

PRISON VISITING SYSTEM

NON-OFFICIAL RECOMMENDATION BOARD
PREVENTION adequacy ADMINISTRATION
information WELFARE TRAINING INTERVIEW PROTECTION
aspects During SYSTEM IMPARTIAL DOCUMENTATION
HEALTH INSPECTION
YEARS VISITING LEGAL RIGHTS CASE
PRODUCTION VISITS GUIDANCE
DETENTION ROSTER REFORM
AID VISITOR VISITORS
BOOK MAGISTRATE PRISON ASSISTANCE
PERIODIC DISTRICT
GOVERNMENT examined
GRIEVANCE DIALOGUE
ORDER assessed
different REDRESSAL
REPORT
MEDICAL COURT INDEPENDENT
DEPRIVATION CARE BI-ANNUAL
IMPROVEMENT OBJECTIVES JUDICIARY MANAGEMENT
REHABILITATION CONDITIONS MEETINGS LIBERTY FAMILY



KEY TO OPEN UP A CLOSED WORLD

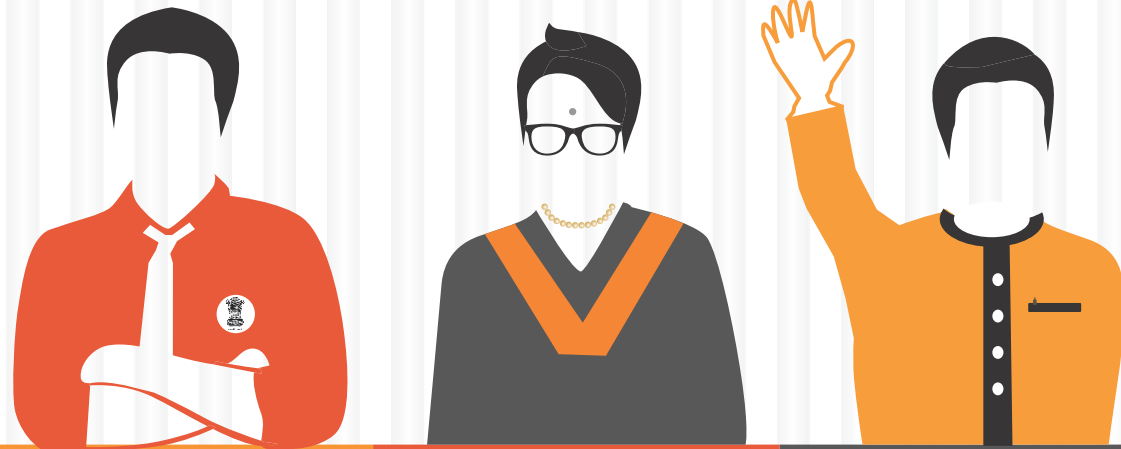


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Letting the outside in is particularly essential in closed institutions like prisons where agents of the State have complete control over the lives of those who have lost their liberty. The Prison Visiting System comprising official and civilian visitors is the oversight mechanism that lets the outside in. It is the key to check on oppression and violation by authority and a means to ensure there is some independent scrutiny of the conditions of those whose access to the world of assistance available to the free is stringently controlled. Recommended in the Reform Committee of 1836, the system was incorporated into the Prisons Act in 1894. All states, under Section 59(25), are required to lay down rules for 'appointment and guidance of visitors to prisons' in their respective prison manuals. Hence today every state law, with some variation, incorporates the Prison Visiting System comprising a Board of Visitors.

Board of Visitors



Official Visitor

Persons who become visitors to a prison by the virtue of the government office they hold at that point in time are called Official Visitors. These government offices have a stake in the management of prison and treatment of prisoner such as the judiciary, police, department of public health, social welfare, education, employment, industries, factories, agriculture.

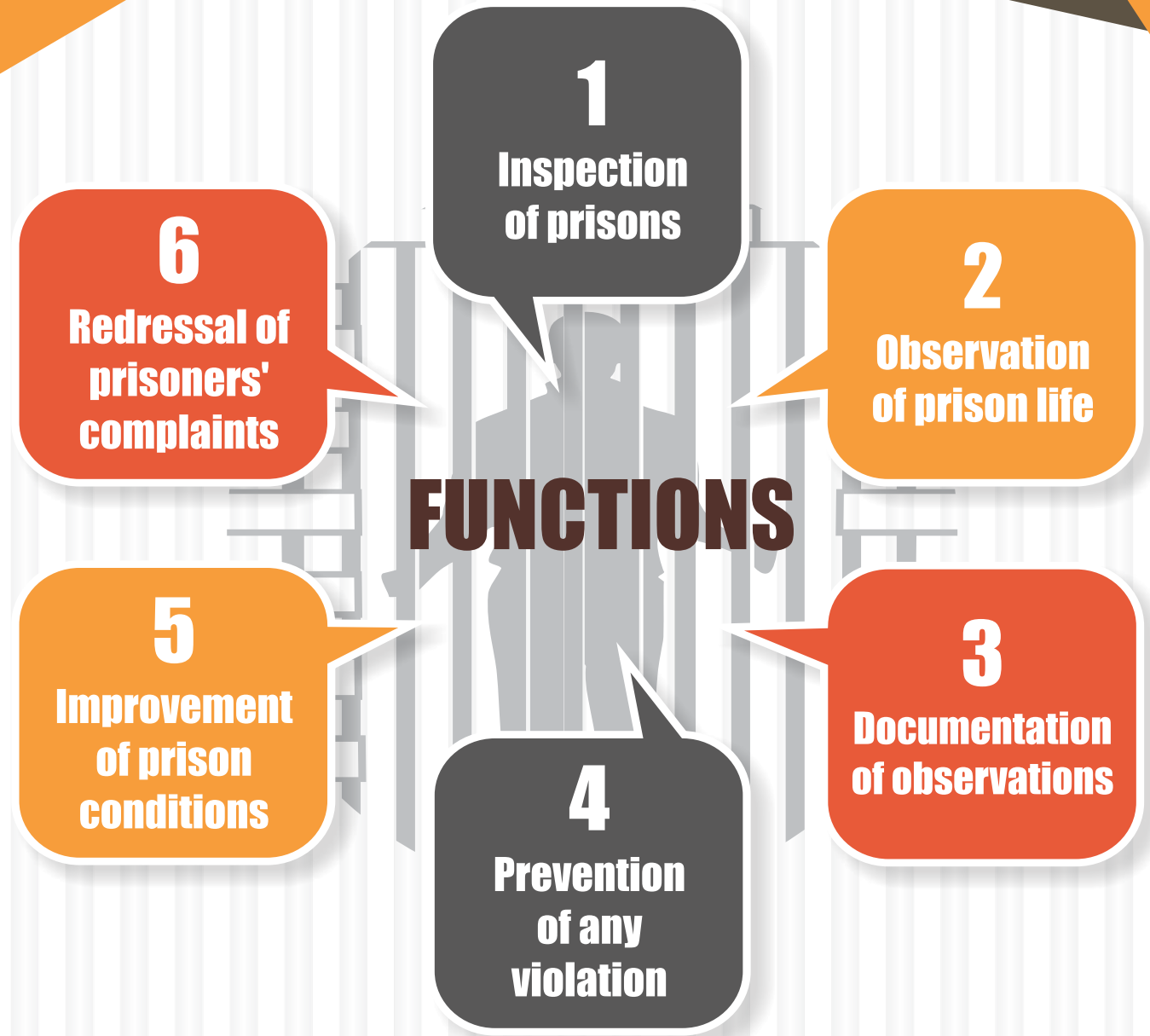
Non-Official Visitor (NOV)

Lay people from the local society who have an interest in the welfare of prisoners and administration of prison are appointed as NOV. Ideally, they should be doctors, psychiatrists, psychologists, lawyers, members of the Bar, journalists, social workers, members of the Red Cross, retired government officers and retired judges so that they can assist the prisoner and prison administration effectively.

Ex-Officio Non-Official Visitor

Persons who are elected by the voters as their representatives or members of autonomous statutory bodies which are created to protect the rights of vulnerable groups are called Ex-Officio Non-Official Visitors. Such persons may be the ministers, members of legislative assembly, parliament, nagar panchayats and municipalities, heads and members of Human Rights Commission and Women Commission, Minority Commission etc.

FUNCTIONS



KEY INSTRUMENTS

1.	The Constitution of India, 1951
2.	The Prisons Act, 1894
3.	The Prisoners (Attendance in Courts) Act, 1955
4.	The Repatriation of Prisoners Act, 2003
5.	The Legal Service Authorities Act, 1987
6.	The Transfer of Prisoners Act, 1950
7.	The Mental Health Act, 1987
8.	The Protection of Human Rights Act, 1993
9.	Code of Criminal Procedure, 1973
10.	State Jail Manuals
11.	The United Nations Standard Minimum Rules on Treatment of Prisoners, 2015 (Mandela Rules)
12.	United Nations Rules for the Treatment of Women Prisoners, 2010 (Bangkok Rules)

MATERIAL CONDITIONS

Food: Are the vegetables and grains well-cleaned and cooked properly? Are meals provided according to the standards laid down? **Chapter VI of the Prison Act and the relevant provisions of the State Jail Manual**

Water: Is the mode of saving water safe? Is it being supplied in proper quantity? Is it being regularly checked? **Article 21 of the Constitution of India**

Sanitation: Are there adequate number of bathrooms and toilets? Is there proper supply of clean water? Are they being regularly cleaned? Whether toilets and bathrooms have doors?

Hygiene: Is the drainage system proper and cleaned regularly? **Rule 18 of UN Standard Minimum Rules on the Treatment of Prisoners**



REGISTERS AND DOCUMENTS

History Ticket

Whether it is being maintained for every undertrial and convict? Whether it is updated and inclusive of all the information?

Section 3 and 59 of the Prisons Act and relevant provisions of the State jail manual Admission; Punishment; Revenue; Peshi Register and Report Book

Are all important events connected with the administration of the prisons recorded daily? Whether the fitness of every person who is allotted labor recorded? Whether there is any gap between the number of people ordered to be produced in court and the number that actually went recorded?



OBSERVATION AREAS

PRISON STAFF

Training

Whether training is imparted to the prison staff on regular intervals?

Welfare

Are they provided facilities in proportion to their job title?

Vacancies

Are the posts of various jail officers lying vacant for too long?



VULNERABLE GROUPS

Women: Whether women prisoners are screened from the view of the male prisoners? Whether toilets in the women prisons or enclosures are regularly cleaned? Are their diet conducive to their gender specific needs, particularly in the case of pregnant women? **Rule 28 of UN Standard Minimum Rules on the Treatment of Prisoners**

Mentally Ill: Whether mentally ill prisoners are regularly examined by psychiatrists and medical officers? Whether a mentally-ill undertrial prisoner eligible for release? Whether the family of the prisoner visit regularly? **Section 330 CrPC, 1973**

Foreign Prisoners: Whether the embassy of prisoner's country of origin has been informed of his arrest? Whether he has been provided consular access? Whether his rights were told him in a language that he or she understands? Whether the family of prisoner knows of the arrest? Whether a foreign prisoner has completed his period of sentence? **Article 21 of the Constitution of India, Article 36 of Vienna Convention, Rule 62 of UN Standard Minimum Rules on the Treatment of Prisoners of the and relevant provisions of the State jail manual**

Transgender: Whether transgender prisoners are housed as per their gender identity? Whether transgender prisoners abused, physically or mentally? **Article 14, 15 (1), (2), 16(2) of Constitution of India**

Juveniles: Are persons less than 18 years of age housed in prison? Are they kept with hardened criminals? **Section 27 of the Prison Act**

Migrants: Is the bail amount for the release of an undertrial migrant prisoner unnecessarily high? **Section 440 of CrPC, 1973**

Dispersed Family: Is there a prisoner whose family does not know of his arrest? When was the last time the family contacted the prisoner?

Minority Groups: Whether ill-treatment is meted out based on caste, religion, sexual orientation?



MEDICAL SERVICES

Medicines: Are the medicines available in proper quantity? Are they stocked properly? Are they fit for consumption?

Ambulances: Whether the prison has its own ambulance? If not, is it easily available? Whether the number of ambulances for each prison is as per with the need? Are they in working condition? Are police escorts separately sanctioned for medical needs?

Medical Officers: Whether appropriate number of Medical Officers are appointed? Are medical officers available at night? Are there doctors especially for women? Do they visit the prison according to the standards? If not, what is the frequency of their visits? When was the last time the Medical Officer visited? Do they report to the authorities? **Section 13, 14 and Chapter VIII of the Prison Act and relevant provisions of the State Jail Manual Rule 26 of UN Standard Minimum Rules on the Treatment of Prisoners**

Medical Check-ups: Whether medical check-up takes place at the time of admission of every prisoner? Do they record the information according to the standards? **Rule 31 of UN Standard Minimum Rules on the Treatment of Prisoners**

Vaccinations: Whether the prisoners are timely vaccinated? Whether a record is being maintained for such vaccinations?

Mental Health: Whether psychiatrists are appointed? Whether the number of such psychiatrists is in proportion to the demand? Whether they visit the jail regularly? Whether counselors are appointed? **Section 27 and 39 of the Mental Health Act, 1987 and relevant provisions of the State Jail Manual**



CASE MANAGEMENT

Court Production: Whether prisoners are timely produced before the court? **Sections 167(2) and 309 of the CrPC, 1973, Section 9 of Prisoners Attendance in Court Act, 1955 and the relevant rules of the State**

Escorts and Escort Vehicles: Are there adequate number of guards to escort the prisoner to the Court? Are there adequate vehicles to escort the prisoner to the Court? **Section 9 of Prisoners Attendance in Court Act, 1955 and the relevant rules of the State**

Appeals: Whether appeals are being filed on time?

Legal Aid: Whether prisoners have a lawyer? If not, whether a legal aid lawyer has been appointed? Whether the lawyer supplies the copies of all the orders to the prisoner? Whether the lawyer visits the prisoner regularly? Whether a register is maintained for recording of such visits? Has a legal aid clinic been constituted in the prison? Whether prison paralegal volunteers have been appointed to manage legal aid clinics? **Article 39A of Constitution of India, NALSA (Legal Aid Clinics) Regulations, 2011**

Undertrial Prisoners: Whether an undertrial prisoner has been in jail for unduly long? Whether an undertrial prisoner has completed half of the maximum sentence under the section he/she has been charged with? Whether the charge sheet has been filed within 60-90 days from the first date of remand? **Section 436A and 167 of CrPC, 1973**



REGIMES AND ACTIVITIES

Labor: Is the work space safe?

Whether fitness of prisoner is suitably taken into consideration while allotting the work? Are the work timings healthy and according to the standards? **Chapter VII of the Prisons Act and relevant provisions of the State Jail Manual**

Contact with Family: Are prisoners allowed to meet their family, friends and relatives? Are the prisoners allowed to speak to their family, friends, relatives and legal advisors regularly? Are there proper and humane facilities for such communications? **Rule 58 of UN Standard Minimum Rules on the Treatment of Prisoners and the relevant provisions of the State Jail Manual**

Education: Whether proper facilities are provided to the prisoners for continuing or beginning their education?

Vocational Training: Whether any skill based training is imparted to the prisoner? Is the quality of training competitive and marketable?

Wage: Whether prison wage is at par with the minimum wages depending on the nature of the work?

Reading and Writing: Is there a library in the prison? Does it have adequate books? Whether pen and paper are provided to the prisoner who desire to write? Whether newspaper in national as well as regional language made available to prisoners? **Section 59(27) of the Prison Act**

Grievance Redressal Box: Whether a mechanism is set in place for a prisoner to complain or share his concern? If yes, is it operational? Is there privacy in the system of making complaints?



TREATMENT

Torture

Whether intentional pain or suffering, mental or physical is inflicted on the prisoner?

Article 20, 21 and 22 of the Constitution of India; Section 46 and 49 of the IPC Solitary

Confinement: Whether a prisoner has been in isolation for longer than the legally mandated time period? **Section 73 of IPC, Section 29 of the Prisons Act and relevant provisions of the State jail manual**

Use of Force and Restraint: Whether unnecessary and excessive force has been used on the prisoner?

Separation: Are undertrials and convicts housed separately? Are men and women housed separately?

Section 27 and 28 of Prisons Act and the relevant provision of the State Jail Manual

Punishment: Is the quantum of punishment unduly high? **Chapter X and XI of the Prisons Act and the relevant provision of the State Jail Manual**



PROCEDURES AND MECHANISMS

Periodic Review Committees: Whether the committee meets regularly? Whether the recommendations are recorded? Whether persons whose names are recommended are getting released? Whether the committee studies the cases of all prisoners, notwithstanding the caste, gender, sex, religion, status and nationality? **Government order No.F/8/22/Grah-12/kara/79**

Parole Board: Whether the Board meets regularly? Whether the Board studies the pleas of all the prisoners notwithstanding the caste, gender, sex, religion, status and nationality? When did the Board meet last? **Section 5(A), (B) and 59 of the Prisons Act and the relevant provisions of the State Jail Manual**

Advisory Board (remission): Whether the Board meets regularly? Whether remission is given in due proportion of prisoners' conduct and work? **Articles 72 and 161 of Constitution of India, Sections 432, 433, 433-A of CrPC**

Board of Visitor: Whether Board has been constituted? Are members meeting according to the standards? **Section 59 of the Prison Act and the relevant rules of the State Jail Manual**

Legal Services Authority: Whether DLSA representatives visit regularly? Whether registers on legal aid and assistance to prisoners are being maintained? Whether action taken by DLSA is communicated to prison and prisoner?



POWERS, DUTIES AND ACTION TO BE TAKEN

NON-OFFICIAL VISITORS

Pre Visit	During Visit	Post Visit
<p>FIRST VISIT</p> <ul style="list-style-type: none"> • Identify the hierarchical levels and their responsibilities • Collect all available information on prison demography, capacity, overcrowding, language spoken, known issues, risks involved, media reports • Contact the fellow NOVs • Knowledge of legal framework, in particular the state jail rules, notifications and MHA advisories and guidelines • Prepare a checklist or questionnaire • Gather the contact details of important and relevant authorities and NGOs working towards the welfare of prisoners <p>SUBSEQUENT VISITS</p> <ul style="list-style-type: none"> • Revise notes of last visit for focus and optimum impact 	<ul style="list-style-type: none"> • Make a joint visit with fellow visitors • Introduce yourself to jail staff and prisoners • Explain objectives of monitoring work • Explain the limitations of monitoring work • Request updated information on prison demography, capacity, overcrowding • Seek the opinion of the jail staff on conditions of detention, problems faced and observed and solutions in mind • Collect information on sources of information such as registers, visitor's book, staff list, internal rules and standard operating procedures, working staff etc. • Observe the architecture and layout of the prison • Locate all the cells, barracks, meeting rooms, gardens, kitchen, factory, courtyards, hospital and bathrooms • Balanced distribution of time between prison conditions, prisoner treatment and case management • Observe the treatment of prisoners with a focus on rehabilitation • Identify the vulnerable groups and individuals • Divide the areas of observation amongst other visitors • Hold private or group interviews of prisoners based on the nature of the query/complaint • Identify the socio-legal needs of the prisoners, in particular those whose families and lawyers don't visit • Interact with new pre-trial entrants to understand if their medical examination was conducted properly • Restore family ties of prisoners for instance, informing the family about the arrest • Record summary of the information obtained from the interview 	<ul style="list-style-type: none"> • Forward your comments in the visitors book to the Board of Visitors, District Magistrate and the DIG of that range • Write to the family of the prisoner to foster communication and facilitate their visits • Consult the Public Works Department (PWD) in case of construction, building repair related issues • Consult the Public Health Department in case of issues related to lack of medical services, food and water quality, vaccinations • Consult the District Legal Services Authority in case of issues related to legal aid and lack of legal representation • Consult the concerned court and the Periodic Review Committee in case of prolonged detention of undertrials • Consult the Superintendent of Police for lack of police escorts and escort vehicles • Consult the Livelihood Corporation, Department of Employment for plausible employment opportunities • Consult and coordinate with Non-Governmental Organizations and the Corporate Social Responsibility (CSR) section of Corporates for exploring employment opportunities and socially beneficial collaborations • Report any incident of torture to the Board of Visitors, Head of the Prisons, State Human Rights Commission, District Judge and District Magistrate

POWERS, DUTIES AND ACTION TO BE TAKEN

NON-OFFICIAL VISITORS

Pre Visit	During Visit	Post Visit
<ul style="list-style-type: none"> • Present the query/observation/complaint to the jail staff, obtain their view and seek their suggestions • Document the summary of query/observation/complaint and recommend plausible solution and action on part of stakeholders in the visitors book 	<ul style="list-style-type: none"> • Make unannounced visit to observe the prison 'as it is' and not 'at its best' 	<ul style="list-style-type: none"> • Write to the relevant Diplomatic mission in case of unnecessary or prolonged detention of foreign national prisoners • Write to the Department of Finance to ascertain the utilization of budget allotment

STATE HUMAN RIGHTS INSTITUTIONS

Pre Visit	During Visit	Post Visit
<ul style="list-style-type: none"> • Locate and study past inspection reports by autonomous institutions such as Human Rights Commissions, Women Commission, Minority Commission, Comptroller and Auditor General and non-governmental institutions to flag out issues of concerns • Call for and study the past budget allotments to the issues of concerns and its utilization by the prison department • Draw out a list of Supreme Court and relevant High Court judgments related to issues on prison reform and study the specific directions • Study the background of the working staff and vacancies • Identify the vulnerable groups • Prepare a questionnaire or checklist based on the judgments and key areas of concern and past audit or inspection reports • Strategize the duration of the inspection and the distribution of time between issues related to prison management, prisoner treatment and case management • Constitute a committee of experts to ensure a multi-disciplinary approach, if necessary 	<ul style="list-style-type: none"> • Make unannounced visit to observe the prison 'as it is' and not 'at its best' • Introduce yourself to the prisoners with a focus on independence and confidence building • Examine visitors book and flag out the issues of concerns • Interact with the prisoners to understand any excesses made by the jail staff by way of punishment, solitary confinement, prolonged work hours, use of restrain and force or by fellow prisoner by way of physical or sexual abuse. • Corroborate the testimony by speaking with other prisoners even out of hearing of other officials, if required • Present the observations to the jail staff and if possible hold on-the-spot investigation 	<ul style="list-style-type: none"> • Divide issues on the basis of what requires preventive and reactive investigation • Hold constructive dialogue with the authorities on the issue that requires preventive investigation • Show cause the authorities on the issue that require reactive investigation • Examine Magisterial Investigative Report (MER), if any on the issue concerned • Increase coordination amongst various governmental stakeholders to prevent violations • Send rapporteurs to check action taken and compliance

POWERS, DUTIES AND ACTION TO BE TAKEN

MEMBERS OF LEGISLATIVE ASSEMBLY OR PARLIAMENT

Pre Visit	During Visit	Post Visit
<ul style="list-style-type: none"> • Collect all available information on prison demography, capacity, overcrowding, language spoken, known issues, risks involved • Study the existing or draft domestic legislations and international standards that govern the functioning of prison and treatment of prisoner 	<ul style="list-style-type: none"> • Focus on areas that require change in law and policy • Collect testimonies of prisoner and jail staff on the issues that require change in law and policy • Consult the jail staff on possible solutions to the issues of concern • Study the minutes of the meetings held in prisons by Boards, Committees etc. • Seek the compliance of recommendations of the Boards, committees • Record the summary of the issues observed along with possible solutions 	<ul style="list-style-type: none"> • Draft a summary of observations and chalk out the underlying causes for deviation from standards • Submit the summary along with pragmatic solutions to the Home Department and Prison Department • Comment on existing and pending legislation and mechanisms on issues related to prison substantiating on the experience as a visitor • Raise awareness about prison related issues to mobilize the popular sentiment • Utilize the Local Area Development Scheme Funds for improving prison conditions

OFFICIAL VISITORS

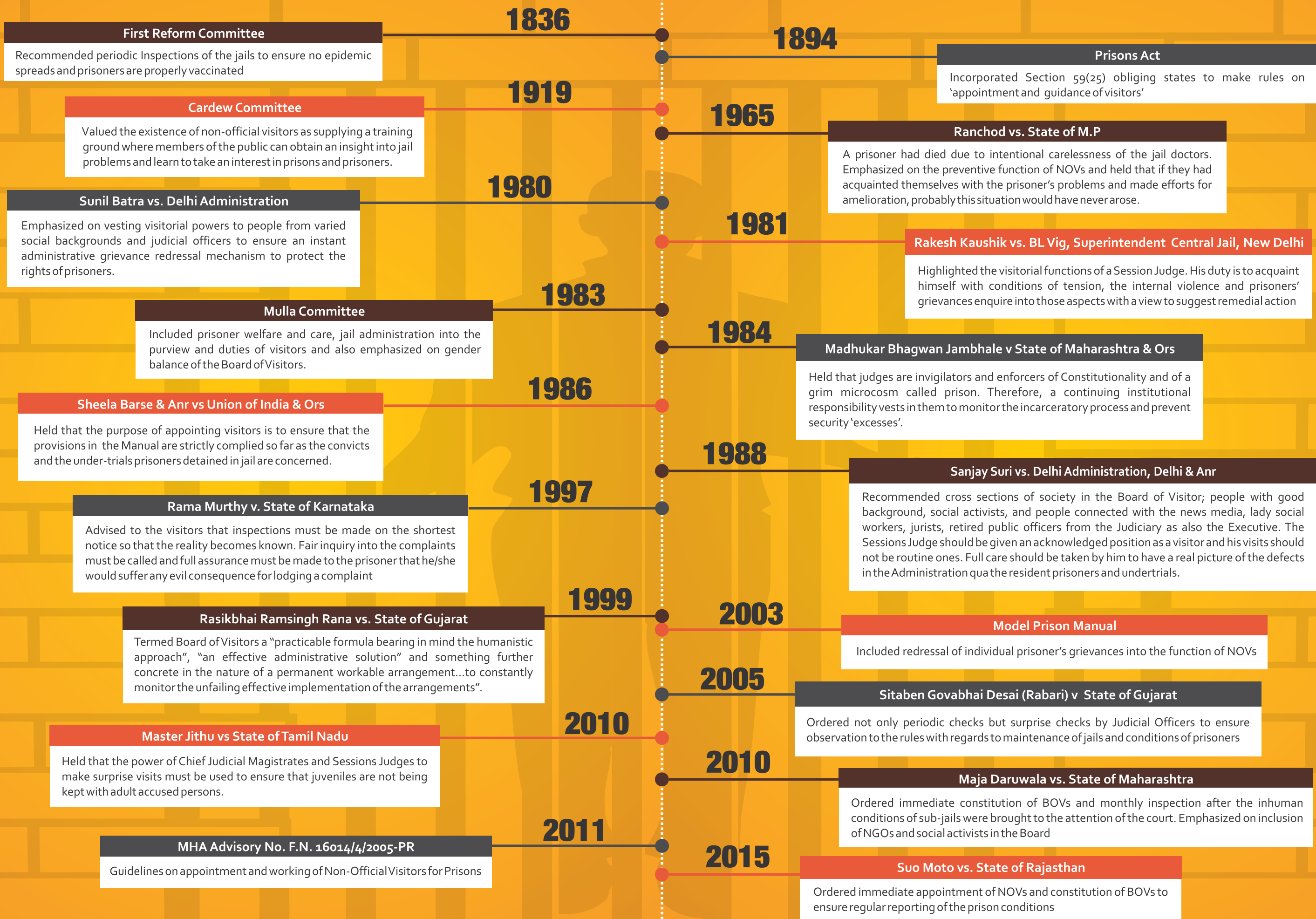
Pre Visit	During Visit	Post Visit
<ul style="list-style-type: none"> • Review existing prisoner requests and complaint mechanisms • Learn about the importance of internal and external inspections • Study the budgetary allocations made to the areas that correspond to or directly to your office • Prepare a check list for assessing the quality and maintenance of the services and products related to your office 	<ul style="list-style-type: none"> • Focus on areas that correspond to or directly relate to your office • Provide technical advice to the jail staff for efficient discharge of their duties • Conduct a quality assessment of the services provided by the jail staff to the prisoners • Examine the registers and records pertaining to the services and products related to your office • Record your observations and recommend solutions in the Visitors Book 	<ul style="list-style-type: none"> • Identify and analyse any challenges and obstacles in the discharge of duties by the jail staff • Prepare a strategy document listing down coordinated short term and long term goals and targets • Follow-up consistently to ensure achievement of targets • Engage with civil society actors to ensure compliance, monitoring and obtaining third perspective • Encourage self-sufficiency of jail staff by building their capacities related to your area of professional expertise

POWERS, DUTIES AND ACTION TO BE TAKEN

MAGISTRATES & JUDGES

Pre Visit	During Visit	Post Visit
<ul style="list-style-type: none"> • Study judicial precedents on issues on prison reform • Solicit information from the prison on history of deaths in custody (natural and unnatural), vacancies, overcrowding, number of mentally ill prisoners, foreign nationals and women, budgetary allocation 	<ul style="list-style-type: none"> • Make unannounced visits to observe the prison 'as it is' and not 'at its best' • Study the past inspection reports of the visitors • Prioritize complaints of corruption, assaults, inhuman treatment, unnecessary detention, deaths in custody; applications of bail, parole and remission especially by pre-trial and pre-sentence prisoners • Assess the quality of legal representation • Interact with convict officers and paralegal volunteers for obtaining a balanced view on prisoner treatment • Examine the Grievance Redressal/Complaint Box • Seek the response and action taken by the jail staff on those grievances • Scrutinize registers for obtaining an objective view on the facts • Examine the minutes of the meetings held in prison by Boards, Committees etc • Consult the jail staff on the compliance of any recommendations by those Boards, Committees etc • Hold hearings, if necessary and receive submissions from both the prisoner and staff • Resolve issues by mediation and remedial action and in case of failure resort to external intervention 	<ul style="list-style-type: none"> • Prepare a summary of observations and proceedings • Submit the summary to the District & Sessions Judge along with recommendations • Conduct judicial review of the failures and omissions of the administration • Call meetings with role-players in criminal justice system • Write to DLSA and SLSA about the status of legal aid and representation

Timeline of Key Events



International Standards

The United National Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules)

The primary instrument on penal reform seeks inspection of prisons in Rule 83, 84 and 85. It seeks a two-fold system of internal and external inspection to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections services, and that rights of prisoners are protected. It hands over the authority to the inspectors to freely choose which prisons to visit and make unannounced visits at their own initiative. It calls for qualified and competent inspectors and a balanced gender representation. Every visit must be followed by a written report and seek implementation.

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules)

A supplementing instrument focusing on treatment of women prisoners calls for inspection under Rule 25. It calls for independent and competent authorities to investigate any claims of abuse by women prisoners and seeks the inclusion of women in monitoring and visiting Boards. Further, it prioritizes the principle of confidentiality and urges protection measures to be in place in case retaliation by authorities.

The United Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)

The central instrument on prohibition and prevention of torture by States recognizes the importance of monitoring places of detention in Article 17. It calls for an independent Committee consisting of experts to monitor the places of detention and seek reports on the compliance of the Convention. The Committee is created to act as a preventive measure against both physical and mental torture. India signed the UNCAT on 14th October 1997, however it has steered clear from ratification till date. Being a signatory does not bind India to accept the convention. However, it is obliged to refrain, in good faith, from acts that would defeat the object and purpose of the treaty. This can only be achieved by strengthening the existing institutions.

About CHRI & Prison Reform Programme

The Commonwealth Human Rights Initiative (CHRI) is an international, independent non-profit organization headquartered in India. Its objectives are to promote the practical realization of human rights in the Commonwealth. In addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice.

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.