

# PRISON VISITORS: A REALITY CHECK

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TOWARDS EFFECTIVE MONITORING OF PRISONS

COMMONWEALTH HUMAN RIGHTS INITIATIVE

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## PRISON VISITORS: TOWARDS EFFECTIVE MONITORING OF PRISONS<sup>1</sup>

### Frequently Asked Questions

1. Who are Non-Official Visitors?
  - ✓ Non Official Visitors are lay persons from society who are appointed as visitors for every jail by the Government for a specific tenure.
2. How is a Non Official Visitor appointed?
  - ✓ District Collector recommends the name of a non-official visitor who is ordinarily appointed by Home Department.
3. What is the criteria for appointing non-official visitors?
  - ✓ Anyone who can write in their own handwriting can be appointed as a visitor.
4. Can women be appointed as visitors?
  - ✓ Yes; two or more women could be appointed for every jail but their role should be restricted to the management and wellbeing of women prisoners.
5. How many Non-Official Visitors are appointed in every jail?
  - ✓ 6 Non-official visitors for Central jails, 3 for District jails and 2 for Sub jails.
6. How often a Non Official Visitor visits the jail?
  - ✓ Every non-official visitor visits the jail once a month.
7. Who decided the time and day of visits by the Non-Official visitor?
  - ✓ The Collector and District Magistrate of every district prepares a roster for monthly visits by the non-official visitors and invites them to visit the prison.
8. Who are official visitors?
  - ✓ Official Visitors or Ex-officio visitors are certain government officials who are appointed as visitors by virtue of the office they hold. The I.G. of Civil Hospitals, I.G. of Police, Director of Public Health, Deputy I.G. Police, Director of Industries, Collector and District Magistrate, District and Sessions Judge, Civil Surgeon, Member of Rajasthan Legislative Assembly, Chairperson and member of State Human Rights Commission, Chairperson and members of National Commission for Women are ex-officio/official visitors for the prisons of Rajasthan.
9. How is a Board of Visitors selected?
  - ✓ District Collector selects the Board of Visitors biannually amongst 2 non-official and 2 official visitors.
10. How often does a Board meet?
  - ✓ Board convenes a meeting every quarter.
11. How often does a Board visit the prison?
  - ✓ Board inspects the prison twice a year.
12. Where does the visitor write his/her observations?
 

Every jail has a visitor book where the visitor writes his/her remarks or inspection notes.
11. Who takes action on the remarks?
  - ✓ Visitor book is forwarded to the Inspector General through the District Collector and if deemed necessary, further forwarded to the Government.

<sup>1</sup> Prepared by Mrinal Sharma and Sana Das, Prison Reform Programme, Commonwealth Human Rights Initiative. For more information visit, [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)

## Questions on Points to be Noticed by Visitors

(List appended at the end of Part 23)

- 1) *Buildings*- Are the buildings secure and in good repair?
- 2) *Overcrowding*- Is there any overcrowding? If so, where are the excess prisoners accommodated, and what steps being taken to release it?
- 3) *Drainage*- Is the drainage of the jail in a satisfactory state? If not, what are the defects?
- 4) *Water supply* – Is the water supply sufficient and good and the means of carriage suitable? Have the drinking water wells been cleaned out recently?
- 5) *Food*- Are the articles of food in the store – room and elsewhere properly kept and in good condition?
- 6) Does weight of vegetables agree with the calculated weight in the diet roll and are they of good quality and properly cleaned?
- 7) Is the food issued correct in quantity and properly cooked?
- 8) Is the full number of rations for all the prisoners forthcoming?
- 9) Is the oil and condiments added to the curry in the presence of some responsible officer?
- 10) *Clothing*- Have the prisoners the prescribed amount of clothing and bedding in their possession? Is it in serviceable order? Is the bedding placed in the sun every morning when the weather permits, and is the prescribed extra blanket issued during the cold months?
- 11) *Bathing*- Are the prisoners required to bath regularly?
- 12) *Labour*- Are full tasks exacted from all laboring prisoners fit for hard labour? Who checks the work done in the evening? Is the out turn of each convict properly recorded on the work tickets?
- 13) *Remission*- Is ordinary remission for industry given with preference to the actual tasks performed?
- 14) Are there any convicts who are not receiving remission for industry for failure to perform tasks? Is so, have efforts been made to enforce work by means of punishment?
- 15) *Punishment*- Is the ratio of punishments in the jail unduly high?
- 16) *Discipline* – Are convicts regularly searched for contraband?
- 17) Are convicts prevented from wandering about?
- 18) Are gangs of convicts marched about in proper order?
- 19) *Habituals*- Are habituals separated from others at night and is their separation from others by day carried out as far as possible?
- 20) *Undertrial prisoners* – Are there any undertrial prisoners who have been detained in the jail unduly long?
- 21) *Lunatics*<sup>1</sup>- Are there any civil lunatic in jail who have been detained under observation longer than the period allowed by law and, if so, on whose warrant?
- 22) Are there any criminal lunatics who have been unduly detained in jail?
- 23) *Female*- Are the women prisoners thoroughly screened from view of male prisoners?
- 24) *Juveniles* – Are juveniles prisoners under the age of 18 separated, both by day and night, from adults and are those juveniles who have arrived at the age of puberty separated from those who have not as required by section 27 (2) of the Prison Act 1894? Do juvenile prisoners receive instructions?
- 25) *Adolescents*- Are all adolescent prisoners of ages ranging from 18 to 22, separated at night, both from juveniles and adults?
- 26) *Cells*- Is every cell utilized at night?
- 27) *Appeals*- Has there been any undue delay in forwarding appeals to court, or in the receipt of Court's orders on appeals?
- 28) *Garden*- Is the whole vegetable supply of the jail obtained from the jail garden? If not, why cannot this be done?

<sup>1</sup> Section 2(m) of The Mental Health Act, 1987 terms these prisoners as mentally ill. The usage of term 'lunatics' in 2015 to describe mentally ill prisoners reflect on colonial and archaic nature of Rajasthan Prison Rules, 1951.

## ❖ THE PROBLEM

Rajasthan has 8 central jails, 25 district jails and 59 sub jails that are not being monitored in accordance with the law. As a result they are in a condition of neglect and prisoners' rights are being abused. The government must ensure that Boards of Visitors<sup>2</sup> consisting of district officials, judicial members and reputed local people<sup>3</sup> are immediately constituted, meet regularly and report back to government.

In 2012, Commonwealth Human Rights Initiative (CHRI) found that Board of Visitors was not constituted in any jail. Non-Official Visitors (NOVs) were appointed in 62 out of 92 jails that too after a gap of 2 years in 2011. However, they were unclear of their role and duties<sup>4</sup>. That NOVs know nothing of their mandate, duty, power and purpose behind their visits is not surprising. The method of appointment is deeply flawed. By and large NOVs are appointed for their political affiliations, through a cursory letter of appointment which: does not indicate the criteria for choosing them, nor what their powers and duties are, nor does it indicate whether they are part of the statutory Board of Visitors. They are not given any training or orientation nor are they apprised of the rules that govern their role and conduct.

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<sup>2</sup> **Rule 7, Rajasthan Prison Rules, 1951 - Board of Visitors**– (a) All non-official visitors of a jail except those debarred under sub-rules (b) and (c) of rule 4 [visitors who have either been removed or have been found to be acting for malafide interests or for an unlawful object] shall be eligible to be on the Board of Visitors. A Board of Visitors shall be selected biannually by the Collector and District Magistrate of the District amongst the official and non-official visitors of each prison and shall inspect the prison twice a year on dates to be fixed by the Superintendent in consultation with the president and members of the Boards. The Board shall consist to two official and two non-official members, one of whom shall be nominated by the Chairman by the Collector and District Magistrate of the District. (b) In the case of lock-ups not at headquarters, the Sub-Divisional Officer, City Magistrate, Extra Magistrate or Munsif Magistrate shall be the Chairman of the Board.

<sup>3</sup> **Rule 3, Rajasthan Prison Rules, 1951 - Non-official Visitors, power of the Government of Rajasthan to appoint** – (a) The Government of Rajasthan may appoint for all prisons in the State non-official visitors. Their number shall ordinarily be six for each Central Prison, three for each district prison and two for each lock-up jail. These appointments shall ordinarily, be made on the recommendations of the Collector and District Magistrate of the District, in which the jail of lock-up is situated.

(b) No person who is unable to write an inspection note in his own hand shall be appointed non-official visitor of a prison. (c) The Government of Rajasthan may also appoint two or more lady visitors to such prisons as accommodate females. Their duties will be regulated in the same way as those of the non-official male visitors but shall be confined to the management and well-being of the female prisoners. They shall not issue any orders or instructions to the matron or female warders but will communicate their recommendations in writing to the Superintendent in a visitor's book kept especially for this purpose. (d) The names of all non-official visitors appointed by the Government of Rajasthan shall be notified to the Rajasthan Gazette and communicated to the Inspector General and the Superintendent of the jail concerned.

<sup>4</sup> CHRI held a workshop in Feb, 2012 with the Non Official Visitors of Rajasthan Jails only to witness complete ignorance towards their role and duties. It was the first workshop/training they had attended after being appointed as NOVs.

In 2013, due to constant advocacy of CHRI with the State Human Rights Commission (SHRC) and Rajasthan Home Department, NOVs were again appointed in every jail and BoVs were constituted in 12 jails. However, their knowledge about their role remained problematic<sup>5</sup>. Today their appointments have either lapsed or cancelled. Till June, 2015, the Home Department was in the process of appointing NOVs even after the lapse of 1 and a half years<sup>6</sup>.

There was a mass cancellation of the appointments by the Rajasthan Government vide their order no. P-11(39) Home-12/Jail/2001/Part Jaipur dated 27.12.2013 only a few days after the change of government on 8<sup>th</sup> December, 2013 as a result of the Legislative Assembly Elections. This was gathered from CHRI's RTI findings in September, 2014 and assessment of NOVs<sup>7</sup>. The findings were indicative of a near total breach of statutory compliance with the State Government and District Administration with regards to appointment of visitors, constitution of boards and maintenance of official records.

## ❖ THE SOLUTION

### I. HOME DEPARTMENT

#### ✓ Appointment of Non Official Visitors

*Non-official visitors must be appointed in every prison with immediate effect. Rule 3 of the Rajasthan Prison Rules statutorily obliges the State Government to appoint non-official visitors in every prison.*

#### ✓ Tenure of a Visitor

*The tenure of a visitor must be fixed barring certain practical exceptions like reasoned removal as mentioned in detail under 'Grounds of Removal'.*

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<sup>5</sup> CHRI held another workshop on 2<sup>nd</sup> August, 2013 with 25 Non Official Visitors of Jodhpur and Nagore division only to reaffirm the conclusion of the last workshop. They were unaware of their role to the extent that they waited for the Prison Authorities to send them an invite to visit jails.

<sup>6</sup> CHRI filed another RTI in June 2015 to the Home Department, Government of Rajasthan to which the Department responded that they are still in the process of appointing NOVs.

<sup>7</sup>In May 2014, CHRI assessed through open telephonic conversation with the participants the impact of the workshop that was conducted by CHRI in August, 2013. The result took into account their small actions which might not have been taken at all without the workshop and the challenges they faced. They knew their powers, purpose and function. They had started using the visitor's book. The situation was less grim after the workshop, but grim nevertheless. The prison administration resisted the visits to an extent that entry of visitors was sometimes barred even after the visitors were issued identity cards by the DG (Prisons), Rajasthan thereby authorizing the visits.

### ✓ **Criteria for Appointment**

Part 23 of the Rajasthan Prison Rules must be amended in order to incorporate responsible criteria for appointing non-official visitors and removing them. The criteria for appointing NOVs must take into account the following:

- *Background – The candidate must have a blemish-free record and it must be reflective of his/her interest in the welfare of prisons or that they are likely to take interest in the prisoners and their welfare both while they are in prison and after their release. They must be persons of eminence in public life with wide knowledge and experience in law, social service, management, mass media or administration and governance. Sensitivity towards the concerns of a prisoner along with the acquaintance of administrative shortcomings must be pre-requisite to appointing a person as a Non-Official Visitor.<sup>8</sup>*
- *Gender Balance – There must be equal representation of men and women in the appointment of visitors. Women visitors must be appointed for each and every jail.*
- *Re-appointment – For a re-appointment, the visitor's performance during the first tenure must be considered. The frequency of his visits (at least 5 visits), the nature of his remarks and the action taken by him should form the criteria for re-appointment.*

### ✓ **Grounds for Removal**

The Rules must explicitly contain the reasons for which a visitor may be removed and they must be noted in the letter for cancellation of appointment of a visitor. The reasons must be one of the following:

- *Gross delinquency on part of the visitor namely corruption, bribery, misconduct inside prison, and violation of the Constitution.*

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<sup>8</sup> Rule 6 (i), Chapter XV of Maharashtra Jail Rules sets a best practice. It states “*The appointments of non-official visitors (other than members of the Maharashtra Legislature) shall, subject to the provisions of sub-rule (4), be made by the State Government from amongst persons who in its opinion, are interested in the administration of prisons and are likely to take interest in the prisoners and their welfare both while they are in prison and after their release.*”

- *Unsatisfactory performance of a visitor which must include visits made less than 5 times a year, no remarks made in the visitors book and no action taken on the remarks made in the book.*

✓ **Training of Non Official Visitors**

- *The Visitors, right after their appointment must be imparted regular and comprehensive trainings in order to apprise them of their role and duties inside prison. The trainings must then continue to be conducted bi-annually. The State Human Rights Commission role in the training must be enhanced in order to bring about excellent standards of transparency. Since there is no explicit criteria for appointing visitors, the quest is not for the best person available for the post. The appointments do not take into account the background of these visitors. Therefore, before they set out to monitor, they need to know how to do it. The NOV's, at the time of appointment should be made aware of their rights and duties and what they can do to improve the prison and prisoners' conditions.*
- *At the time of their appointment, they must be given a guide booklet and a copy of Part 23 of the Rajasthan Prison Rules, 1951<sup>9</sup>. The guide booklet must explain the functioning of prisons, the records that are to be maintained, the important contact details for improved coordination and the duties of the visitors.*

✓ **Frequency of Visits and Surprise Visits**

*The rules must be amended for the NOV's to make weekly visits and it must also include the mandate to make unannounced visits to prison.<sup>10</sup> The frequency of visits must be tailored to meet the standards of 'regular' inspection. Currently, the rules mandate the non-official visitors to make only monthly visits to prison which are insufficient to effectively monitor a prison.<sup>11</sup> A 2 hours visit<sup>12</sup> once in 30 days is inadequate to identify*

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<sup>9</sup> Rule 9 of Chapter XV of the Maharashtra Prison Rules sets a best practice. It states, *"Every visitor shall on appointment, be provided with a copy of these rules."*

<sup>10</sup> Rule 11 (ii) of Chapter XV of the Maharashtra Prison Rules sets a best practice by requiring the Chairman of the Board to arrange a weekly Programme of visits to a prison by one of the visitors. It states *'The Chairman shall arrange a weekly programme of visits to a prison by one of the visitors and the Superintendent of that prison shall give timely intimation to the visitor concerned of the prison and of the week in which he is required to visit the prison in accordance with the programme arranged as aforesaid.'*

<sup>11</sup> **Rule 5, Rajasthan Prison Rules, 1951 - Roster for monthly visits-** The 1[Collector and District Magistrate of the District and District] shall cause the names of non- official visitors for person situated in their 1[districts], who are not debarred from visiting a prison under sub-rules (b) and (c) of the preceding rule, to be placed on a roster and shall invite such visitors to make monthly inspections of the prisons of which they have been appointed visitors by

early warning signs and prevent or deter any kind of violations that may take place inside the prison. To this end, regular and roster-based visits to prison by visitors are required. There should also be a provision for the visitors to make unannounced visits apart from the roster-based visits for reducing the 'manufactured' nature of visits.

✓ **Reporting Mechanism**

*A reporting mechanism must be added to the Rules to gauge the performance of a visitor and to ascertain the sincerity of a visitor. By virtue of this mechanism, every visitor would be mandated to report to the Additional Chief Secretary and Joint Secretary, Home Department, Government of Rajasthan and also to Chairperson of the Board of Visitors of every jail, i.e. Collector and District Magistrate. The mechanism as it stands currently allows for the visitor book to be forwarded to the Inspector General of Prisons through the Superintendent.<sup>13</sup> If the Inspector General thinks it fit then the visitor book is forwarded to the Government. This procedure defeats the whole purpose of 'monitoring' as prison administration is given the chance to be 'judge in its own cause'.*

## II. COLLECTOR AND DISTRICT MAGISTRATE

✓ **Constitution of Board of Visitors**

*Board of Visitors must be constituted in every prison and meetings must be convened every quarter. Rule 7 obligates the Collector and District Magistrate to constitute a Board*

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turns in accordance with that roster. A visitor who is, for any reason, prevented from visiting the prison according to his turn in the roster may visit it in another month, provided that he informs the Superintendent beforehand of his intention to do so. A non-official visitor may visit the prison at any other time only with general or special permission of the District Magistrate.

<sup>12</sup> **Rule 6, Rajasthan Prison Rules, 1951 - Duration of visits-** A non-official visitor shall not visit the prison at any time after 4 p.m. and before sun-rise and shall not remain inside the prison for more than two hours at each visit, as a prolonged stay is likely to hamper the jail staff in their work. Non-official visitors are requested to avoid visiting the prison after 2 p.m. as such visits are likely to interfere with the locking up.

<sup>13</sup> **Rule 13, Rajasthan Prison Rules, 1951 - Action on remarks of visitors –** (a) The Superintendent shall at once forward a copy of the Inspection notes recorded by visitors in the visitors book through the District Magistrate and the Collector and District Magistrate of the District to the Inspector-General who may if in his opinion it is necessary, forward the correspondence for the information and orders of the Government. A copy of orders (if any) of Government or the Inspector-general, shall be forwarded to the visitor through the Superintendent of the Jail. (b) The Superintendent of the jail shall cause these orders to be copied into the visitor's book for the information of the visitors.

**Rule 14, Rajasthan Prison Rules, 1951 - Permission to enter jail for recording statement of prisoners-** The Superintendent shall permit judicial and magisterial authorities and also any person provided with a written order from the High Court, the Chief Court, the District Magistrate or the Sessions Judge, to enter the jail for the purpose of recording the statement of any prisoner. The District Magistrate may specially authorize any officer named by him in writing to interview any prisoner for the purpose of obtaining information, which may lead to detection of crime.



of visitors for every prison in Rajasthan. He must select two official and two non-official visitors biannually<sup>14</sup>.

✓ **Preparation of Roster**

*The Collector and District Magistrate must prepare the roster for visitors as per Rule 6<sup>15</sup> without fail.*

✓ **Visits to Prison**

*Collector and District Magistrate must make no less than 3 visits every year to the prison and inspect the conditions. By the virtue of Rule 1(2), every Collector and District Magistrate is an official visitor to all the prisons and lock ups situated in his/her district. Rule 1(4) particularly obligates him/her to be an official visitor to the central jail situated in his district. Rule 2 provides that they can make unlimited number of visits to prison but not less than 3 per year.*

✓ **Maintenance of Record**

*The office of a Collector and District Magistrate must maintain adequate documentation of appointment of visitors and meetings convened by the Board of Visitors. As it is a public record, the information must be organized, preferably computerized and indexed.*

### III. PRISON DEPARTMENT

✓ **Cooperation**

*The Superintendent must extend its full cooperation in furthering the duties of a visitor with regards to access to prison, entering of remarks in the visitor's book and seeking their help in improving the administration of prisons.*

✓ **Reducing prolonged detention**

*The Superintendent must prepare a list beforehand of those undertrials who have been in detention for longer than necessary and handover to the visitors. Since one of the duties*

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<sup>14</sup> **Rule 7, Rajasthan Prison Rules, 1951 - Board of Visitors** – (a) All non-official visitors of a jail except those debarred under sub-rules (b) and (c) of rule 4 [visitors who have either been removed or have been found to be acting for malafide interests or for an unlawful object] shall be eligible to be on the Board of Visitors. A Board of Visitors shall be selected biannually by the Collector and District Magistrate of the District amongst the official and non-official visitors of each prison and shall inspect the prison twice a year on dates to be fixed by the Superintendent in consultation with the president and members of the Boards. The Board shall consist to two official and two non-official members, one of whom shall be nominated by the Chairman by the Collector and District Magistrate of the District. (b) In the case of lock-ups not at headquarters, the Sub-Divisional Officer, City Magistrate, Extra Magistrate or Munsif Magistrate shall be the Chairman of the Board.

<sup>15</sup> Supra 7

of a visitor also lies in preventing prolonged detention of under trials, the Superintendent must ensure that the cases of those under trials who have been in jail for unduly long are noted in the visitor's book by the visitors. The visitors may then recommend action in the book.

✓ **Action on Inspection Notes**

*The Superintendent and Inspector General must forward the inspection notes to the Government of Rajasthan every fortnightly particularly to the Additional Chief Secretary and Joint Secretary, Home Department, Government of Rajasthan and Chairperson of Board of Visitors which is Collector and District Magistrate and take immediate action in their own capacity for ameliorating the issues mentioned by the visitor.*

✓ **Maintenance of Records**

*The office of Inspector General must maintain adequate documentation of appointment of visitors. As it is a public record and the Inspector General is mandated to be notified about the appointment by the Government of Rajasthan, the information must be organized, preferably computerized and indexed.*

## ❖ THE EVIDENCE

The evidence is divided into two parts, viz.:

1. CHRI's RTI findings as at September, 2014
2. Open assessment of NOVS as at May, 2014

### **PART I – CHRI's RTI FINDINGS**

CHRI in July, 2014 sought details from the District Collectors, Prisons and Home Department through Right to Information (RTI) applications on three core issues:

- I. Criteria for appointing visitors in jails of Rajasthan
- II. Current status of appointment of Non Official Visitors in every jail of Rajasthan and the minutes of their visits
- III. Current status of constitution of Board of Visitors in every jail of Rajasthan and the frequency of their meetings

55 out of 92 jails replied; no reply was received from 37 jails.

This part details the four key elements of an effective visitor's system viz., Board of Visitors, Non Official Visitors, Criteria for Appointments & Removal and Maintenance of Records and outlines RTI findings for each.

#### **A. Board of Visitors**

Findings:

1. Out of those 55 jails, only 6 stated that they had a Board of Visitors constituted.<sup>16</sup>
2. The information received also indicated that out of the 6 boards, only one board met and that too only once in 21 months.<sup>17</sup>
3. Many prisons in Rajasthan were not aware of the difference between official visitors and Board of visitors. Many jails also confused the appointment of non-official visitors with the constitution of the board.
4. The District Collectors who are shouldered with the responsibility of selecting the Board and chairing it were oblivious to the difference between Non-official visitors and the Board of visitors.

Board of visitors remains the most important constituent of the visitors system. It seeks a balanced representation from the government and civil society. The Board which is meant to meet every quarter has a wide ambit, including hearing and inquiring into the complaints of the prisoner; calling for books, records and papers connected to the administration of the department and satisfying that every rule and regulation made for regulating the prison is carried out. It is mandated to collectively inspect the prison twice a year. In addition, every member of the Board is mandated to make monthly visits to the prison<sup>18</sup>. The purpose of such Boards is to ensure that the Government has a clear picture of issues and challenges arising in jails and can set about improving conditions and preventing any undue harm. Minutes of their meetings, inspection and action taken reports are directed to create a powerful trail of documentary evidence of problems that plague the prisons along with the efficiency/inefficiency of the prison officials, impossible to ignore by the Prison Administration and Home Department. The participation of civil society further enhances the human rights perspective of the Board and endows it with public legitimacy.

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<sup>16</sup> They were *Central jail, Jaipur; District Jail, Karauli and Sub jails, Behrod, Nainwa, Kotpulti and Pokharan.*

<sup>17</sup> The Board constituted in Sub Jail, Nainwa met once in 2013.

<sup>18</sup> *Supra* 1

Hence, the dwindling figures of Boards and the perfunctory nature of meetings which are not convened at all are surprising. It directly constitutes a statutory violation on the part of the State and District Administration and further an astute administrator will not falter in recognizing the immense managerial value of this platform. In the absence of such a platform, prisons will always remain at the risk of being exposed to various forms of violations.

## **B. Non-official Visitors**

Findings:

1. Out of the 55 jails that replied, only 32 jails stated that they had NOV's appointed<sup>19</sup>.
2. Noting with concern, out of those 32 jails, only 17 of them were visited by the NOV's. A more disturbing factor is that 9 out of 17 jails were visited only once in the NOV's' tenure of 21 months.<sup>20</sup> The highest number of visits was 8, made by Mr. Ram Chandra Sharma and Giraj Prasad Sharma in Sub jail, *Atru*. It is also important to note that all the visits barring two were made in 2013, the latest being in September, 2013 clearly indicating inactivity for 1 whole year.

An NOV is tasked with the role of keeping a check on the infrastructure of the prison, investigating the quality and adequacy of food and clothing of the prisoners all this while giving special attention to vulnerable groups of prisoners like mentally ill, women, and juveniles and ensuring discipline amongst the prisoners. They are also vested with the power to guarantee the separation of prisoners and review the cases of undertrials who have been detained for unduly long<sup>21</sup>. An NOV investigates all the above cases and where substantiated, recommends action to the Superintendent or the State

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<sup>19</sup> The jails that had NOV's appointed were Central jails, *Jaipur* and *Sri Ganganagar*; District jails, *Banswara*, *Sirohi*, *Karauli*, *Nagaur*, *Hanumangarh*, *Rajasamand* & *Jalore* and Sub jails, *Kotputli*, *Bali*, *Bahrar*, *Atru*, *Bandikui*, *Khetri*, *Pokhran*, *Sojat City*, *Abu Road*, *Jhadol*, *Phalodi*, *Samberlek*, *Sanchaur*, *Bheenmal*, *Choti Saadri*, *Nohar*, *Ramganjmandi*, *Gulabpura*, *Mandalgarh*, *Shahpura* and *Merta City*.

<sup>20</sup> NOV's in District jails of *Banswara*, *Jalore* and *Nagaur* and Sub jails of *Kotputli*, *Pokhran*, *Sanchaur*, *Bali* and *Bheem* visited the jails only once. NOV's in Central Jail *Jaipur* and Sub jails, *Merta City*, *Shahpura* and *Mandalgarh* visited only twice. NOV's in Sub jails, *Bandikui* and *Khetri* visited the jails thrice and those appointed in Sub Jail, *Gulabpura* visited the jail four times in their tenure of 21 months.

<sup>21</sup> Questions on points to be noticed by the Visitors (Rule 11 appends a list of 28 subjects at the end of the Part 23 of the Rajasthan Prison Rules)

Government.<sup>22</sup> He makes scheduled visits based on his/her turn in the roster<sup>23</sup>. The Superintendent arranges for such visits by facilitating the company of a 'responsible' jail officer to escort such visitor.<sup>24</sup> He may also visit the prison out of his turn by informing or/and taking a general or special permission from the District Magistrate<sup>25</sup>.

He is a great check on corruption, brings about transparency in the system and makes administrative machinery prisoner friendly by revealing the risk factors inside prison. However, his functions largely depend upon his knowledge and interest in serving the office and the cooperation of the Superintendent of the prison.

Non Official Visitors are meant to be the critical voice in the visitor system that holds the administration to account. They democratize the visitor system and therefore improve the effectiveness of oversight. That only 32 out of 93 jails have these visitors appointed is appalling. Given that there is a practice of cancelling appointments of non-official visitors with every change of government we cannot even be sure that NOVs in these jails remain in place.

With the State Government lining up the appointment and training of visitors as low or no priority, the prisons of Rajasthan will continue to be isolated places contributing to high incidence of abuse and other problems.<sup>26</sup>

### C. Criteria for Appointments and Removal

Findings:

- I. The Home Department sent a copy of Part 23 of the Rajasthan Prison Rules, 1951 that elaborates on the Appointment and Guidance of Visitors in Prisons.
- II. Very few offices of Collector and District Magistrate were aware of their duty to recommend the names of NOVS to the State Government. The reply received

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<sup>22</sup> Supra 8

<sup>23</sup> Supra 6

<sup>24</sup> **Rule 9, Rajasthan Prison Rules, 1951 - Visitors to be accompanied by a jail officer and an escort** – The Superintendent shall arrange that every visitor to the prison shall be accompanied by a responsible jail officer and by an escort which shall consist, at Central prisons of two warders, and at District prisons, of one warder, armed with batons.

<sup>25</sup> Supra 6

<sup>26</sup> [http://dnasyndication.com/dna/TopNews/dna\\_english\\_news\\_and\\_features/Jaipur-Jails-condition-worst-in-the-country\\_-High-Court/DNJAI55318](http://dnasyndication.com/dna/TopNews/dna_english_news_and_features/Jaipur-Jails-condition-worst-in-the-country_-High-Court/DNJAI55318)

The High Court of Rajasthan on March 17, 2015 expressed displeasure on the condition of Jaipur Central Jail and quoted it as the worst jail in the country. There are a number of HIV positive and mentally ill inmates in the jail. In 2014, the High Court had taken suo moto cognizance of rampant usage of mobile phones in the jails of Rajasthan and the pathetic conditions in which the prisoners are forced to live.

from Collector and District Magistrate of Bikaner on the criteria of recommendations stated '*Information not related to this office*'. Only the reply that was received from the Collector and District Magistrate of Pratapgarh stated '*The name of any educated and distinguished person in society who could write the inspection notes in his own handwriting is recommended for the position of Non Official Visitor to the State Government*' that too after it was forwarded to the Deputy Superintendent of District Jail, Pratapgarh.

- III. Many prisons also replied that the appointments of NOVs and constitution of BoVs were cancelled by the order of State Government no. P-11(39) Home-12/Jail/2001/Part Jaipur dated 27.12.2013.

It is commonplace for the appointments to be made based on the political affiliations of the candidate. These visitors usually believe that their role in prisons is to work as representatives of their local leaders, instead of overseeing the management of prisons. This primarily stems from the lack of clarity and arbitrariness over appointments in the Rajasthan Prison Rules. The Rule states that a Non Official Visitor shall be appointed by the Government of Rajasthan, 'ordinarily' with the recommendations of the Collector or the District Magistrates. This is the only rule that deals with the appointment of visitors and it offers a glimpse of complete lethargy on part of legislative drafting in terms of concretizing the social background and interests of the visitors in a way that enhances and strengthens the administration of prisons and welfare of prisoners.

To add, the rules are silent regarding the criteria and qualification for a term of appointment and removal in the NOV system. In the absence of clearly laid down criteria for selection, the process of appointment of visitors has been from the beginning, political. As we see, the appointments of many NOVs were cancelled abruptly by the order of State Government dated 27.12.2013 which coincides with the formation of new Government in Rajasthan owing to the Legislative Assembly Elections that took place on 8.12.2013. This is clearly reflective of the undemocratic methods that are used for removal of visitors with the change of guard in the State. Moreover, the rule that governs the removal of visitors permits arbitrary cancellation of visitors without assignment of any reasons. Rule 4 states '*The Government of Rajasthan may at any time without assignment of any reasons therefore remove any non-official visitor, from the list of visitors*'<sup>27</sup>. As the

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<sup>27</sup> **Rule 4, Rajasthan Prison Rules, 1951 – Term of Office and removal of non-official visitors** – (b) The Government of Rajasthan may at any time without assignment of any reasons therefore remove any non-official visitor, from the list of visitors. Any such removal shall be notified in the Rajasthan Gazette and intimation thereof given to the

practice stands witness, the visitors have been removed only due to a change of government without citing any reason, let alone substantial.

Overall, we find that the selection and removal process of NOVs as laid down in the Rules is an extremely arbitrary system to appoint and remove an individual who will be shouldered with such an important responsibility of overseeing the functioning of prison. The selections and removal thus become increasingly vulnerable to criticism on grounds of political partisanship, favoritism, patronage and cronyism.

#### **D. Maintenance of Records**

Findings:

##### *District Collector*

1. Out of 33 Collector and District Magistrates in Rajasthan, only 26 replied to our RTI query.
2. However, only *Banswara, Chittorgarh, Hanumangarh, Jaipur* and *Sirohi* maintained the records. The rest forwarded the query to either the jails that fall under their jurisdiction or another branch in their office. Only the office of Collector and District Magistrate, *Nagaur* send a comprehensive reply regarding the criteria and the prison inspection reports of the Collector and District Magistrates.

The District Administration remains at the center of the functioning of visitors system. The Collector and District Magistrate recommends the name of the non-official visitors to the Rajasthan Home Department for appointment.<sup>28</sup> The Collector and District Magistrate prepares the roster for the monthly visits to be made by the non-official visitors.<sup>29</sup> He also selects the Board of Visitors biannually and chairs it.<sup>30</sup> The inspection notes made by the visitors are forwarded by the Superintendent to the Inspector General through the District Magistrate<sup>31</sup>. Noting with concern, the act of forwarding the RTI queries on visitors clearly indicates that the Collector and District Magistrate remains unaware of his/her statutory

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Inspector General and the Superintendent of the jail concerned. (c) The Government of Rajasthan may also on the recommendation of the Collector and District Magistrate at any time direct that any non-official visitor shall not visit the prison for a specified period, if it is satisfied, that he is not using his visit for a, bonafide purpose or is using them for the furtherance of an unlawful or undesirable object.

<sup>28</sup> Supra 2

<sup>29</sup> Supra 6

<sup>30</sup> Supra 1

<sup>31</sup> Supra 8

duties towards the prisons. It also indicates that there is no standard criterion that is applied by the Collector and District Magistrate for recommending the names of the non-official visitors to the Home Department. To safely conclude, given that the office forwarded our queries in entirety, we are not even sure that the office records anything related to the visitors system.

#### *Home Department*

1. The Home Department forwarded the query regarding the list of the non-official visitors appointed and currently in prisons to the State Prison Department. The Prison Department further forwarded it to all the prisons in Rajasthan.

The State Government is at the helm of affairs for regulating the implementation of monitoring mechanisms. In fact, the purpose of such a mechanism is to ensure that the Government has a clear picture of issues and challenges arising in jails and can set about improving conditions and preventing any undue harm. The Rajasthan Prison Rules vests the State Government with the power to appoint the NOV's and remove them as and when they think fit<sup>32</sup>. State Government is also obliged to notify the Inspector General of the appointments<sup>33</sup>. The strategy or act of forwarding the RTI query indicates towards either a deluge of unorganized paperwork that is so scattered in the Home Department of State Government that it is difficult to draw possible conclusions out of it or a systemic failure in maintenance of records regarding visitors in both the Home and Prison Departments of Rajasthan. Such forwarding also increased the workload of the prisons for they were tasked with responding to the queries of the RTI addressed to them along with those that were transferred to them by the District Collectors and Prison Department.

## **PART II – OPEN ASSESMENT OF NOV's**

CHRI in May, 2014 had conducted an open telephonic interview with 25 non-official visitors who were part of one of CHRI's earlier workshops. The visitors were appointed in 16 jails across Jodhpur and Nagaur division that would include Barmer, Jaisalmer, Jalore, Jodhpur, Nagaur, Pali and Sirohi districts. The interview dealt with the following issues:

- I. Their appointment
- II. Their nomination

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<sup>32</sup> Supra 17

<sup>33</sup> Supra 2



- III. Problems inside jail
- IV. Challenges
- V. Suggestions

This part details the testimonies of the visitors on the abovementioned issues.

#### 1. *Nomination & Appointments of Non Official Visitors*

Out of 25 visitors that were interviewed, only 6 had filed their nominations for the post of a visitor to the prison. 12 of them were recommended by the local Member of the Legislative Assembly and 7 were recommended by the Collector and District Magistrate.

#### 2. *Visits*

From being absolutely unaware of their role inside prisons to start visiting prisons there was increased sincerity that was seen in the visitors, albeit marginal. The highest number of visits was 15, made by 4 NOV's appointed in Jodhpur Central Jail. The slight interest that these visitors developed in visiting and inspecting the prisons was a direct result of the comprehensive workshop that CHRI had conducted. A contributing factor towards lesser visits has also been the ineffective and flawed roster system. Mapping the practical consequences, the Superintendent is already aware of such visits which renders the inspections more 'manufactured' with the jail staff taking extra caution ahead of the NOV's visit in order to avoid any kind of disagreements and visible administrative crisis. Naturally, such a controlled atmosphere leads to diminished interest amongst the visitors in visiting the prisons and welfare of prisoners thereby elevating performance rut. However the regularization of monthly visits would partially take care of manufactured visits.

#### 3. *Problems inside Jail*

- **Food and Portable Water:** Lack of portable water and edible food constituted the biggest problem inside jail particularly in Pali, Nagore, Barmer and Jaisalmer. Reportedly, the local Public Work Department (PWD) was lax in servicing the prisons despite having free access to all parts of the prisons.<sup>34</sup>

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<sup>34</sup> **Rule 16, Rajasthan Prison Rules, 1951 – Officers of PWD may enter jail during business hours** – The Superintending Engineer of this circle and the Executive Engineers of the Districts in which the jail is situated,

- Prisoner and Prison Administration:** The NOVs reported that there was a lot of resentment amongst the prisoners towards each other and the jail authorities. The animosity led to frequent brawls and altercations. The prison administration was usually nonchalant towards such incidents and reacted with a general air of indifference quoting that it is a ubiquitous problem with no solution. Such responses from the administration are expressive of lack of cooperation from the prison staff that was massively found in Pali and Jodhpur. A corollary of such an atmosphere was also observed in lack of discipline amongst the prisoners by the NOVs. Whereas, the Jail Manual provides for punitive measures<sup>35</sup> to tackle disciplinary problems, the Mulla Committee<sup>36</sup> and Model Prison Manual<sup>37</sup> encourages politeness and incentive based approach.
- Lack of Prison Staff:** Another reported problem was the lack of staff in the prisons. In many places, subordinate staff was handling the responsibilities of jail superintendent. In such a system, prison mechanism and management falls flat with the absence of commensurate staff. The prison staff was devoid of understanding the role of NOVs and their responsibilities, thus, making them uncooperative towards the visitors. Although this has been an underreported issue by the NOVs, Pali District has come out with lack of prison staff as a highlighted obstruction to the work.
- Infrastructure:** In a blatant violation of the basic spirit of the jail rules, i.e. security it was observed that most prison buildings are obsolete and riddled with many problems. In many district and sub-jails the boundaries are of inadequate height, and the wirings are dangerously exposed. The lavatories were also found to be in an extremely bad shape. Such observations have a direct vertical link with the disregard of recommendations of Mulla Committee and the Model Prison Manual. The Committee strongly recommended the demolition of all old prison buildings who have outlived their utility.
- Overcrowding:** The NOVs also emphasized on the overstaying of under trials, which was the primary reason for overcrowding in prisons. Rajasthan has a current occupancy of 19293 inmates against the capacity of 16622 inmates out

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together with their employment shall during business hours, have free access to the jail to the extent necessary for purposes connected with the discharge of their official duties.

<sup>35</sup> Part II, Rule 1,2,5,7 and 8 of the Rajasthan Prison Manual, 1951

<sup>36</sup> Recommendation 8.34.20

<sup>37</sup> Prison Discipline, Chapter 19.11 of Model Prison Manual – It divides punishment into two categories – Minor and Major. Both kinds of punishment emphasize more on loss of privileges and forfeiture of earnings and wages.

of which 6044 are convicts and 13246 are under trials which constitute 60% of the overall prison population.<sup>38</sup>

- **Lack of funds** to develop the infrastructure of prisons and resistance from the jail staff were the common problems that the NOVs voiced to us. The visitor's book that is meant to reach the Inspector General rarely found its way to him and in case it did, no action was taken until the NOVs personally intervened or constantly followed up with the authorities. The visitors were usually denied access to records and prison registers which constitutes their primary responsibility.

#### 4. *Suggestions from Visitors*

- **Regular and increased Appointments of Visitors:** All the districts except Jodhpur seemed to be short on appointments of visitors. Hence, the majority of visitors suggested more appointments for better monitoring and enhanced coordination.
- **Regular Trainings for Prison Staff on Appointment and Guidance of Visitors.**  
NOVs emphatically stated that prison staff needs to be educated about the authorities and rights of the Non Official Visitors. NOVs also believe that although they provide the impetus and medium to solve jail related problems, the authorities need to take absolute initiative. The belief of jail authorities is that they only work to keep the prisoners secure inside. Reformatory processes are not the top priority in jails. They believe prisoners are the lowest rung of society and hence the debauched treatment follows. In such a hostile environment, the prison visiting system cannot be expected to function without co-operation of the jail administration. Sensitization of the jail authorities and a shift in attitude towards the prisoners is vital.
- **Amending the Roster System for arranging visits**  
The fact that the jail administration had to be informed beforehand seemed to create certain problems, as the prison staff would hide discrepancies and in some places it was reported that the prison staff even threatened the prisoners against telling the NOVs about their problems. Thus it was hard to evoke a response from some of the NOVs. The visitors highly suggested that it should be mandatory for the prison staff to allow the visitor to enter prison.

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<sup>38</sup> Chapter 4, Distribution of convicted and under trial prisoners under IPC and Special Local Laws, PSI-2013, NCRB <http://ncrb.gov.in/>

- **Better Fund Allocation**

One of the major roadblocks that the NOVs faced in all districts was the widespread confusion over the funding of prison maintenance. To address this issue, it was suggested by the visitors that the Public Works Department should allocate sufficient funds to the maintenance of prison and further utilize it only for the upkeep of jails and lock-ups. Secondly, it should also plan its budget in a way that would allow them to address any other future needs of jails regarding hygiene, sanitation and infrastructure without compromising on the current needs.

- **Regular Capacity Building Trainings for Visitors**

Another important suggestion was that the training organized for the visitors should be demonstrative in nature that comprehensively explains the method and strategies to perform their duties. NOVs from Sirohi, Nagore and Barmer suggested that the training should also witness the participation of prison staff in order to acquaint them with the role of visitors in prisons. An NOV from Jodhpur voiced that future workshops should also take separate sessions on enhancing the legal know-how of visitors.

**About CHRI and its Prison Reform Programme:** The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organization mandated to ensure the practical realization of human rights in the countries of the Commonwealth. Commonwealth Human Rights Initiative was founded in 1987 by Commonwealth professional associations; it is headquartered in New Delhi, India since 1993, and has offices in Accra, Ghana and London, UK.

CHRI advocates for better respect for protection and promotion of international human rights standards and ensuring greater adherence to Commonwealth Harare principles. Issues relating to accountability and participation in governance – access to justice and access to information – are at the heart of CHRI's work. It also overviews the human rights situation in countries of the Commonwealth, looking especially at human rights defenders, compliance with international treaty obligations and monitoring the performance of Commonwealth members of the United Nations Human Rights Council. To know more, please visit our website at [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)

The Prison Reforms Programme of CHRI has its focus on early safeguards against unnecessary detention and addresses overcrowding of prisons. Currently the programme is working collaboratively with the West Bengal and Rajasthan Prison Departments and the respective State Legal Services Authority to provide legal assistance to various categories of undertrial prisoners for availing early access to counsel, legal aid safeguards and suitable non-custodial measures.

# ANNEXURE 1

## Part-23

### APPOINTMENT AND GUIDANCE OF VISITORS OF PRISONERS

(Rules under section 59(25) of the Prison Act)

#### Rule 1. Ex-officio visitors-

- (1) The I.G of Civil Hospitals, the I.G. of Police, the Director of Public Health, the Deputy I.G. Police (C.I.D) and the Director of Industries shall be *ex-officio* visitors for all previous and lock-ups in the State.
- (2) Collector and District Magistrate of the District and Distt. And Sessions Judge are *ex-officio* visitors of all prisons and lock-ups situated within their respective jurisdiction.
- (3) Civil and Additional Sessions Judges are *ex-officio* visitors of prisons in districts where there is no district and Sessions Judge.
- (4) The District Magistrate is *ex-officio* visitor of the Central Jail situated in his district.
- (5) The D.I.G Police, the Sub-Divisional Magistrate, the Deputy Director of Agriculture and the Inspectors of Schools shall be *ex-officio* visitors of all jails within their respective jurisdiction.
- (6) The Civil Surgeon, where he is not holding medical charge, Shall be an *ex-officio* visitor of the prisons and lock-ups in his district except in the case of Central prison where a suitable officer will be nominated by the <sup>ii</sup>[Collector and District Magistrate of the District and District].
- (7) Every member of the Rajasthan Legislative Assembly residing at the headquarters of a district or sub- division shall be an *ex-officio* visitor of the prison, if any, situated in such headquarters.
- (8) <sup>iii</sup>The Chairperson and member of the Rajasthan State Human Rights Commission shall be *ex-officio* visitors for all prisons and lock-ups situated in the State.
- (9) <sup>iv</sup>The Chairperson and members of the National Commission for woman / Rajasthan State Commission for Women shall be *ex-officio* visitors for all prisons and lock-ups situated in the State.

**Rule 2. Visits by official visitors** –The number of visits to be paid by official visitors in the year, Shall be unlimited, but shall not be less than three.

**Rule 3. Non-official Visitors, power of the Government of Rajasthan to appoint.-**

- a) The Government of Rajasthan may appoint for all prisons in the State non-official visitors. Their number shall ordinarily be six for each Central Prison, three for each district prison and two for each lock-up jail. These appointments shall ordinarily, be made on the recommendations of the <sup>v</sup>[Collector and District Magistrate of the District], in which the jail of lock-up is situated.
- b) No person who is unable to write an inspection note in his own hand shall be appointed non-official visitor of a prison.
- c) The Government of Rajasthan may also appoint two or more lady visitors to such prisons as accommodate females. Their duties will be regulated in the same way as those of the non-official male visitors but shall be confined to the management and well being of the female prisoners. They shall not issue any orders or instructions to the matron or female warders but will communicate their recommendations in writing to the Superintendent in a visitor's book kept specially for this purpose.
- d) The names of all non-official visitors appointed by the Government of Rajasthan shall be notified to the Rajasthan Gazette and communicated to the Inspector General and the superintendent of the jail concerned.

**Rule 4. Term of office and removal of non-official visitors:-**

- a) The term of office of non- official visitors shall be two years.
- b) The Government of Rajasthan may at any time without assignment any reasons therefore remove any non-official visitor, from the list of visitors. Any such removal shall be notified in the Rajasthan Gazette and intimation there of given to the Inspector General and the Superintendent of the jail concerned.
- c) The Government of Rajasthan may also on the recommendation of the <sup>vi</sup>[Collector and District Magistrate of the District] at any time direct that any non-official visitor shall not visit the prison for a specified period, if it is satisfied, that he is not using his visit for a, bonafide purpose or is using them for the furtherance of an unlawful or undesirable object.

**Rule 5. Roster for monthly visits.-** The <sup>vii</sup>[Collector and District Magistrate of the District] shall cause the names of non- official visitors for person situated in their <sup>viii</sup>[districts], who are not debarred from visiting a prison under sub-rules (b) and (c) of the preceding rule, to be placed on a roster and shall invite such visitors to make monthly inspections of the prisons of which they have been appointed visitors by turns in accordance with that roster. A visitor who is, for any reason, prevented from visiting the prison according to his turn in the roster may visit it in another month,

provided that he informs the Superintendent before hand of his intention to do so. A non-official visitor may visit the prison at any other time only with general or special permission of the District Magistrate.

**Rule 6. Duration of visits.-** A non- official visitor shall not visit the prison at any time after 4 p.m. and before sun-rise and shall not remain inside the prison for more than two hours at each visit, as a prolonged stay is likely to hamper the jail staff in their work. Non-official visitors are requested to avoid visiting the prison after 2 p.m. as such visits are likely to interfere with the locking up.

**Rule 7. Board of Visitors –**

- a) All non-official visitors of a jail except those debarred under sub-rules (b) and (c) of rule 4 shall be eligible to be on the Board of Visitors. A Board of Visitors shall be selected biannually by the <sup>x</sup>[Collector and District Magistrate of the District] amongst the official and non-official visitors of each prison and shall inspect the prison twice a year on dates to be fixed by the Superintendent in consultation with the president and members of the Board. The Board shall consist to two official and two non-official members, on of whom shall be nominated by the Chairman by the <sup>x</sup>[Collector and District Magistrate of the District].
- b) In the case of lock-ups not at headquarters, the Sub-Divisional Officer, City Magistrate, Extra Magistrate or Munsif Magistrate shall be the Chairman of the Board.

**Rule 8. Board meetings and additional visit by a visitor. –**

- a) A meeting of the Board of visitors shall be held once a quarter. At the first meeting in the calendar year, a roster of visits shall be prepared for the ensuing twelve months. This roster will permit of a monthly visit being made to each jail by a visitor, either official or non-official. In addition to every non-official visitor may, should be so desire, visit the prison once a month, at a time outside the prescribed roster, after giving due notice to the jail Superintendent. Should any visitor desire to pay more than one such visit, he shall be required to obtain the special permission of the Superintendent. All visits shall be made between the hours of opening and 4 p.m. visits will not be permitted on Sundays or on other holidays except between 8 and 10 a.m.
- b) A non-official visitor who is about to absent himself for a period of six months or more from the station where the prison of which he is a visitor is located, shall report the circumstances to the authority who has appointed him, in order that a substitute may, if

necessary, be appointed, and in the event of his failure so to report he, shall be regarded as having vacated office on the expiry of three months from the date of his departure.

**Rule 9. Visitors to be accompanied by a jail officer and an escort** – The Superintendent shall arrange that every visitor to the prison shall be accompanied by a responsible jail officer and by an escort which shall consist, at Central prisons of two warders, and at District prisons, of one warder, armed with batons.

**Rule 10. Names of visitors to be displayed.**- The Superintendent shall have a board hung up at the jail gate on which the names of all jail visitors official and non-official, as well as the roster for non-official visitors prepared by <sup>x</sup>[Collector and District Magistrate of the District and District], under rule 5, shall be noted and no person other than those authorized to visit a jail, shall be allowed to visit.

**Rule 11. – Duties of Visitors –**

- a) It is the duty of a visitor to satisfy himself the law and rules regulating the management of prisons and prisoners are duly carried out in the prison, in visit all parts of the prison and to see all prisoners, and to hear and inquire into any complaints that any prisoner may make to him. He may for this purpose talk to any prisoner out of the hearing but in the full sight of the officer accompanying him. Such conversation with prisoners shall not exceed twenty minutes in all during a visit. A list of questions indicating some of the points to which a visitor may direct his inquiries is appended to these rules.
- b) An official or non-official visitor may call for all books, papers and record other than those of a confidential nature which are connected with the administration of any department of the prison.
- c) No visitor may issue any order or instruction to any subordinate jail officer.
- d) The officer accompanying every visitor whether official or non-official shall inform him before entering the cook house that no portion of the prisoners ration shall be touched, but he can taste the food if he so desires.
- e) non-official visitors may not visit prisoners on hunger strike or prisoners who are ill and not allowed to be interviewed on medical grounds or those detained under the preventive detention Act.
- f) A non-official lady visitors shall confine her visitors only to the female section of the jail and shall not enter the male portion of the jail except when it is necessary to pass through it to reach the female ward.



- g) non-official or official visitors shall not, without the previous sanction of the Superintendent, hold conversation with any under trial who may happen to be their client or relation.

**Rule 12. – Inspection notes by Visitors –**

- a) There shall be only one visitor's books for the use of official or non-official visitors. The book shall on no account be removed from the jail premises.
- b) Every visitor shall, after he has completed the visits to the jail; record in the visitors, book prescribed by section 12 of the prisons Act, the date and hour of his visit, and may enter therein any remarks or suggestions he may wish to make with regard to the internal arrangements of the jail or the state of discipline maintained therein. But when a visitor considers that the sanctioned system of the jail administration requires modification in any particular or has any suggestions to make on questions of policy, he shall refer his opinion separately to the Inspector General and shall not discuss the subject in the visitors' book. Entries in the visitors' book shall be made in the visitors' own hand writing.
- c) The remarks recorded by the visitor in the visitor's book shall be treated as confidential and shall not be communicated to the prisoners or to anyone outside the jail. A visitor, so long as he retains his official connections with the jail, is precluded from giving publicity in the press or otherwise to matters connected with its administration.
- d) Should there be any complaints which a prisoner may make to a visitor about his own treatment or that of any other prisoner or about the conduct of any officer, or should the visitor himself observe any matter of which he feels notice ought to be taken, he should refer it to the Superintendent who is responsible for everything that occurs in his jail it is also open to the visitor if he so desires. To make a representation on the matter to the Government.
- e) The remarks recorded by a visitor in the visitor's book should include any complaint made to him by prisoner which in his opinion deserves notice. When the Superintendent is of opinion that a prisoner has made a groundless complaint to a visitor and should be punished he shall record a brief statement of the facts and note what punishment he proposes to award and send it to the visitor who if he dissents from the conclusion of the Superintendent, may request that the case be submitted to the Inspector General for orders. A copy of the Inspector-General's order will be communicated to the visitor who may then, if he thinks fit, address Government regarding the case.

**Rule 13. - Action on remarks of visitors –**

- a) The Superintendent shall at once forward a copy of the Inspection notes recorded by visitors in the visitors book through the District Magistrate and the <sup>39</sup>[Collector and District Magistrate of the District] to the Inspector-General who may if in his opinion it is necessary, forward the correspondence for the information and orders of the Government. A copy of orders (if any) of Government or the Inspector-general, shall be forwarded to the visitor through the Superintendent of the Jail.
- b) The Superintendent of the jail shall cause these orders to be copied into the visitor's book for the information of the visitors.

**Rule 14. Permission to enter jail for recording statement of prisoners.-** The Superintendent shall permit judicial and Magisterial authorities and also any person provided with a written order from the High Court, the Chief Court, the District Magistrate or the Sessions Judge, to enter the jail for the purpose of recording the statement of any prisoner.

The District Magistrate may specially authorize any officer named by him in writing to interview any prisoner for the purpose of obtaining information, which may lead to detection of crime.

**Rule 15. Visits by authorized persons.-** A person other than an official or non- official visitor may visit a jail if he has obtained the written permission of the Government of Rajasthan or is accompanied by or has obtained the written permission of the Inspector - General, <sup>xiii</sup>[Collector and District Magistrate of the District]. The District Magistrate or the Superintendent, visits by such persons may be made on any day between the hours of 7 and 11 am. This restriction, however , is not intended to prohibit the Superintendent from admitting persons whom he may wish to show round the jail at the other time.

**Rule 16 – Officers of PWD may enter jail during business hours –** The Superintending Engineer of this circle and the Executive Engineers of the District in which the jail is situated, together with their employment shall during business hours, have free access to the jail to the extent necessary for purposes connected with the discharge of their official duties.

**Rule 17. Admission of police officers to the jail and the interrogation of prisoners by them.-**

- (1) Any police officer of rank not lower than a Deputy Superintendent shall, for any purpose connected with the discharges of his duties as such police officer, be permitted to enter the jail at any time.

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<sup>39</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

- (2) Police officers of a lower rank than Deputy Superintendent who are in uniform and have been detailed for the duty shall be permitted to enter the jail for the purpose of recognizing old offenders, or for conducting operations for the identification of prisoners during work hours on any week day.
- (3) No police officer shall be permitted to interview any prisoner except in so far as may be necessary for the identification of such prisoner, without any order in writing from the District Magistrate or the District Superintendent of Police, addressed to the Superintendent of jail.
- (4) Any interview permitted under an order from the District Magistrate or the District Superintendent of police shall take place in the presence of the Jailor or other proper officer of a jail, who shall, if required to do so, keep at such a distance that he may not hear the conversation that take place.
- (5) The Superintendent of the jail shall, for the purpose of this rule, produce any prisoner in his charge whom the police are authorized to interview, and shall afford every reasonable facility for this purpose.
- (6) The Superintendent shall arrange that every visitor to the jail shall be attended by two warders armed with batons.
- (7) A person other than an official or a non-official visitor shall not, in the absence of special orders to the contrary, be permitted to put any question to prisoners or to make any enquiries either from officials or from prisoners concerning the discipline and management of the jail.

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<sup>i</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

<sup>ii</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

<sup>iii</sup> Added by Noti. Pub. By Gaz. Of Raj. Pt. IV-C, dt. 27.9.2001

<sup>iv</sup> Added by Noti. Pub. By Gaz. Of Raj. Pt. IV-C, dt. 22.7.2002

<sup>v</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

<sup>vi</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

<sup>vii</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

<sup>viii</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

<sup>ix</sup> Subs vide Home Deptt. Order No. F. 18(215) H.B./ Grop-11/57 dt. 10.1.1962

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