



April 16, 2016

RIOTS IN VARANASI JAIL: SOME HARD FACTS ABOUT UTTAR PRADESH JAILS

Dear Friends,

Two jail riots have broken out in Varanasi district jail on consecutive days, 3rd and 4th April 2016. Media reports mentioned that jail superintendent was taken hostage and deputy superintendent was beaten up by inmates to ensure their grievances are taken seriously. The prisoners' long standing grievances included being beaten by jail staff, corruption in the jails and being served poor quality food. Prisoners' complaints from Varanasi district jail point to the frailties that plague jails as a whole. In these circumstances, it is not surprising that violence has come to the surface and into the public eye. CHRI is of the view that disturbances will continue while the conditions for them exist. It is not fair for the jail administration to be subject to these risks and nor can prisoners be reduced to de-humanised existence. In this issue of *Jail Mail* on Varanasi and Uttar Pradesh jails, CHRI points to overcrowding, under-resourcing and lack of monitoring that remain a persistent problem with regard to staff capacities as well as jail conditions, and lie at the root of jail riots of this nature.

- **How regular are riots in Indian jails?**

Quite Regular. Jail riots data in the National Crime Records Bureau (NCRB) include jail clashes, firings and jail breaks. Nationally, jail clashes have gone up from 67 in 2010 to 255 in 2014. Number of jail breaks have increased from 2 in 2010 to 16 in 2014 though in 2012 it was even higher. The number of firings inside jail have increased from none at all in 2010 to 3 in 2014.

Uttar Pradesh jails have seen 2 clashes, 6 jail breaks and 1 firing in 2014 alone.

- **How many people die in Uttar Pradesh's jails?**

Far too many. In 2000, Uttar Pradesh accounted for 97 deaths which increased to 358 in 2013 and suddenly dropped to 321 in 2014 – a first in the 15 year long history. Between 2001 and 2013, deaths in judicial custody increased by 268% in Uttar Pradesh. This was followed by the National Human Rights Commission's (NHRC) inspection and report. In the last one year there has been a decrease in the deaths by 10%. As far as suicides are concerned, Uttar Pradesh stands second with 138 suicides committed inside jail in the last 14 years. Vacancies in medical staff stand at 40%.

- **Is Varanasi jail overcrowded?**

Yes. Varanasi district jail was built in 1853 that is four years before the 1857 uprising. [The 2008 Uttar Pradesh Prison Statistics](#) reveals the overcrowding rate for Varanasi District Jail to be at 146%. While the capacity was only 747, the inmate population was 1841. At the end of 2014, while the capacity has remained same, the total inmate population has reduced to 1146 (213 convicts and 963 undertrials), therefore the overcrowding rate has thankfully come down to 53%.

So, in the last six years, while overcrowding in Varanasi district jail remains above the national average, the level of overcrowding has reduced drastically, not due to increase in capacity but decrease in the inmate population in the jail. Given that there have been no decrease in inmate population in Uttar Pradesh in the given period, this decrease could be due to transfer of prisoners among jails.

- **Is there adequate staff to deal with inmate population?**

No. According to the Model Jail Manual 2016, there should be one guarding staff for every six inmates. In Uttar Pradesh, 8077 guarding staff, i.e., one staff for 11 prisoners, were sanctioned. Out of them, only 4894 i.e., one staff for 18 prisoners were appointed. Therefore, both the sanctioned and actual strength are highly inadequate.

Equally worrisome is the overall jail staff strength in Uttar Pradesh. The jail staff vacancies in Uttar Pradesh stand higher at 36% than the all India jail staff vacancies which were 34% in 2014. Though the sanctioned staff for 2014 stood at 10407, the actual strength on the ground was 6655.

While the jail population in UP jails has seen a surge of 6.7% in the last five years, the vacancies in jail staff have increased by 5%. Consequently the staff to inmate ratio, that is number of inmates for which a staff is appointed, has deteriorated from an alarming 1:11 to an even worse 1:13 burdening the serving jail staff even more in maintaining discipline.

- **Do Uttar Pradesh jails have a Grievance Redressed Mechanism?**

Does not appear to be. The Uttar Pradesh Jail Manual updated till 2006 makes no mention of grievance redressal system. However, the [2007 Uttar Pradesh Prison Statistics](#) mentions a “sufficient redressal system for complaint providing complaint boxes in the enclosures” as good practice and as a result of which, “complaints are reduced, jails administration streamlined, change in behaviour of inmates and maximum cooperation to jail discipline, references to Human Rights Commission are minimised and number of inmates quarrels/clashes reduced”. However, from the recent jail riots it appears that either these mechanisms were not in place or not working as envisaged to check ill treatment.

- **What does Uttar Pradesh spend on its inmate population?**

Too little. In India, the government daily spends Rs 82 on each prisoners on their food, medicines, education and other expenses. Uttar Pradesh only spends Rs 48. Five years earlier it was Rs. 36. Even though UP spends 85% of this expenditure on food, much higher than the national proportion of 56%, due to the meagre total budget allocation, the actual allocation on food is still inadequate.

- **How many jails does Uttar Pradesh have?**

67. There were 1382 jails in India as on 31st December 2014. 67 of them were from Uttar Pradesh. Out of these 67 jails, 5 are central jails, 56 district jails, 3 sub jails, 1 women’s jail and 2 special jails¹. It has 9 divisions in total with an average of 7.4 jails in every division, the highest in Bareilly and Kanpur and lowest in Faizabad and Varanasi.

- **Are Uttar Pradesh jails overcrowded?**

Yes. Uttar Pradesh houses one-fifth of the total jail population of the country with more than 88000 inmates in its 67 jails at the end of 2014². While the incarceration rate, i.e., the number of prisoners per 100,000 population, is 34 nationally, it is as high as 66 in Uttar Pradesh and 50 alone in Varanasi. The NCRB data for the last 14 years reveals that the overcrowding in Uttar Pradesh jails peaked to 200% occupancy in 2009, meaning thereby that the population was double the capacity. When the current all India occupancy rate is at 118% with overcrowding of 18%, the overcrowding rate in Uttar Pradesh has through the last five years remained at above 60% with 67% overcrowding in 2014.

¹ Uttar Pradesh Jail Department website – <http://upprisons.up.nic.in/>

² The latest detailed jail NCRB statistics are available as on 31st December 2014. The current jail population figures however are available on <http://eprisons.nic.in/>. As on 15th April 2016, Uttar Pradesh has 1,33,349 prisoners, of which 752 are civil prisoners, 27,851 convicts, 76 detenues, 43 remand prisoners and 1,04,627 undertrials.

- **What is the demographic distribution in Uttar Pradesh jails?**

More than 2/3rd of the population of Indian jails are undertrials. In Uttar Pradesh, the situation is even more alarming with 71% of jail population as undertrials. This disproportionately high undertrial population in the state is housed mainly in district jails which are overcrowded beyond their capacity. By reserving central jails for convicts, the distribution of jail population among Uttar Pradesh jails is not in tandem with the recommendation of the 2016 Model Jail Manual of maximum 1000 prisoners for a central jail, 500 for district jails and 200 for sub jails.

- **How many prisoners are detained for long periods?**

Many. In 2005 the population of Uttar Pradesh jails was 56,718. Majority of the prisoners were undertrials. 80% of these undertrials had spent less than one year in jail and only 3.3% were detained for more than three years.

Ten years later, in 2014 the jail population has increased to 88,221. Majority of this increase is due to the 45% increase in the undertrial population in the same time period. Interestingly, the percentage of undertrials who have spent less than a year in jail has come down to 70% and those who have spent more than 3 years in jail has gone up to 7.2%.

This is because, as the number (and percentage) of undertrials have increased, the proportionate increase in population of prisoners detained for more than 3 years and 5 years has increased much more than the increase in prisoners detained for smaller periods. Therefore clearly, the period of detention of inmates in jail in Uttar Pradesh has increased in the last ten years.

Year		Up to 3 months	3-6 months	6-12 months	1-2 Years	2-3 Years	3-5 Years	Above 5 Years	Total UT Population
2005	UT Population	17062	8768	8198	4896	2719	1180	255	43078
	Percentage of UT population	39.61	20.35	19.03	11.37	6.31	2.74	0.59	100.00
2014	UT Population	19923	13432	10946	8590	5123	3479	1022	62515
	Percentage of UT population	31.87	21.49	17.51	13.74	8.19	5.57	1.63	100.00
Percentage increase in UT population between 2005 and 2014		16.77	53.19	33.52	75.45	88.41	194.83	300.78	45.12

- **Do prisoners in Uttar Pradesh have access to Legal Aid?**

Not really. There were more than 85000 inmates in Uttar Pradesh jails on 31st December 2014. 70% of them, i.e. 62,515 of them were undertrials. One third of these undertrials were illiterate. Half of the remaining two thirds who were literate have studied below 10th standard. More than 60% of the undertrial population belongs to the backward castes.

Yet, only 2955 prisoners in the entire state of Uttar Pradesh had access to legal aid. While the access to legal aid has increased in the last five years, but given the socio-economic demographics of the prisoners behind bars, this number is extremely low.

In the recent order in the *Re-inhuman conditions in 1382 jails* case, the Supreme Court discussed the importance of legal aid, pointing to how the lack of access to legal representation was an important factor for suicides in jail.

- **Do the jail rules permit regular monitoring?**

Yes. One of the bodies clearly mandated to make regular inspections of prison conditions in every jail is the Board of Visitors (BOV) that comprises all non-official visitors as mandated under Chapter 25 of Uttar Pradesh Jail Manual. Non-official visitors are lay people drawn from the civil society by the State Government on the recommendation of the district committees of the *Uttar Pradeshhiya Apradh Nirodhak Samiti* received through the district magistrate for every jail. The Board of Visitors is chaired by a sessions or additional sessions judge at the district headquarters and it must visit the jails twice a year. There are also official and ex-officio non-official visitors who are not a part of the BOV but Rule 672 mandates them to make monthly inspection visits to the jails. Rule 667 lists Director of Medical and Health Services, the district magistrate and sessions judges as the official visitors and Rule 670 lists all members of Lok Sabha and Rajya Sabha elected from the state, all members of the state legislature and standing committee on the state legislature on jails, chairman and secretary of the central committee and

secretaries of district committees of *Uttar Pradeshiya Apradh Nirodhak Samiti*, the *nagar pramukhs* of *Nagar Mahapalikas*, the chairperson of the municipal board and *Adhyakashas* of Zila Parishad as ex-officio non-official visitors.

The jail manual also mandates a three-tier reporting. After the visits, the visitors have to write their remarks in the visitor book which the Superintendent forwards to the Inspector General after giving explanations to the remarks and noting down the action taken by him. The Inspector General is then required to pass such orders as he considers necessary and communicate them to the Superintendent who copies them into the visitors' book for the information of the visitors. If any matter mentioned in the note requires the attention of the State Government, the Inspector General forwards that note along with his comments to the government for further action.

- **Are Uttar Pradesh jails monitored in accordance with the jail manual?**

Not really. The prisons statistics published by NCRB for 2014 reveals a total of 1897 inspections out of which 1612 are medical, executive and judicial inspections. However, compliance to Rules 667 and 672 would have translated into a total of minimum 2412 medical, executive and judicial inspections in all 67 jails. This means that only 70% of mandated number of inspections were actually made in 2014. Besides 125 out of 1897 inspections are attributed to the head of amorphous 'Others'. No categorical information is provided on inspections by non-official visitors and meetings by Board of Visitors thus brazenly disavowing independent monitoring.

Back in 2013, during the NHRC's special rapporteur's visit to Barabanki and Meerut district jails it was found that while Barabanki had no BOV constituted, the records in Meerut showed that the non-official visitors were last appointed in 2001 who also never paid a visit to the prison, not even once. (["Living Conditions and Human Rights in Prison, NHRC, 2013"](#))

Recently, our RTI request in this regard fell on deaf ears when Uttar Pradesh Directorate of Prisons refused to disclose the information regarding appointment of non-official visitors and constitution of BOVs. They contended non-maintenance of such records and asked us to send individual RTI requests to every jail in Uttar Pradesh. This is not only in contravention of Section 6(3) of the RTI Act which mandates the recipient public authority to transfer the application to the relevant public authority within no less than five days but also of Rule 669 (c) of the Uttar Pradesh Jail Manual that clearly states that names of non-official visitors are communicated to the Inspector General and the Superintendent of the jails concerned. On a related note, it also disregards Section 4(1) (b) (viii)³ of the Right to Information Act which mandates proactive disclosure by public authorities.

- **Has the central government taken measures to streamline prison monitoring?**

Yes. In 2011, Ministry of Home Affairs issued an advisory dated 18th February that categorically asks for non-official visitors to be appointed in all jails without delay. "Since prison administration is under increasing public scrutiny and the role of civil society is important, it is essential that only enlightened & concerned citizens be appointed as Non-official Visitors", it reads. The advisory further asks that the State Human Rights Commission's recommendations on the appointment of the visitors are taken into account. It then goes on to draw the attention of states to their respective manuals' provisions on constitution of Board of Visitors by the Deputy Commissioner/District Magistrates for each jail as a means to effectuate coordination between the official and non-official visitors before affixing the periodicity of their meetings and visits.

BOVs is a critical category for communication of prisoners' grievances to the administration, justice system and to civil society and the constant monitoring of prison and prisoners by a Prison Visiting System is therefore extremely important for Article 21 of the Constitution to be enjoyed in true sense. However, there is very little incentive provided to build compliance and little monitoring to ensure it. Consequently, by early 2015 **only three states (Meghalaya, Chhattisgarh and Tripura)** had the boards constituted in all their jails.

³ Section 4(1) b (viii), RTI Act, 2005: Every public authority shall - publish within one hundred and twenty days of the enactment of this Act, - statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards; councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public.

- **Do jail rules permit jail staff to impose corporal punishment on prisoners?**

Unquestionably, reactionary beating is not allowed anywhere in the jail manual. However, despite the abolishment of the Whipping Act, 1909 sixty one years back in 1955, whipping still finds mention in the jail rules for organized disobedience of rules, mutiny or incitement to mutiny or for serious assault. Having said that, [UP is reported to have initiated the process of removing these unconstitutional provisions from its Jail Manual.](#)

Nonetheless, the jail superintendent and district magistrate (Rules 816 and 823) are the only authorised persons to serve any additional punishment to the sentence being served for prison offences. Prison guards and other staff appointed for security and welfare are prohibited from meting out punishments. However, the staff inmate ratio places inmates at greater risk of corporal punishment and at the hands of staff who are not authorised to punish but provide security and welfare.

- **Does prison food in Uttar Pradesh jails meet dietary norms?**

No. The Model Prison Manual drawing its recommendations from the Indian Council of Medical Research's guidelines on Nutrient Requirements and Recommended Dietary Allowances for Indians has placed the daily requirements at 1gm per body weight of proteins (pulses, rice, wheat, milk, fish meat, eggs, etc.), 50 gms of fat (oils, butter, ghee, milk, eggs, etc.), 300 gms of carbohydrate (cereals, sugar, jaggery, milk, root vegetables such as potato, etc) besides other things. NHRC's 2013 special rapporteur's inspection report on Barabanki and Meerut district jails ("[Living Conditions and Human Rights in Prison, NHRC, 2013](#)") found the dietary conditions inadequate, unappetizing, deficient in proteins and micro nutrients. It also found that there was no provision of special food for children and mothers with small children. Worse, the report mentions that prison had no arrangement of checking the nutritional value of food.

- **Is the judiciary monitoring jail overcrowding?**

Yes. In the ongoing *Re-Inhuman Conditions in 1382 prisons* case, the Supreme Court took note of National Crime Records Bureau statistics on number of undertrial prisoners which was 67.6% of the entire jail population as on 31 Dec 2014 and stated that the percentage was unacceptably high. The Supreme Court also reiterated its observations in the *Sunil Batra*⁴ case and said, "In Batra case, the Supreme Court has rejected the hands-off doctrine and it has been ruled that fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration".

Based on the MHA Advisory of 17 January 2013, it directed Central Government and state governments for effective implementation of Section 436A Cr.P.C. 1973, effective implementation of section 436 of the Cr.P.C. and to look into the number of persons in custody due to their inability to provide adequate security/surety for their release on bail, and the number of persons in custody who have committed compoundable offences and are languishing in custody.

The court directed the formation of district undertrial review committees which would meet quarterly. It directed district legal services committee to provide legal aid through empanelled lawyers to the undertrial prisoners for their release on bail or for the reduction of the bail amount.

The home department of the states was also requested to develop a management information system to ascertain the jail-wise progress in this regard. The jail superintendents were also required to conduct a survey of all cases where undertrial prisoners have completed more than one fourth of the maximum sentence and send a report in this regard to the district legal services committee as well as to the review Committee.

- **What is Uttar Pradesh's compliance to the Supreme Court's directions to reduce overcrowding in the *Re-Inhuman Conditions in 1382 prisons* case?**

Not enough. CHRI's findings from the RTIs filed to Uttar Pradesh State Legal Services Authority on the performance of its 75 districts between May to November 2015 reveals that the 21 districts whose responses CHRI received have formed the URCs committees but only 14 have been regular in their meetings. While the complete mandate set out by the court was taken into account by the committees, only in 7 districts were applications actually moved by panel lawyers but not more than 63. Though 243 undertrials were found eligible under various provisions only 71 were actually released.

Uttar Pradesh's affidavit filed in court as recently as April 2016 shows it to be one of the states which continues not to have taken any 'effective' steps on the number of persons who have been languishing in jails in compoundable

⁴ *Sunil Batra (II) Vs. Delhi Administration 1980 AIR 1579*

offences. The Supreme Court has fined all states excluding three, with an amount of rupees 25000, for not providing necessary information on the functioning of review committees. Uttar Pradesh is one of them.

- **Has the state of Uttar Pradesh taken adequate steps to address jail overcrowding?**

Yes and No. In 2001, Uttar Pradesh jail had the capacity to house 33,742 prisoners in 61 jails. However 53,296 inmates were housed in these jails which meant that the jails were overcrowded by 57.9%

Fourteen years later, there are 67 jails which can accommodate 52,780. So the increase in the capacity has gone up by 56%. However, the jail population has increased by 66% in the same time period which has further increased the level of overcrowding to 67%.

Under the 13th Finance Commission 609 crores were given to various state jails for the improvement of jail conditions. **Uttar Pradesh was not one of them.**

What you can do:

Write to the Chief Minister, Shri Akhilesh Yadav at cmup@nic.in

Dear Chief Minister,

The jails of your state are inhumanely overcrowded and jail staff are inadequately appointed to ensure safety, security and correctional activity. Another jail riot cannot be allowed to happen when they can well be prevented. We urge you to allocate more resources towards jails and direct your home department to appoint more security and correctional staff. Please use all your powers to ensure the effective monitoring of jails, first step towards it being the constitution of the Board of Visitors by the home department as mandated under the Uttar Pradesh Jail Manual. Kindly also ensure the functioning of Undertrial Review Committees in all jails as directed by the Supreme Court under the *Re-Inhuman Conditions in 1382 prisons*. Jails are being watched.

Write to us at chriprisonsprog@gmail.com with your comments and suggestions. You could leave us an email if you wish to subscribe to these updates.

Best Regards,

Sana Das

Coordinator, Prison Reforms Programme

PRISON NEWS

Prison dept. to publish a magazine with jail inmates' write-ups

Sayantane Choudhury | TNN | Apr 11, 2016, 10.48 PM IST

Patna: The state prison department has decided to publish a magazine in which prisoners will contribute their write-ups.

Victims of the border: Indians who have languished in Pakistani jails for years, and died

TNM Staff | Wednesday, April 13, 2016 - 17:13

Indians being lodged in Pakistani jails is not a new phenomenon.

How can the Mandela Rules be put into practice in Uganda and in other African countries?

Omar Phoenix Khan 11th April 2016

On 10 March 2016, PRI's new Africa Office held a round table discussion in Kampala, Uganda on the implementation of the Revised UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Omar Phoenix Khan, Project Coordinator EXTRA (Excellence in Training on Rehabilitation in Africa) Project Coordinator attended the discussions, along with PRI's Executive Director, Alison Hannah and Doreen Namyalo Kyazze, PRI's Africa Programme Manager.

Inmate commits suicide in Jodhpur Jail

Press Trust of India | Jodhpur April 13, 2016
Last Updated at 01:42 IST

A 22-year-old jail inmate today committed suicide by hanging himself in the premises of the prison here.

UN rights body releases damning report on SA prisons

News 24, 2016-04-11 19:42

The United Nations Human Rights Council's report on South Africa has painted a grim picture of the country's prisons. The committee on South Africa reported a slew of factors contributing to poor conditions at state detention centres.

The State That is Taking on the Prison Guards Union

04.11.2016, The Marshall Project news

For decades, New York state's corrections officers union has held the power in disciplinary decisions.

About *Jail Mail*

Jail Mail is a regular series of Prison Reform Updates from CHRI for readers interested in the rights of prisoners and the reform of prisons as a matter of public concern. The engagement of civil society in the management and monitoring of prisons and the rights of prisoners is vital to the transparency of this traditionally closed institution and to ensure the practical realisation of the rights of those behind bars. *Jail Mail* invites discussion between civil society members and those entrusted to oversee and manage prisons.

Evidence-based research and watch reports of CHRI's Prison Reforms Programme, interviews with critical stakeholders, topical issues and developments concerning the liberty of prisoners, and health of prisons in India and around the world will form the sources of *Jail Mail*. Its periodicity will depend on the urgency of issues and the interest they generate.

About CHRI and the Prison Reforms Programme

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights across the Commonwealth. CHRI was founded in 1987 by Commonwealth professional associations; it is headquartered in New Delhi, India since 1993, and has offices in Accra, Ghana and London, UK.

The Prison Reforms Programme of CHRI is more than 15 years old. The programme focuses on improving prison monitoring through the strengthening of undertrial review mechanisms and prison visiting system nationally, and ensuring early safeguards against unnecessary pre-trial detentions, specifically in Rajasthan and West Bengal. The programme also advocates for timely repatriation of foreign national prisoners and immediate release of asylum seekers. Evidence-based research, advocacy, capacity-building of actors of the criminal justice system including prison officials, welfare and probation officers, criminal defense lawyers, magistrates, legal aid functionaries and civil society actors are the regular activities of the programme.

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