

CHRI 2011

RAJASTHAN'S PRISON VISITING SYSTEM

A Study of Role Perception and Role Performance of Non-official Visitors
in the Prison Oversight Mechanism



Commonwealth Human Rights Initiative

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

Commonwealth Human Rights Initiative

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INTRODUCTION

Prisons have always been closed institutions with many historical attempts to open them up, from being institutions of restraint and state vengeance to institutions for reformation. With their fortified physical structure and age old rules of management of punishment, prisons have been groomed as places of low visibility where inhumane conditions of neglect, abuse and torture prevail while the world remains ignorant of it. In order to prevent this, the state itself set up several supervisory mechanisms. The Prison Visiting System is one such mechanism by which people from community outside the prisons can be appointed by the government to enter the prison space and monitor the human rights situations inside.

In 1894, when the Prisons Act was constituted, it recognized the need to have a mechanism which would see to it that the basic human rights are not denied to prisoners. For the first time, the Prisons Act 1894 effected a need of non-government intervention in prisons in the form of Oversight Mechanisms.

Though the concept did not find place in the body of the main provisions of the Act, Section 59(25) of the Act empowered the State Government to make rules “for the appointment and guidance of visitors of prisons.” Through this originated the concept of Prison Visiting System which is functional in most states of the country. Visitors to the prison consist of Official and Non-official Visitors. Taken together, these visitors make up the Board of Visitors.

In 1919-1920, the first Indian Jails Committee was appointed to comprehensively study prison conditions and they devoted a whole chapter to the improvement of the system of ‘Visitors’ to the prison. In laying down certain guidelines for the appointment of both official and non-official visitors, such as selections should not be made solely on the ground of social position, wealth or political influence but on definite qualifications, the committee noted the value of prison visitors being impartial and independent in India. It stated that the “existence of non-official visitors is specially valuable [in] supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners.”²

1 The introduction has been inspired and drawn from various CHRI publications on Prisons

2 Indian Jails Committee Report 1919-1920

These recommendations have been affirmed by the Supreme Court in a free and independent India. For instance, in the Sunil Batra case³, the Supreme Court observed that the Board of Visitors is important for the protection of the rights of prisoners. It stated that the board, which includes judicial officers and people from varied social backgrounds and is vested with 'visitorial powers', could be an instant administrative grievance redressal mechanism to protect the rights of prisoners. ⁴

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The official visitors consist of persons who are members of the prison visiting system by virtue of the post they hold at that time. Non-official visitors, or NOV's, are people from the community appointed by the government for a period of two to three years and who are eligible for re-appointment. The selection, appointment, rights and duties of these visitors are different in different states and are all enlisted in the Prison Rules of the particular States. However, the actual

3 Sunil Batra (II) vs. Delhi Administration AIR 1980 SC 1579 Justice Krishna Iyer in his judgment emphasized on the supervisory role in prisons and in this context he also stated: "All institutions that hold people against their wishes need outside supervision, for, by definition, they lack the internal checks and balances that make such supervision unnecessary elsewhere. One can check out of a hotel if abused, but not out of a prison. Prison staffs, which, unlike hotel staffs, can also totally circumscribe the activities of inmates-have extensive coercive power that must be checked by an outside authority if it is not to be abused. While sharing the purposes of the penal system, the outside authority should be altogether independent of the management of the institutions it is to supervise and of its personnel."

4 The directions given in the Sunil Batra case were further reiterated by the Supreme Court in the Rakesh Kaushik case. The Court also emphasized the 'visitorial' role of the judiciary and directed that district magistrates and sessions judges should visit prisons on a periodical basis. It was further observed that part of their function was to acquaint themselves with the condition of tension, vice and violence and prisoners' grievances.

compliance with these rules remain vastly unmonitored and undermined in the various states. In Rajasthan, for instance, NOV's were appointed on Feb 7, 2011 after a gap of two years but the various aspects concerning their appointment, knowledge, performance and abilities to impact were largely unclear or unknown. The Government of Rajasthan has appointed a total of 150 NOV's in 62 out of 92 jails. This necessitated a survey of how the new NOV's perceived and performed their roles.

ORGANISATION OF THE REPORT: This Report is organized in five broad sections –

- I. Objectives, Scope & Methodology
- II. Analysis
- III. Conclusion
- IV. Recommendations and Suggestions
- V. Annexures

OBJECTIVES SCOPE & METHODOLOGY

CHRI conducted a survey of the prison visiting system in state of Rajasthan with a focus on the functioning of the external oversight mechanism of Non-Official Visitors therein. The objectives of this survey were (i) to gauge the realities of the Prison Visiting System vis-à-vis the norms specified in the Prison Rules on composition, criteria, performance, results; (ii) to assess the knowledge and efficacy of the people who are appointed to the post; (iii) to provide a baseline from where appropriate interventions could be judged and impact assessed; (iv) to identify possible areas of amendments to the Prison Rules for open and effective prison monitoring system; (v) to identify possible areas of recommendations to different stakeholders involved and responsible for making the External Oversight Mechanism in prisons of the state substantively effective; (vi) organize a workshop for the NOV's after assessing their level of knowledge of their rights and duties. Guided by these ends, the analysis of the survey findings will be used towards the rejuvenation of the prison visiting system, which, for lack of statutory compliance, for a long time now, has been all but defunct across India.

The analysis presented in this Report is the outcome of over 60 telephonic interviews conducted with people who have been appointed non-official visitors to jails in Rajasthan. The survey was guided by an interview schedule with a set of 33 questions to fulfill the above objectives.⁵ A total of 63 NOV's were interviewed and were drawn from 1 central jail (CJ), 6 district jails (DJ) and 22 sub-jails (SJ) in the state. These include the jails in the districts of Bharatpur, Baran, Dausa, Rajsamand, Tonk, Karoli, Pali, Banswara, Jodhpur, Jhunjhunu, Nagaur, Hanumangarh, Jalore, Chittorgarh, Dungarpur, Bhilwara.

The interview data was further corroborated with information obtained by CHRI from its filing of RTIs with the prisons in 24 out of the 33 districts in Rajasthan where NOV's had been appointed. The two enquiries the RTI focused on were the number of times the NOV's have visited prison and the number of times meetings of the Board of Visitors have been held.

There were 6 NOV's interviewed from the central jail of Bharatpur; 3 each from the district jails of Baran, Rajsamand, Tonk, Pali and Hanumangarh ; 3 from the sub jail of Rajsamand; 2 each from the district jails of Karoli, Banswara, Dausa,

5 Refer Annexure 1 for Interview Schedule.

and Jalore; 2 each from the sub jails of Atru and Chhabra in Baran district; Bandikui in Dausa district; Bali in Pali district; Jahajpur in Bhilwara district; Khtri in Jhunjhunu district; Parbatsar in Nagaur district; Bhadra in Hanumangarh district; Sanchole in Jalore district; Kapasan in Chittorgarh district; Sagwara in Dungarpur District; Gangapur and Gulabpura in Bhilwara district and 1 each from the sub jails of Sojat in Pali district; Falaudi in Jodhpur district and Shahpur in Bhilwara district.⁶

The survey took into account the following units of analysis as its scope -

1. Appointment and Selection Criteria
2. Board of Visitors
3. Prison Visits
4. Functions of NOVs - Power, Roles and Duties
5. Problems in Jails as Observed by NOVs
6. Comments in Comment Book
7. Other Comments of NOVs

The data presented in this Report has been analyzed and presented using the following structure for each unit of analysis mentioned above:

- a. Standards as per the Rajasthan Prison Rules, 1951 codified in the Jail Manual of the state
- b. Findings with regard to the telephonic interviews with the NOVs
- c. Highlights from the responses of particular NOVs
- d. Information from RTI responses wherever available

Assessing the limitations of some of the Prison Rules and comparing it with the recommendations of the Indian Jail Committee Report, 1919-1920, was a key part of the overall analysis.

6 See Annexure 2

ANALYSIS

CHAPTER III

1. Appointment and Selection Criteria

The Standards

The Rules regarding Appointment and Guidance of Visitors of Prisoners are laid down in Part 23 of the Rajasthan Prison Rules, 1951. Rule 3 and 4 lay down the appointment and eligibility criteria of NOVs. Rule 3 of Part 23 lays down the power of the Government of Rajasthan to appoint Non-official Visitors.

As per the rules, NOVs are to be appointed only in Central, District and lock-up jails. Rule 3 states:

- a) The Government of Rajasthan may appoint non-official visitors for all the prisons in the state. 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 or lock-up is situated.⁷
- b) For appointment as a non-official visitor, the person must be able to write an inspection note in his own hand.⁸
- c) The Government of Rajasthan may also appoint two or more lady visitors to such prisons as to accommodate females. Their duties will be regulated in the same way as those of the non-official male visitors but shall only be confined to the management and well being of the female prisoners.⁹ 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.¹⁰
- d) The names of all non-official visitors appointed by the government of Rajasthan shall be notified to the Rajasthan Gazette and shall also be communicated to the Inspector General and the Superintendent of the jail concerned.¹¹

7 Part 23 Rule 3 , Rajasthan Prison Rules, 1951

8 Part 23 Rule 4, Rajasthan Prison Rules, 1951

9 Part 23 Rule 3, Rajasthan Prison Rules, 1951

10 See Rule 12

11 Part 23 Rule 3, Rajasthan Prison Rules, 1951

Rule 4 lays down the Term of office and removal of Non-official Visitors

- a) The non-official visitors shall be appointed for a period of 2 years.
- b) The Government of Rajasthan may remove any non-official visitor, from the list of visitors at any time without assigning any reason¹², and such removal shall be notified in the Rajasthan Gazette, the Inspector General and the Superintendent of the Jail concerned shall be informed about the same.
- c) If the Collector or the District Magistrate of the District recommends, the Government of Rajasthan may direct a non-official visitor to abstain from visiting the prison for a particular amount of time if it is found that he is using his visitation rights for the furtherance of some unlawful or undesirable object and not for a bonafide purpose.

The Findings

Rajasthan houses a total of 92 Central, District and Sub-Jails - 8 central jails, 25 district jails and 59 sub-jails. Till the time of the interviews done in October 2011 NOVs in 30 prisons across Rajasthan still remained to be appointed.¹³

No. of CJs where NOVs have not been appointed	5
No. of DJs where NOVs have not been appointed	4
No. of SJs where NOVs have not been appointed	21
Total	30

No. of CJs where NOVs have been appointed	3
No. of DJs where NOVs have been appointed	21
No. of SJs where NOVs have been appointed	38
Total	62

The 62 NOVs interviewed were drawn from 1 central jail, 6 district jails and 22 sub-jails in the state. Three of the NOVs appointed and interviewed were women.¹⁴

- * The interviews with the NOVs seemed to reveal that no fixed criteria for the appointments had been applied.

12 Part 23, Rule 4, Rajasthan Prison Rules, 1951

13 The names of jails where NOVs have been appointed and not been appointed are available in Annexures 2 and 3, respectively.

14 Pali, Bhadra, Shahpura

- * The appointment of most of the NOV's was made on grounds of their political affiliations. None hesitated in asserting that it was their political affiliation that had played a role in their appointment.
- * Most of the NOV's were first time appointees but 7 NOV's were second and third term appointees. This was a cause of worry as the eligibility and evaluation criteria for a second or third term of appointment were not laid down in the Prison Rules.
- * None of the NOV's seemed to have been approached through any official process or letter to seek their consent. Also, no exchange of documentation took place. They had simply received appointment letters from the Rajasthan government or DM's office or from the concerned jail. Some also received letters of appointment from Sub-Divisional Officer's (SDO) office or Police Commissioner's office.
- * The survey findings indicate that the absence of a set criterion has led to politically influenced appointments. Amongst the people interviewed, 5¹⁵ of them stated that the Jail Minister had recommended them, and also asserted that he was either a friend or a relative or a classmate. About 16 of them stated themselves to have been recommended by the local MLA. For instance, all the NOV's in Baran district turned out to be Congress Party members, though 2 of the interviewees from Banswara and Dausa claimed to have been recommended by the MP because of their interest in "social work", a term loosely defined as including being a political worker or being active in the community.
- * The appointments seemed to have been made without taking into consideration either the qualification or the capability.
- * Though the people interviewed included NOV's appointed for sub-jails, it was witnessed with concern that the Jail Manual does not mention anything explicitly about NOV system in sub-jails, where larger numbers of undertrials are presumed to be housed, but just central, district and lock-up jails.

Political and Other Affiliations of NOVs

I am a faithful Congress worker

I was an NOV five years back. I am an NOV again now as Congress is back in power

I am close to Ram Kishore Saini, the Jail Minister

I am an illiterate fruit seller and a Congress worker

MLA is just like my elder brother and Jail Minister was my classmate

These things happen with political connections only. The Police Superintendent is my friend. He recommended my name and then I gave the names of other two NOVs

I am a well known person and a social activist for the last 20 years

- * None of the NOVs were appointed based on their interest or knowledge in prison related matters as demanded by the recommendations of the Indian Jail Committee (1919-1920). Most of the appointed NOVs have contested elections earlier, or they are Ex-MLAs, former and present chairpersons or members of local self government bodies such as Zila Panchayats, Municipal Corporation and office bearers of the Youth Congress. The survey revealed that political considerations are what dominantly determined the NOVs to be appointed in jails for as many as 20 of the interviewees were found affiliated to the ruling party.
- * 2 advocates in the survey sample from Jalore and Bhiwara claimed to visit the jail frequently to meet clients. However, as per Rule 11(g) of Rajasthan Prison Rules, 1951, non-official or official visitors shall not, without the previous sanction of the Superintendent, hold conversation with any undertrial who may happen to be their client or relation. In this respect, if people claimed that they are NOVs and they visited jail frequently to meet clients, it violates the norms set in the Rules.
- * Other people interviewed consisted of businessmen or industrialists who also hold presidential or vice-presidential positions in NGOs like Lion's Club, Rotary Club, Red Cross Society, heads of non-profit organizations, advocates, social workers.
- * Around two people appointed were Muslims¹⁶
- * As regards educational background of NOVs, the survey revealed an illiterate

16 Falaudi, Kapasam

fruit seller amongst the interviewees. Rule 3(b) of the Rajasthan Prison Rules, 1951 states that for appointment as a non-official visitor, the person must be able to write an inspection note in his own hand. In this case appointing an illiterate person definitely goes against the provisions set in the law. It seems that his political connections to the ruling party determined his appointment.

- * The Rajasthan Prison Rules, 1951 does not mention any specific criteria for appointment of NOVs, such as educational or social background, apart from the fact that they should be able to write an inspection note in their own hand. Rule 11 of the Prison Rules on the functions of NOVs, however, where it states that the visitor must be aware of the law and management regarding prisons and see that they are being complied with, indirectly points to a knowledge criteria for eligibility. The Indian Jails Committee 1919-1920 Report had also made substantive recommendations in this regard, that a person selected for the position of a NOV should be chosen on the grounds of definite qualifications such as an interest in prison matters or other social work, or ability and willingness to assist in finding work for prisoners on release. The Prison Rules being silent regarding the socio-economic background of the NOVs limits the socially inclusive character that a prison visiting system should appropriately have, with representation from minority communities, underprivileged and discriminated sections.
- * The study observed that the powers under Rule 4 for removal of NOVs by the government seem wide and arbitrary, quite detrimental to democratic functioning of an open prison management system.
- * On the whole, the survey indicates that the appointment of NOVs has become a suitable means for the government to appease its friends and associates.

2. Board Of Visitors

The Standards

- a. The Board of Visitors consists of both official and non-official prison visitors. In 1983, the Mulla Committee Report recommended that there should be a Board of Visitors constituted for each central and district prison consisting of: Chairperson, who is either the District and Sessions Judge; and Members who will be selected from the members of the state legislature, District Magistrate, District Superintendent of Police, Civil Surgeon, Executive Engineer of

Public Works Department, District Education Officer, District Public Health Officer, District Agriculture Officer, two lady social workers. The Model Prison Manual, 2003 also recommends a similar constitution of the Board of Visitors as given in the Mulla Committee Report.

- b. Rule 7 of the Rajasthan Prison Rules 1951 requires that a Board of Visitors¹⁷ be selected biannually by the Collector and District Magistrate of the District from amongst the official and non-official visitors of each prison and that they inspect the prison twice a year on dates to be fixed by the Superintendent in consultation with President and Members of Board.
- c. The Board shall consist of two official and two non-official members, as per Rule 7, one of whom shall be nominated Chairman by the Collector and District Magistrate of the District. In case of lock-ups that are not at headquarters, the Sub-Divisional Officer, City Magistrate, Extra-Magistrate or Munsif Magistrate shall be made Chairman of the Board.¹⁸
- d. All non-official members are eligible to be a part of the BOV if they have not been removed from the list of visitors by the Government of Rajasthan.¹⁹
- e. Rule 8 requires for a meeting of Board of Visitors to be held once a quarter. At the first meeting in the calendar year, a roster of visits is to be prepared for the ensuing twelve months. The roster will permit of a monthly visit being made to each jail by a non-official visitor. In addition to this, every non-official visitor may, if he/she desires, visit the prison once a month, at a time outside the prescribed roster, after giving due notice to the Jail Superintendent. If the visitor desires to, he shall be required to obtain the special permission of the Superintendent.

The Findings

- * From the interviews it seemed that the BOV has not been constituted in any of the Jails where the interviewed NOVs were appointed. Except for 2 NOVs,²⁰ none amongst the 65 interviewed, had even the slightest idea about what a Board of Visitors was and who all were or could be a part

17 Hereinafter BOV

18 Part 23, Rule 7, Rajasthan Prison Rules, 1951

19 Part 23, Rule 4 (b) & (c)

20 Bandikui and Jahajpur

of it. Only the above two had heard the term BOV. However they did not know anything about the composition, duties of the BOV. This reflects the sluggish attitude of prison administration and lack of will to bring about improvement in prison conditions.

- * As far as knowledge of other NOVs in the area and communication with them was concerned, most of the NOVs asserted they knew the other people appointed as NOVs but through means other than information from the government or the Jail Department. Along with their letter of appointment they had been given a list of other NOVs appointed in the jails of the state of Rajasthan from which they realized that they knew many of them. The reason was attributed to being a small community where people generally knew each other. They had either gone to the same school or were family friends. Some of them worked for the same party or were members of the same club. Two of them²¹ said that they knew other NOVs and had even visited prisons together. However, as per our interview, their claims were contradictory to each other.

NOVs Relationship with Each Other

I know all of them very well. They are also party members

We are sitting together at this very moment. We both are businessmen. We reside in the same area

We both are lawyers and keep meeting in the court too

- * Further, they had no knowledge of any criteria or circumstance that would render them ineligible in continuing with their role of NOV or call for their removal during their appointment.
- * The survey witnessed that though the appointed NOVs knew each other, met informally, as friends or members of a professional or business community, there did not seem to be any meetings of them together, as officially required, where they would actually decide how to carry out their duties as NOVs, let alone the responsibilities of being part of a Board of Visitors.

21 Bharatpur

- * The information made available through the RTIs filed stated that apart from DJ Banswara, where BOVs have met twice, no other jail has had any meetings. In the two central prisons of Bharatpur and Kota where NOV's have been appointed the situation was no different. However, from the telephonic conversations, apart from 1 NOV from SJ Jahajpur who said he knew what a BOV was, no one had any clear idea about what it was. This raises a doubt whether the Jail authorities truly knew what a BOV actually is. The responses have been listed in the following table.

S. No	Name of District	No. of Meetings of BOV
1	Banswara	2
2	Baran	0
3	Barmer	0
4	Bharatpur	0
5	Bhilwara	0
6	Bundi	0
7	Chittorgarh	0
8	Churu	0
9	Dausa	0
10	Dholpur	0
11	Dungarpur	0
12	Gangapur City	0
13	Hanumangarh	0
14	Jaisalmer	0
15	Jalore	0
16	Jhunjhunu	0
17	Jodhpur	0
18	Karauli	0
19	Kota	0
20	Nagaur	0
21	Pali	0
22	Rajsamand	0
23	Sirohi	0
24	Tonk	0

3. Prison Visits

The Standards

As per the Rajasthan Prison Rules, 1951 -

- h) The Collector and District Magistrate of the District shall cause the names of non-official visitors for prisons situated in the district, 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.²² If a NOV cannot visit the prison as per his turn in the roster, he may do so in another month but only if he informs the Superintendent beforehand.
- i) A non-official visitor may visit the prison at any other time only with general or special permission of the District Magistrate.²³
- j) A non-official lady visitor shall confine her visit only to female section of the jail and shall not enter the male portion of the jail.²⁴
- k) A non-official visitor shall not visit the prison at any time after 4 pm and before sunrise 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.²⁵
- l) 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.²⁶

The Superintendent shall have a board hung up at the jail gate on which names of all the jail visitors, official and non-official visitors, as well as the roster for non-official visitors prepared by the Collector and District Magistrate of the district, under rule 5, shall be noted.²⁷

22 Part 23, Rule 5, Rajasthan Prison Rules, 1951

23 Part 23, Rule 5, Rajasthan Prison Rules, 1951

24 Part 23, Rule 5, Rajasthan Prison Rules, 1951

25 Part 23, Rule 6, Rajasthan Prison Rules, 1951

26 Part 23, Rule 9, Rajasthan Prison Rules, 1951

27 Part 23, Rule 10, Rajasthan Prison Rules, 1951

The Findings

- * From the interviews, the average number of visits per person was assessed to be ranging from 2 to 10 visits in the period of their appointment. Around 20 of them had made 1 or 2 visits to the prisons. About 23 NOVs have visited the jail more than 2 times since appointment. Around 11 of the NOVs had never visited the jail in official capacity.
- * Only 2 people claimed to have made 10 visits to the prison.²⁸ One NOV from Rajsamand district claimed to have made 60-70 visits to the prison in a year, almost all of them being surprise visits. The other NOV from Rajsamand claimed to have made 10 to 12 visits. Out of the 4 NOVs from Baran district, two had never visited the jail and the other two had done an average of 3 visits since being appointed. In Hanumangarh, out of the 5 interviewed, one NOV had never visited the jail even once.
- * 11 people claimed to have made surprise visits though the rules in the Jail Manual do not permit so.²⁹ NOVs from Bandikui and Hanumangarh claimed that they always make surprise visits. The rules remind that the Superintendent be informed beforehand in case any NOV decides to visit the prison on a day other than the one allotted to him for this purpose. Here it was discovered that the rules fell short of the NOVs' enthusiasm in certain cases. However, 60-70 visits to the prison in a year is an unduly high number and does not seem to be mandated by the norms set out in the rules.
- * The time spent by NOVs in jails per visit also ranged from as short 10-15 minutes to 1-2 hours. The frequency of visit of the NOVs was dependent entirely on the personal interest and willingness of the person concerned rather than an understanding of duties and obligations.
- * 6 NOVs had only visited on special occasions like Holi, Diwali, Rakshabandhan, 15 August and 26 January to distribute sweets.³⁰ 2-3 of

28 Dausa and Rajsamand

29 Baran, Atru, Dausa, Bandikui, Rajsamand, Pali, Khetri, Parbatsar, Hanumangarh, Sanchore, Bhilwara

30 Hanumangarh, Jalore

them have visited the jail prior to their appointment on behalf of the NGOs they are associated with.³¹

- * Except in a few cases where NOV's informed the jail staff in advance before a visit, all other NOV's made surprise visits to the prisons without giving any prior information to jail staff about their visit.
- * 30 of them asserted that the jail staff was cooperative. Only 4 complained of the uncooperativeness of the staff.³² One from Chittorgarh even said that he complained against the staff once when they refused to cooperate. Around 2 of them complained that visiting prisons is seen upon as a hindrance by the jail staff to their work and therefore they do not cooperate.³³ This attitude of prison staff makes the NOV's feel that it is better to avoid visiting such jails.
- * The visitors seemed to take it as a matter of pride and fun to visit the prison on festivals and special occasions rather than visiting the prison as their duty to monitor the prison conditions. Almost 90 per cent of the NOV's interviewed said they visit jails on special occasions.
- * The tabulation of the RTI information from the jails of 24 districts on the number of times NOV's have visited prisons revealed the following:

In most districts the jail authorities sent back replies giving the total number of visits by the NOV's. Only in Rajsamand the reply lists the total number of visits individually by each NOV. Apart from Banswara, Bhilwara, Dausa and Rajsamand, the RTIs make it clear that no NOV has ever visited the prisons. This includes the central jails of Bharatpur and Kota. Also, the NOV who claimed to have made 60-70 visits to the prison was found to have made only 7 visits and the one who claimed to have made 10-12 visits had actually visited the prison 5 times. The discrepancies in the responses from the telephonic interviews and the RTIs may be due to the fact that the NOV's were, in fact, embarrassed to admit that they have not really done anything substantial for the prison and the prisoners and hence have made false claims.

31 Jalore, Hanumangarh and Bali

32 Bharatpur (2), Baran, Jalore

33 Bharatpur

The data received on NOV visits from the RTIs is tabulated below:

S. No	Name of District	No. of Meetings of BOV
1	Banswara	1 (same day of 2 nd BOV meeting)
2	Baran	0
3	Barmer	0
4	Bharatpur	0
5	Bhilwara	2
6	Bundi	0
7	Chittorgarh	0
8	Churu	0
9	Dausa	2
10	Dholpur	*
11	Dungarpur	0
12	Gangapur City	0
13	Hanumangarh	0
14	Jaisalmer	**
15	Jalore	0
16	Jhunjhunu	0
17	Jodhpur	0
18	Karauli	0
19	Kota	0
20	Nagaur	0
21	Pali	0
22	Rajsamand	Nov 1- 7 visits Nov 2- 5 visits Nov 3- 0 visits
23	Sirohi	1
24	Tonk	0

* the response that has come is about the number of NOV's that have been appointed and not the number of times the jail has been visited.

** awaiting reply from first appeal.

Prison Experiences of NOVs

Jail is near my home. I go there daily when I go for a morning walk and say hello to jail staff

I spend one hour at least in the jail. Baith ke chai paani peete hain

I visit jail every Holi and Diwali to distribute sweets and blankets

I don't go as I may not get the proper response in jail

It's a jail, not a police station where you can go anytime

4. Functions Of NOVs - Powers, Roles And Duties

The Standards

Rule 11 of the Rajasthan Prison Rules, 1951 enlists the duties of the visitors to the prison. The mandates under Rule 11 are as follows:

- a) The visitor must be aware of the law and management regarding prisons and see that they are being complied with. He must also visit all parts of the prison and talk to the prisoners and enquire about their problems and while doing so he can talk to the prisoner in private but in full view of the office occupying him. This should not extend beyond 20 minutes.³⁴
- b) A visitor may also ask for any books, papers and record concerned with administration of any department of the prison other than those of confidential nature.³⁵
- c) Visitors must not issue any order or instruction to any subordinate jail officer.³⁶
- d) The visitor also cannot touch any portion of the prisoners' ration in the cook house, but if he wants, he may taste the food.
- e) Non-official visitors should not visit prisoners on hunger strike or prisoners who are ill and cannot be interviewed on medical grounds and also prisoners under Preventive Detention laws.

34 Rule 11(a)

35 Part 23, Rule 11, Rajasthan Prison Rules, 1951

36 Part 23, Rule 11, Rajasthan Prison Rules, 1951

- f) A female non-official visitor shall confine her visits to the female section of the jail.
- g) Non-official visitors shall not hold conversation with any under trial, who may happen to be their client or relation without the previous sanction of the Superintendent.³⁷

The Findings

- * There is no mechanism to ensure the accountability of visitors. No NOV interviewed was aware of his duties. One NOV from Hanumangarh was aware of the law that they can complain if the Jail Authorities were not cooperative. One of them from Jahajpur expressed surprise when he was asked if he has spoken to prisoners. They thought that it is better if they do not trouble the prison staff and let them do their work. They all were boastful of their political influences. No one apart from 7 people put down comments in the visitor's registers, where the visitors are supposed to put down their experiences after each visit as per Rule 12 (b) of the Prison Rules.
- * One of the NOVs from Baran mentioned that the Jailor asked him to write down good things about him in the book. Meeting with jail officials and having tea seemed to be the agenda of their visits. Certainly the welfare or rights of prisoners was not uppermost on their minds.

Role Perceptions of NOVs

The prisoners feel good when someone talks to them about their problems

I am not allowed to meet prisoners personally. Please tell me, am I? I will go now and talk to the inmates

I have influence there. No one can dare to say anything to me. Jail Minister appointed me

Soon I will make a program to visit the jail and tell you about the jail

The reflections on the survey findings noted the judgment made in the case of *Ranchod vs. State of Madhya Pradesh*³⁸ pertaining to the duties of the visitors to the prison. In the above case an inmate of the Central Prison of Indore had

37 Part 23, Rule 11, Rajasthan Prison Rules, 1951

38 ILR[1988]MP666

died of utter negligence on the part of prison administration and the medical staff posted there. A letter written by two co-inmates of the deceased was admitted by the High Court of Madhya Pradesh as a writ petition and was decided by Justice V.D.Gyani and Justice B.B.L Shrivastava. Justice V.D. Gyani said:

“This letter petition brings into sharp focus and throws light on many other ills besetting the system. Do our District and Sessions Judges, who are ex-officio visitors to the Jail within their respective jurisdiction, the Director of Health Services, the Civil Surgeon or Medical Officers, the representatives of people representing particular urban or rural constituency in the State Legislature and the non-official visitors, as appointed under Regulation No. 815 of the Jail Manual, do they satisfy themselves that the law, rules regulating the management of prisons and prisoners are duly carried out. Their duties are enumerated in Regulation No. 817 of the Jail Manual. They can call for and inspect any book or other record in the Jail. Have they regularly visited the Jail so as to apprise themselves of the genuine problems the prisoners are facing and their grievances, the non-official visitors to the Jail, appointed by the State Govt. have they justified their appointment by getting themselves acquainted with the prisoners problems and making efforts for amelioration of their lot, within the framework of the Jail Manual itself.”

This judgment highlights the responsibility with which non-official visitors, along with ex-officio visitors, should perform their duties vis-à-vis prison management and the problems of prisoners.

5. Problems In Jails As Observed By NOVs

The Standards

The Rajasthan Prison Rules prescribes 29 subjects that should receive the attention of the visitors. These include: Building, Overcrowding, Drainage, Water Supply, Food, Clothing, Bathing, Labour, Remission, Punishment, Discipline, Habituals, Undertrial Prisoners, Lunatics, Female Prisoners, Juveniles, Adolescents, Cells, Appeals, Garden. This is enclosed in detail as Annexure 2.³⁹

The Findings

Around 25 per cent of the NOVs did not write down comments and 3-4 of them mostly from Bharatpur and Jahajpur seemed to be under some political pressure to insist that everything was fine in the jails. One of them from Bharatpur even

39 Part 23, Rajasthan Prison Rules, 1951

said that he reports directly to the Jail Minister. This attitude raises concerns that duties are forgotten in the game of power.

Although the NOVs had no proper knowledge about the complete list of items to be looked into or the issues that should receive their attention, a few proactive NOVs who visited jails described the common complaints and problems they came across.

- ❖ **Living Conditions:** Common complaints included poor quality food, not getting food or tea on time. In some jails, prisoners have to cook food on wooden logs. Some of the buildings are very old with no ventilation. They need to be repaired. The water supply is not proper in many of the sub-jails. There is shortage of potable water. Also, there is not enough water in toilets. The toilets are really in bad condition in some of the jails. There are no fans or TV in many of the jails. The NOV from Sub Jail, Pali was annoyed at pathetic conditions in this jail where water comes once in 5-6 days and there is little water for bathing or the toilets. Around 6 NOVs said that there is a problem of food in different jails⁴⁰. But around 7-8 of the NOVs said that the food was fine.
- ❖ **Overcrowding:** Overcrowding in the jails is also a problem. Four NOVs from 3 different prisons complained about overcrowding. This included the jails of Bali, Banswara and Chittorgarh.
- ❖ **Prison Conditions:** The behavior of jail staff with the families of inmates is a related problem that emerges from the survey. One of the NOVs from DJ Tonk revealed that the jail staff trouble the families of convicts and ask for money. They also take away some items sent for the inmates by their families.

Dangerous criminals in jails are also a source of intimidation and threat for other inmates; they have become monitors in jail and ask for money from other inmates. This was apparent from the comments of a NOV from Hanumangarh.

The children of women prisoners were found to suffer the punishment unnecessarily. One of the NOVs expressed his concern about how children also have to be in jail with their mothers. There are not adequate enough medical facilities in Jhunjhunu jail. Sick prisoners do not get proper medicines due to shortage.

- ❖ **Production before Court:** As mentioned by the NOV from the jail, in jails like Hanumangarh which are far away from courts, prisoners who leave early

40 Dungarpur, Bharatpur, Baran, Pali.

for their production in courts and come back late in the evening, have to survive without food the whole day. Similarly, if a prisoner is granted bail on a particular day, he is released only after one day because the orders reach the jail after one day. Hence the prisoner has to spend an extra day in jail.

- * Follow-up: There were only 2 NOVs who followed up to check what was done regarding their observations on prison conditions they put down in the visitor's book for action. Several felt that they could not interfere with the tasks of jail authorities⁴¹, thus proving again that they had no clear idea of their role as visitors.⁴²

On the whole, it was clear from their responses that the NOVs could see what was wrong, would have liked to have helped but did not know how to go about improving things or assisting prisoners with their rights. They also were not aware of their duties regarding undertrials, lunatics and woman prisoners.

41 Bharatpur, Jahajpur

42 Dausa, Bandikui

NOVs' Observation of Problems

I know all the problems there. But I don't know what to do, how to do

Prisoners have to spend the period of their sentence in jail, and we can't interfere with the working of jail authorities

Human rights of a prisoner should be guaranteed even if he is in jail

Many people languishing in jails are innocent

The prisoners have more personal problems rather than problems of food or water

There are some problems like strikes and prolonged trial that we can't help

A complete overhaul of prisons is needed. Mobile phones, liquor, drugs and almost everything is available inside provided you have money

I am always ready to do something to improve the lives of convicts so that they don't come to jails again

People are not criminals by birth or nature. I request them to become good people and think of their families

I am 79 years of age. I have all the experiences but I feel pain when nothing happens

6. Comments In Visitors' Book

The Standards

- * Rule 12 of the Rajasthan Prison Rules, 1951 says that there shall be only one visitor's book for use by both official and non-official visitors. This has been prescribed by Section 12 of the Prisons Act . Every visitor shall put in record the date and hour of his visit, and may also write down any remark or suggestion he may wish to make with regard to the internal arrangements of the jail or state of discipline maintained there. But if a visitor considers that the sanctioned system of the jail administration requires modification in any particular way or has any suggestions to make on question of policy, he shall refer his opinion separately to the Inspector General and in that case, shall not discuss the subject in the visitor's book. The visitors must write in the book in their own handwriting and the book should, on no account, be removed from the jail premises.

- * Rule 12 also provides that the remarks which are recorded by the visitor in the visitor's handbook shall be treated as confidential and shall not be communicated to the prisoners or to anyone outside the jail. As long as a visitor retains his official connection with the jail, he is precluded from giving publicity in the press or otherwise to matters connecting with its administration. If there are any complaints which a prisoner may make to the visitor about the way he or any other prisoner is treated or about the conduct of any official or if the visitor observes some matter for which he feels he should take some action, he should refer it to the Superintendent. He may also make a representation to the Government if he desires.
- * The visitor shall make such remarks in the book which, in his opinion, deserves notice. If the Superintendent is of the opinion that the prisoner has made a groundless complaint, he can punish the prisoner. For this he shall record a brief statement about the facts and what punishment he proposes to award and send it to the visitor. If the visitor dissents from the conclusion of the Superintendent, he may request the case to be submitted to the Inspector-General (I.G). The visitor shall also be given a copy of the I.G's order. If he is not happy with it, he may address the Government regarding the case.
- * The Superintendent shall forward a copy of the Inspection notes recorded by the visitors in the visitor's book to the Inspector-General through the Collector and the District Magistrate. If the I.G. finds it necessary, he may 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. The Superintendent of the jail shall also cause these orders to be copied in the visitor's book for the information of the visitors.

The Findings

- * Though the manual requires the visitors to record any complaint by inmates or suggestions to improve the condition of prison and prisoners, most NOV's did not seem to know about the comment book or what they had to look for and write about in a comment book. Only 7 NOV's had ever written any comments. Those who had written the notes in visitor's book said that the staff does pay attention to what they have written as they have influence in the area. Others said that the budget is a problem, and the jail authorities would do the needful if they had money.

- * Most of the jails have no visitor's book to maintain any kind of record. They have never asked any visitor to enter their remarks or suggestions even if they have one. One of the NOVs from Naguar shared that he even asked jail authorities whether they maintain any register but they had nothing to record details of his visit. Two NOVs after talking to CHRI said that they would maintain their own diary of records from then on. It was encouraging to find out that even though the rules prohibit any information from being given to the press, one of the appointed NOVs from Khetri was a reporter with the Rajasthan Press. He also said that though he had never written any comment but he was investigating about the matter of jail staff taking money from prisoners' families when they come to meet the prisoners.
- * The interviews disclosed that no complaint had been taken up by the Superintendent or IG as most NOVs did not know about the visitor's book. Though the NOVs have identified problems, the complaint mechanism does not seem to be working very effectively. Hardly 2-3 NOVs took up complaints actively at the level of the Superintendent or higher.

Recording & Reporting

I am appointed as an advisor; I don't feel like writing in the log book
 Jailor once asked me to write good things about him in the log book
 I don't need to write anything, I sort out all the problems there only
 I don't comment in the book, I talk to the Jail Minister directly
 I will maintain my own diary from now on

- * One of the reflections on the survey findings was that the visiting system was crippled not only by the lack of knowledge of the NOVs but also the closed nature of prison management that blocks visitors from discussing or disclosing policy issues and problems with public and press using the confidentiality measure. The analysis of the policy provisions on the visitors' complaint and suggestion system reveals that Rule 12 of the Prison Rules obstructs a transparent prison management system which should work in the best interests of both prisoners and public. This goes seriously against some of the rights declared under the right to information act.

- * Further, provisions under sub-rule(e) of Rule 12 of the manual regarding the powers of the Superintendent to punish any prisoner who he thinks has made a groundless complaint goes against the spirit and purpose of the NOV system which is intended to receive and act on prisoner complaints. The vigilant tasks of the NOVs can be easily undone by the Superintendent. The centralized powers of the Superintendent in this regard can easily be misused as there is no external authority evaluating the merit of the prisoner's complaint or the NOV's documentation of the same in the visitors' book.

7. More Comments of NOVs

NOVs don't know anything. They are just happy that they have got a position

I don't even know ABCD of what has to be done, I am waiting for training

I am capable of doing good things but don't know what to do

We don't know anything. Please take initiative. Can I walk around the prison, tell me

I have seen injustice in the prisons. But I want to know my role

I have done what I could with my own personal experience. Government is giving us responsibility, but at least they should tell us our rights and duties

I can spare as much time as possible for training

I will definitely come to attend the meeting; I am always ready for all such functions

Training would be a good opportunity for me. I want to listen to your experiences

I will tell you more in the training. There are many things I want to tell and share

I am 76 years of age and I am not in a state to take any type of training

The system is a complete failure. But if we go together, we can make a difference

CONCLUSION

In spite of there being a legal mandate and recognition by the courts, the system of prison visitors as independent observers of prisons and prisoners still remains quite passive in its functioning and almost non-existent in most states with the majority of representatives being quite oblivious to prison conditions, which continue to be appalling.

For various structural and eligibility reasons, non-official visitors are not considered as credible functionaries. As discussed earlier, most of the appointments seemed to be political. Most NOVs accepted that their appointments were intended by way of small reward for being faithful party workers. Visitors have not been appointed to most prisons while in some penal institutions the appointed visitors hardly consider their duty to be worth performing. Boards of Visitors, one for each jail, have not been constituted. This fact was validated by CHRI's RTI sought information from the respective jail authorities. Moreover, as evidenced from the interviews, the system of prison visitors is still considered by the prison staff as an unnecessary intrusion in their work, and non-official visitors reduce their functions to a mere clerical formality in the absence of any accountability. The RTI applications filed have clearly showed prison visits by NOVs to be practically non-existent, except in a few prisons. The attitude of prison personnel, structural deficiencies combined with the neglect of responsibilities on the part of visitors, has rendered the prison-visiting system ineffective.⁴³ The findings from CHRI's RTI process clearly indicate that the appointees need to be made truly functional and so also the Board of Visitors.

When CHRI talked to the NOVs, very few seemed to know what their rights and duties were. NOVs who were advocates said that they have gone through the Jail Manual but were not really aware of what they should do. Yet they also felt themselves to be people with powerful connections with potential to make changes or improve the system if given any encouragement or knowledge. It was evident from the way the NOVs spoke that jail staff could be bypassed and things could get done through the party connections they had. While this can be interpreted as a show of power, they also seemed eager to learn about their rights and duties and how they can bring about some change in the living conditions of the inmates.

Even the small intervention CHRI made in talking to them on the phone led many

43 The Prison-Visiting System in India: Protecting Prisoners' Rights on Paper but Not in Practice. See <http://www.hrsolidarity.net/mainfile.php/2005vol15no05/2450/>

to ask questions about what was expected of them and others to immediately say they would make more visits or talk more to the prisoners. They all admitted that there has not been one single meeting since they received their appointment letters and no one has intimated them about what should be done by them.

It was clear that with a little encouragement they were willing to learn more and be more active in their role. All the appointees, apart from 3, seemed eager to learn about their duties and were in favor of a workshop in this regard. Two of them were political party workers, and the third an LIC agent and social activist did not seem very happy with the idea of a training workshop and were of the opinion that they need no training as they knew what to do though they had never read the manual and had never written anything in the visitor's book. Both were of the opinion that the prison department was doing very well. It is interesting to note that the LIC agent is the same NOV who claimed to have visited the prison 60-70 times and said he could get anything done.

All the other NOVs were very happy with the idea of a role-training workshop for them. They wanted to know the date and venue of workshop and wanted that the same should be intimated to them at least a week or two before the workshop. The interviewees pointed to the rights and duties of NOVs, rights and duties of prisoners, the government rules related to their appointment, and what they could do for the welfare of prisoners, as some of the things they wanted to learn in the training workshops. Some NOVs wanted the jail authorities and Jail Minister to be present during the workshop.

Thus, from the mandate given to NOVs in the Jail Manual, the recommendations given by the Prison Reform Committees, the enthusiasm displayed from the reactions of the NOVs in Rajasthan and their eagerness to learn and make a change in the Prison Management System in India, there is hope that the Prison Visiting System can be a powerful mechanism in the development of a multiple oversight mechanism in the prisons of various states in India, in general and the state of Rajasthan, in particular.

RECOMMENDATIONS AND SUGGESTIONS

The Prison Oversight Mechanisms needs to be revitalized to make it an effective oversight mechanism for bringing about prison reforms. The report places recommendations for the three sets of stakeholders involved in the prison visiting system.

Recommendations for the Government

1. NOVs should be appointed in all prisons at the earliest.
2. The Rajasthan Prison Rules, 1951 does not mention explicitly any appointment in sub-jails. This needs to be rectified as sub-jails are the places where most under trials are imprisoned. More NOVs should be appointed in these sub-jails.
3. The educational qualification for a person to be eligible for appointment as non-official visitor of a person should be clearly specified in the jail manual. The minimum qualification that a NOV should be expected to have is a graduation degree.
4. There should be a gender balance in the appointment of NOVs.
5. The rules are silent as to the socio-economic background of the NOVs. There should be reservations in the NOV appointing system for scheduled communities, backward classes and religious minorities as sometimes people from these backgrounds face discrimination and hardships in the prison and these appointed NOVs can highlight and represent the prisoners' problems and grievances appropriately.
6. The selection process should take care that those having interest in the administration of prisons, interest in welfare of prisoners and willing to spend time and energy to fulfill the duties of an NOV should be prioritised for appointment.
7. The Prison Rules are silent regarding criteria and qualification for a second or third term appointment in the NOV system. This should be explicitly mentioned.
8. The powers under Rule 4 for removal of NOVs by the government seem wide and arbitrary and a suitable evaluation criteria needs to be codified vis-a-vis the lawful and bonafide roles of the NOVs in keeping with principles of balance of powers and openness of the prison management system.

9. The Board of Visitors could be an instant grievance mechanism to protect the rights of prisoners and to assist the correctional programs in prisons. Thus it should be constituted for each jail to regulate prison visits by official and non-official visitors through the 'roster of visitors'.
10. NOVs of every prison, should, in their informed capacity, demand for periodic meetings of the Board of Visitors to guide the non-official visiting system under discussion, and take timely stock of observations, complaints and suggestions, and action taken at regular intervals.
11. There should be change in the provisions of the Jail Manual where the rules mention that non-official visitors should not visit prisoners on hunger strike or prisoners who are ill and cannot be interviewed on medical grounds and also prisoners under Preventive Detention laws. If visitors do not talk to prisoners during this time, they will never get to the root of the problem which provoked them into going on a strike. Nor will they find out if prisoners have been wrongfully detained and have access to legal aid. Also for medically ill prisoners, the NOV can find out what exactly the prisoner is suffering from and arrange for proper treatment and medicines which are not always available in the prison.
12. There should be proper enforcement of Juvenile Laws in the prisons to reduce negative psychological impacts on children of inmates who grow up in the prison premises and its often violent atmosphere.
13. Sensitization and Training Programs must be organized for prison visitors on their appointment. There should be mandate to give a copy of rules/regulations and duties to be observed by visitors during their visit to prisons as mentioned in the jail manual at the time of their appointment.
14. The restrictions placed by the Prison Rules on non-official visitors to meet the prisoners kept under Preventive Detention Act, to visit a prisoner on hunger strike or prisoners who are ill, to touch the ration in the kitchen are uncalled for. These provisions are outdated and not in keeping with a transparent prison management system, and should be done away with at the earliest. NOVs should be allowed to visit prisoners on hunger strike or who are ill or who are detained under PDA and allowed to touch ration in the kitchen.
15. Provisions in the Prison Rules should be changed so that NOVs have the mandate to talk to press and public about prison conditions and policy

related matters in an informed manner. The restrictions on non-official visitors to give publicity in the press on matters connected with prison administration should be removed. NOVs should have mandate to engage with press and civil society organizations about prison conditions in order to ensure more openness and accountability of the prison system.

16. Lady visitors should be allowed to visit male sections of prisons. When the prison authorities can appoint lady jailors and superintendents, then appointing lady visitors in jails where males are detained should not be a problem in policy and practice.
17. There should be a mechanism to ensure accountability to make the system effective. For this the visitors should be required to submit regular reports to the Jail Department. Further, where the Jail Superintendent fails to act on the suggestions of NOVs, making a representation to the Government should not be left to the discretion of NOVs but made mandatory.
18. The visitor's book should not be treated as a confidential record but should be opened up for RTI enquiries and those of press and public.
19. Surprise visits on the part of Board of Visitors should be made permissible to make jail authorities accountable to standards on a regular basis. No permission from jail Superintendent should be made a pre-requisite. If necessary, only intimation to or permission from the DM may be made a precondition.
20. As per the Rules set out, the Superintendent is the sole authority in investigating any complaint the prisoner may make to any NOV. There is a need to identify an external person/authority uninfluenced by the powers of the Superintendent to check the merit of prisoner complaints rather than making Superintendent the sole authority.
21. Prison reform committees, which have existed primarily on paper, if conducted periodically, would help evaluate and regulate the efficacy of this system with their recommendations incorporated into the Jail Manual and their effective implementation.

Recommendations for the Prison Staff

1. The prison authorities must provide full cooperation to the visitors. They should not consider the NOV system as unnecessary intrusion in their work.

2. The Prison authorities must take action and do the follow up on suggestions of NOV's to ensure the efficacy of system practically.
3. The Superintendent must fulfill the listed duties to take action on the comments made in the visitors' book and convey the same to the IG and should intimate the visitor who has made the complaint about any follow up action.
4. The IG should take action on the complaints made after proper investigation and must also seek help from the Government in cases where he is unable to do anything.

Recommendations for NOV's

1. 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. Along with their letter of appointment, they should also be given a guide booklet which gives them an idea about these.
2. The NOV's should satisfy themselves that the law and rules regulating the management of prisons and prisoners are duly carried out in the prisons.
3. The NOV's should visit all parts of a prison and should talk to the prisoners and hear and inquire into complaints that any prisoner may make.
4. The NOV's should find out if any person under trial has been languishing for a long time and report him to the Superintendent and also the IG and take follow up action. In this regard they should learn to relate their observations of overcrowding in prisons to the presence of undertrials therein and not only their physical infrastructure.
5. The NOV's should write their comments and suggestions in the visitors' book kept in the prison after every visit.
6. The NOV's should also follow up and see if any action has been taken on their recommendations. NOV's should consider it within the purview of their rights and duties to monitor and enquire into action taken by the jail and ministerial authorities on complaints, comments and suggestions made by them in the visitor's book.
7. The NOV's should also have the right to meet with civil society bodies and the press to share the information regarding the prison conditions and action taken or not taken by the prison management system for building openness, accountability and overall improvement in prison conditions.

ANNEXURE

CHAPTER V

ANNEXURE 1

Questionnaire for Interview

Name of NOV	
Name of the Prison	
Profession	
1	<p>When did you get to know about your appointment as a NOV?</p> <p><input type="checkbox"/> February</p> <p><input type="checkbox"/> After February.....</p>
2	<p>How did you come to know about your appointment?</p> <p><input type="checkbox"/> By Post</p> <p><input type="checkbox"/> By Email</p> <p><input type="checkbox"/> By Government Notification</p> <p><input type="checkbox"/> By Superintendent</p> <p><input type="checkbox"/> Other.....</p>
3	<p>How was your appointment done?</p> <p><input type="checkbox"/> Filed Nomination</p> <p><input type="checkbox"/> Did not file Nomination</p> <p><input type="checkbox"/> Other.....</p>
4	<p>Who nominated you to be a NOV?</p> <p><input type="checkbox"/> Yourself</p> <p><input type="checkbox"/> Your MLA</p> <p><input type="checkbox"/> The Collector</p> <p><input type="checkbox"/> Other.....</p> <p><input type="checkbox"/> Nobody</p>
5	<p>Is this your first time as a NOV?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
6	<p>Do you know who the other NOVs in your area are?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
7	<p>Have you ever met them?</p> <p><input type="checkbox"/> Yes.....socially/officially/through your affiliation</p> <p><input type="checkbox"/> No</p>

8	Do you know what the Board of Visitors is? <input type="checkbox"/> Yes <input type="checkbox"/> No
9	Do you know what it does? <input type="checkbox"/> Yes <input type="checkbox"/> No
10	How many meetings have you had as the board?
11	Since your appointment how many times have you visited the prison? <input type="checkbox"/> Times <input type="checkbox"/> Never
12	Did you inform the jail staff before visiting? <input type="checkbox"/> Yes <input type="checkbox"/> No
13	Do you know any of the staff <input type="checkbox"/> Yes <input type="checkbox"/> No
14	What is the duration of the visits generally? <input type="checkbox"/> 30 mns <input type="checkbox"/> One hour <input type="checkbox"/> Two hour <input type="checkbox"/> Three hour
15	Have you made a surprise visit to the prison? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Always ask before visit
16	Did you walk around the prison? <input type="checkbox"/> Yes <input type="checkbox"/> No
17	Did you meet the prisoners? <input type="checkbox"/> Yes <input type="checkbox"/> No
18	How was the experience with prisoners?

19	<p>Were the jail staff co-operative and helpful?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Sometimes</p> <p><input type="checkbox"/> Always</p>
20	<p>Did you write any comments in the comment book?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
21	<p>Do you know what happens after you write the comments?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
22	Do you like to work for Prisons? Have you done any social work in connection to prison?
23	What do you like best being an NOV?
24	What are the problems that you are facing?
25	<p>Would you like training on your role as NOV?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
26	What would you like to know about in the training?
27	<p>Do you know about the disclosure of information under RTI Rule No. 4?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
28	<p>Have you ever seen the jail manual or asked for it?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Asked for it</p>
29	<p>Do you know about your duties as mentioned in the jail manual?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
30	<p>Has anyone told you about your duties as NOV?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
31	What time can you spare for your visit to the Prison?
32	What time can you spare for learning your role?
33	Any other comment or suggestion?

ANNEXURE 2

Number of NOVs interviewed in each jail

S. No.	Name of the Jail/ District	Name of the Sub Jails
1	CJ Bharatpur	6
2	DJ Baran 3	Atru 2
		Chhabra 2
3	DJ Dausa 2	Bandikui 3
4	DJ Rajsamand 3	
5	DJ Tonk 3	
6	DJ Karauli 3	
7	DJ Pali 3	Bali
		Sojat City
8	DJ Banswara 3	
9	DJ Bhilwara	Gangapur 2
		Gulabpura 2
		Jahajpur 2
		Shahpura 1
10	DJ Jodhpur	Falaudi 1
11	DJ Jhunjhunu	Khetri 2
12	DJ Nagaur	Parbatsar 2
13	DJ Hanumangarh 3	Bhadra 2
14	DJ Jalore 2	Sanchore 2
15	DJ Chittorgarh	Kapasan 2
16	DJ Dungarpur	Sagwara 2
17	DJ Kota	Bundi 2

ANNEXURE 3

Names of Jails where NOVs have been appointed and their numbers

Districts/Prisons where NOVs are Appointed				
S. No.	Name of Division/ CJ	Name of the Jail/ District	Name of the Sub Jails	Total No. of NOVs appointed
1	Jaipur	DJ Dausa 2	Bandikui 2	9
		DJ Jhunjhunu 2	Khetri 2	
2	Jodhpur	CJ Jodhpur 5	Falodi 2	39
			Bilara 2	
		DJ Barmer 3	Balotara 2	
		DJ Jalore 2	Bhinmaal 2	
			Sanchor 2	
		DJ Jaisalmer 3	Pokaran 2	
		DJ Pali 3	Bali 2	
			Sojat 2	
Jaitaran 2				
DJ Sirohi 3	Aabu Road 2			
3	Bharatpur	CJ Bharatpur 6	Deeg 2	21
			Bayana 2	
		DJ Dholpur 1		
		DJ Gangapur City 3	Sawai Madhopur 2	
		DJ Karauli 3	Hindon 2	
4	Udaipur	DJ Banswara 3	Kushalgarh 2	22
		DJ Dungarpur 2	Sagwada 2	
		DJ Rajasmand 3	Bhim 2	
			Kapasan 2	
		DJ Chittorgarh 2	Nimbahera 2	
			Begu 2	
5	Bikaner	DJ Hanumangarh 3	Nohar 2	14
			Bhadra 2	
		DJ Churu 3	Ratangarh 2	
			Raigarh 2	
6	Kota	CJ Kota 6		18
		DJ Bundi 3	Nainva 2	
		DJ Baran 3	Atru 2	
			Chhabra 2	
7	Ajmer	DJ Tonk 3	Malpura 2	27
		DJ Bhilwara 3	Gulabpura 2	
			Gangapur 2	
			Jahajpur 2	
			Shahpura 2	
			Mandalgarh 2	
		DJ Nagaur 3	Medtasinti 2	
			Parbatsar 2	
			Deedwana 2	
	TOTAL			150

ANNEXURE 4

Names of Jails where NOVs have not been appointed

S. No.	Name of the Jail/ District	Name of the Sub Jails
1	CJ Jaipur	Kotputli
		Sambharlek
	DJ Sikar	Neem Ka Thana
		Fatehpur
2	DJ Alwar	Behror
		Kishangarh Baas
	DJ Karauli (appointed)	Karanpur
3	CJ Udaipur	Kanore
		Kotra
		Malvi
		Jhadole
	DJ Pratapgarh	Choti Sadri
4	CJ Kota (appointed)	Sangod
		Ramganjmandi
	DJ Jhalawar	Aklera
		Bhawani Mandi
4	CJ Bikaner	Nokha
	CJ SriGanganagar	Suratgarh
		Srikananpur
		Raisingh Nagar
6	CJ Ajmer	Baewar

ANNEXURE 5

Questions on Points to be Noticed by Visitors, Part 23, Rajasthan Prison Rules

1. Building- Are the buildings secure and in good repair?
2. Overcrowding- Is there any overcrowding? If so, where are the excess prisoners accommodated and what are steps being taken to relieve it?
3. Drainage- Is the drainage of the Jail in a satisfactory state?
4. Water supply- Is the water supply sufficient and good and the means of carriage suitable?
5. Have the drinking water wells been cleared out recently?
6. Food- Are the articles of food in the store- room and elsewhere properly kept and in good condition?
7. Does the weight of vegetables agree with the calculated weight in the diet roll and are they of good quality and properly cleaned?
8. Is the food issued correct in quantity and properly cooked?
9. Is the full quota of rations for all the prisoners forthcoming?
10. Are the oil and condiments added to the curry in the presence of some responsible officer?
11. Clothing- Do the prisoners have the prescribed 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?
12. Bathing- Are the prisoners required to bathe regularly?
13. Labour- Are full tasks exacted from all labouring 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?
14. Remission- Is ordinary remission for industry given with reference to the actual tasks performed?

15. Are there any convicts who are not receiving remission for failure to perform tasks? If so, have efforts been made to enforce work by means of punishment?
16. Punishment- Are the punishments in the jail unduly high?
17. Discipline- Are convicts regularly searched for contraband?
18. Are convicts prevented from wandering about?
19. Are gangs of convicts marched about in proper order?
20. Habituals- Are habituals separated from others at night and is their separation from others by day carried out as far as possible?
21. Undertrial Prisoners- Are there any under trial prisoners who have been detained in jail unduly long?
22. Lunatics- Are there any civil lunatics in jail who have been detained under observation longer than the period allowed by law and if so on whose warrant?
23. Are there any criminal lunatics who have been unduly detained in jail?
24. Female- Are the women prisoners thoroughly screened from the view of male prisoners?
25. Juveniles- Are juvenile prisoners under the age of 18 separated both by day and night from adults? 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 Prisons Act, 1894? Do juvenile prisoners receive instructions?
26. Adolescents- Are all adolescent prisoners of ages ranging from 18-to 20 or 22 separated at night both from juveniles and adults?
27. Cells- Is every cell utilized at night?
28. Appeals- Has there been any undue delay in forwarding appeals to courts or in the receipt of courts' order on appeal?
29. Garden- Is the whole vegetable supply of the jail obtained from the jail garden?

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. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

Strategic Initiatives: CHRI monitors member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN, and the African Commission for Human and Peoples' Rights. Ongoing strategic initiatives include: Advocating for and monitoring the Commonwealth's reform; Reviewing Commonwealth countries' human rights promises at the UN Human Rights Council and engaging with its Universal Periodic Review; Advocating for the protection of human rights defenders and civil society space; and Monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.

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. It 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 interferences.

Prisons Reforms: CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. 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. CHRI believes 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.

This report is a part of CHRI's publication series 'If Liberty is Paramount...' committed to unveil the numerous difficulties prisoners encounter in accessing justice. If liberty is paramount, then, why, in the existence of oversight mechanisms like the Prison Visiting System, are the prison conditions so overcrowded and lacking in basic amenities? Why do undertrials continue to languish at length in prisons? Why do the mentally ill, who are not supposed to be in prison, continue to go unnoticed? Why do their trials take so long?

Visitors to the prison are appointed to keep a watchful eye on such practices and intimate the prison authorities and the government of such cases. This report- *RAJASTHAN'S PRISON VISITING SYSTEM ~A Study of Role Perception and Role Performance of Non-official Visitors in the Prison Oversight Mechanism* uncovers the gaps that exist in the Prison Visiting System. Based on interviews with 63 Non-official Visitors and information sought from jail authorities in 24 districts of Rajasthan through the RTI process, it examines how NOV's are appointed and function across different jails and the extent to which they actually comply with the directives given to them by the state. This report also provides recommendations towards an effective functioning of the Prison Visiting System to make prison authorities accountable to standards.



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