for the weighing of all supplies and their safe keeping after delivery, but the superintendent shall examine a portion of every delivery of grain brought into jail and satisfy himself that it is of good quality, corresponds to approved sample and is suitable for its purpose before it is stored. (Rule 1122)

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)





WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- There shall be provision for adequate and continuous supply of pure water in correctional homes. (Ch. XII, Section 37.7)
- Where water supply is dependent on electrically operated mechanism, adequate number of tube-wells shall be sunk to meet the requirement of continuous supply of water. (Ch. XII, Section 37.7)

THE WEST BENGAL JAIL CODE 1968

- Wherever a municipal water-supply has been introduced, the jail should be connected with it, if this is advantageous. In other cases water shall be obtained from the purest water-supply in the neighbourhood whence it can be obtained in sufficient quantity. (Rule 1203)
- Every sleeping ward and cell shall be provided with drinking water and prisoners at work shall be supplied with as much drinking water as necessary. (Rule 1209)
- The water should be kept as cool as possible. (Rule 1209)
- Water used for drinking and culinary purposes shall be analysed every year and a bacteriological examination shall be made when required. (Rule 1210)

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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

1. Appointment of Medical Staff

- The State Government shall appoint a senior member of the West Bengal Health Service to be Chief Medical Officer of correctional homes. (Ch. XII, Section 39.1)
- In each correctional home (other than a subsidiary correctional home) there shall be a medical officer. The medical officer for the central correctional homes shall be appointed by the state government and the medical officers of the district and special correctional homes shall be appointed by the IG of correctional services in consultation with the chief medical officer. (Ch. XIII, Section 40)
- The IG of correctional services shall, in consultation with the chief medical officer, appoint the medical subordinates for the central correctional homes. (Ch. XIII, Section 41.2)

2. Medical Facilities in Correctional Homes

- In every correctional home (other than a subsidiary correctional home), there shall be a hospital and in every subsidiary correctional home, there shall be sick room with at least four beds for segregation of sick prisoners. (Ch. XIII, Section 44.2)
- There shall be a team of such number of dentists and eye specialists under the chief medical officer as the state government may deem fit. The team shall visit every correctional home for such period and at such interval as may be prescribed.

3. Medical Screening on Admission to Correctional Home

- After admission, every prisoner shall be weighed and his weight recorded in a register maintained in the office of the correctional home by the medical officer. (Ch. V, Section 18.3)



4. Mentally Ill Prisoners

- The state government shall set up in every central correctional home a separate ward or wing for custody and care of criminal lunatics. (Ch. XXI, Section 73.1a)
- Such ward or wing shall be placed under the charge of a qualified psychiatrist under the direct control of the chief medical officer of correctional homes. (Ch. XXI, Section 73.1a)
- If any person of unsound mind is admitted to a correctional home as an under-trial prisoner or if a convicted prisoner is found, after his admission, to be of unsound mind, the superintendent shall move the Inspector General for orders for the transfer of such prisoner to a central correctional home having a ward or wing set up for custody and care of such prisoners. (Ch. XXI, Section 73.2)
- If any criminal or non-criminal lunatic is confined in any correctional home otherwise than for transmission to some medical hospital shortly, the correctional home shall obtain the services of such whole time or part time psychiatrists as may be considered necessary to look after the lunatics and to give them proper treatment. (Ch. XIII, Section 43.1)

THE WEST BENGAL JAIL CODE 1968

1. Appointment of Medical Staff

- The Code does not mention anything about appointment of medical staff. At present this is governed by the West Bengal Correctional Services Act 1992.

2. Medical Facilities in Jails

- In every jail, separate hospitals shall be provided for male and female prisoners. All prisoners complaining of illness shall be brought before the medical officer and shall be examined by him and he shall determine whether they shall be placed under medical observation or treated as out-patients or admitted to hospital (Rule 1231)
- Any prisoner may be detained in the hospital for 48 hours, but no longer, under medical observation, without being brought on the hospital register (Rule 1232 (1))
- Over every occupied bed in hospital shall be placed a ticket wherein shall be recorded full particulars of the previous history, progress of the case and its treatment (Rule 1234)



- Hospitals shall be kept scrupulously clean and well ventilated, the yard of a hospital shall be turfed and flower beds may be kept up in it. The medical officer shall take such steps as will secure the strictest cleanliness in the bedding and clothing (Rule 1235)
- In some cases it will be for the benefit of the prisoners admitted in the hospital to have some employment. Easy work should therefore be provided for these prisoners, but no task should be exacted. (Rule 1240)

3. Medical Screening on Admission to Prison

- All prisoners shall be seen immediately after admission by the medical subordinate, who shall send those who are sick to the hospital for treatment. (Rule 505)
- If there is an observation or segregation ward for new admissions the new arrivals shall be located there until the medical officer directs that they may be placed with other prisoners. (Rule 505)
- If any epidemic is prevalent and accommodation for new admissions is provided outside the jail, prisoners shall not be admitted within the jail till orders have been given by the medical officer or, in his absence, by the medical subordinate, for their admission. They shall at once be provided with necessary bedding and protection from cold. (Rule 505)
- 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 505)
- The medical subordinate shall carefully examine all new admissions to the jail and under the medical officer's supervision record in the admission register their state of health, weight, personal marks, including marks of wounds, vaccination or inoculation (Rule 122)

4. Mentally Ill prisoners

- Whenever the medical officer shall have reason to believe that either the mind or the body of a prisoner is likely to be injuriously affected by the discipline or treatment observed in the prison he shall, after careful scrutiny (as convicts are prone to feign insanity), report the case in writing to the superintendent, accompanied by such suggestions as he may think the case requires (Rule 96)
- The medical subordinate shall carefully watch all prisoners who may possibly be malingering, and bring such cases to the notice of the medical officer. (Rule 119)
- All prisoners who are suspected to be insane shall be examined by him daily, and a report of their mental condition submitted to the medical officer. (Rule 119)



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 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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- Division I, Division II, and death sentence prisoners shall be entitled to write number of letters to their friends and relatives as may be prescribed (not less than one letter per week for Division I prisoners and not less than one letter per month for Division II prisoners). (Ch. XV, Section 50)
- Every political prisoner and every detainee may be allowed to write at his own cost letters in excess of the number fixed by rules made under this Act. (Ch. XV, Section 50)
- Every prisoner shall have the right to have such number of interviews with his friends and relatives, not being less than one in a month, as may be prescribed. (Ch. XV, Section 51)
- Any legal practitioner may interview any prisoner in connection with his defence in the presence of the superintendent or other officer authorised by the superintendent. Such interviews shall not be taken into account while computing the number of interviews admissible under the rules made under the Act. (Ch. XV, Section 51)
- There shall be erected a suitable interview shed inside the correctional home equipped with sitting arrangement for the interviewers and the prisoners. (Ch. XV, Section 51)

THE WEST BENGAL JAIL CODE 1968

- Every newly convicted prisoner shall be allowed reasonable facilities for seeing or communicating with his relatives, friends or legal adviser with a view to the preparation of an appeal or to the procuring of bail and shall also be allowed to have interviews with or write letter to his relatives or friends once or twice, or oftener if the superintendent considers it necessary. (Rule 663 (1))



- Every prisoner under sentence of death shall be allowed such interviews and other communications with his relatives, friends and legal advisers as the superintendent thinks reasonable. (Rule 663 (3))
- Letters addressed to prisoners shall be made over to them as and when received provided that on being censored they are not found objectionable. (Rule 664 (ii))
- 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 666)
- The time allowed for an interview shall not ordinarily exceed 20 minutes but may be extended by the superintendent at his discretion. (Rule 672)
- Unconvicted criminal prisoners and civil prisoners shall be granted all reasonable facilities at proper times and under proper restrictions for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers. (Rule 682)
- In a case not coming within any of the foregoing rules, the district magistrate may, in his discretion and subject to such conditions as he may impose, allow any person to interview a criminal prisoner in a jail situated in his district. (Rule 688A)

MULLA COMMITTEE 1983

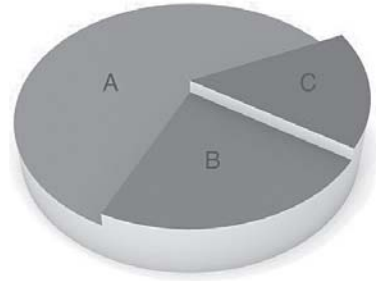
- Guidelines for the censorship of letters should be formulated so that censorship of letters is done on the basis of human consideration. (Rec 100)
- There should be no limit on incoming letters for prisoners and there should be no restriction on the number of letters prisoners may send at their own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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- The prisoners detained in correctional homes shall be classified as follows: civil prisoners, criminal prisoners, under-trial prisoners, convicted prisoners, habitual offenders, non-habitual offenders, political prisoners, detenus, lunatics--criminal and non-criminal. (Ch. VII, Section 24).
- Prisoners shall further be classified as either Division I or Division II. (Ch. VII, Section 25)
- The prisoners shall be kept segregated in the following manner: female prisoners from male prisoners, convicted prisoners from under-trial prisoners, political prisoners and political detenus from all other classes of prisoner, female prisoners convicted for any offence involving grave moral depravity from other female prisoners, prisoners suffering any contagious or infectious disease from all other prisoners, civil prisoners, from criminal prisoners, prisoners having a previous conviction for any offence under Ch. XVIII or Section 366, 366A, 376 and 420 of the IPC from all other classes of prisoner. (Ch. V, Section 19)

THE WEST BENGAL JAIL CODE 1968

- In every jail each of the following classes of prisoners shall be kept entirely separate from others: civil prisoners; under-trial; female; male under 21 years of age; male who have not arrived at the age of puberty; other male convicted prisoners (Rule 616)
- The class system shall be explained to all prisoners on admission and they shall be cautioned that they will be liable to punishment if they converse with a prisoner of a class different from that in which they are put (specially a male adult convict associating or holding communication with any female,



juvenile, civil or under-trial prisoner), or if they are found in any part of the jail set apart for the prisoners of some other class. (Rule 629)

- Classification can not in its entirety be applied in all jails to female prisoners but every female prisoner shall be classified, and, whenever practicable, prisoners of the A class shall be kept separate from prisoners of the B class. (Rule 631)
- Habitual criminals shall, as far as possible, be confined in a special jail in which no prisoner other than habitual criminals shall normally be kept. (Rule 618 IV)

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):
 - » Under-trial prisoners shall be kept completely separated from convicted offenders, even when their number is small;
 - » Habitual prisoners shall be separated from casual offenders;
 - » Habitual offenders, prostitutes and brothel keepers must also be confined separately;
 - » Under no circumstances should adolescent girls be confined with adult women prisoners; and
 - » 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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

1. General Standards

- Every under-trial prisoner shall be subjected to as little interference as is consistent with the order and discipline of a correctional home. (Ch. XXII, Section 74.2)
- If an under-trial prisoner volunteers for work, he shall receive wages at the prescribed rate and shall be supplied diet admissible to a labour prisoner of the division to which he belongs. (Ch. XXII, Section 74.3)
- The superintendent may permit an under-trial prisoner to be supplied with clothing and bedding by his friends or relatives. (Ch. X, Section 34)
- If an under-trial prisoner is found unable to provide himself with the necessary clothing and bedding, he shall be supplied with the same from the stock of the correctional home. (Ch. X, Section 34)

2. Legal Aid

- Every prisoner has the right of access to law. This includes the right of access to legal services and legal aid. (Ch. XXV, Section 79.1)
- The superintendent in each correctional home shall provide every prisoner with all reasonable opportunities for invoking the aid of law in all matters concerning his confinement and matters of personal nature. (Ch. XXV, Section 79.1)

3. Videoconferencing

- The Act does not mention video conferencing as a means for production of prisoner's in court.



4. Jail Adalats

- The Act does not address the issue of jail adalats.

5. Unnecessary Detention

- When an under-trial prisoner has been confined in a correctional home for a period of three months under orders of a court, the superintendent shall, before the expiry of the said period of three months, make a reference to that court or to the court before which his trial is pending seeking instructions for his confinement beyond the period of three months. (Ch. XVII, Section 61.5)
- If the superintendent is of the opinion that the prisoner has been confined beyond the maximum period of imprisonment which may be inflicted for the offence disclosed in the custody warrant, he may invite the attention of the concerned court & seek orders for release of the prisoner. (Ch. XVII, Section 61.5)

THE WEST BENGAL JAIL CODE 1968

1. General Standards

- A court may order an accused person to be detained in, or remanded to custody in jail. Provided that except in case of persons committed for trial in a Court of Session, no person shall be ordered to be detained in or remanded to jail for a period exceeding 15 days at a time, and provided that every such order made by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate (Rule 909)
- Under-trial prisoners, both male and female, shall be strictly segregated from convicted prisoners (Rule 910 (2))
- An under-trial prisoner shall be subjected to as little interference as is consistent with the maintenance of order and discipline in the jail and with his safe custody; but he shall keep himself and his clothing and bedding clean. He shall be allowed to change his clothes, provided that his appearance is not thereby materially altered (Rule 922(1))
- An under-trial prisoner may obtain his food as well as clothing and bedding and other necessaries at proper hours at his own expense or from his friends and relations subject to examination and to such rules as may be approved by the Inspector-general (Rule 923)

2. Legal Aid

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



3. Video Conferencing

- The manual does not deal with video-conferencing.

4. Jail Adalats

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

5. Unnecessary Detention

- Superintendents shall submit to the Magistrate in Return No. 27 fortnightly reminders regarding all cases in which prisoners have been detained as under-trial prisoners for more than 14 days. (Rule 915)
- A return of all prisoners who have been detained in hajut for more than 3 months shall also be submitted to the Inspector General in West Bengal in form of Jail Return No. 27 in the first week of each month. (Rule 915)
- The Inspector-General shall there upon call attention of the District Magistrate or the Chief Presidency Magistrate, as the case may be, to the cases of long detention for early action, sending a copy of the return. (Rule 915)

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 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 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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- The state government shall establish such number of correctional homes for female prisoners as may be considered necessary. (Ch. XIX Section 66.1)
- The following classes of female prisoners shall be kept segregated from each other: female prisoners classified as habitual offenders from female non-habitual offenders; female under-trial prisoners from female convicts; female prisoners convicted or charged for any sexual or other offence involving grave moral depravity, from all other types of female prisoners (Ch. XIX, Section 67.1)
- No male officer or warder shall enter the female ward of enclosure except for the performance of his prescribed duties. In such case, he shall be accompanied by the matron and/or a female warder for so long as he stays in female ward or enclosure. (Ch. XIX, Section 67.2)
- If a female prisoner has a child under the age of five years, she shall be allowed to retain the child with her in the correctional home until the child attains the age of five years. The superintendent shall be responsible for proper care and nourishment of the child. (Ch. XIX, Section 69)
- If a child is born of a female prisoner in a correctional home, the superintendent shall make all hygienic arrangements as are necessary, both for mother and child, provide facilities for the performance of such ceremonies as are customary to the community to which the female prisoner belongs, and grant such amount to meet the cost of the ceremony as may be prescribed. (Ch. XIX, Section 69)
- Female prisoners shall generally be employed in the types of work to which they are accustomed. Female prisoners sentenced to imprisonment for over six months shall be trained in bread-earning vocation. (Ch. XIX, Section 68)



THE WEST BENGAL JAIL CODE 1968

- Female prisoners shall be rigidly secluded from the male prisoners and under-trial female prisoners shall as far as possible be kept apart from female convicts. (Rule 945)
- The matron shall see that the female prisoners are clean in their persons and clothes, that they have a prescribed amount of clothing. (Rule 290)
- No female prisoner shall, on any consideration, be allowed to leave the female enclosure of the jail, except for release, transfer or attendance at Court, or under the orders of the superintendent for any special purpose. (Rule 949)
- No male officer of the jail shall on any pretext enter the female prisoners' enclosure alone and unless he has a duty to attend to there. (Rule 950)
- Female prisoners, except Hindu widows when they so desire, shall not be allowed to cook for themselves. (Rule 955)
- Female prisoners may retain their children up to the age of 4, or with superintendent's approval up to the age of 6. (Rule 957)
- It is desirable to encourage among female prisoners the arts of sewing, knitting, weaving, spinning, needlework and other domestic pursuits subject to local conditions. Arrangements should therefore be made giving efficient instructions to the female prisoners in this matter as far as circumstances permit. (Rule 961)

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):
 - » Under-trial prisoners from convicted prisoners;
 - » Habitual prisoners from casual offenders;
 - » Habitual offenders, prostitutes and brothel keepers;
 - » Adolescent girls from adult women prisoners; and
 - » 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):
 - » Information concerning their identity;
 - » The reasons for their imprisonment and the authority ordering such imprisonment with full details of such order; and
 - » 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)



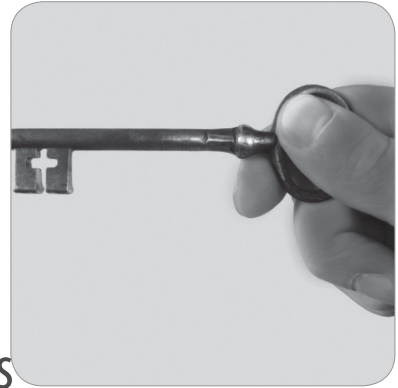
2. Clothing & Bedding

- 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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- Every prisoner shall have the right of access to the law. The superintendent of every correctional home shall provide every prisoner with all reasonable opportunities for invoking the aid of the law in all matters concerning his confinement and matters of personal nature. (Ch. XXV, Section 79.1)
- Every prisoner has the right to be informed of the rules of conduct which may be binding on prisoners and of the amenities and privileges of prisoners admissible under law. (Ch. XXV, Section 79.2)
- In every central and district correctional home, there shall be established a library for the use of the prisoners. The library shall be equipped with books, magazines and newspapers, chosen by an appointed Selection Committee. (Ch. XI, Section 36)
- A brief summary of the rules and order referred to in the Act shall be conspicuously displayed on a black board in legible hand so that the prisoners may have an opportunity of reading the same. (Ch. XXX, Section 100.2)

THE WEST BENGAL JAIL CODE 1968

- If a 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 judgment or order relating to such prisoner from which he desires to appeal. (Rule 603 (1))
- If any convicted prisoner who is entitled to appeal intimates that he wishes to do so, application shall at once be made to the convicting court for a copy of the judgment. (Subsidiary Jail Code, Rule 138 (a))



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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

1. Prison Offences & Punishment

- The Act lists 14 prison offences, 8 of them classified as major offences and 6 of them as minor. (Ch. XXVI, Section 80)
- The Act lists five punishments for the major offences and 4 punishments for the minor offences. (Ch. XXVI, Section 81)
- No prisoner shall be punished with more than one punishment for a single offence. (Ch. XXVI, Section 81)
- All punishments imposed on a prisoner during his imprisonment shall be entered into his history ticket as well as in the punishment register maintained by the superintendent. (Ch. XXVI, Section 81.3)
- After medical examination of the prisoners, the medical officer may recommend the superintendent to suspend the punishment imposed by him upon the prisoner. (Ch. XXVI, Section 81.4)

2. Prisoners' Right Against Arbitrary Prison Punishment

- Every prisoner has the right to protection against punishment or hardship amounting to punishment except through procedure established by law and with due opportunity of defence. (Ch. XXV, Section 79.2)
- Every prisoner has the right to protection against unlawful aggression on his person or against imposition of ignominy in any manner not authorised by law. (Ch. XXV, Section 79.2)



THE WEST BENGAL JAIL CODE 1968

1. Prison Offences and Punishment

- The manual lists 34 acts declared to be prison offences, 7 punishments are considered as minor and 7 as major offences. (Rules 704, 705, 708)
- In case of urgent necessity a jailor may place a prisoner under mechanical restraint. In such a case he shall bring the matter to the superintendent's notice with the least possible delay. (Rule 708B)
- Every infringement of jail rules shall be brought to the notice of the superintendent, who shall decide whether the infringement was committed in such circumstances, e.g., wilfully or without excuse, as to constitute an offence. (Rule 709)
- No female, juvenile or civil prisoner shall be liable to any form of handcuffs as a punishment for prison offence. Handcuffs shall only be imposed on a female as a measure of restraint when there is a likelihood of the woman seriously injuring herself or others and then for not more than 48 hours a time. (Rule 730)

2. Prisoners' Right Against Arbitrary Prison Punishment

- The code 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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- There are no specific provisions in the Act which deal with grievance redressal mechanisms in correctional homes.

THE WEST BENGAL JAIL CODE 1968

- The superintendent shall hold a parade of all the prisoners on one morning in the week, when all prisoners will have the opportunity of making any complaint to him. (Rule 646)
- No prisoner shall leave his work or his line to make any representation to the superintendent or jailor. (Rule 647)
- The jailor shall at least once in the day visit all the prisoners and give them the opportunity of making representations and complaints on any urgent matter, such as appeal, assault or ill treatment. Any prisoner wishing to appeal or complaining of assault or ill-treatment, shall be brought by the jailor before the superintendent, but minor complaints and petitions should, as a rule, await the superintendent's general parade. (Rule 647)

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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

1. Ordinary Remission

- All criminal prisoners sentenced to rigorous imprisonment for any period exceeding three months shall be entitled to remission at the rate of four days per month. If a part of a month exceeds fifteen day it shall be reckoned as a month. (Ch. XVII, Section 58.1)
- A prisoner shall not be deprived of remission if, in the opinion of the superintendent, he is incapacitated to perform any labour for reasons beyond his control. (Ch. XVII, Section 58.9)
- A prisoner deployed as a night watchman shall be entitled to three days' remission a month in addition to ordinary remission. (Ch. IV, Section 15.3)

2. Special Remission

- The superintendent may grant special remission to a criminal prisoner at such rate as may be prescribed in consideration of meritorious service, arduousness of labour, extra labour, consistency in work and strict adherence of discipline and proficiency in educational and cultural affairs of the prisoner. (Ch. XVII, Section 58.2)
- The IG of Correctional Services may grant special remission to a prisoner on such grounds and to such extent as may be prescribed. (Ch. XVII, Section 58.6)

THE WEST BENGAL JAIL CODE 1968

- The total remission awarded to prisoner under all these rules shall not, without the special sanction of the state government, exceed $\frac{1}{4}$ part of his sentence. (Rule 768)



1. Ordinary Remission

- Ordinary remission shall be awarded on the following scale:
 - » two days per month for thoroughly good conduct and scrupulous attention to all prison regulations.
 - » two days per month for industry and due performance of the daily task imposed. (Rule 756)
- No ordinary remission shall be earned in the following cases:
 - » In respect of any sentence of imprisonment amounting, exclusive of any sentences passed in default of payment of fine, to less than four months.
 - » In respect of any sentence of simple imprisonment except for any continuous period not being less than one month during which the prisoner labours voluntarily. (Rule 753)
- Prisoners employed on prison services, such as cooks and sweepers, who work on Sundays and holidays, may be awarded one day's ordinary remission per month in addition to any other remission earned under these rules. (Rule 759)

2. Special Remission

- Special remission may be awarded:
 - » By the superintendent to an amount not exceeding 30 days in one year.
 - » By the IG or the state government to an amount not exceeding 60 days in one year. (Rule 766)
- An awarded special remission shall be entered on history ticket of the prisoner as soon as possible after it is made, and the reasons for every ward of special remission by a superintendent shall be briefly recorded. (Rule 767)
- A special remission for 20 days shall be awarded to prisoners who donate blood for the first time. (Rule 768 A)

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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- A prisoner sentenced to imprisonment for a period of two years or more may be released by the IG of Correctional Services on parole for such period, not exceeding one month excluding the period required for journeys from and to the correctional home, as may be prescribed on the execution by the prisoner of a bond for a sum, not exceeding one thousand rupees, and on giving an undertaking of good behaviour during the period of his release on parole with or without any surety, as prescribed. (Ch. XVII, Section 62.1)
- No prisoner shall be released on parole under 62.1 unless he has served imprisonment for one year, if he has been sentenced to imprisonment for a period of two years but not exceeding five years; or he has served imprisonment for two years, if he has been sentenced to imprisonment for a period of more than five years; and no such prisoner shall be released on parole during the remaining period of imprisonment. (Ch. XVII, Section 62.2)

THE WEST BENGAL JAIL CODE 1968

- The code does not address the issue of parole & furlough.

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

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

- The state government shall by notification prepare a panel of such members of official and non-official visitors for each correctional home as it may deem fit. The panel shall include at least one woman as non-official visitor. (Ch. IX, Section 30.1)
- During their visit to a correctional home the visitors: may call for the book, paper or other record of the correctional home; may inspect any ward, workshop or cell and, in every case of complaint, shall ensure that the rules in force are duly complied with; may examine if the punishments are being properly imposed on the prisoners; shall record their presence and observations in the visitors' book maintained by the correctional home in the prescribed form; shall perform such other functions as may be prescribed. (Ch. IX, Section 30.2)
- The Members of Parliament from West Bengal and the Members of the West Bengal Legislative Assembly from a district shall have a right to visit correctional homes provided they have given the required notice. (Ch. IX, Section 31)

THE WEST BENGAL JAIL CODE 1968

- Members of the West Bengal Legislature shall be appointed as non-official visitors, three at each central jail, two for each district jail, and one for each subsidiary jail (Rule 56(1))
- The state government may also appoint as non-official visitors of any jail and subsidiary jail other gentlemen and ladies of position in the locality who are likely to take an interest in the welfare of the prisoners and are willing to accept this duty (Rule 56 (2))
- The resident officers among the official visitors and the non-official visitors of each jail shall constitute a Board of which the District or the Subdivisional Magistrate shall be ex-officio Chairman. It shall be his duty to arrange the roster for weekly visit to the jail. (Rule 58)



- The Board shall meet at the Jail, inspect all buildings and prisoners, hear any complaints and petitions that may be preferred, inspect the prisoners' food and see that it is of good quality and properly cooked and examine the punishment book and satisfy themselves that it is kept up to date (Rule 58)

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)





Rights of Prisoners

WEST BENGAL CORRECTIONAL SERVICES ACT 1992 (Ch XXV, Section 79)

- Every prisoner shall have the right:
 - » of access to law. This shall include the right of access to legal service and legal aid;
 - » to protection against unlawful aggression on his person or against imposition of ignominy in any manner not authorized by law;
 - » to protection against confinement in unhealthy or obnoxious surroundings ;
 - » of having proper medical care and service for preventing deterioration of his health and for cure of ailment;
 - » to protection against unreasonable discrimination;
 - » to protection against punishment or hardship amounting to punishment, except through procedure established by law And with due opportunity of defense;
 - » of being informed of the amenities and privileges of prisoners and of the amenities and privileges of prisoners admissible under the law;
 - » of pursuing his religious faith in a manner not causing serious disturbance to the routine of the correctional home or annoyance to the other prisoners, and of observing penance in the case of death of prisoner's father or mother or husband as the case may be for the period prescribed by his or her religious custom;
 - » to protection against labor not authorized by law or in excess of the prescribed period or without payment of wages at the prescribed rate;
 - » of communication with relatives and friends as permissible under the rules; and



- » of enjoyment of fundamental rights under Chapter III of the constitution of India in so far as they do not become incapable of enjoyment as an indent of confinement.
- Every prisoner shall, subject to the provisions of any law for the time being in force, have the right to vote in the election to the State Legislature or Parliament or to any local authority.
- No prisoner shall be deployed at the residence of any official of correctional home for any kind of domestic duties.

THE WEST BENGAL JAIL CODE 1968

- The code does not have a separate chapter on rights of prisoners.

MULLA COMMITTEE 1983

- The Mulla Committee report does not contain any special chapter dealing with rights of prisoners.

MODEL PRISON MANUAL 2003

- All prisoners are entitled to the following rights:

Right to Human Dignity

- » Right to be treated as a human being and as a person; this right has been stressed and recommended by the Supreme Court of India which has categorically declared that prisoners shall not be treated as nonpersons;
- » Right to integrity of the body; immunity from use of repression and personal abuse, whether by custodial staff or by prisoners;
- » Right to integrity of the mind; immunity from aggression whether by staff or by prisoners;
- » Right to non-deprivation of fundamental rights guaranteed by the Constitution of India, except in accordance with law prescribing conditions of confinement.

Right to Basic Minimum Needs

- » Right to fulfillment of basic minimum needs such as adequate diet, health, medical care and treatment, access to clean and adequate drinking



water, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment.

Right to Communication

- » Right to communication with the outside world;
- » Right to periodic interviews; and
- » Right to receive information about the outside world through communication media.

Right to Access to Law

- » Right to effective access to information and all legal provisions regulating conditions of detention;
- » Right to consult or to be defended by a legal practitioner of prisoner's choice;
- » Right to access to agencies, such as State Legal Aid Boards or similar organizations providing legal services;
- » Right to be informed on admission about legal rights to appeal, revision, review either in respect of conviction or sentence;
- » Right to receive all court documents necessary for preferring an appeal or revision or review of sentence or conviction;
- » 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, as the case may be, for redressal of violation of any or all of prisoners' rights and for redressal of grievances.

Right against Arbitrary Prison Punishment

- » Right to entitlement in case of disciplinary violation;
- » Right to have precise information as to the nature of violation of Prisons Act and Rules;
- » Right to be heard in defence;
- » Right to communicate of the decision of disciplinary proceedings; and
- » Right to appeal as provided in rules made under the Act.



Right to Meaningful and Gainful Employment

- » Right to get wages for the work done in prison.
- » No prisoner shall be required to perform 'begar' and other similar forms of forced labour which is prohibited as a fundamental right against exploitation under Article 23 of the Constitution.
- » Under-trial prisoners volunteering to do work may be given suitable work wherever practicable. Such prisoners should be paid wages as per rules.
- » No prisoner shall be put to domestic work with any official in the prison administration. Such work shall not be considered as meaningful or gainful, even if some monetary compensation is offered.
- » Prisoners shall, in no case, be put to any work which is under the management, control, supervision or direction of any private entrepreneur working for profit of his organisation. This will not apply to open prisons and camps.

Right to be released on the due date.





Duties of Prison Officers

WEST BENGAL CORRECTIONAL SERVICES ACT 1992

1. Superintendent

- The superintendent shall be the officer-in-charge of the correctional home and correctional services and shall have control and superintendence of the correctional home. (Ch. IV, Section 6.2)
- The superintendent shall execute court warrants and return it after execution to the issuing court. (Ch. VI, Section 21.1)
- If any person of unsound mind is admitted to a correctional home as an under-trial prisoner or if a convicted prisoner is found, after his admission, to be of unsound mind, the superintendent shall move the IG for orders for the transfer of such prisoner to a central correctional home having a ward or wing set up for custody and care of such prisoners. (Ch. XXI, Section 73.2)
- The superintendent of every correctional home shall provide every prisoner with all reasonable opportunities for invoking the aid of the law in all matters concerning his confinement and matters of personal nature. The right of access to law shall include the right of access to legal service and legal aid. (Ch. XXV, Section 79)
- When an under-trial prisoner has been confined in a correctional home for a period of three months under orders of a court, the superintendent shall, before the expiry of the said period of three months, make a reference to that court or to the court before which is trial is pending seeking instructions for his confinement beyond the period of three months. (Ch. XVII, Section 61.5)
- The superintendent shall depute one or more officers as he may consider necessary to supervise the weighing of the articles of food immediately before such articles are put in the cooking pot and to ensure that the articles are of good quality. (Ch. X, Section 33.2)



- The superintendent shall be responsible for paying due attention to conservancy and taking adequate measures for quick removal of night soil and refuse. He shall assure cleanliness in the correctional home in such manner as may be prescribed. (Ch. XII, Section 37.4 and 37.6)

2. Medical Officer

- In every correctional home, the medical officer shall inspect the quality of the articles of food before they are put in the cooking pot. (Ch. X, Section 33.3)
- The medical officer shall daily inspect all wards, barracks, sheds, cells or rooms, hospitals, places of cooking, lavatories and the surroundings thereof to ensure that the inside and outside of those places and the surroundings are kept clean and no garbage or filth are accumulated anywhere. (Ch. XII, Section 37)
- The cells or rooms and wards and the places where the prisoners work shall be kept clean by such sweeping and washing measures as the medical officer may consider necessary. (Ch. XII, Section 37)
- Subject to the overall control of the superintendent, the medical officer of a correctional home shall be in charge of maintaining proper sanitary services and introducing hygienic measures as may be deemed necessary. (Ch. XII, Section 37.1)
- The medical officer shall be responsible for paying due attention to conservancy and taking adequate measures for quick removal of night soil and refuse. He shall assure cleanliness in the correctional home in such manner as may be prescribed. (Ch. XII, Sections 37.4 and 37.6)
- After admission, every prisoner shall be weighed and his weight recorded in a register maintained in the office of the correctional home by the medical officer. (Ch. V, Section 18.3)
- The medical officer shall daily inspect all wards, barracks, sheds, cells or rooms, hospitals, places of cooking, lavatories and the surroundings thereof to ensure that the inside and outside of those places and the surroundings are kept clean and no garbage or filth are accumulated anywhere. The cells or rooms and wards and the places where the prisoners work shall be kept clean by such sweeping and washing measures as the medical officer may consider necessary. (Ch. XII, Section 37)
- Subject to the overall control of the superintendent, the medical officer of a correctional home shall be in charge of maintaining proper sanitary services and introducing hygienic measures as may be deemed necessary. (Ch. XII, Section 37.1)



3. Chief Controller

- The chief controller shall, subject to the control and supervision of the superintendent, be in charge of the correctional home and shall be the custodian of the prisoners and the properties of the prisoners and the correctional home. (Ch. IV, Section 8)
- He shall give, on the death of a prisoner in a correctional home, immediate report of such death to the superintendent and the medical officer of the correctional home, narrating in brief the circumstances under which the prisoner died. (Ch. IV, Section 8)
- He shall be responsible for the safe custody of the records of the condemned warrants and all other documents and the money and other articles taken from the prisoners.
- He shall perform such other duties and discharge such other functions as may be prescribed. (Ch. IV, Section 8)
- He shall not, without previous permission of the IG of Correctional Services, be concerned with any other employment. (Ch. IV, Section 8)
- The chief controllers shall be responsible for paying due attention to conservancy and taking adequate measures for quick removal of night soil and refuse. He shall assure cleanliness in the correctional home in such manner as may be prescribed. (Ch. XII, Section 37.4 and 37.6)

4. Chief Discipline Officer (Ch. IV, sec. 10.3)

- The chief discipline officer shall supervise the performance of the discipline officer. It shall be the duty of the chief discipline officer and the discipline officer:
 - » To go on rounds inside the correctional home to ensure proper and effective watch by the warders and observance of rules by the prisoners and to take measures against slackening of security and discipline at the gate of the correctional home;
 - » To assist the chief controller of correctional services in the maintenance of security and discipline in the correctional home, especially in between gates;
 - » To receive prisoners from courts, other correctional homes and places of detention with requisite writs, warrants or orders along with the prisoners' personal cash and other properties and to pass the prisoners;
 - » To supervise the work of the gate keepers;



- » To prevent smuggling of any prohibited or unauthorised article in the correctional home;
- » To check with reference to challans and gate passes of articles coming into or passing out of the correctional home and to keep accounts thereof in the gate register of articles to be maintained for the purpose;
- » To search all prisoners passing into or out of, or coming into or going out of the gate of the correctional home;
- » To search all prisoners passing into or out of, or coming into or going out of the gate of the correctional home;
- » To receive officials and non-official visitors with due respect at the gate;
- » To attend the weekly inspection by the superintendent and the correctional parades; and
- » To perform such other duties as the superintendent may allot from time to time.

5. Welfare Officer

- It shall be the duty of the welfare officer:
 - » To look after the correctional services and to see that the prisoners are not deprived of the amenities and privileges under this Act or under any law for the time being in force;
 - » To organise and develop recreational, educational, and cultural activities (including sports, games, physical cultures and the like) amongst the prisoners;
 - » To give incentive to literary and artistic pursuits to the prisoners;
 - » To make efforts for betterment of educational, moral, cultural and vocational equipments of the prisoners; and
 - » To perform such other duties as may be prescribed.

THE WEST BENGAL JAIL CODE 1968

1. Superintendent

- His principal duties are custody and guarding of the prisoners. (Rule 69)
- He shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control. (Rule 72.1)



- He shall maintain a minute-book in which all orders or minutes made by him shall be entered. (Rule 73)
- He shall hold an enquiry touching every offence reported to have been committed by a prisoner, and award punishment where necessary. (Rule 75)
- In respect of every punishment inflicted, entries shall be made by him in the Punishment Register furnishing all particulars. (Rule 76)
- He shall accompany the Inspector General and the Board of Visitors on their inspection of the jail. (Rule 77)
- He shall visit the jail daily, as soon after sunrise as possible, inspect the whole jail premises at least once a week and see every prisoner confined in a cell daily. (Rule 78)
- At least once a week, he shall hold a parade of all the prisoners. (Rule 79)
- He shall keep the following records: register of prisoners admitted, book showing when each prisoner is to be released, punishment book, visitors' book, record of the money and other articles taken from prisoners. (Rule 80)
- He shall report to the Inspector General all serious breaches of jail discipline, escapes, recaptures, suicides, deaths or serious injury to prisoners from accidental causes, and any outbreak of epidemic disease or unusual sickness and the measures taken to prevent the spread of the disease. (Rule 84)
- He shall keep a constant and careful watch over jail receipts and expenditure. (Rule 85)
- He shall see that at the proper season, when grain is cheapest, a sufficient quantity of each kind of grain required for prisoners' consumption is stored for use until the next season for annual storage. (Rule 86)

2. Medical Officer

- He shall 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. (Rule 89)
- He shall maintain a Minute Book, in which he shall enter the date of his visit, any observations, recommendations, or orders he may wish to make. (Rule 92)
- He shall visit the jail once a day (except on Sundays 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, that the drainage is satisfactory, that the water supplied is pure and not liable to pollution, that due precautions against overcrowding are taken, and that the ventilation and cleanliness are provided for. He shall also frequently inspect the kitchen and test the weight, and quality of the rations both before and after cooking. (Rule 93)

- He shall visit the patients in hospital daily as soon after sunrise as he can and shall also examine prisoners complaining of illness, and admit them, if necessary, into hospital. (Rule 94)
- He shall inspect all the prisoners once a week at a general parade and shall from time to time examine the labouring prisoners. (Rule 95)
- Whenever he shall have reason to believe that either the mind or the body of a prisoner is likely to be injuriously affected by the discipline or treatment observed in the prison, he shall, after careful scrutiny, report the case to the superintendent. (Rule 96)
- He shall exercise a general supervision over the supplies and preparation of food. (Rule 97)
- He shall hold post-mortem examination in case of unnatural death or where the cause of death is unknown. (Rule 98)
- He shall report unusual mortality. (Rule 101)
- He shall examine all prisoners prior to being removed to any other prison. (Rule 102)
- 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 Code or as are prescribed from time to time by proper authority. His duties shall embrace every matter affecting the health of the prisoners and the general hygiene of the jail. (Rule 89)
- Medical officer shall visit the jail once a day (except on Sundays and on that day also, if necessary) and more frequent, 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, that the drainage is satisfactory, that the water supplied is pure and not liable to pollution, that due precautions against overcrowding are taken and that the ventilation and cleanliness of the barracks, workshops, cells, yard etc., are provided for and properly attended to. (Rule 93)



- Medical officer shall exercise a general supervision over the supplies and preparation of food and shall reject any article that he considers unfit for consumption. (Rule 97)
- In all matters relating to, or connected with the feeding, clothing and medical treatment of hospital patients and other professional duties, the medical subordinate shall obey the orders of, and discharge such duties as may, from time to time be lawfully assigned to him by the medical officer. (Rule 109 (1))
- At the opening of the wards the medical subordinate shall at once see any prisoners complaining of sickness. If necessary he will send them immediately to hospital, but if he thinks this unnecessary, he will bring them to the notice of the Medical Officer on his arrival. (Rule 111)

3. Jailor

- He shall be the chief executive officer of jail and shall control the whole subordinate jail establishment under the orders of the Superintendent and shall assist the Superintendent. (Rule 242)
- He shall keep a report book, in which he shall record daily the state of the jail and all occurrences of importance and make reports and representations. He shall enter daily: the hour when prisoners began and stopped work, the number of prisoners who used the night latrine 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 or any occurrence out of the ordinary. (Rule 247)
- His chief duties are to secure the safe custody of prisoners, to enforce discipline among prisoners, to ensure that prisoners sentenced to rigorous imprisonment do the work assigned to them, and to maintain a high standard of health among them. (Rule 248)
- He shall always be present when the prisoners are locked up at night and taken out of the wards in the morning. (Rule 249)
- He shall be responsible for the safe custody of all warrants and the strict enforcement of their terms. (Rule 251)
- He shall assign to each prisoner his work subject to the control of the superintendent. (Rule 252)
- He shall note every breach of jail rules in the prisoner's history ticket. (Rule 253)
- He shall occasionally, but at least once a week, cause every prisoner and all clothing, bedding, wards, workshops and cells to be thoroughly searched. (Rule 254)



- He shall not permit unauthorised visits. (Rule 255)
- He shall be responsible for the proper weighing and issue to the cooks of prisoners' rations, and for seeing that they are properly cooked and distributed so that every prisoner receives his proper quantity. (Rule 256)
- Every Sunday morning he shall hold a parade of all the prisoners and shall, with the medical subordinate, carefully inspect every prisoner. (Rule 260)
- He shall be responsible for the safe custody of all important documents and for the registers and records. (Rule 262)

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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