

**BEHIND BARS...**

**A CLOSER LOOK**

**PRISON  
VISITING  
SYSTEM**

**MADHYA PRADESH, INDIA**

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## **ABOUT CHRI**

The Commonwealth Human Rights Initiative (CHRI) is an international, independent non-profit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. CHRI educates on human rights issues and advocates for greater adherence to human rights standards.

Guided by the need to protect the rights of the most vulnerable, CHRI has taken up the issue of Prison Reform in South Asia, though at present the concentration is on India. CHRI intends to work towards these changes by researching prison conditions, advocating for special training and better methods in the appointment of prison visitors and doctors, and highlighting the deplorable conditions under which the prison administration itself functions. The following are the two main projects undertaken by CHRI:

### **PRISON VISITING SYSTEM**

Places of incarceration are largely impermeable to the outside world. They are not open to public scrutiny and hence are largely unaccountable. To check the current situation, CHRI is actively involved in trying to renew and reinvigorate the system of prison visitors, which is relatively independent of the prison authorities and has a crucial role to play in protecting those in custody from torture and ill-treatment.

CHRI conducted this field study in seven select jails of Madhya Pradesh in February 1999 where it collected first hand information on the prevailing prison visiting system in the State. As a follow-up to the study, a workshop was organised in July 2000 in collaboration with the Madhya Pradesh Human Rights Commission, for prison visitors, members of Legislative Assembly, prison officials and NGOs working in the field. CHRI is now undertaking training of non-official visitors to prisons and is also developing a visitors training manual.

### **DOCTORS AT RISK**

In an attempt to make a multi-pronged attack to custodial violence, CHRI has targeted the doctors who work in police as well as prison establishments. This project was envisaged with a twofold purpose; first, to prepare a practical manual for doctors to help them recognize and cope with torture more effectively, and second, to develop an autopsy-kit to be used in performing post-mortems in cases of custodial deaths.

CHRI has also developed a 'Last Aid Kit' designed by two forensic experts from the Netherlands, in order to demonstrate that very little is needed to improve post-mortem techniques and that torture need not go undetected. This kit contains very simple, easily available medical instruments and information for the doctors. The entire kit is arranged in a reasonably priced, compact box and provides all the basic necessities to perform an autopsy.

## **TABLE OF CONTENTS**

### **FIELD STUDY**

|   |           |
|---|-----------|
| <b>I. INTRODUCTION</b>                              | <b>1</b>  |
| <b>II. PRISON VISITING SYSTEM IN MADHYA PRADESH</b> | <b>4</b>  |
| <b>III. FINDINGS OF THE STUDY</b>                   | <b>10</b> |
| <b>IV. CONCLUSIONS AND RECOMMENDATIONS</b>          | <b>18</b> |

### **ANNEXURES**

|  |  |
|--|--|
| <b>1. RECOMMENDATIONS OF THE MULLA COMMITTEE</b>   |  |
| <b>2. VISITOR'S NOTES: AN EXAMPLE OF A TYPICAL NOTE</b>  |  |
| <b>3. FREQUENCY OF VISITS</b>  |  |
| <b>4. ISSUES ADDRESSED BY VISITORS</b>   |  |
| <b>5. VISITOR'S NOTES: AN EXAMPLE OF GOOD PRACTICE</b>   |  |
| <b>6. NATIONAL HUMAN RIGHTS COMMISSION'S CHECKLIST FOR LAY VISITORS</b>  |  |
| <b>7. GUIDELINES TO THE NOMINEES OF THE NATIONAL HUMAN RIGHTS COMMISSION ON THE BOARD OF VISITORS OF THE PRISONS IN THE STATE OF MAHARASHTRA</b> |  |



**FIELD  
STUDY**

## I. INTRODUCTION

The conditions prevailing in Indian prisons have been discussed time and again by various courts, human rights commissions and other expert committees. These reports show that the conditions are dismal and are only deteriorating further. The National Human Rights Commission (NHRC), for instance, has referred to the "appalling conditions of overcrowding, lack of sanitation, poor medical facilities, inadequate diet, and the like, in most of the jails of the country."<sup>1</sup>

The Madhya Pradesh Human Rights Commission (MPHRC) in its report titled 'Conditions of Prisons in Madhya Pradesh' discussed a series of problems being faced by the prison population. It described the problem of overcrowding as being critical. Out of the 113 functional jails of MP, 73 were overcrowded. The overcrowding ranged from 100 to over 300 per cent in several sub jails. This resulted in insufficient floor space for sleeping and movement, ill health, insufficient toilets and problems of management. The Commission also highlighted the disturbing trend of the number of convicted prisoners decreasing, and that of under trials consistently increasing.<sup>2</sup> The typical problems of prisoners that were noticed in MP prisons were non availability of escorts to courts, medical negligence, inadequate and insensitive staff etc, which have also been reported in other parts of the country.<sup>3</sup>

To improve prison conditions and to ensure that prisoners' rights are not violated, it is important to establish or improve arrangements through which the jail conditions and the performance and behaviour of the staff can be constantly monitored. There are two main monitoring mechanisms in India. Besides the supervision exercised through departmental leadership, another monitoring mechanism exists in the form of prison visitors. Prison visitors by not being a part of the system, are in a position to keep a tab on the prison administration and makes it open to scrutiny.

Prisons impose restrictions on the life and personal liberty of inmates. Public information on this subject is scanty due to the concealed and opaque method of functioning of prison administration, and perhaps also because of the indifference of the citizens towards this condemned lot that 'deserves' to be punished. Given the inherently closed nature of the prison system and the inability or lack of political will to evaluate its effectiveness or supervise its functionaries, the system of prison visitors offers an area for intervention through which it can be opened up to scrutiny by credible, independent evaluators.

As early as 1777, John Haward, the father of the prison reform movement, thought of the modern prison visitors version in the form of inspectors appointed either by the Magistracy or by the Parliament. Today most countries in the world have a formal provision for the appointment of some outstanding persons in the community to act as prison visitors. However, the reputation of such persons is generally not high. Prisoners rarely have confidence in them and too often they become part of the established machinery of imprisonment, making it seem acceptable and respectable when in fact it is not.<sup>4</sup>

The courts have occasionally commented upon the functioning of the prison visiting system. A decade ago, the Madhya Pradesh High Court expressed its feelings of shock when it raised questions in a case in which a prisoner died of poisoning after being repeatedly given drugs to which he was allergic.

"...do they (prison visitors) satisfy themselves that the law, rules regulating the management of prisons and prisoners are duly carried out?...if all this (prison visiting system) had been going on smoothly, as is expected and ought to be, there was no need for Ranchod and Bhanta to make this letter petition".<sup>5</sup>

1 NHRC Annual Report, 1995 - 1996

2 MPHRC, Condition of Prisons in Madhya Pradesh (1998), pp 9-10.

3 All India Committee on Jail Reforms (1980-83), Ch.3.

4 Stern Vivien, A Sin Against the Future (1998), Penguin Books, London, pp 228 - 229.

5 Ranchod Vs. State of MP and Others (1988).

Considering the importance of the system and recognising its existing dysfunctions, CHRI decided to undertake an in-depth study of the subject.

#### THE CHRI STUDY:

The efficacy of the Prison Visiting System in India has been questioned by almost all the committees on prison reform set up since independence. Almost two decades ago the Mulla Committee was 'distressed to record that the system of prison visitors has become almost defunct in most states and union territories. At many places the board of visitors have not been constituted and at places where such boards exist they seldom visit prisons.'<sup>6</sup> It further commented that 'if the prison visitors had performed their functions effectively, living conditions in prisons would not have degenerated. We are of the view that the entire system of prison visitors needs to be revitalised'.<sup>7</sup> The Committee made a series of recommendations to tackle the problem (Annexure 1). In the years following the committee's recommendations several other committees were set up to look into different aspects of prison administration, each of which gave further suggestions.

The objectives of the CHRI study were:

1. To evaluate the effectiveness of the prison visiting system as a mechanism to monitor prison conditions and to ensure accountability; and
2. To suggest measures to improve the functioning of the system and to make it a stable institution for bringing about prison reform.

#### METHODOLOGY:

In order to evaluate the prison visiting system in the light of recent developments of human rights jurisprudence in custodial justice, the CHRI took on a focused examination of the visiting system as it functions in the state of Madhya Pradesh (MP). This state was selected because of its accessibility and the willingness of the Prison Headquarters of the State to provide us with the required information and the interest shown by the NHRC, Delhi.

The study was conducted in seven jails of MP - two central, two circle, one district and two sub-jails. These prisons were:

Jabalpur and Raipur (Central Jails), Bilaspur and Sagar (Circle Jails), Durg (District Jail), Janjgir and Sihora (Sub-Jails).

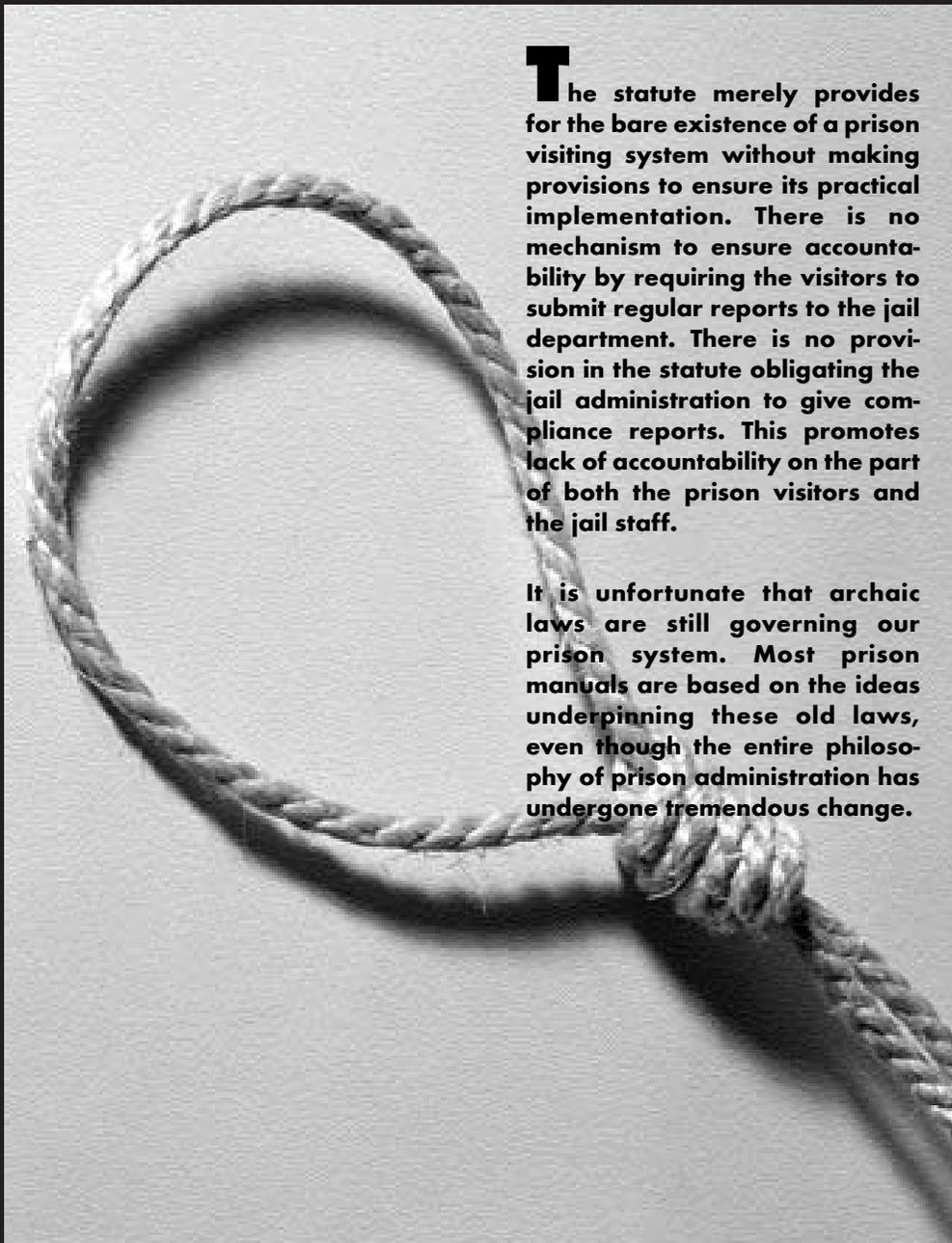
The data included notes recorded by the visitors during the period January 9, 1997 to December 31, 1998. Data was collected during February 1-10, 1999.

The analysis is based primarily on visitors' notes recorded by official and non-official visitors. This provided an indication of the frequency of visits, the issues taken into consideration and the efficiency of the recording procedure itself. From this data we sought to evaluate the functioning of the visiting system against the required standards set out in the MP Jail Manual and in various judgements of the Supreme Court of India.

The data collected through the visitors' notes was supplemented by interviews with non-official visitors. 10 non-official visitors - eight males and two females - were interviewed to ascertain the basis of their appointment and their education and past experiences in the field.

<sup>6</sup> All India Committee on Jail Reforms (1980-83), Ch.3, Para 3.38.

<sup>7</sup> Ibid. at 80-81.



**T**he statute merely provides for the bare existence of a prison visiting system without making provisions to ensure its practical implementation. There is no mechanism to ensure accountability by requiring the visitors to submit regular reports to the jail department. There is no provision in the statute obligating the jail administration to give compliance reports. This promotes lack of accountability on the part of both the prison visitors and the jail staff.

It is unfortunate that archaic laws are still governing our prison system. Most prison manuals are based on the ideas underpinning these old laws, even though the entire philosophy of prison administration has undergone tremendous change.

## II. PRISON VISITING SYSTEM IN MP

### LEGAL PROVISIONS:

In India prisons are a state subject. The prison visiting system in all Indian states has two types of visitors - the Official Visitors (OVs) and the Non-official Visitors (NOVs).

### OFFICIAL VISITORS:

The following are the ex-officio visitors to jails within their respective jurisdictions in MP<sup>8</sup>:-

1. Commissioner of the Division
2. Inspector General (IG) of Police
3. Director of Health Services (DHS)
4. District and Sessions Judge (D&SJ) / Additional District and Sessions Judge
5. District Magistrate (DM)
6. Deputy Inspector General (DIG) of Police
7. Additional District Magistrate (ADM)
8. Sub Divisional Magistrate (SDM)
9. Civil Surgeon or Medical Officer

### NON-OFFICIAL VISITORS:

The MP jail manual stipulates that the State government may appoint NOVs on the recommendation of the Commissioner of Division in which the jail is situated.<sup>9</sup> Each central jail can have a maximum of 6 NOVs, while a district and a sub jail can have three and two respectively. In addition, there is a provision for appointment of two women visitors in each jail lodging female inmates.<sup>10</sup> All members of the State legislature representing urban or rural constituencies are also the ex-officio NOVs of the jails situated within their constituencies.<sup>11</sup>

Every NOV is appointed for three years and is eligible for re-appointment on the expiry of each term of office.<sup>12</sup> However, there is a provision for the State government to cancel the appointment of a NOV at any time before the expiry of the term of office, without assigning any reasons.<sup>13</sup> An NOV who is about to absent himself for a period of six months or more is required to report his absence to the State government to enable them to appoint a substitute, if necessary.<sup>14</sup>

### BOARD OF VISITORS:

To co-ordinate between the OVs and NOVs there is provision for establishment of a Board of Visitors, to be constituted by the Divisional Commissioner for each jail. In case of central and district prisons, the Board is to consist of the DM as the chairperson and one other OV and two NOVs as members. For Sub-jails, the ADM or the SDM is the chairperson of the Board.<sup>15</sup>

The meeting of the Board of Visitors is to be held once a quarter. At the first meeting a roster of visits is to be prepared for the next 12 months, which permits a monthly visit to each jail by a visitor - either official or non-official. In addition, every NOV may also visit the jail twice a month at a time outside the prescribed roster, with or without notice to the Jail superintendent.<sup>16</sup>

8 MP Jail Manual, Para 814.

9 Ibid. Para 815(1).

10 Id. Para 815(5).

11 Id. Para 814(3).

12 Id. Para 815(2).

13 Id. Para 815(6).

14 Id. Para 816(2).

15 Id. Para 815(3).

16 Id. Para 816(1).

**The Supreme Court of India in Sunil Batra (II) vs. Delhi Administration stated that:**

The institution and composition of the Board of Visitors comes in handy and has statutory sanction. The visitorial power is wide, the panel of visitors includes judicial officers and such a situation can be pressed into service legally to fulfill the constitutional needs.<sup>17</sup>

**Elaborating on the duties of the Board of Visitors, the Supreme Court required it to check food, health, cleanliness, illegal detention, registers and records, and to listen to the petitions by prisoners and forward them to the Government. The Magistrates in particular, were to meet prisoners separately to see if they had any grievances.**

**VISITORS' DUTIES<sup>18</sup>:-**

1. It is the duty of a visitor to satisfy himself that the law and rules regulating the management of prisons and prisoners are duly implemented, to visit all parts of the jail and to see all prisoners and inquire into any complaint that any prisoner may make to him.
2. A visitor may call for and inspect any book or other record in the jail. However, the Superintendent may decline to produce any book, paper or record for the inspection of any NOV if - for reasons to be recorded in writing - he considers their production undesirable.
3. NOVs shall not visit prisoners on hunger strike or prisoners who are ill and not allowed to be interviewed on medical grounds. No member of the Board of visitors shall have access to such prisoners as government may from time to time specify as special class prisoners or persons specifically debarred and government may appoint the DM or any other person to visit such prisoners and may issue such instructions for the guidance of such visitor or visitors as it may think fit.
4. Every visitor shall, after he has completed his visit to the jail, record in the visitors' book prescribed by Section 12 of the Act<sup>19</sup>, the date and hour of his visit and may enter therein any remarks or suggestions he may wish to make. Entries in the visitors books shall be made in the visitors' own handwriting and the book shall not, except with the express permission of the Superintendent, be removed from the jail for this or for any other purpose.
5. No visitor may issue any order or instructions to any subordinate jail officer.
6. The remarks recorded by a visitor should include any complaint made to him by a prisoner, which in his opinion deserves notice. When the Superintendent is of the opinion that a prisoner has made a groundless complaint to a visitor and should be punished he shall record a brief statement of the facts and note what punishment he proposes to award and send it to the visitor. If the visitor dissents from the conclusion of the Superintendent, he may request that the case be submitted to the Inspector General for orders. A copy of the Inspector General's orders will be communicated to the visitor who may then, if he thinks fit, address the Government regarding the case.
7. (i) A visitor may record any remarks or suggestions about the internal arrangement of the jail or the state of discipline maintained therein. But when a visitor considers that the sanctioned system of the Jail administration requires modification in any particular manner or has any suggestions to make on questions of policy he shall refer his opinion separately to the Inspector General and shall not discuss the subject in the visitor's book.  
(ii) If during his visit a NOV comes across any prisoner whose case he considers should be brought to the notice of the State government he may refer his case to the State government and if he finds that the case of any undertrial prisoner has been unduly delayed, he may write to the District Magistrate concerned drawing the latter's attention to the case.
8. Non-official or official visitors shall not hold conversation with any undertrial who may be their client or relation.

<sup>17</sup>Sunil Batra (II) vs. Delhi Administration (1980) 3 SCC 488.

<sup>18</sup>Supra note 8, Para 817.

<sup>19</sup>Prisons Act 1894, Section 12(4).

9. A copy of remarks recorded by a visitor together with the Superintendent's reply and note of any action taken thereon, shall be forwarded through the District Magistrate to the Inspector General who may forward the correspondence for the information and orders of the Government. A copy of the orders (if any) of the Government or the Inspector General shall be forwarded to the visitor through the Superintendent of the jail.
10. A visitor so long as he retains his official connection with the jail is precluded from giving publicity in the press or otherwise to matters connected with its administration. Should there be any complaint which a prisoner may make to a visitor about his own treatment or that of any other prisoner or about the conduct of any officer, or should the visitor himself observe any matter of which he feels notice ought to be taken, he should refer it to the Superintendent who is responsible for everything that occurs in his jail. It is also open to the visitor to make a representation on the matter to the Government.

A copy of rules for the guidance of NOVs is to be supplied by the Superintendent of the jail to each NOV on his first appointment.<sup>20</sup> The manual also prescribes that the following 29 subjects should receive attention of the visitors<sup>21</sup>: -

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 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?

<sup>20</sup>Supra note 8, Para 819 (8).

<sup>21</sup>Ibid. Para 820.

21. **Undertrial Prisoners-** Are there any undertrial 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 utilised 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?

#### **INADEQUACIES OF THE LEGAL PROVISIONS:**

The manual does not lay down any minimum qualifications or criteria against which the NOVs are to be appointed. By using the term 'may ordinarily appoint',<sup>22</sup> the manual only suggests the minimum number of NOVs to be appointed, without making it compulsory on the State government to do so. This makes the entire process of appointments closed and opaque.

The State government may at any time and without assigning any reasons, cancel the appointment of a NOV before the expiry of his term of office.<sup>23</sup> This leaves scope for the Government to terminate the services of even those NOVs who may be discharging their duties sincerely and whose continuance is a discomfort to the erring and lax prison staff. As regards the renewal of their appointment, the manual simply states that they 'shall be eligible for re-appointment on the expiry of each term of office'<sup>24</sup>. Since re-appointment is not dependent upon the actual performance of the NOVs, it allows for perpetuation of patronage and associated ills.

The manual states that the State government 'may' appoint two or more lady visitors for prisons lodging women inmates, not making it mandatory on the State government to do so.<sup>25</sup> No specific guidelines are given to lady visitors, apart from confining their duties to the management and general well being of women inmates. More importantly, the issue of children in prisons has not been touched upon at all.

The manual lists 29 subjects that should receive the attention of the visitors. However, some important issues such as that of medical facilities, rehabilitation and vocational programmes, pre-mature release, condition of inmates in solitary confinement and welfare of women prisoners are conspicuous by their absence from the list.

The underlying rationale behind certain provisions in the manual is not clear. For example, it states that NOVs shall not visit prisoners on hunger strike or those who are ill and not allowed to be interviewed on medical grounds.<sup>26</sup> It is difficult to comprehend why the NOVs should not see an ill prisoner.

<sup>22</sup>Supra note 8, Para 815(1).

<sup>23</sup>Ibid., Para 815(6).

<sup>24</sup>Supra note 8 at Para 815(2).

<sup>25</sup>Id. Para 815(5).

<sup>26</sup>Id. Para 817(3).

If during his/ her visit the NOV comes across any prisoner whose case he or she considers should be brought to the notice of the State government or the DM, he may refer the case to the concerned authority<sup>27</sup>, not making it binding on him to do so.

It is required that the Superintendent shall arrange for every visitor to be accompanied by two warders armed with batons.<sup>28</sup> Interviews with NOVs and inmates confirmed that this provision severely restricts access of inmates to the NOVs and vice-versa. The security of the visitors is beyond doubt of prime importance. However, it should be stipulated that prisoners must have not only access but also an opportunity to discuss their problems outside the earshot of the prison staff. It has been clearly mandated in Sunil Batra (II)<sup>29</sup> that lawyers nominated by the DM, Sessions Judge, High Court and the Supreme Court will be given all facilities for interviews, visits and confidential communication with prisoners, subject to discipline and security considerations. The Court also directed the DMs and Sessions' Judges to personally or through surrogates, visit prisons in their jurisdiction and afford effective opportunities to prisoners to ventilate legal grievances.<sup>30</sup>

The manual requires the visitor to record any complaint made to him by any inmate. However, if the Superintendent believes that a prisoner has made a baseless complaint, he can punish the latter.<sup>31</sup> This clearly results in restricting the prisoner's ability to make a complaint because of the fear of being chastised. Even though there are 'safeguards' in the manual against punishing inmates in this regard, the very presence of this clause has the effect of inhibiting the prisoners from complaining.

Similarly, copies of remarks recorded by visitors are forwarded to the IG who 'may, if in his opinion it is necessary, forward the correspondence for the information and orders of the Government'.<sup>32</sup> The decision to forward the remarks to the Government rests solely with the prison official.

The manual further precludes the visitor from giving publicity to matters connected with prison administration.<sup>33</sup> Here again there is a deliberate attempt to ensure lack of transparency in administering prisons.

It is also not mandatory for prison visitors to record their comments/ suggestions<sup>34</sup>, who may convey their remarks to the prison officials verbally. This leaves scope to avoid follow-up action on the issues raised by the visitors. It also does not leave room for any prison visitor to follow-up his or her own notes and ensure that action is taken on the suggestions given previously.

The statute merely provides for the bare existence of a prison visiting system without making provisions to ensure its practical implementation. There is no mechanism to ensure accountability by requiring the visitors to submit regular reports to the jail department. Further, there is no provision in the statute obligating the jail administration to give compliance reports. This promotes lack of accountability on the part of both, the prison visitors and the jail staff.

It is unfortunate that archaic laws are still governing our prison system. Most prison manuals are based on the ideas underpinning these old laws, even though the entire philosophy of prison administration has undergone tremendous change.

27Id. Para 817(7)(ii).

28Id. Para 819(6).

29Supra note 17, pp 521-522.

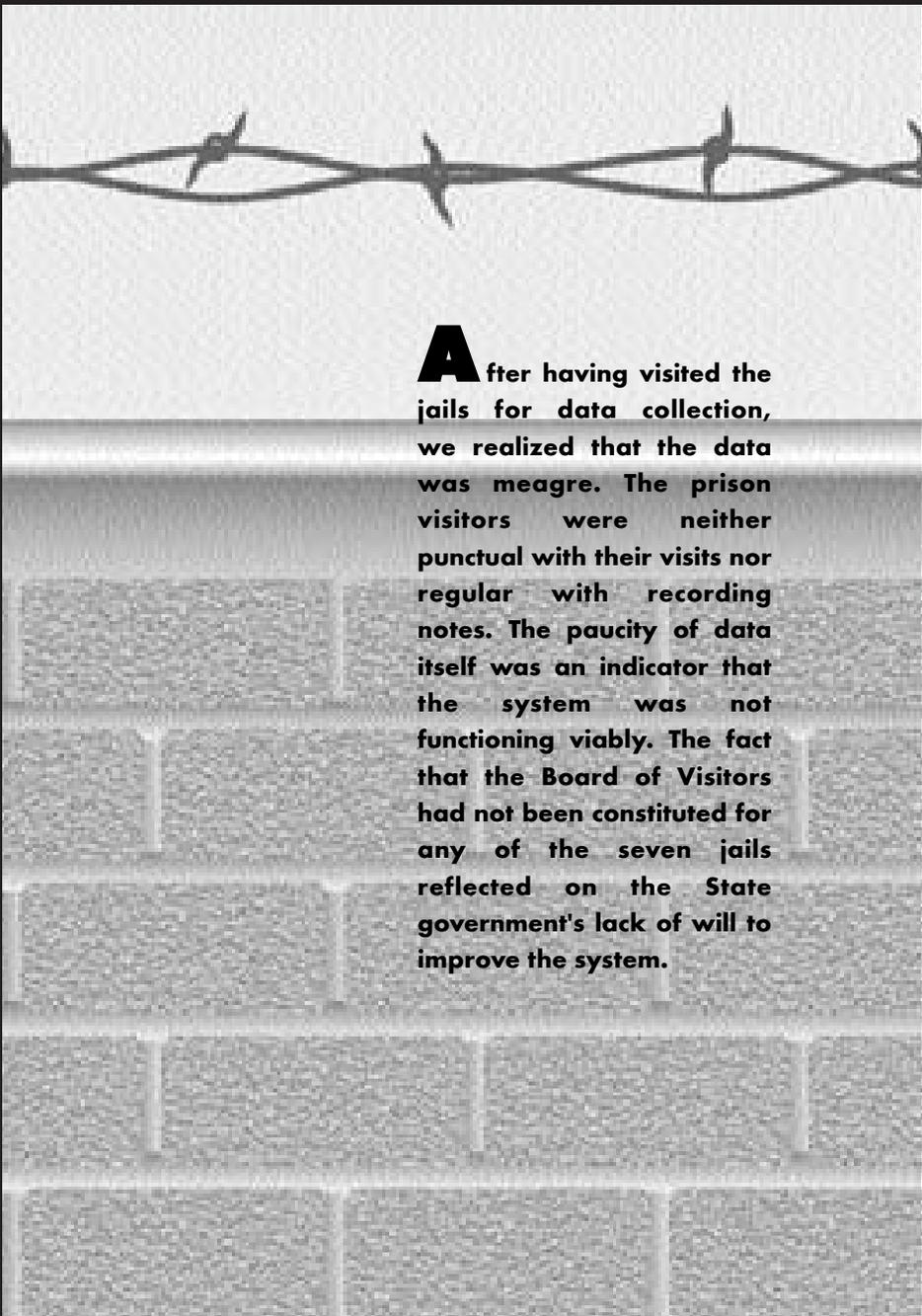
30Ibid, Para 78(3), (5).

31 Supra note 8, Para 817(6).

32Supra note 8, Para 817(9).

33Ibid Para 817(10).

34Id. Para 817(6).



**A**fter having visited the jails for data collection, we realized that the data was meagre. The prison visitors were neither punctual with their visits nor regular with recording notes. The paucity of data itself was an indicator that the system was not functioning viably. The fact that the Board of Visitors had not been constituted for any of the seven jails reflected on the State government's lack of will to improve the system.

### III. FINDINGS OF THE FIELD STUDY

The findings of the field study are discussed below under the following three heads:

- A. Actual Practice of Appointment of Non-Official Visitors
- B. Frequency of Visits
- C. Quality of Notes

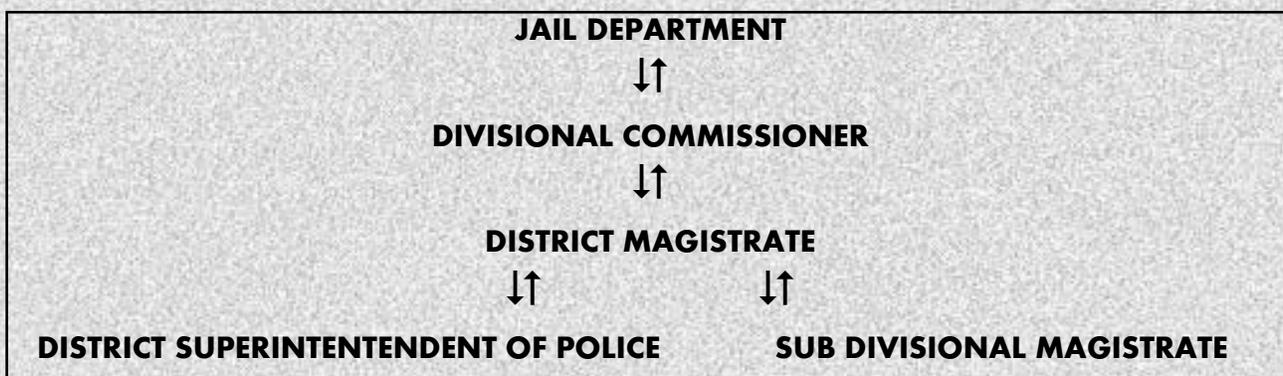
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#### A. ACTUAL PRACTICE OF APPOINTMENT OF NON OFFICIAL VISITORS

Out of a functional list of 113 jails in the State, the jail department had appointed a total of 85 NOVs to 46 jails<sup>35</sup> for a period of three years starting from January 1997. However, amongst the prisons selected for this study, NOVs had been appointed to all jails except Sagar circle jail. The number of NOVs appointed at the Jabalpur jail was also far below the minimum prescribed.

#### Mode of Appointment:

The actual practice of appointment of NOVs as against the statutory prescription indicates that the Divisional Commissioners after getting a requisition from the State government write to the concerned DMs to suggest names for this purpose. The DMs in consultation with the District Superintendents of Police prepare a list of persons and forward the same to the Divisional Commissioners. The list is then forwarded to the jail department for its consideration, which thereafter selects the requisite number of persons. The jail department is known to include names of its own choice as NOVs.



Interviews with prison personnel revealed that sometimes political considerations determine the number of NOVs to be appointed. This may result either in the non-appointment of NOVs or in exceeding the minimum statutory number (as in Sihora Sub Jail). It is therefore the prerogative of the State government to appoint any person without following statutory prescriptions.

35 Vide letter no F1/1/94/3/Jail, Bhopal, dated January 9, 1997.

### Gender Imbalance in the Appointment of NOVs

Out of 85 NOVs appointed in MP, only nine were women visitors. This is despite a statutory provision<sup>36</sup> which stipulates that the State government may appoint two or more lady visitors to such jails as accommodate females. Raipur and Jabalpur Central Jails, which lodge a large number of female prisoners,<sup>37</sup> did not have even a single woman visitor. However, women visitors had been appointed to jails that either did not lodge or at best housed a few females.<sup>38</sup> Thus, the specified criteria for the appointment of female NOVs to the prisons were not being followed.

The district administration does not take the appointment of NOVs seriously. In 1996 the jail department had sent a letter<sup>39</sup> to all the Divisional Commissioners and the DMs of the State seeking their recommendations for the appointment of NOVs. It was only in 1998 that the SDM, Sihora wrote to the Superintendent of the sub-jail<sup>40</sup> requesting the required information to be sent immediately. By then the State government had already appointed three NOVs to this jail for a period of three years.<sup>41</sup>

Since there are no criteria against which the visitors are appointed and their appointment is not a transparent process, the possibility of political patronage is high allowing people with extraneous interests and ulterior motives to become visitors. As with other appointments based on political patronage, this also become a means of accommodating friends and mollifying rivals.

The interviews conducted with the 10 NOVs - eight males and two females - revealed the following:

- None of them had any knowledge or past experience in prison related matters.
- All the NOVs were appointed for the first time and 9 out of the 10 had been actively associated with the ruling Congress party. They included former MLAs, former and present chairpersons and members of local self-bodies (such as Zila Panchayats, Municipal Corporations etc) and office bearers of the Youth Congress.<sup>42</sup>
- Most of them were not aware of even their main duties.

### B. FREQUENCY OF VISITS

In a fully constituted and functional board, at least one monthly visit to every prison by either an official or a NOV(as per the roster) is mandatory. There is also a provision for NOVs to visit the jails twice a month outside the roster after giving or without giving notice to the Jail superintendent i.e. NOVs can make 12 visits a month to central, six to district and four to sub- jails. If the prison lodges women inmates, women visitors may also make four monthly visits. Our study however revealed the following:

In a central jail there are to be six NOVs and if the prison lodges women inmates, there is a provision for appointing two more women visitors. Each of these visitors has the possibility of making two monthly visits. Thus, the maximum number of visits possible to a central jail accommodating women inmates is 204 per year.<sup>43</sup> However, in the two central jails studied, the total number of visits over a two-year span was 6 in the case of Raipur and 10 in Jabalpur.<sup>44</sup>

36Supra note 8, Para 815(5).

37Raipur Central Jail had 174 female prisoners as on February 8, 1999 whereas Jabalpur Central Jail lodged 88 female prisoners as on January 31, 1999.

38An example is the Sihora Sub-jail that had two lady visitors and lodged no female prisoner.

39No. F1/1/94/3/Jail, Bhopal dated June 27, 1996.

40No 1/8/Ava/Pr 02/98, the Court of SDM, Sihora, dated June 27, 1998.

41 Vide circular No F1-1/94/3/Jail, Govt. MP, dated January 9, 1997.

42Two NOVs were former MLAs, one former Mayor of the Municipal Corporation, one Zila Panchayat member, three NOVs were office bearers of District Congress committee, two were businessmen closely associated with the Congress party and one NOV was a retired Deputy Collector.

43(Six NOVs \* two visits each per month) \* twelve months an year = 144 an year; Additionally, if the prison lodges women inmates, women visitors may also make: (Two women NOVs \* two visits each per month) \* twelve months = 48 visits.

Maximum number of visits thus possible to a central jail, accommodating women inmates is 12 (mandatory monthly visits) + 144 + 48 = 204.

44CHRI data provided to the researcher in February 1999 indicated a total of ten visits to Jabalpur jail by prison visitors in 1997 - 98. Later the Jail superintendent informed us that there had in fact been 34 visits. But as underlying visitors notes were not provided, no analysis was possible.

In a district jail, the minimum number of mandatory monthly visits is one - either by an OV or NOV. There are to be three NOVs in a district jail and if the prison lodges women inmates there is provision for appointing two more. Each of these visitors can make two monthly visits. Thus, the maximum number of yearly visits possible to a district jail, accommodating women inmates, is 132.<sup>45</sup> However, in the Durg, Sagar and Bilaspur jails, the total number of visits over a two-year span was 8, 0 and 6 respectively.

Similarly, in a sub jail the minimum number of mandatory monthly visits is one, by either an OV or a NOV. There are to be two NOVs in a sub jail and if the prison lodges women inmates, two more may additionally be appointed. Each of these visitors may make two monthly visits. Thus, the maximum number of yearly visits possible to a sub jail accommodating women inmates is 108.<sup>46</sup> However, in the two sub- jails studied, the total number of visits over a two-year span was 5 in Janjgir and 6 in Sihora.

#### Official Visitors:

- The Commissioner of Division (who has the statutory duty of recommending the names of the NOVs and of drawing up the Board of Visitors) had in the two-year period visited only the Bilaspur jail once.
- The IG of Police never visited any of the jails.
- The DIG of Police had been equally indifferent. Only in the case of Bilaspur jail did the DIG make one visit.
- The jail headquarters had issued a circular<sup>47</sup> directing the DMs along with other OVs to inspect the jails quarterly and to organise meetings of the Board of Visitors.<sup>48</sup> The DMs and Additional DMs visited most of the jails selected for the study except Sagar and Janjgir prisons. The number of visits to the five jails however, ranged from one each in Bilaspur, Raipur and Sihora jails (where the visit was made on Republic Day) to three each in Durg and Jabalpur prisons. Records from the Sagar jail show that the DM and the SDM had been to the prison not as OVs but to participate in the meetings of the 'Coordination Committee'.<sup>49</sup>
- The SDMs visited only the Durg and Sihora jails once and Janjgir jail twice. The visit made by the SDM to Sihora Jail was on the occasion of Independence Day.

The Supreme Court and the High Courts have in several cases clearly enunciated that the DMs and the Sessions Judges shall visit prisons in their jurisdiction. The Maharashtra High Court had in one case directed that the 'District Magistrate and the Session Judge shall personally visit in their jurisdiction and offer effective opportunities for ventilating the legal grievance of the prisoners and shall make inquiries and take suitable remedial action. They shall also ascertain the conditions prevailing in the prisons'<sup>50</sup>. The NHRC had also written a letter<sup>51</sup> to all the Chief Justices of the High Courts in September 1996 requesting them to direct the Sessions judges to fulfil their duties as prison visitors diligently. Neither the directions of the courts nor those of the NHRC were being followed.

45 (Six NOVs (Three NOVs \* two visits each per month) \* twelve months an year = 72 an year; Additionally, if the prison lodges women inmates, women visitors may also make: (Two women NOVs \* two visits each per month) \* twelve months = 48 visits. Maximum number of visits thus possible to a district jail, accommodating women inmates is 12 (mandatory monthly visits) + 72 + 48 = 132.

46 (Two NOVs \* two visits each per month) \* twelve months an year = 48 an year; Additionally, if the prison lodges women inmates, women visitors may also make: (Two women NOVs \* two visits each per month) \* twelve months = 48 visits. Maximum number of visits thus possible to a district jail, accommodating women inmates is 12 (mandatory monthly visits) + 48 + 48 = 108.

47 No. 9181/Warrant/96 Bhopal, dated April 12, 1996.

48 Para 82 of MP Jail Manual states that,

(1) The DM or Additional DM shall visit the jail at his headquarters once a month but the former shall visit it himself at least once in three months unless unavoidably prevented by absence on tour or other similar causes, in which case he shall visit at least once in a quarter.

(2) Where the jail is situated at the headquarters of a Sub-division, the Additional DM will pay the above visits and the DM shall visit the jail when inspecting the Sub-divisional headquarters.

(3) The Borstal Institute, Narsinghpur, is considered to be a jail for the purpose of this rule.

(4) The primary purpose of such visits is to keep a check on disposal of cases and to avoid detention of under-trial prisoners and youthful offenders for long periods. If the visiting officer finds that the case against any under-trial prisoner or youthful offender is apparently delayed and such prisoner has been detained unduly long, he shall record remarks to that effect in the visitors' book. A copy of the remarks shall be forwarded officially by the Superintendent to the DM for action as in sub-rule (5) and to the IG for such action as may be deemed fit.

(5) The DM on receipt of such copy should obtain the record of the case and take suitable action to expedite the trial.

49 This meeting was called to find solutions to the problems being faced by the jail administration.

50 Madhukar Bhagwan Jambhale vs State of Maharashtra and others, 1987 Maharashtra Law Journal 68.

51 No. NHRC/Prison-Ref-11/96.

- The District & Sessions Judges visited only the Raipur and Durg prisons once and the Janjgir sub jail twice.
- Contagious skin and other diseases are found to be rampant in Indian jails making the risk of contracting them greater for the inmates.<sup>52</sup> Yet except for one visit to the Bilaspur jail, the Director of Health Services never visited any of the prisons selected for the study. The Civil Surgeons also did not visit the Bilaspur, Jabalpur, Sagar and Janjgir jails. They visited the remaining three jails only once.

No OV ever visited the Sagar jail even though the DM and at times the SDM had visited the jail to take part in the meetings of the local coordination committee.

Information about the number of visits made by the OVs is given in the following table:

**TABLE I**  
Number of visits made by the OVs from January 1, 1997 - December 31, 1998:

| OFFICIAL VISITORS                     | RAIPUR | JABALPUR | BILASPUR | SAGAR <sup>53</sup> | DURG   | SIHORA | JANJGIR |
|---------------------------------------|--------|----------|----------|---------------------|--------|--------|---------|
| Commissioner of Division              | Never  | Never    | Once     | Never               | Never  | Never  | Never   |
| IG Police                             | Never  | Never    | Never    | Never               | Never  | Never  | Never   |
| DIG Police                            | Never  | Never    | Once     | Never               | Never  | Never  | Never   |
| DM/<br>Addl. DM                       | Once   | Thrice   | Once     | Never               | Thrice | Once   | Never   |
| SDM                                   | Never  | Never    | Never    | Never               | Once   | Once   | Twice   |
| The District<br>& Sessions<br>Judge   | Once   | Never    | Never    | Never               | Once   | Never  | Twice   |
| The Director<br>of Health<br>Services | Never  | Never    | Once     | Never               | Never  | Never  | Never   |
| Civil Surgeon/<br>Medical Officer     | Once   | Never    | Never    | Never               | Once   | Once   | Never   |
| Total:                                | Three  | Three    | Four     | None                | Six    | Three  | Four    |

#### Non Official Visitors:

The frequency of visits of the NOVs was dependent entirely on the initiative of the person concerned. The number of visits in six prisons ranged from nil to three over a two-year span. No NOV had been appointed at the Sagar jail. The Jabalpur jail, which had only two as against the prescribed six NOVs, recorded seven visits, six of which were exclusively in 1998.

The MLAs (who are ex-officio NOVs to jails) never visited any of the seven jails.

The NOVs repeatedly asserted that most of them visited the jails once a month though they did not always record notes in the visitors' book. Information maintained by the prison officials however, did not substantiate their claim of regular monthly visits.

A scrutiny of records of the Sihora sub jail indicates that of the three visits made by the OVs in the two year span, one each was made on the Republic Day and Independence Day celebrations. Of the same number of visits made by the NOVs, one was on Republic Day and the other on Rakshabandhan

<sup>52</sup>In Tihar Jail for example, as many as 70 to 80 per cent were either tuberculosis patients or were at the risk of contracting the disease (Bedi Kiran, It's Always Possible (1998), p31).

<sup>53</sup>No OV ever visited the Sagar jail in that capacity.

celebrations. Similarly there was only one visit to Bilaspur jail in 1997 by all the NOV's together on the occasion of Independence Day. Amongst the visits made by NOV's at Jabalpur prison, two were made immediately after the disturbance reported on June 13, 1998, which could have resulted in prison riots. The study clearly illustrates that the visitors prefer to visit jails on ceremonial or festive occasions instead of treating the visit programme as a part of their mandate to oversee and improve prison conditions.

Information about the number of visits made by NOV's is given in the following table:

**TABLE II**  
Number of visits made by the NOV's from January 9, 1997 - December 31, 1998<sup>54</sup>:

| YEAR   | Jail→ RAIPUR <sup>55</sup> | JABALPUR          | BILASPUR        | SAGAR     | SIHORA                            | DURG             | JANJGIR          |
|--------|----------------------------|-------------------|-----------------|-----------|-----------------------------------|------------------|------------------|
| ↓      | (6/6)                      | (2/6)             | (3/3)           | (0/3)     | (3/2)                             | (3/3)            | (2/2)            |
| 1997   | Two joint visits           | One single visit  | One joint visit | No visits | One joint visit; One single visit | One single visit | One single visit |
| 1998   | One single visit           | Six single visits | One joint visit | No visits | One single visit                  | One joint visit  | No visits        |
| Total: | Three                      | Seven             | Two             | None      | Three                             | Two              | One              |

**Board of Visitors:**

The Board of Visitors had not been constituted for any of the jails during the period under study. The constitution of the Board of Visitors is the sole responsibility of the Commissioner of the Division in each region but they were not being held accountable for their failure to constitute the Board.

The MPHRC in its study observed: "So far we have not received any information of any Board having been appointed by any Commissioner, although the constitution of such Boards and quarterly inspections of jails are mandatory. If these provisions are followed in letter and spirit, they would help in improving the conditions in jails."<sup>56</sup>

At the instance of the jail headquarters, some jails in the state had organised meetings of what are known as coordination committees comprising officials of various departments of the Government (public works department, health, police, judiciary and prison) to tackle day-to-day problems faced by the local jail administration. It was found that these committees had been quite effective in sorting out a host of problems relating to the medical care of the inmates, supply of drinking water and arranging for escorts to take undertrial prisoners to courts.<sup>57</sup> This shows that with a little determination and effort, improvements can be effected. Failure to establish the Board of Visitors only reflects lack of will to introduce reform.

**C. QUALITY OF NOTES LEFT BY PRISON VISITORS**

Visitors' notes are records of the date and hour of their visit, issues that need to be addressed by the jail administration and suggestions towards improvement in the administration of the jail. Visitors may enter these remarks at their discretion and there is no statutory compulsion to do so.

The notes left by the visitors were analysed to assess the impact of their visits. It was found that the official visitors generally did not record notes immediately after completion of their visit. What was usually recorded either by them or by the jail administration was: "Mr. So-and-So visited the jail today. Detailed notes will be sent later." The "detailed" notes rarely arrived.

<sup>54</sup>This is based on the visiting notes in the registers maintained in each jail.  
<sup>55</sup>The number in the bracket under each of the jails is indicative of the actual number of NOV's appointed as against the prescribed numbers.  
<sup>56</sup>Supra note 2, pp. 34-35.  
<sup>57</sup>Based on the minutes of the meetings collected from Jabalpur and Sagar jails.

As for the non-official visitors, the notes generally read as follows: "Today I/ we took a round of the jail premises. The condition of the jail was satisfactory, the quality of food was good, the premises were neat and clean, the barracks were clean and the rest of the things were found to be in good order."<sup>58</sup>

Over the two years span, the total number of visits made by prison visitors (both official and non-official) was 41 but the remarks were recorded only on 26 occasions (Table III).<sup>59</sup> Although the number of visits made by OVs was more than that of the NOVs, the latter left visitors notes 83 per cent of the time, while OVs left notes only 48 per cent of the times. Nowhere in the notes was there any mention of the actual time spent during the visit.

TABLE III

|       | NO. OF VISITS | NO. OF TIMES REMARKS ENTERED |
|-------|---------------|------------------------------|
| OVs   | 23            | 11                           |
| NOVs  | 18            | 15                           |
| Total | 41            | 26                           |

There were 15 occasions when visitors left no notes. Either the situation in the prison was perfect and they did not think it necessary to raise any matters; or as far as they were concerned, they had fulfilled their obligation merely by visiting the jail.

Some important issues such as labour, undue delay of cases of undertrial prisoners and remission did not figure in the notes at all. On the other hand, some issues such as cleanliness and medical facilities received overwhelming attention.<sup>60</sup> Even where notes were left, these generally stated the problems without suggestions for improvement.

During our study, however, we did come across a few good practices. In 1996 the SDM of Janjgir had made four visits to the jail. His notes show that he had taken care to cover almost all the facets of visitor's duties ranging from overcrowding, proper classification of prisoners, arrangements for food, literacy, sanitation, arrangements for police escort, facilities for treatment of prisoners inside and outside the jail, arrangement of drinking water, security of the jail, observation and celebration of various festivals and also the sanctioned and actual strength of the jail staff. The SDM had not only pointed out the problems but also made valuable and constructive suggestions for improvement.

Another example of good practice was the case of Durg district jail, where the Sessions Judge had recorded notes in detail covering almost all the 29 items.<sup>61</sup>

Certain issues were referred to frequently by visitors. However, keeping in view the sweeping language of the notes, it remains doubtful whether detailed enquiries were indeed made by them. For instance, though a large number of visitors talked about 'jail industries', none of the notes revealed whether full tasks were being extracted from the prisoners fit for labour and whether ordinary remission for industry was being given with respect to actual tasks performed.

The visitors were supposed to check the diet roll for the weight and proportion of vegetables; whether the food was properly cooked; whether the food articles were kept properly in the store-room; whether full rations were issued; and whether oil and condiments were added in the presence of a responsible officer. They covered all these requirements with one sweeping statement: "the condition of the kitchen and quality of food is okay."

<sup>58</sup>Annexure 2.

<sup>59</sup>Annexure 3 :Jail - wise break-up.

<sup>60</sup>Annexure 4: Jail - wise break-up.

<sup>61</sup> Annexure 5.

On the question of staff behaviour, the routine noting was: "the relationship of the inmates with the prison authorities is cordial and nobody has any complaints against them." This is obvious given the way the prison visiting system works where there is hardly any element of surprise. Except for two surprise visits made by the visitors, all other visits were made after having informed the prison authorities in advance.

Information about the main issues and the number of times those were discussed in the notes is given in Table IV.

TABLE IV

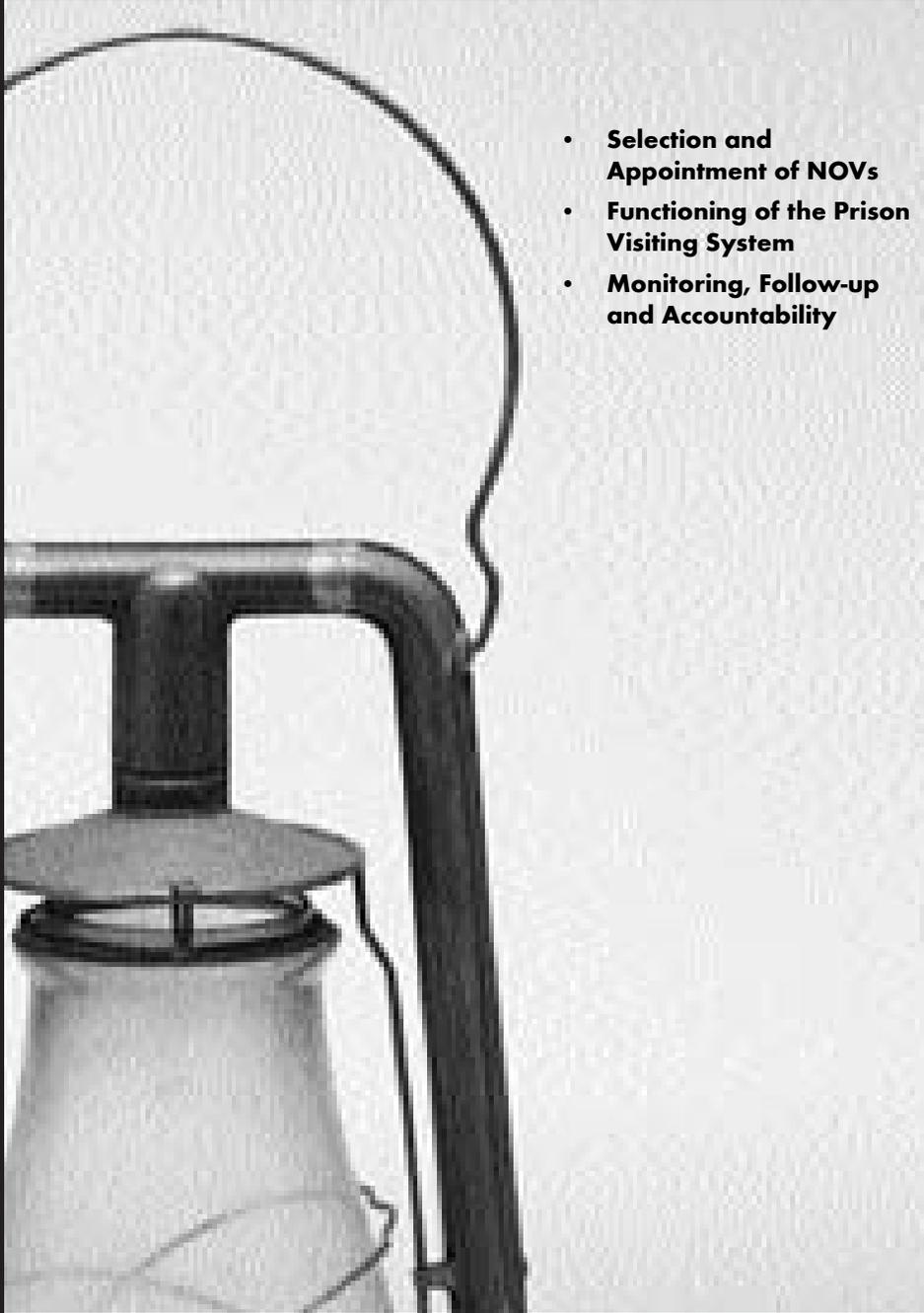
| ISSUES DISCUSSED                 | NO. OF TIMES<br>ADDRESSED BY OV <sub>s</sub> | NO. OF TIMES<br>ADDRESSED BY NOV <sub>s</sub> | TOTAL |
|----------------------------------|--|---|-------|
| Overall Cleanliness              | 4  | 7   | 11    |
| Medical Facilities               | 6  | 5   | 11    |
| Condition of Buildings           | 4  | 5   | 9     |
| Rehab. and Vocational Programmes | 5  | 4   | 9     |
| Staff Behaviour                  | 1  | 4   | 5     |
| Overcrowding                     | 3  | 1   | 4     |
| Water Supply                     | 4  | -   | 4     |
| Quality of Food                  | 3  | 1   | 4     |
| Garden                           | 3  | 1   | 4     |
| Visitors/ Relatives of Prisoners | 1  | 2   | 3     |
| Drainage                         | 1  | 1   | 2     |
| Discipline                       | 2  | -   | 2     |
| Welfare of Women Prisoners       | 2  | -   | 2     |
| Premature Release                | 2  | -   | 2     |
| Storage of Food                  | 1  | -   | 1     |
| Clothing                         | 1  | -   | 1     |
| Bathing                          | 1  | -   | 1     |
| Ratio of Punishments             | 1  | -   | 1     |
| Habituals                        | 1  | -   | 1     |
| Lunatics                         | 1  | -   | 1     |
| Separation of Women Inmates      | 1  | -   | 1     |
| Adolescents                      | 1  | -   | 1     |
| Appeals                          | 1  | -   | 1     |

In *Sanjay Suri vs. Delhi Administration*, the Supreme Court stated that:

The Visitor's Board should consist of cross-sections of society, people with good background, social activists, people connected with the mass media, lady social workers, jurists, retired public officers from the judiciary and also of the executive.<sup>62</sup>

Our study revealed that the boards of visitors were never set up and neither the OV<sub>s</sub> nor the NOV<sub>s</sub> fulfilled any of their statutory obligations.

<sup>62</sup>Sanjay Suri vs. Delhi Administration, 1987 (2) SCALE 276



- **Selection and Appointment of NOVs**
- **Functioning of the Prison Visiting System**
- **Monitoring, Follow-up and Accountability**

## IV. CONCLUSIONS AND RECOMMENDATIONS

The main findings of this study are summarised below:

1. The IG of Police and the MLAs never visited any of the jails during the period of study.
2. The representation of women in the appointment of NOVs is dismal and the specified criterion for their appointment is not being followed.
3. No specific guidelines are issued to women visitors regarding women inmates.
4. The practice of appointment of NOVs is neither transparent nor democratic. There are no prescribed criteria.
5. The frequency of visits made by the visitors is entirely dependent on their individual initiative.
6. The visits are motivated more by the ceremony or festivity of the occasion and less by the mandated duty to monitor prison conditions and make efforts towards improvement.
7. In none of the jails was the Board of Visitors constituted.
8. The quality of visitors' notes was found to be rather poor in content. In most cases they were mere statements of problems. Constructive suggestions were rarely made.
9. While certain issues were referred to frequently by the visitors, several important issues never figured in any of their notes. The statutory prescription itself neglects certain important areas deserving the attention of visitors.
10. There is no mechanism to ensure accountability of visitors nor is there any means of ensuring that the prison administration actually considers the suggestions given by them.

### RECOMMENDATIONS:

In addition to implementing the recommendations of the Mulla Committee, the directions (Annexure 6) and the guidelines for the NHRC nominees on the Board of Visitors in Maharashtra issued by the NHRC (Annexure 7), CHRI recommends the following:

#### A. Selection and Appointment of NOVs

1. NOVs must be appointed to all jails without delay.
2. The minimum number of NOVs to each category of jail must be clearly mandated.
3. The actual prison population must determine the number of NOVs.
4. There must be gender balance in the appointment of NOVs.
5. The eligibility requirements of NOVs need to be clearly specified. Established knowledge and / or proven experience of work and credibility in the field of prison or in other related fields, should be made essential for the selection of NOVs. Retired prison & police officials, representatives of NGOs and academicians willing to devote their time and energy should be considered for appointment as NOVs.

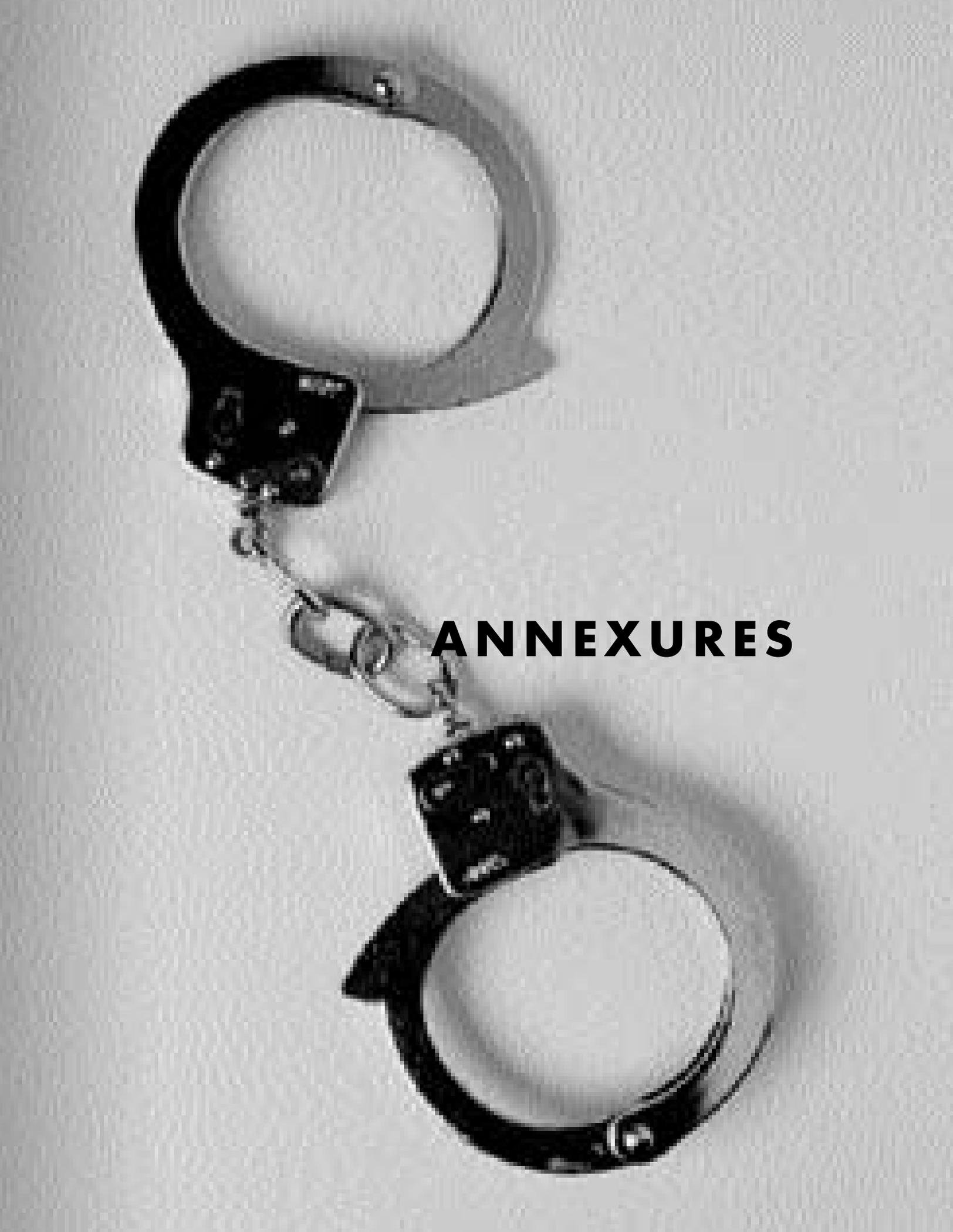
6. The number of visits made and the quality of service rendered must be the criteria for re- appointment or termination of the services of NOVs.
7. NOVs should be appointed in consultation with the State Human Rights Commission and the local Zila Parishad.
8. Board of Visitors must be constituted for each jail to redress the grievances of prisoners, improve living conditions in prisons and to assist correctional programmes. The Board must include all the NOVs who have been appointed for the jail.

**B. Functioning of the Prison Visiting System:**

9. The District and Sessions Judge should be made the Chairperson of the Board of Visitors.
10. Sensitisation and training programmes must be organized for prison visitors by the MPHRC / prison headquarters and local NGOs on their appointment and during their tenure.
11. The list of items to be looked into by the visitors should be made more comprehensive by incorporating important issues like medical facilities for inmates, reformation and rehabilitation programmes, condition of prisoners in solitary confinement, children of women prisoners, provision of legal services to the prisoners, etc.
12. Structured inspection format should be prepared and mandated within the rules for the visitors to follow during their inspection. The rules and guidelines evolved by the NHRC may be used for this purpose and developed further, if necessary.
13. The NOVs appointed to each jail must also be paid reasonable honorarium to cover their incidental expenses on transport, stationary etc.
14. Para 819(6) of the jail manual, which prescribes that at least one jail official always accompany the visitors, needs to be modified to provide that the visitors must be permitted to hold private interviews with prisoners outside the hearing but within the sight of the escorts.
15. Prison authorities must provide full cooperation to ensure that the prison visiting system functions in accordance with the rules and regulations.

**C. Monitoring, Follow - up and Accountability:**

16. All visitors must have the right to demand compliance and follow- up reports from the concerned jail superintendent.
17. Prison authorities must provide action taken reports to the Board of Visitors and the MPHRC.
18. The Board of Visitors should submit quarterly reports to the State government under intimation to the State Human Rights Commission.
19. An analysis of the prison visiting system including appointment, selection, periodicity of visits, quality of notes etc. along with compliance reports should figure in the annual report of the MPHRC to be placed before the State legislative assembly.



**ANNEXURES**



## ANNEXURE 1

### RECOMMENDATIONS OF THE MULLA COMMITTEE ABOUT THE PRISON VISITING SYSTEM

The All India Committee on Jail Reforms 1980-83 set up under the Chairmanship of Justice Anand Narain Mulla, popularly known as the "Mulla Committee" had reviewed the institution of prison visitors. The Committee gave the following recommendations to revitalise the prison visiting system:-

1. In each State/UT a Board of Visitors for the whole state should be set up;
2. Where the system of State Advisory Board is functioning well, a small sub-committee of the Board, in place of proposed Board of Visitors, should be set up for the purpose of visiting prisons in the State. The sub-committee should submit reports on its visits to the chairperson of the State Advisory Board and to the IG Prisons.
3. Correspondents of prisons should also be appointed in each State/UT from amongst the members of the Bar, social scientists, accredited press correspondents etc. with the authority to visit prison in the State/UT. These correspondents should submit their reports to the IG Prisons and the State Government/UT Administration in respect to the prisons.
4. The IG Prisons should hold an annual conference of these Correspondents to discuss various problems of prison management.
5. A Board of Visitors should be constituted for each central, district and sub jail consisting of the following:

|   |             |
|---|-------------|
| • The District & Sessions Judge   | Chairperson |
| • Two Members of the State Legislature/Parliament                                     | Member      |
| • The District Magistrate   | Member      |
| • The District Superintendent of Police   | Member      |
| • The Civil Surgeon   | Member      |
| • Hospital/District Medical Officer<br>(who is not a Medical Officer of the Prison)   | Member      |
| • The Executive Engineer, Public Works Department                                     | Member      |
| • The District Education Officer  | Member      |
| • The District Public Health Officer  | Member      |
| • The District Agriculture Officer  | Member      |
| • Two lady social workers who are genuinely interested<br>in the welfare of prisoners | Members     |
| • The Superintendent of the concerned prison  | Secretary   |
6. The functions of the Board of Visitors should be:
  - to visit the prison/sub-jail and ensure that care and welfare of the inmates are properly attended to;
  - to attend to requests of inmates;
  - to make recommendations about the redressal of grievances and complaints of prisoners and also about living conditions in prisons and
  - to help prison administration in the development of correctional programmes.
7. The Board of Visitors for central, district prisons and sub-jails should visit the concerned institution at least once in a month. A member of the Board may visit the institution individually also, on any day.
8. A copy of the remarks entered in the Visitors' Book by the Chairman or by any member of the Board should be forwarded by the Superintendent to the Inspector General of Prisons along with these comments for necessary action.
9. It should be the duty of the DIG of Prisons and the IG of Prisons to meet the Board of Visitors whenever they visit the prisons.
10. It should be obligatory on the official visitors to pay visits to prisons as per the schedule fixed by the Chairman of the Board.

\* Report of the All India Committee on Jail Reforms, 1980-83 Vol. I, pp. 80-81.





### ANNEXURE 3

#### FREQUENCY OF VISITS TO EACH JAIL FROM JANUARY 9, 1997- DECEMBER 31, 1998

##### JABALPUR CENTRAL JAIL

|      | No. of VISITS | No. of TIMES REMARKS ENTERED |
|------|---------------|------------------------------|
| OVs  | 3             | 1                            |
| NOVs | 7             | 5                            |

##### RAIPUR CENTRAL JAIL

|      | No. of VISITS | No. of TIMES REMARKS ENTERED |
|------|---------------|------------------------------|
| OVs  | 3             | 2                            |
| NOVs | 3             | 3                            |

##### BILASPUR CIRCLE JAIL

|      | No. of VISITS           | No. of TIMES REMARKS ENTERED |
|------|-------------------------|------------------------------|
| OVs  | 4                       | 4                            |
| NOVs | 2<br>(two joint visits) | 2                            |

##### SAGAR CIRCLE JAIL

|      | No. of VISITS | No. of TIMES REMARKS ENTERED |
|------|---------------|------------------------------|
| OVs  | 0             | 0                            |
| NOVs | 0             | 0                            |

##### DURG DISTRICT JAIL

|      | No. of VISITS                             | No. of TIMES REMARKS ENTERED |
|------|---|------------------------------|
| OVs  | 6   | 1                            |
| NOVs | 2<br>(one single visit + one joint visit) | 2                            |

##### JANJGIR SUB JAIL

|      | No. of Visits | No. of Times Remarks Entered |
|------|---------------|------------------------------|
| OVs  | 4             | 1                            |
| NOVs | 1             | 0                            |

##### SIHORA SUB JAIL

|      | No. of Visits                              | No. of Times Remarks Entered |
|------|--|------------------------------|
| OVs  | 3  | 2                            |
| NOVs | 3<br>(two single visits + one joint visit) | 3                            |



## ANNEXURE 4

ISSUES ADDRESSED BY VISITORS TO EACH JAIL (JANUARY 9, 1997- DECEMBER 31, 1998)

### JABALPUR CENTRAL JAIL

| ISSUES DISCUSSED                         | OVs  | NOVs   |
|--|------|--------|
| Condition of Buildings                   | -    | -      |
| Overcrowding                             | -    | -      |
| Drainage                                 | -    | -      |
| Water Supply                             | -    | -      |
| Storage of Food                          | -    | -      |
| Quality of Food                          | -    | -      |
| Clothing                                 | -    | -      |
| Bathing                                  | -    | -      |
| Ratio of Punishments                     | -    | -      |
| Discipline                               | -    | -      |
| Separation of Habituals from others      | -    | -      |
| Undue delay in cases of UTPs             | -    | -      |
| Lunatics                                 | -    | -      |
| Separation of Women Inmates              | -    | -      |
| Adolescents                              | -    | -      |
| Appeals                                  | -    | -      |
| Garden                                   | -    | -      |
| Welfare of Women Prisoners               | Once | -      |
| Overall Cleanliness                      | -    | Thrice |
| Medical Facilities                       | -    | Once   |
| Staff Behavior                           | -    | Twice  |
| Rehabilitative and Vocational Programmes | -    | -      |
| Premature Release                        | -    | -      |
| Visitors/ Relatives of Prisoners         | -    | -      |



#### RAIPUR CENTRAL JAIL

| ISSUES DISCUSSED                         | OVs   | NOVs   |
|--|-------|--------|
| Condition of Buildings                   | Twice | Thrice |
| Overcrowding                             | -     | Once   |
| Drainage                                 | -     | -      |
| Water Supply                             | Twice | -      |
| Storage of Food                          | -     | -      |
| Quality of Food                          | Once  | -      |
| Clothing                                 | -     | -      |
| Bathing                                  | -     | -      |
| Ratio of Punishments                     | -     | -      |
| Discipline                               | -     | -      |
| Separation of Habituals from others      | -     | -      |
| Undue delay in cases of UTPs             | -     | -      |
| Lunatics                                 | -     | -      |
| Separation of Women Inmates              | -     | -      |
| Adolescents                              | -     | -      |
| Appeals                                  | -     | -      |
| Garden                                   | Once  | Once   |
| Welfare of Women Prisoners               | Once  | -      |
| Overall Cleanliness                      | Once  | Once   |
| Medical Facilities                       | Twice | Twice  |
| Staff Behavior                           | Once  | -      |
| Rehabilitative and Vocational Programmes | Twice | Once   |
| Premature Release                        | Once  | -      |
| Visitors/ Relatives of Prisoners         | Once  | Once   |

#### BILASPUR CIRCLE JAIL

| ISSUES DISCUSSED                         | OVs   | NOVs |
|--|-------|------|
| Condition of Buildings                   | -     | Once |
| Overcrowding                             | -     | -    |
| Drainage                                 | -     | -    |
| Water Supply                             | -     | -    |
| Storage of Food                          | -     | -    |
| Quality of Food                          | -     | -    |
| Clothing                                 | -     | -    |
| Bathing                                  | -     | -    |
| Ratio of Punishments                     | -     | -    |
| Discipline                               | Once  | -    |
| Separation of Habituals from others      | -     | -    |
| Undue delay in cases of UTPs             | -     | -    |
| Lunatics                                 | -     | -    |
| Separation of Women Inmates              | -     | -    |
| Adolescents                              | -     | -    |
| Appeals                                  | -     | -    |
| Garden                                   | -     | -    |
| Welfare of Women Prisoners               | -     | -    |
| Overall Cleanliness                      | -     | -    |
| Medical Facilities                       | Twice | Once |
| Staff Behavior                           | -     | -    |
| Rehabilitative and Vocational Programmes | Twice | Once |
| Premature Release                        | Once  | -    |
| Visitors/ Relatives of Prisoners         | -     | -    |



#### SAGAR CIRCLE JAIL

| ISSUES DISCUSSED                         | OVs | NOVs* |
|--|-----|-------|
| Condition of Buildings                   | -   | -     |
| Overcrowding                             | -   | -     |
| Drainage                                 | -   | -     |
| Water Supply                             | -   | -     |
| Storage of Food                          | -   | -     |
| Quality of Food                          | -   | -     |
| Clothing                                 | -   | -     |
| Bathing                                  | -   | -     |
| Ratio of Punishments                     | -   | -     |
| Discipline                               | -   | -     |
| Separation of Habituals from others      | -   | -     |
| Undue delay in cases of UTPs             | -   | -     |
| Lunatics                                 | -   | -     |
| Separation of Women Inmates              | -   | -     |
| Adolescents                              | -   | -     |
| Appeals                                  | -   | -     |
| Garden                                   | -   | -     |
| Welfare of Women Prisoners               | -   | -     |
| Overall Cleanliness                      | -   | -     |
| Medical Facilities                       | -   | -     |
| Staff Behavior                           | -   | -     |
| Rehabilitative and Vocational Programmes | -   | -     |
| Premature Release                        | -   | -     |
| Visitors/ Relatives of Prisoners         | -   | -     |

#### DURG DISTRICT JAIL

| ISSUES DISCUSSED                         | OVs* | NOVs |
|--|------|------|
| Condition of Buildings                   | Once | Once |
| Overcrowding                             | Once | -    |
| Drainage                                 | Once | Once |
| Water Supply                             | Once | -    |
| Storage of Food                          | Once | -    |
| Quality of Food                          | Once | Once |
| Clothing                                 | Once | -    |
| Bathing                                  | Once | -    |
| Ratio of Punishments                     | Once | -    |
| Discipline                               | Once | -    |
| Separation of Habituals from others      | Once | -    |
| Undue delay in cases of UTPs             | -    | -    |
| Lunatics                                 | Once | -    |
| Separation of Women Inmates              | Once | -    |
| Adolescents                              | Once | -    |
| Appeals                                  | Once | -    |
| Garden                                   | Once | -    |
| Welfare of Women Prisoners               | -    | -    |
| Overall Cleanliness                      | Once | Once |
| Medical Facilities                       | Once | Once |
| Staff Behavior                           | -    | -    |
| Rehabilitative and Vocational Programmes | Once | -    |
| Premature Release                        | -    | -    |
| Visitors/ Relatives of Prisoners         | Once | -    |

\* No NOVs had been appointed here.

+ Though more than one OV visited this jail, the responses above are based on the entries made by the District & Sessions judge during his maiden visit. The rest of the OVs neither recorded the notes at the time of their visit nor did they send them later on.



#### JANJGIR SUB JAIL

| ISSUES DISCUSSED                         | OVs* | NOVs** |
|--|------|--------|
| Condition of Buildings                   | -    | -      |
| Overcrowding                             | Once | -      |
| Drainage                                 | -    | -      |
| Water Supply                             | Once | -      |
| Storage of Food                          | -    | -      |
| Quality of Food                          | Once | -      |
| Clothing                                 | -    | -      |
| Bathing                                  | -    | -      |
| Ratio of Punishments                     | -    | -      |
| Discipline                               | -    | -      |
| Separation of Habituals from others      | -    | -      |
| Undue delay in cases of UTPs             | -    | -      |
| Lunatics                                 | -    | -      |
| Separation of Women Inmates              | -    | -      |
| Adolescents                              | -    | -      |
| Appeals                                  | -    | -      |
| Garden                                   | -    | -      |
| Welfare of Women Prisoners               | -    | -      |
| Overall Cleanliness                      | Once | -      |
| Medical Facilities                       | Once | -      |
| Staff Behavior                           | -    | -      |
| Rehabilitative and Vocational Programmes | Once | -      |
| Premature Release                        | -    | -      |
| Visitors/ Relatives of Prisoners         | -    | -      |

#### SIHORA SUB JAIL

| ISSUES DISCUSSED                         | OVs  | NOVs  |
|--|------|-------|
| Condition of Buildings                   | Once | -     |
| Overcrowding                             | Once | -     |
| Drainage                                 | -    | -     |
| Water Supply                             | -    | -     |
| Storage of Food                          | -    | -     |
| Quality of Food                          | -    | -     |
| Clothing                                 | -    | -     |
| Bathing                                  | -    | -     |
| Ratio of Punishments                     | -    | -     |
| Discipline                               | -    | -     |
| Separation of Habituals from others      | -    | -     |
| Undue delay in cases of UTPs             | -    | -     |
| Lunatics                                 | -    | -     |
| Separation of Women Inmates*             | N.A. | N.A.  |
| Adolescents                              | -    | -     |
| Appeals                                  | -    | -     |
| Garden                                   | -    | -     |
| Welfare of Women Prisoners               | N.A. | N.A.  |
| Overall Cleanliness                      | Once | Twice |
| Medical Facilities                       | -    | -     |
| Staff Behavior                           | -    | Twice |
| Rehabilitative and Vocational Programmes | -    | Twice |
| Premature Release                        | -    | -     |
| Visitors/ Relatives of Prisoners         | -    | Once  |

\* The responses are based on the note recorded by the SDM who was the only OV to record visitors' notes.

\*\* There were no notes recorded by NOVs in this jail.

+ There were no women prisoners lodged in this jail.



## ANNEXURE 5

### VISITOR'S NOTES: AN EXAMPLE OF GOOD PRACTICE

## कार्यालय-जिला एवं सत्र न्यायाधीश दुर्ग (म.प्र.) निरीक्षण टीप

दिनांक 30/4/98 को जिला जेल, दुर्ग का निरीक्षण जिला एवं सत्र न्यायाधीश, दुर्ग के द्वारा किया गया। निरीक्षण पर पाये गए तथ्य निम्नवत् हैं :

**भवन :-** यह भवन नया है एवं पूर्णतः सुरक्षित प्रतीत होता है। किंतु इस भवन में रसोई कक्ष के मरम्मत की आवश्यकता है। साथ ही सेप्टिक टैंक नष्ट हो चुका है ऐसा बतलाया गया, जिस कारण से उक्त टैंक अभी शीघ्र मरम्मत कराये जाने की आवश्यकता है।

**अधिक भीड़ :-** अवश्य ही इस कारागार की कुल क्षमता पुरुष के लिए 364 और महिला के लिये 12 है, जबकि पुरुष बंदी 498 और महिला बंदी 28 वर्तमान समय में हैं। किंतु इस कारागार में रखने के लिये जिस तरह बड़े-बड़े बैरक बनाये गये हैं उन्हें देखते हुये निर्धारित संख्या से अधिक बंदियों का होना अधिक भीड़ नहीं दर्शाता है।

**जल व्यवस्था :-** ट्यूबवेल से पानी पूर्ति की व्यवस्था है। पानी संचय के लिए टैंक बना हुआ है, किंतु यह बतलाया गया कि जल पूर्ति कम है, जिस कारण से अन्य स्थान जो नहाने के लिये पूर्व में बनाये गये थे उन स्थानों पर नियत टंकी में पानी एकत्र नहीं हो सकता। जल पूर्ति की व्यवस्था के लिये जेल अधीक्षक, दुर्ग से आवश्यक कदम उठाये जाने की अपेक्षा की जाती है।

**भोजन:-** भोजन का वस्तु भण्डारगृह में अच्छी तरह से रखी हुई पाई गई। भोजन का निरीक्षण किया गया, जो उचित रूप से पकाया गया है एवं यह बताया गया कि तेल और मसाला जिम्मेदार अधिकारी के समक्ष ही मिलाया जाता है। कैदियों से पूछताछ करने पर उन्होंने निर्धारित मात्रा में पूरा भोजन मिलना बतलाया। अवश्य ही रसोई गृह में खाना गैस से पकाने की व्यवस्था है इसके बावजूद रसोई कक्ष में मक्खियां अधिक संख्या में देखने को मिली। साथ ही जो पानी निकलने की नाली है वह भी पानी से भरी हुई पाई गई, जो कारण मक्खियों के एकत्र होने का प्रतीत होता है। अतः इस संबंध में जेल अधीक्षक, दुर्ग तत्काल आवश्यक कदम उठायें।

**नालियां :-** कई स्थानों पर कच्ची नालियां पाई गई एवं पक्की नालियों में पानी भरा हुआ पाया गया। इस तरह नालियों की हालत संतोषप्रद नहीं है। जेल अधीक्षक, दुर्ग सभी नालियों को पक्का करवाने के लिए एवं नालियों से पानी बाहर निकल जाये, इस हेतु आवश्यक कार्यवाही करें।

**कपड़े :-** कैदियों के पास निर्धारित सीमा में कपड़े और बिस्तर हैं, ऐसा बतलाया गया एवं किसी भी कैदी ने इस संबंध में कोई शिकायत नहीं की।

**स्नान :-** यह बतलाया गया कि कैदी नित्य स्नान करते हैं। कैदियों ने इस संबंध में कोई शिकायत नहीं की।

**छूट :-** इस कारागार में कोई उद्योग नहीं है, जिस कारण से कैदियों को सिर्फ जो निर्धारित छूट प्राप्त होती है वही प्राप्त होती है।

**दण्ड :-** इस संबंध में पंजी संधारित की गई है। ऐसा प्रतीत नहीं हुआ कि किसी बंदी को अनुचित रूप से ऊंचा दण्ड दिया गया हो।

**अनुशासन :-** निविध वस्तु के लिये सिद्ध दोष बंदी की तलाशी ली जाती है ऐसा भी बकायदा देखने को मिला।



**अभ्यस्त :-** यह बतलाया गया कि कोई भी अभ्यस्त बंदी जेल में नहीं है।

**पागल :-** कोई भी पागल बंदी कारागार में नहीं है।

**महिलार्ये :-** महिला बंदियों के लिये अलग से रखने की व्यवस्था है जहां वे पुरुष कैदियों की दृष्टि से पूर्णतः ओझल रहते हैं।

**अवयस्क एवं किशोर :-** 20 वर्ष से कम आयु के कैदियों को दिन और रात में वयस्क कैदियों से अलग रखा जाता है। इसी तरह 20 वर्ष से लेकर 22 वर्ष वयस्क के जो कैदी हैं उन्हें भी अलग रखने की व्यवस्था की गई है।

**अपीलें :-** न्यायालयों को अपीलें अग्रेक्षित करने की सुविधा है। जेल अधीक्षक, दुर्ग को बतलाया गया कि वर्तमान समय में कारावासीय दंड दिये जाने पर बंदी को तत्काल ही नकल प्रदान कर दी जाती है, जिस कारण से जेल अपीलों के प्रपत्र पूरे-पूरे सही तौर पर भरकर प्रेषित किये जाये।

**बगीचा :-** जेल में कोई बगीचा नहीं है, जबकि स्थान की कोई कमी नहीं है। कारण यह बतलाया गया कि पानी की कमी के कारण बगीचा नहीं लगाया जा सका है।

**दीवानी कैदी :-** कोई भी दीवानी कैदी कारागार में नहीं है।

**वारंट :-** कुछ वारंटों की जांच की गई। 2 जांच पर यह पाया गया कि न्यायालयों से जो सजा वारंट प्राप्त होते हैं उनमें से कुछ वारंटों में प्रविष्टियां सही-सही नहीं है। अतः सभी न्यायाधीश/दण्डाधिकारियों को निर्देश दिया जाता है कि वारंट का कार्य उनके स्वयं की जिम्मेदारी का कार्य है अतः वारंट में प्रविष्टियां सही-सही की जाये।

**हिस्ट्री शीट :-** कैदियों के संबंध में कुछ हिस्ट्री शीट देखी गई जिनमें कोई त्रुटि प्रतीत नहीं हुई।

**युक्ति-डायरी :-** कुछ प्रविष्टियों की जांच की गई, कोई त्रुटि नहीं पाई गई।

नीचे वर्णित बंदियों ने जो शिकायत की उनका सार इस आशय का है कि लंबे समय से विचाराधीन बंदियों के प्रकरण लंबित है, अतः उनके प्रकरण प्राथमिकता की दृष्टिकोण से निराकरण किये जा जायें। कुछ बंदी जो बीमार हैं जिनके पैर में घाव हो गया है, हाइड्रोसील बीमारियों से पीड़ित हैं, उन्हें जिला चिकित्सालय, दुर्ग गार्ड की व्यवस्था न हो पाने के कारण नहीं भेजा जा रहा है। पुलिस द्वारा मारपीट के दौरान बंदियों को चोट आई, किंतु मारपीट करने वालों के खिलाफ कोई कार्यवाही नहीं हुई है।

बंदियों का नाम एवं न्यायालय जहां उनका प्रकरण लंबित है।

1. भोलू नाथ आ. भगत राम संबंधित न्यायालय श्रीमती मीनाक्षी गोंडाले न्याय दि.प्र. श्रेणी दुर्ग।
2. बंटी आ. नरेंद्र सिंह संबंधित न्यायालय श्री एन. डी. एक्का, न्या.द.प्र. श्रे. दुर्ग
3. शंखू खान आ. शेर खान गुलाब संबंधित न्यायालय श्री गनपत राव, न्याय दि.प्र. श्रेणी दुर्ग।
4. गुनिराम आ. सखाराम संबंधित न्यायालय श्री गनपत राव न्याय दि.प्र. श्रेणी दुर्ग।
5. प्रीतम आ. राम संबंधित न्यायालय श्री एन.डी. एक्का, न्या.द.प्र.श्रे. दुर्ग।
6. शोभा आ. नकुल संबंधित न्यायालय श्री एन. डी. एक्का न्याय दि.प्र. श्रेणी दुर्ग।
7. सुन्दरलाल महोबिया, संबंधित न्यायालय अनुविभागीय दंडाधिकारी दुर्ग
8. राजेन्द्र बल्द भीमा, संबंधित न्यायालय श्री एन. डी. एक्का न्या. द.प्र. श्रे. दुर्ग।
9. छोटू बल्द मेघनाथ, संबंधित न्यायालय श्रीमती रजनी दुबे न्या. द.प्र. श्रे. दुर्ग।
10. वलीस दास बल्द बाबूलाल संबंधित न्यायालय श्री एन. डी. एक्का न्या. द.प्र. श्रे. दुर्ग।
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20. लक्ष्मण आ. दीप सिंह संबंधित न्यायालय श्री गनपत राय, न्या. द.प्र. श्रे. दुर्ग।
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22. मनोहर आ. साधू राव संबंधित न्यायालय पंचम अतिरिक्त सत्र न्यायाधीश, दुर्ग।
23. सूरजगिरी आ. जनगिरी, संबंधित न्यायालय पंचम अतिरिक्त सत्र न्यायाधीश, दुर्ग।
24. मालवानी आ. जगतू संबंधित न्यायालय चतुर्थ अतिरिक्त सत्र न्यायाधीश, दुर्ग।

ऊपर वर्णित बंदियों की सूची संबंधित न्यायालयों को प्रेषित की जाय एवं लिखा जाय कि वे इन बंदियों का प्रकरण यथाशीघ्र निराकरण करें।

बंदी विश्नु, संदीप, श्रावन सिंह, कन्हैया ने उनके साथ पुलिस हिरासत में मारपीट की शिकायत की है। जेल अधीक्षक दुर्ग को इस कुंडिका की प्रतिलिपि उचित कार्यवाही हेतु प्रेषित की जाय।

पुलिस अधीक्षक, दुर्ग से यह अपेक्षा है, कि वे बंदी जिन्हें जिला चिकित्सालय इलाज के लिये ले जाते हैं उनको जिला चिकित्सालय इलाज के लिये ले जाने हेतु जब पुलिस बल की मांग की जाती है तो तत्काल ही पुलिस बल उपलब्ध करा दिया जाय अन्यथा पुलिस बल के अभाव में यदि कोई बंदी अनावश्यक पीड़ा झेलता है तो उनके लिये जिम्मेदारी उन पर आयेगी। इस कुंडिका की प्रतिलिपि पुलिस अधीक्षक दुर्ग को प्रेषित की जाय।

जिला नाजिर, जिला न्यायपाल, दुर्ग को सूचित किया जाता है कि वे लॉक अप का सफाई एवं लॉकअपों में बंदियों को पीने के लिये पानी मिले इस हेतु आवश्यक व्यवस्था करें।

जिला जेल, दुर्ग में अवश्य ही अस्पताल है एवं एक डाक्टर भी है किंतु कोई नर्स, कम्पाउन्डर की व्यवस्था नहीं है जिस कारण से जेल के अंदर यह अस्पताल व्यवस्था प्रभावशाली नहीं है।

कारागार के बाहर बंदियों से मिलने के लिये लोग आते हैं किंतु उनके विश्राम के लिये कोई व्यवस्था नहीं है। अतः जेल अधीक्षक, दुर्ग उनके रुकने के लिये एक शेड अवश्य ही बनवाने की व्यवस्था करें।

सही/—

व्ही.के. श्रीवास्तव

जिला एवं सत्र न्यायाधीश, दुर्ग

कार्यालय जिला एवं सत्र न्यायाधीश, दुर्ग, म.प्र.

पृष्ठांकन क्रमांक/सा.लि./दी-9-1/89 दुर्ग, दिनांक 19.5.98

प्रतिलिपि:—

रजिस्ट्रार जनरल, उच्च न्यायालय मध्य प्रदेश, जबलपुर को और सूचनार्थ सादर सम्प्रेक्षित महानिरीक्षक, कारावास, भोपाल।



## ANNEXURE 6

### NHRC-CHECKLIST FOR LAY VISITORS

The main function of Lay Visitors appointed for jails at the instance of NHRC would be to ensure that the basic human rights of persons in custody are protected in terms of the principles laid down by the Supreme Court of India.

These principles broadly emphasize that a person in custody does not become a 'non-person', that a person in custody is entitled to all human rights within the limitations of imprisonment and that an offender is sent to jail "as punishment" and not "for punishment" and as such there is no justification for the prison authorities in adding to the punishment as is already inherent in incarceration.

In doing so, Lay Visitors during their visits to jails may specifically ascertain that:-

- i) the right of a prisoner to human dignity is maintained by way of such living conditions as are conducive to physical and mental well-being and a sense of self-respect;
- ii) basic needs of prisoners including wholesome food, proper clothing and equipment, timely medical care, sanitation, personal hygiene etc., are adequately met;
- iii) the right of a prisoner to communicate with outside world through interviews with family members and letters, newspapers, reading materials etc., with due regard to security and discipline, is duly ensured;
- iv) prisoners are informed of their rights and duties, their legal rights are duly protected, legal remedies are made available for the violation of their rights and indigent prisoners are provided with free legal aid;
- v) an institutional mechanism for the redressal of grievances against persons exercising authority on prisoners is operational on a regular basis;
- vi) prison programmes are geared towards recovery, re-education, training, socio-cultural development and social re-integration of prisoners;
- vii) cases of undertrial prisoners are periodically reviewed for a speedy trial;
- viii) applications for parole and premature release are systematically processed and disposed of as per rules and regulations;
- ix) any special problems of prisoners with regard to their families and dependents are attended to by mobilizing support from appropriate agencies; and
- x) in some cases the children of prisoners are required to discontinue schooling. The lay visitors should look into such cases and ensure that this does not happen.



## ANNEXURE 7

### GUIDELINES TO THE NOMINEE OF THE NATIONAL HUMAN RIGHTS COMMISSION ON THE BOARD OF VISITORS OF THE PRISONS IN THE STATE OF MAHARASHTRA

In pursuance of the directions of the High Court of Bombay in Writ Petition 3899/96 directing the State Government of Maharashtra to appoint a nominee of the National Human Rights Commission as a non-official visitor, the Commission nominated visitors for each of the 33 prisons in the State of Maharashtra. One of the functions of the Commission under Section 12(c) of the Protection of Human Rights Act, 1993, is to visit the prisons to study the living conditions of the inmates and make appropriate recommendations. The main responsibility of such visitors, therefore, is to visit the prisons for the purpose of ascertaining whether the living conditions of the inmates are satisfactory and consistent with their human rights. They have to perform the functions prescribed by the Maharashtra Visitors of Prisons Rules, 1962. As nominees of the National Human Rights Commission, they have the added obligation to report to the National Human Rights Commission about the state of affairs in the prisons and in particular, the unsatisfactory living conditions and violation of human rights of the prisoners. With a view to assisting the Commission's nominees in the discharge of the responsibilities, the following guidelines have been formulated:

1. It should be borne in mind that a person in custody is entitled to all human rights within the limitation of imprisonment and does not become a non-person. A convicted person is sent to prison "as punishment" and not "for punishment". Welfare of the prisoner is the primary responsibility of the prison authorities.
2. Apart from the normal visits they have to make, they have discretion under Rule 11(iv) (a) to visit the prison at any time during the day. The Commission's nominees should exercise this right and visit as often as possible to examine the living conditions of the prisoners.
3. After completion of the visit, the visitor should enter his remarks in the Visitor's Book, as required by Rule 16 and advise the Superintendent to take such remedial measures as are required with utmost expedition.
4. The visitor should, as far as possible, (i) inspect the barracks, cells, wards, worksheds, bathing places, toilets, and other buildings of the prison, and (ii) should talk to the prisoners and ascertain whether conditions of health, cleanliness and security have received adequate attention.
5. The visitors should examine if the prisoner was medically examined as per the circular issued by the Commission at the time of his admission or soon thereafter.
6. The visitor should examine as to whether the prisoners who were suffering from any illness are receiving proper medical attention. If not, the prison authorities should be called upon to provide the requisite medical aid immediately.
7. Visits should also be made at a time when the food is being cooked to ensure that good food materials are used to prepare tasty food in hygienic conditions.
8. Food should be tasted for its taste and quality. Quantity of food supplied to each prisoner should also be verified with reference to the prescribed standards. Change in the variety of food should be encouraged.
9. It should be examined whether proper and adequate clothing and sleeping materials are provided.
10. It should be ascertained if there are any difficulties or harassment in regard to interviewing the prisoners by their friends and relatives.
11. It should be ascertained whether there are satisfactory arrangements for receiving and sending letters etc.
12. It should be examined as to whether facilities for reading, such as, newspapers, magazines and books are available.
13. It should be examined as to whether the prison officials treat the prisoners with dignity.
14. It should be ascertained as to whether the request for grant of parole and remission are promptly and regularly processed and dealt with.
15. It should be examined as to whether there is provision for lodging complaints and whether the complaints are dealt with promptly, reasonably and expeditiously.
16. It should be examined as to whether undertrial prisoners are kept along with convicted prisoners. If so, immediate instructions should be given to separate them.



17. It should be examined whether among the prisoners, there are children, in which case, immediate attention of the authorities concerned should be drawn to separate them.
18. It should be examined as to whether prisoners who have been granted bail, have been released or not and if there are any difficulties, attempt should be made to sort out the same.
19. It should be ascertained as to whether there are prisoners who are retained in the prison even after they have completed the sentence.
20. The undertrial prisoners languishing in prisons for long periods may be released on bail or discharged or acquitted by the concerned court subject to fulfilling of certain conditions laid down by the Supreme Court in two judgements in the case of Common Cause Vs Union of India. The prisoners who qualify for such relief should be assisted to move the court.
21. It should be examined as to whether cases of persons who are sentenced to imprisonment for life and have undergone 14 years of imprisonment, have been put up for consideration for grant of remission under Section 433 read with Section 433-A of the Criminal Procedure Code.
22. Special attention should be paid to the conditions of women prisoners. It should be examined as to whether there are separate and satisfactory arrangements for their detention, bathing and toilet facilities consistent with their special needs for privacy. Discreet enquires should be made to make sure that they are not subjected to sexual abuse/harassment of any kind. Care should also be taken to meet their special requirements for sanitation and nutrition for nursing mothers.
23. It should also be examined as to whether the child who is allowed to stay with the mother, receives proper food and other facilities.
24. It should be examined as to whether satisfactory arrangements for teaching different crafts and providing vocational training exist.
25. It should be examined as to whether there are adequate facilities for the prisoners to offer prayers and to attend to their religious practices.
26. It should be examined as to whether there are reasonable facilities for recreation and entertainment such as radio, television, etc.
27. It should be examined as to whether there are provisions for providing physical exercise, like yoga, meditation, games, etc.
28. If it is a warm place, it should be examined whether there are adequate facilities to provide fans, etc.
29. It should be examined as to whether there is provision for adequate and reasonable supply of clean drinking water.
30. It should be examined as to whether the bathing and toilet facilities are adequate and reasonable.
31. It should be examined as to whether the undertrial prisoners suffer by not being sent to courts on the date fixed for trial for lack of escort and other facilities.
32. It should be examined as to whether there is a provision for giving basic education to those willing to be educated.
33. It should be ascertained as to whether the prisoners are informed of their right to prefer jail appeals to the higher courts against the order of conviction and sentence and are also entitled to be provided with free legal aid.
34. It should be examined as to whether the prison staff is duly sensitised to be concerned about the welfare and well-being of the inmates and to treat them with human dignity.
35. The visitors should, as far as possible, meet the Chairperson/Members whenever they come to Delhi or the latter visit their places.
36. They should promptly write to the Secretary General, National Human Rights Commission, Sardar Patel Bhavan, Sansad Marg, New Delhi - 110 001, and bring to the notice of the Commission the aberrations that they have noticed, the action that they have taken and the action they request the Commission to take.



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