

Recommendations for Punjab Prison Act & Rules

Commonwealth Human Rights Initiative



PRISON VISITORS

1. Ex-Officio Visitors

The following must also be appointed as ex-officio visitors for every prison in the state:

- a) Chairperson and Member of Punjab State Human Rights Commission
- b) Chairperson and Member of Punjab State Women's Commission
- c) Chairperson and Member of Punjab State Commission for Protection of Child Rights
- d) Chairperson and Member of Punjab State Police Complaints Authority
- e) Director (Employment Generation and Training) and District Employment Officer
- f) District Education Officer dealing with literacy Programme
- g) Regional Chief Engineers and Superintending Engineers of each district of Department of Water Supply and Sanitation must visit the prisons under their jurisdiction

2. Appointment of Non-Official Visitors

The State Government must appoint 6 non-official visitors for each Central jail, 4 for each District jail and 3 for each sub jail. Each jail must have 2 non-official visitors from amongst the members of Punjab Legislative Assembly out of which one must be woman. The District Magistrate in consultation with the Inspector General must through his/her own sources draw a list of potential candidates bearing high moral character soliciting their consent. The candidates must have professional experience in law, medicine, psychiatry, education, governance or mass media. They must have interest in administration of prison and welfare of prisoners both inside and outside of prison. A panel containing candidates who send their consent must be forwarded to the Home Department for

RATIONALE

Prison Statistics of Punjab

56% - Illiterate or Educated below X Standard

Highest population of prisoners imparted vocational training (10,352)

Third highest population of women Prisoners (1474)

Considering the lack of literacy and education amongst prisoners, appalling water supply and sanitation standards in prison, inadequate employment opportunities despite vocational skills, high women populace, wrongful confinement of juveniles in adult prisons, torture in police custody and lack of reporting and the likelihood of commission of abuse in prison, the inclusion of all these representatives as ex-officio visitors is paramount.

RATIONALE

Insufficient criteria for appointing non-official visitors to prison gives vast discretion to the State Government to indulge into political patronage. This also results in the appointed visitors working hand in glove with the administration thereby rendering the essence of inspection ineffectual. It is important that the selection criteria for a non-partisan job is set at a greater standard taking into account the interests and background of the candidates while emboldening gender balance.

Good practice has been taken from Rule 721, Chapter 26 of Bihar Prison Manual



the consideration and final decision of the State Government.

3. Cancellation of Appointment of Non-Official Visitors

- ✓ Any non-official visitor that has used his visit for a mala fide purpose, used it for the furtherance of an unlawful and undesirable object and indulged in the act of corruption, bribery and misconduct inside prison may be removed by the State Government after granting the visitor adequate opportunity to defend himself.
- ✓ Any non-official visitor that has made less than 2 visits to the jail without prior intimation and explanation may be removed by the State Government.
- ✓ The reasons of removal of a non-official visitor must be recorded by the State Government.

RATIONALE

Removal of non-official visitors must not be arbitrary and should be based on a sound reasoning. Basic principles of natural justice must particularly be followed for the removal of an Ombudsman like authority whose primary job is to bring the abuse and illegality to notice. This would help in keeping the appointments fair, just and protected from political will.

Good practice taken from Rule 14(2) of Pudukcherry Prison Rules, 1969

4. Re-appointment of Non-Official Visitors

A non-official visitor that has visited the jail not less than thrice the month and has recorded his remarks duly in the visitor's book shall be liable for re-appointment.

5. Guiding material

A copy of notification of appointment must be sent to all the appointed visitors and forwarded to the Inspector-General, District Magistrate of all the districts and Superintendents of all jails. An Identification Card, a copy of Punjab Prison Rules, 1996 and a guide book comprising of their duties, list of records maintained in the prison and contact details of ex-officio visitors, Prison Directorate, Parole Board and State Government's representatives must be given to the visitor during his appointment.

RATIONALE

Before the visitors set out to monitor the prison, they need to know how to do it. It is necessary to acquaint the visitors with the administration of a prison for effective inspection by providing them the rules and regulations.

Good practice taken from Rule 9, Chapter 15 of Maharashtra Prison Rules, 1962

Swift coordination is the key to timely justice, therefore the introduction and contact of important officials is necessary to steer away from administrative delays.

To enable the access of a visitor inside the prison, identification cards proves to be handy. It has been recorded that the prison officials restrain the entry of visitors inside prison. ID Cards would be helpful in solving that problem to an extent.



6. Visits by Non-Official Visitors

- ✓ Every visitor must make visits to the designated jail according to the roster prepared by the Board of that particular jail.¹ If he is unable to make a visit according to the roster due to certain unavoidable reasons, he must intimate the Superintendent and the members of the Board of Visitors and take prior permission for leave of absence.
- ✓ He must visit all the sections of the jail. He may be escorted by a jail officer during his visit and interaction with the inmates. He may be allowed to speak to any prisoner in private.
- ✓ He must be allowed to make surprise visits to jails once in 3 months.

7. Periodicity of Visits

Weekly visits must be made to the jail by two visitors at a time. At the first meeting each Board must prepare a roster for weekly visits by non-official visitors to their designated jail in a way that 2 non-official visitors visit the jail at one time. After the preparation of the roster, the non-official visitors must be sent a copy of the roster and formally invited to visit the prison on the allotted date.

8. State Level Meeting

The State Government must hold state level meetings with the non-official visitors bi-annually in consultation with the Punjab State Human Rights Commission and ex-officio visitors. The first consultation may look into introducing the visitors with the records, rules and management of the jail and the duties of a visitor. The second consultation may provide a refresher on the rules and regulations inside prisons, review the common problems faced by each prison and assess the performance of visitors.

RATIONALE

Surprise visits to places of detention allow unannounced and unhindered inspection and is a vital tool to present unaltered reality and prevent abuse thereby reducing the practice of 'manufactured' visits. *Good practice taken from European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment, established pursuant to Article 1 of the European Torture Convention which is responsible for carrying outside surprise visits to any place where persons are deprived of their liberty by a state that has ratified the convention.*

RATIONALE

Weekly visits helps in maintaining the momentum and also bolsters case tracking. *Good practice taken from Rule 20, Chapter 3, Rules for Management of Jails in Assam*

RATIONALE

The mandate of Prison Visiting System must not end at appointments. It shall be a constant endeavor of the State to strengthen the mechanism in order to bring transparency and open up the closed world of prisons. Capacity building is of utmost importance for honing the expertise of visitors.

¹ As mentioned in Point 11



9. Duties of a Visitor

A list of questions indicating some of the points to which a visitor may direct his inquiries is as follows:

- I. *Buildings*- Are the buildings secure and in good repair?
- II. *Overcrowding*- Is there any overcrowding? If so, where are the excess prisoners accommodated, and what steps being taken to release it?
- III. *Drainage*- Is the drainage of the jail in a satisfactory state? If not, what are the defects?
- IV. *Water supply* – Is the water supply sufficient and good and the means of carriage suitable? Have the drinking water wells been cleaned out recently?
- V. *Food*- Are the articles of food in the store – room and elsewhere properly kept and in good condition?
- VI. Does weight of vegetables agree with the calculated with in the diet roll and are they of good quality and properly cleaned?
- VII. Is the food issued correct in quantity and properly cooked?
- VIII. Is the full number of rations for all the prisoners forthcoming?
- IX. Is the oil and condiments added to the curry in the presence of some responsible officer?
- X. *Separation of Prisoners* – Are undertrial prisoners separated from the convicted prisoners?
- XI. *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?
- XII. *Bathing*- Are the prisoners required to bath regularly?
- XIII. *Provision of Newspapers etc* – Are prisoners provided newspaper, books and other reading material?
- XIV. *Legal Representation* – Does every undertrial prisoner have a lawyer?

RATIONALE

Good Practice taken from Rule 11, Part 23, Rajasthan Prison Rules, 1951.



- XV. *History Tickets* – Are history tickets of prisoners duly maintained and updated by the jail staff?
- XVI. *Labour*- Are full tasks exacted from all laboring prisoners for hard labour? Who checks the work done in the evening? Is the out turn of each convict properly recorded on the work tickets?
- XVII. *Remission*- Is ordinary remission for industry given with preference to the actual tasks performed?
- XVIII. 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?
- XIX. *Parole* – Are there any convicts whose parole applications are not been considered by the Superintendent and Parole Board for more than 30 days?
- XX. Are there any prisoners who are eligible to be released on parole?
- XXI. *Family Restoration* – Are undertrial and convict prisoners in touch with their family?
- XXII. Are they allowed to write letters and communicate with their family?
- XXIII. *Employment* – Are there adequate opportunities with the prisoner to get employment outside prison?
- XXIV. *Punishment*- Is the ratio of punishments in the jail unduly high?
- XXV. *Discipline* – Are convicts regularly searched for contraband?
- XXVI. Are convicts prevented from wandering about?
- XXVII. Are gangs of convicts marched about in proper order?
- XXVIII. *Habitual Offenders*- Are habitual offenders separated from others at night and is their separation from others by day carried out as far as possible?
- XXIX. *Undertrial prisoners* – Are there any undertrial prisoners who have been detained in the jail unduly long?
- XXX. Are there any undertrial prisoners who have been detained in jail for more than half of the maximum sentence that could have been awarded to them?



- XXXI. Are there any undertrial prisoner who have been detained in jail for more than 60/90 days even though the chargesheet has not been filed in his/her case?
- XXXII. Is the list of undertrial prisoners eligible for release on bail under Section 436, 436a and 167(2) being provided by the Superintendent to the Undertrial Review Committee and District Monitoring Committee?
- XXXIII. *Mentally Ill Prisoners*- Are there any mentally ill prisoners in jail who have been detained under observation longer than the period allowed by law and, if so, on whose warrant?
- XXXIV. Are there any criminal mentally ill prisoners who have been unduly detained in jail?
- XXXV. Is the list of mentally unsound prisoners being given by the Superintendent of the prison they are detained in to the Undertrial Review Committees and District Monitoring Committee?
- XXXVI. *Foreign National Prisoners* – Are there any foreign national prisoners who have been detained despite the completion of his/her sentence?
- XXXVII. Are there any foreign national prisoners who have not been granted consular access?
- XXXVIII. Is the list of foreign national prisoners eligible for release on bail or ultimate release being given by the Superintendent to the Undertrial Review Committee and District Monitoring Committee?
- XXXIX. *Detenues* – Are there any prisoners who are detained for more than 15 days at once and 30 days in total under Section 151 of the Code of Criminal Procedure, 1973?²
- XL. Are there any prisoners under preventive detention laws for more than 30 days under vague, unreasonable, extraneous or irrelevant grounds or under the order passed by an authority which had no authority to do so?

² Maharashtra amended Section 151 of the Code of Criminal Procedure, 1973 provides 15 days as the maximum period of detention at once and 30 days in total.



- XLII. *Female*- Are the women prisoners with their children kept in sub jails?
- XLIII. Are there adequate facilities for child delivery and pre as well as post-natal care for the both mother and child?
- XLIV. *Juveniles* – Are any juveniles prisoners under the age of 18 kept inside the prison?
- XLV. *Adolescents*- Are all adolescent prisoners of ages ranging from 18 to 22, separated at night from adults and hardened criminals?
- XLVI. *Cells*- Is every cell utilized at night?
- XLVII. *Court Production* – Are undertrial prisoners produced before the court on the date fixed by the Court in the earlier hearing?
- XLVIII. *Appeals*- Has there been any undue delay in forwarding appeals to court, or in the receipt of Court's orders on appeals?
- XLIX. *Garden*- Is the whole vegetable supply of the jail obtained from the jail garden? If not, why cannot this be done?'
- L. *Community Participation* – Are counselling sessions by civil society held for the prisoners to take care of their mental health?

The visitors must be allowed to call for any record, registers, notes and document for the abovementioned duties.

10. Constitution of Board of Visitors

The District Magistrate must constitute a Board bi-annually for each jail in the district consisting of not less than two official and two non-official visitors. One out of the composition of four must be a woman. There should be a proportional increase in the number of women members with increase in the number of visitors in the Board. The District Magistrate must be the Chairperson of the Board.

The District Magistrate must be granted the power to review the power of the board members every two months and remove them if h/she has attended less than 3 meetings and has made less than 2 visits in a month.



11. First Meeting of the Board

The first meeting of the Board must take place within 10 days after the appointment of new batch of non-official visitors. After that it must meet at the office of the Superintendent every quarter from the date of their constitution. It must take stock of the remarks made by the visitors in the visitor's book and give recommendations to the State Government.

The minutes of the meetings of the Board must be made publicly available under Section 4 of Right to Information Act, 2005

12. Minutes of the Meeting of the Board

The minutes of every meeting held by the Board must be recorded and sent to the Superintendent of that prison, Inspector General and State Government. It must also be uploaded on the website of the Punjab Prison Department or Department of Home.

RATIONALE

13. Public Disclosure of Visitors' Names

A sheet consisting of name of the visitors and members of Board along with their ready contact must be hung outside and inside the prison in a way that is easily accessible to the prisoner and public. It must also be uploaded on the website of the Punjab Prison Department or Department of Home.

The remarks of the visitors hold significance in a way that they record the true conditions of jail on a weekly basis. They are important to track the improvement or

14. Remarks in the Visitor's Book

Every visitor must enter the date and time of his visit and record his non-partisan remarks in relation to his duties mentioned earlier in the visitor's book in comprehensible and legible handwriting. He must put his signature under the remarks noted by him. He may also write to the Inspector General and Secretary, Department of Home separately on issues of jail administration in form of a letter. The Superintendent of each prison must forward the copy of the remarks made by each visitor on the 10th day of every month to the following:

RATIONALE

responsible for prison conditions to keep themselves abreast with the prevailing standards and initiate action to ameliorate the same.

- ✓ Inspector-General of Prisons
- ✓ Secretary, Department of Home, Punjab
- ✓ District & Sessions Judge
- ✓ All members of Board of Visitors



- ✓ Chairperson, Punjab State Human Rights Commission

The Superintendent may note his comments next to the remarks of the visitor, if needed before sending it to the authorities.

15. Action on Remarks

Inspector General of Prisons must initiate action on the remarks of every visitor and intimate to the visitor of the action taken within 6 weeks of receipt of the visitor's book. The Secretary, Department of Home, Punjab must call for representation from the departments that are mentioned in the remark by the visitor and initiate an inquiry into the matter. The Punjab State Human Rights Commission must seek explanation from the departments mentioned in the remark. The District & Session Judge must look into the matter of the remark in his next inspection visit to the jail and take up the issue in the meetings with the official representatives at District Level. The Board of Visitors must take up the issue in the next visit to the prison.