

**MINUTES & RECOMMENDATIONS OF THE NATIONAL SEMINAR**  
**ON 'PRISON REFORMS' HELD AT INDIA HABITAT CENTRE,**  
**NEW DELHI ON 15<sup>TH</sup> APRIL, 2011**

The National Human Rights Commission organized a ***National Seminar on Prison Reforms*** on 15<sup>th</sup> April, 2011 at Jacaranda Hall, IHC, New Delhi. The meeting was attended by Justice KG Balakrishnan, Hon'ble Chairperson, NHRC, Justice GP Mathur Hon'ble Member NHRC, Justice BC Patel Hon'ble Member NHRC, Satyabrata Pal Member, NHRC, Shri Sunil Krishna Director General(Investigation), Shri JP Meena JS, NHRC, representatives of State and Central Govt, members of civil society and other professionals.

The list of participants is enclosed.

Welcoming the participants, **Director General (Investigation), NHRC, Sri Sunil Krishna**, said that the prison reform has always been a matter of serious concern for the Commission. He stated that the prisons should offer conditions that are compatible with human dignity and conducive to social mainstreaming and that a person in custody in a civilized society should be treated like any other human being outside the prison. He said that the main issues for deliberations in the national seminar were prisoners' rights, need for transparency and accountability, monitoring of prison conditions, modernization of prison administration and sensitization and expansion of prison staff.

Overcrowding in prisons is one of the reasons for the unhygienic conditions prevailing in prisons. When the Supreme Court in a memorable judgement on the case commonly referred to as the Common Cause case, gave detailed directions regarding the release of undertrials on bail, NHRC in 1999 addressed all the State IGs of Prisons to take measures in consultation with their High Courts and State Legal Aid Authorities. The Commission also requested the Chief Justices of all High Courts to issue necessary directions to the magistrates and Sessions Judges, which was reiterated in 2003.

The Commission noted as early as 1999 that nearly 80% of deaths in judicial custody were a result of infestation of tuberculosis. To ensure proper medical treatment of such persons who may be suffering from diseases or susceptible to develop such symptoms, NHRC prescribed initial and periodical medical check-up of all inmates. The NHRC has been insisting that the State must make proper arrangements for the treatment of mentally ill prisoners in approved medical institutions, and not treat them as unwanted human beings. The health care, sanitation and decongestion are the areas which need immediate attention and innovative solutions.

The deliberations, the DG (I) said, would help in bringing out a long term, practicable and sustainable solution for wholistic prison reforms in the country.

Inaugurating the seminar, **Chairperson NHRC, Justice Shri KG Balakrishnan** said that though prisons are essential in a society to punish offenders and to protect the public particularly from the most dangerous criminals, they ought to function as correctional homes. The idea is to reform the criminals, unfortunately however, the state of affairs is not very good, therefore it was necessary to pay more attention in this regard.

Timely medical facilities should be provided to prisoners. A number of prisoners die due to natural causes for want of timely medical attention. He also referred to the Justice Mulla Committee Report recommendations regarding formation of a organized prison cadre to look after prison administration in the States and felt that this would to a large extent help in finding a timely solution to issues like delayed trial of under-trial prisoners, overcrowding, provision of basic facilities like proper sanitation, potable drinking water, good medical facilities, etc. He also felt that the provisions for parole should be liberal.

Addressing the participants, **Member, NHRC, Hon'ble Justice Shri G.P. Mathur**, said that prisons were essential in a society to keep criminals under control and prevent them from committing further crime. Prisons in India came into existence; more than a century ago but the condition of the prisoners and prisons remains pathetic even now.

Human rights instruments contain specific provisions regarding treatment of prisoners, he stated. The primary purpose and justification of imprisonment is to protect society from crime and revenge. In the present day, punitive methods of treatment of prisoners along are neither relevant nor desirable to achieve the goal of reformation and rehabilitation of prison inmates. The concept of correction, reformation and rehabilitation has come to the foreground and the prison administration is now expected to function in a curative and correctional manner. Human Rights legislations and a human rights centered approach have facilitated a change in the correctional system of the country which in turn has helped in safeguarding prisoners rights.

### **Presentation by MHA**

Outlining the prison policy, **Director (SR), MHA Dr.(Smt) Praveen Kumari Singh** stated that prisons should be a place for reformation and rehabilitation of the offender. She said that the rate of imprisonment was very low in India as compared to other developed countries. The main reason for overcrowding in jails, she added, was due to the large presence of under-trial prisoners which constituted about 67% of the

total prison population. However, she highlighted that over-crowding in prisons has come down considerably. She attributed this development to the initiatives and measures taken by the Government of India and the State Government. She further stated that about 18 exclusive women prisons existed in India and female prisoners constituted about 4.1% of total prison population.

The main issues of concern were prison overcrowding, reducing number of undertrial prisoners, adopting of best prison practices uniformly in all the States, community service centers, self sustainability of prisons, and introduction of Public Private Partnership Module in prisons. She highlighted the following measures and interventions by the Government of India:-

- (i) amendment in Cr.PC for mandatory release of under-trial prisoners in case of inordinate delay in trial ;
- (ii) setting up of fast track courts for quick disposal of cases
- (iii) introduction of scheme of plea bargaining
- (iv) holding of jail courts (Lok Adalats)
- (v) Rs.1800 crores provided to States under the scheme of modernization of prisons to construct new jails, repair, renovation and construction of additional barracks, construction of staff quarters and improvement of water and sanitation facilities; construction of new jails and barracks under this scheme;
- (vi) holding of prison courts for speedy disposal of cases of undertrials involved in petty offences
- (vii) Setting up of the *National Mission for Justice Delivery and Legal Reforms* to reduce number of under trial cases and ease congestion in jails.

A conference of Correctional Administrators was held in New Delhi in September 2010, she informed. Based on the deliberations of the Conference, an advisory on sharing of *best prison practice* was issued to all the States/UTs.

### **Presentation by Bureau of Police Research and Development (BPR&D), MHA, GoI**

**Deputy Director, BPR&D Shri BV Trivedi** said, that the objective of prison management should be to make prisons a safe place by maintaining security and discipline and to provide basic minimum facilities to prisoners to maintain human dignity. He said that prisons should act as hospital for the treatment and care as prisoners are like patients, who need treatment and care. Comparing prison staff to that of a doctor he

said that the prison staff should diagnose and treat prisoners in the right way. He added that the rights of prison staff were as important as the rights of a prisoner.

In his presentation, Dy. Director, BPR&D mentioned the various research studies in Correctional Administration conducted so far as well as the ongoing/projects in hand.

He mentioned that BPR&D conducts courses and seminars for prison officers and brings out publications on the issue of correctional administration.

BPR&D has initiated a national survey to identify the qualitative as well as quantitative key performance indices for prison personnel of different ranks in terms of technical skill, human relation and organizational ability to develop and facilitate their role clarity by focusing on the critical area of performance.

### **Presentation by Institute of Correctional Administration, Chandigarh**

**Deputy Director, Institute of Correctional Administration, Chandigarh, Dr. Upneet Lalli** mentioned that the Prisons Act, 1894 focuses only on prison security, offence and punishment and not on correction, reformation and rehabilitation of prisoners. She felt that problems still existed and changes were required in the areas of overcrowding, delay in trial & legal Aid, Health and Hygiene, Prison Visits-Procedure, Food-Hygiene, Quality, Service, Poor Living Conditions, Women and Children-Drugs, Mobiles, Security Issues, Lack of educational, Vocational training, Lack of Reformation and slow pace of modernization. Prison policy, she said, should emphasize on reformation and not on punishment alone. The scope of work of prisons should be to strengthen the criminal justice system to ensure public safety and achieve efficacy in correctional practices and that the following issues must be covered in the Prison Act Conditions of Prisoners, Duties and rights of prisoners, Classification of prisoners . Scientific Classification, Health and medical facilities, Special categories of prisoners i.e. women prisoners, Undertrials, Correctional programmes . Educational and Vocational training, Work and Wages, Contact with Family -Humane, frequent, effectively managed Probation and after-care, Prison Offences Punishment, Grievance Redressal . Prompt and fair. She stated that as about 4.1% of prison population consisted of women, the problems of women prisoners should also be given due care.

She said that it is heartening to see that a wide range of activities are undertaken in the prisons in the recent past, to run the prison industries from traditional spheres to modernization of prison industry, and stressed that a balanced strategy management is very much essential for successful prison administration.

## **SESSION II**

### **Presentation by the representative of Model Prison (Adarsh Jail) Lucknow**

The representative informed that the Model Jail Lucknow was reconstructed at Mohanlal Ganj-Gosaiganj Road in Lucknow district and includes two separate jails for male convict prisoners and another for women prisoners called 'Nari Bandi Niketan'. He briefed that the capacity of the Model Jail is 600 comprising of one circle, three enclosures and 20 barracks and presently there are 400 life convicts and 6 termers lodged in the Jail. He informed that the Model Jail has a highly mechanized and modern kitchen with all modern equipment and gadgets and added that some initiatives have been further taken by the IG (Prison), UP, for the welfare of the prisoners, including their education, enhanced wages, legal aid etc. He revealed that the Jail hospital is upgraded and modernized on regular intervals and that there is a deep decline in the matters related to prisoners' health. The mulakat time for family members with prisoners is fixed on telephone, he added.

He added that the Jail administration has recently launched a Green Initiative collaborative project with ITC Ltd. to convert Jail waste into bio-fertilizer, which is clean and green, and to be sold through ITC or to be consumed in Jail agriculture work directly.

### **Presentation by Special Rapporteur, NHRC**

**Special Rapporteur NHRC, Shri Damodar Sarangi** gave a presentation on overcrowding, problems of UTPs, Women, aged and mentally & physically challenged prisoners. He informed that on behalf of the Commission, he has visited a number of jails, institutions where persons are detained or lodged for purpose of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon.

Overcrowding, he said, is the root problem in Indian prisons, resulting in number of other problems like health care, food, clothing and poor living conditions. He stressed the need of review of the functioning of the entire criminal justice system, including the system of arrests, sentencing policies and notions of crime for serious and long term solution to the overcrowding problem. He suggested that provisions in the statutes (in terms of parole, bail, furlough, short leave and appeal petitions etc) should be exercised liberally by the concerned officers in each of the jails, to reduce overcrowding. He gave brief remedial/correctional measures about undertrials and legal aid, custodial torture, post-mortems, medical examination of prisoners.

About the problems of mentally disabled prisoners, Shri Sarangi informed that such prisoners are being treated as other prisoners, inspite of their distinctive problems.

He quoted guidelines of the Hon'ble Commission sent to States/UTs from time to time in this regard. He stressed implementation of the UN Standard Minimum Rules for Treatment of Prisoners by all the prisons in the country. He informed that according to these rules prisoners suffering from mental health illnesses are required to be shifted to mental institutions as soon as possible. Secondly, medical or psychiatric treatment is mandatory for all prisoners who are in need of such treatment. He reiterated the recommendations of the Mulla Committee that if a convict undergoing imprisonment becomes mentally ill, he should be accommodated in the psychiatric wing if such wing exists in the prison hospital, or he should be sent to the nearest mental hospital for treatment. Further, if the prisoner fails to recover from mental illness even after completing half of the maximum term of conviction, the State Government should consider his case for release.

Shri Sarangi described the plight of women prisoners. They informed him that they feared their husbands would no longer accept them after their release from prison. He stressed the great need for frequent opportunities for women prisoners to meet or unite with their families. Mentioning the recommendations of the National Expert Committee on Women Prisoners, he suggested that the States/UTs must follow them in right earnest. He informed that the Commission is in the process of finalizing the guidelines on women prisoners.

Based on the NHRC's observations, he informed that the Commission has made numerous recommendations to overcome the problem of overcrowding, like regular special courts in the prisons, sensitization of judicial officers for giving bail and ensuring speedy trials, regular visits to the prisons by DMs/SSPs/ Judicial Officers and release of undertrial prisoners on bonds.

Shri Sarangi highlighted the Commission's focus on the conditions prevailing in other institutions under the control of States/UTs. He suggested that a *basic need approach* should be followed in all prisons, regular/periodic monitoring and checkup of prisoners, making prison conditions more people-friendly for women, aged and mentally ill prisoner and ensuring a safe future for the children of prisoners.

### **Presentation by Tihar Jail**

**Law Officer, Tihar Jail, Shri Sunil Gupta** described three components of safe and secure custody system being followed in Tihar Jail ie. technology driven security system, system of segregation of inmates and three-tier security. He gave detailed information regarding medical & health care facilities being provided to the inmates of the Tihar Jail and added that there are a number of recreational facilities for the inmates like indoor & outdoor games, annual inter-jail sports competition . Tihar Olympics, cultural performances by eminent artists and annual cultural festival . Ethnic Tihar, etc.

He revealed some new initiatives being taken up by Jail administration including creation of music rooms, more literacy programmes, campus placement and connecting Tihar on social networking sites like Face book and Twitter.

He gave a brief description about the best practices in prison management followed by Tihar Jail administration. These includes ISO certification; inmate phone call system; information technology; video conferencing system; touch screen information kiosk; model infrastructure; Management of drug users and prevention of HIV; inmates participation in prison management; green reformation centre; and monitoring by external agencies.

He informed that the Jail administrations have taken various steps towards self sustainability of the prisoners. There are six units (carpentry, weaving, tailoring, chemical, paper & pottery) in the Tihar Jail premises and products are sold in the brand name . TJS. He informed that the Tihar Jail administration has started Public-Private Partnership programmes in Delhi Prisons for setting up industrial units, technical expertise in manufacturing activities, expanding distribution network and employment of released prisoners.

Shri Gupta gave detailed information of the steps taken by the Jail administration to reduce the number of undertrial inmates and overcrowding. These include, special courts for disposal of petty offences, regular awareness sessions for plea bargaining courts, weekly report to District & Sessions Judge, Delhi, of undertrials granted bail but unable to furnish surety; timely and complete production of undertrials before the trial courts; and legal aid facility through video conferencing from Delhi High Court and district courts. This has resulted in reduction of number from 11740 in April 2007 to 8326 in August 2010.

## **GENERAL DISCUSSIONS**

In the general discussion that followed, amongst other issues the problem of overcrowding and health care of the inmates were considered to be the major issues. The Ministry of Home Affairs, it was pointed out, is required to provide more funds to the States/UTs for infrastructure development. Secondly, it was stated that States/UTs were required to implement the guidelines being forwarded by NHRC .

- To reduce the number of prisoners by holding regular special courts in the prisons,
- To sensitize judicial officers for giving bail and ensuring speedy trials and
- Regular visits to the prisons by DMs/SSPs/Judicial Officers

- Release of undertrial prisoners on bonds, basic need approach, common guidelines for release of prisoners.

It was suggested that States/UTs may follow the patterns of Delhi and Jammu & Kashmir States where overcrowding problem is minimum. Regarding problems of health care facilities in prisons, including non-availability of doctors, transportation facilities etc., one of the participants suggested that NHRC may facilitate collaboration between Prisons and Doctors of the Indian Medical Association. He was sure this would solve the healthcare problem in Indian prisons to a great extent. Beside this, the matter pertaining to improvement in criminal justice system, need of separate cadre for prison administration, training of prison officials etc. were the points of general discussion during the seminar.

## **PRESENTATION OF STATES AND UNION TERRITORIES**

### **1. Andhra Pradesh**

The representative from Andhra Pradesh said that presently there are seven Central jails in the State of Andhra Pradesh and projects for setting up new jails have been initiated. Andhra Pradesh is the first State to introduce the Video Linkage between prisons and courts in 2001, 14 Prisons and 15 Courts are connected with Video Linkage. In all 2, 72,099 prisoners are produced through Video Linkage as on 31.3.2009. The remaining prisons would soon be connected with Video Linkage.

The lack of coordination among the three wings of correctional services ie. i) Prison administration ii) Probation wing and iii) Juvenile wing affects the overall functioning of the correctional services, the representative said and sought NHRC's assistance for bringing the three components under one single umbrella for better coordination and functioning. The representative also sought gainful employment for prisoners to channelize their energies as it was cause for stress and suicides among the prisoners. Perspective plan assistance was also sought by the representative, under which infrastructure, equipment and mobility could be improved. The wages paid to unskilled, semi-skilled and skilled prisoners have been enhanced to ₹30, Rs 50 and Rs 70 respectively from the present ₹10, 15 and 20 per day. The term wages is being replaced with incentives to avoid minimum labour wage disputes in AP Prisons. In comparison to the situation prevailing in other States, there was minimal overcrowding in Andhra Pradesh and the situation would improve further with the completion of new jail projects in near future.



## **2. Andaman and Nicobar Islands**

The representative acknowledged the problem of overcrowding in jails and reported that they are taking suitable measures to resolve the same.

## **3. Assam**

The representative stated that two new jails are being constructed in the State to address the problem of overcrowding and the High Court of Guwahati is monitoring the progress on a monthly basis. Regarding the health issues of prisoners, the representative informed that most of the jails in the State have full-time doctors who are taking care of the Prisoners' health.

## **4. Bihar**

The representative stated that the issue of over-crowding is being addressed by modernisation of jails and construction of new jail wards. He highlighted that death rates in jails have shown the decreasing trend and stated that there were 208 reported deaths in the year 2006, 93 in 2010 and 29 till 13<sup>th</sup> April 2011.

## **5. Chhattisgarh**

The issue relating to over-crowding of jails is likely to be tackled by the year 2015, the representative stated. Being the naxal-affected State, he added, there is a difficulty in mobility and security of jails inmates while transporting to the courts. The representative suggested for the construction of high security prisons in the State.

## **6. Chandigarh (UT)**

As per the representative, there is no over-crowding in the State prisons as there were just 800 inmates as against the sanctioned capacity of 1000. Creation of more staff positions in the prison management system was being undertaken with intent to solve the problem of shortage of required medical staff. The matter however is pending, he added.

## **7. Haryana**

The representative from the State stated out that out of total 34 sanctioned posts of medical officers, 19 are lying vacant. Due to lack of prison managing staff, prisons are largely manned by police staff. Against a capacity of 13000 inmates, the prisons have 14,500 inmates; hence the problem of overcrowding is very much there. To reduce overcrowding, liberalized policy of furlough or granting leave to inmates is

followed and new jails are being constructed in the State as well. The Haryana Govt. is offering very good wages to the prison staff. Every prison has a legal aid cell. Provision of facilities as per Tihar Jail is being considered in future. Technical training is being provided with collaboration with NIOS and IGNOU in jails.

## **8. Jammu & Kashmir**

The representative stated that out of a capacity of 27150, 26042 inmates are kept in various jails. The focus is on imparting vocational training to inmates. There are delays in trials in view of the high security areas where long distances have to be covered. The health issue of inmates was a major concern for the officials and appropriate steps are being taken to address the same. It was recommended that children and spouse of inmates should get a chance to meet them more frequently.

## **9. Jharkhand**

The prisons in the State suffer from the problem of over-crowding. The prison visit system was well in place and Jharkhand jails are provided with the facility of video conferencing. The representative informed that there are plans to start a bio-gas plant for jails.

## **10. Madhya Pradesh**

The representative stated that the State has 123 jails with a capacity of 25000. The inmates in position in these jails are however 31000, there is an overcrowding of 23%. Perspective plan to improve the jails is pending with Central Home Ministry. Out of total requirement of 147 doctors only 12 are posted at present ie. just 8% is in position. Telephone facilities are provided for having conversation between relatives and inmates. Since there are no ambulances in prison - M.P. jail administration practiced carrying unwell and injured inmates on motorcycles, along with escorts, to hospitals. Member, NHRC Justice GP Mathur intervened to say that such a practice is both unsafe and inaccurate for the health of inmates and must not be continued.

## **11. Maharashtra**

Due to the expenditure on video conferencing, the Govt is reluctant to use video conference, the representative stated. There was a shortage of doctors and that most of the time doctors were not available in any of the district jails, he stated.

## **12. Meghalaya**

The representative said that UTPs constitute 83% of the inmates in the jails. High Court of the State is apprised of the matter. There is not much over-crowding in the prisons. Though there are not enough regular doctors but ad-hoc/attached doctors visit the prisons once in a week. TB among inmates is a major health problem, he mentioned.

He requested the Commission that the matter may be taken up with MHA about no money being sanctioned/spent on Meghalaya after the year 2009. Honorable Member Justice GP Mathur assured that a clarification would be sought from MHA in this regard.

## **13. Orissa**

In Orissa, the representative stated, there are 86 jails. Out of these, around 18 jails face the problem of over-crowding. 83% UTPs were released in last 6 months, he mentioned. There is one open air jail for inmates where the inmates are engaged in cultivation and other activities. An exclusive telephone facility has been provided for family members and advocates of the inmates. A 100-bedded hospital is coming up for taking care of the children of persons undergoing imprisonment. 31 jails have hospital of its own with 242 beds. Two rehabilitation centers have also being built recently, he updated the participants.

## **14. Punjab**

The representative said that there are 25 jails currently, and three new jails are coming up in the State. So far as availability of doctors is concerned, 16 doctors out of 35 are available. Medical facilities to inmates are also being taken care of by the District hospitals.

## **15. Puducherry**

The prison management includes health, diet, training, recreation and rehabilitation of prisoners. The convict prisoners who are sentenced for rigorous imprisonment are entrusted with the prison labour works such as kitchen/cooking, office orderly work, dispensary orderly work etc. Periodical check-ups and medical facilities are made available to the prisoners through the Jail dispensary and Medical Officer of the Jail. For recreation of prisoners Radio, Television, news papers, magazines etc. are provided.

The prisoners are eligible for remission of sentence granted on the basis of their good behavior, work and general response to various institutional activities. The

prisoners are also released on emergency or ordinary parole leave to enable them to maintain contacts with their families on important occasions. Interview with their parents/relatives are also allowed as per of Judiciary rules and orders. Video Conferencing with Tamil Nadu Courts is likely to start soon.

## **16. Rajasthan**

The State Govt. has received the budget for the year 2011-2012. There are plans to enhance the capacity of prisons to hold 5000 prisoners and building of a high security jail in Ajmer. ₹116 Crore is going to be spent on the upcoming projects. CCTVs and video conferencing facilities have come up. 500 wardens/constables are going to be appointed in the ensuing year. 78 prisoners are being trained by two ITIs. Presently there was shortage of trained doctors, he stated.

Referring to the problems faced by the Jail management, he said there are no proper secure places for keeping the belongings of convicts in the buildings . locker system to keep their belongings was proposed. Secondly, he said, it is difficult for the jail staff to provide magisterial enquiry reports on custodial deaths, as sought by NHRC.

## **17. Tamil Nadu**

The representative stated that there are 134 prisons in the State. Inmates constitute 54% of UTPs in these prisons. The medical care system is in place in Central prison. The medical assistance is sought from district hospitals in sub-jails, he added.

## **18. Tripura**

In the 12 jails in the State, there is no problem of over-crowding, the representative stated. Central jail however suffers from overcrowding. He acknowledged the fact there is lack of medical doctors in the prisons.

## **Interaction with NGOs**

**President, Centre for Care for Torture Victims, Kolkata Dr. Surendra Daga** stated that as the problem of lack of qualified doctors is being encountered by the most of the States, the NHRC could consider involving the doctors from the Indian Medical Association. The doctors from IMA would take care of the medical needs of the prisoners.

**Shri Henri Tiphagne, People's Watch, Tamil Nadu** requested NHRC to carry out a follow-up of its own recommendations and guidelines on prison reforms. He asked

NHRC to revive the system of Prisoner visitors committee which had worked as eyes and ears of the Commission in the past. The nomenclature of Prison should be changed to, Correction Homes he suggested.

Shri Henri insisted minimum wages should be paid to prisoners instead of switching on incentives as suggested by Andhra Pradesh representative. He suggested that the family members of the prisoners should be allowed to meet on Sundays, rather than the weekdays.

The system of parole and remission needs to be monitored and followed up on a regular basis with the State Govts, he suggested. The release of UTPs can address the problem of overcrowding to a great extent. Legal services need to be provided to prisoners on a priority basis and the legal service authorities should have frequent and constant contacts with inmates for providing speedy legal aid. He added that it is time to reflect seriously on the aspect of death sentence to prisoners. NHRC could perhaps intervene on the aspect of death penalty.

In the end, he suggested that prison rules should be modified on the basis of past recommendations and suggestions of the Commission.

**Director, Commonwealth Human Rights Initiative Ms. Maja Daruwala** said that visitor system needed to be streamlined. The system, she said, suffered from the fundamental problem of accountability. In terms of statutory compliance . Board of visitors needs to be comprised of both official visitors and non-official visitors.

There was deficiency in legal aid system, especially for the juveniles. Instead of video conferencing on various cases, the better option is to escort the prisoners to courts, she suggested. For the sake of fair trial, she added, the prisoners should be given sufficient time to interact and brief the lawyers about their case. She suggested that micro studies may be conducted by organizations to unearth the ground reality and to procure evidences with an intention to bring about a substantial change in the conditions of prisons. NHRC may conduct segmented study on juveniles, women prisoners, dalit prisoners, general prisoners and so on for the same purpose.

**Director, Academy of Prison & Correctional Administration, Vellore, Tamilnadu Dr. M.R. Ahmed** said that prison service needs to work within an ethical framework. The prisoners need to be treated in a manner which is decent, humane and just. Proper training should be imparted to inmates which will enable them to develop and expand their skills. The process of prison reforms and prison administration dates back to British Rule and important committees were set up beginning 1838 onwards. In the present scenario, there is a need to set up a *National Commission for Prison* at the Government of India level. The prison services should be brought under Concurrent

list, while at present it is a State subject. There should be an Indian Correctional Services or alternatively steps may be undertaken to merge prison service into the police service. Police officers can be appointed at all levels in the prisons, he suggested.

**Project Manager, GOI-UNDP Project Ms Swati Mehta** said that the experiment of public-private partner should be exercised with caution in prison reforms, as the fact cannot be ignored that profit making is the main objective of the corporate world. Also, she added, the experiment had failed in some countries.

The idea of video-conferencing had its limitations, she stated. The prisoners should be escorted to courts and must be given sufficient time to discuss their case with their lawyers.

### **Concluding Remarks by Chairperson, NHRC**

**Hon'ble Chairperson, NHRC Justice KG Balakrishnan** in his concluding remarks stated that physical presence of prisoner is must in Court. Any Magistrate will not give his judgement or decision without the presence of prisoner . it is not in keeping with Criminal Penal Code. Even if it is beyond court working hours . the prisoner will be presented at the residence of the Magistrate. Only in the rarest of rare occasion the judgements are passed vide video-conferencing without the presence of prisoner.

About the right to have lawyers and allowing sufficient time for the prisoners to brief the appointed lawyers for their defence, the CP said that every accused has the right to be represented by a lawyer from the State legal authorities (SLA). The SLA has a list of lawyers who represent the prisoners or accused.

Regarding a separate Cadre for prison administration, with reference to the Mulla Committee recommendations, Hon'ble Chairperson said that by having a separate cadre for prison administration many of the problems relating to jail management including overcrowding, delayed trial of undertrial prisoners, lack of facilities in the jail premises etc could be resolved.

He stated that NHRC is pursuing the guidelines and suggestions issued by it in the past and the Seminar was a follow-up to it. The Commission has visited several jails and these visits will continue.

About death penalty, the Hon'ble CP said that as per the past statistical record a total 1,23,307 convicts are undergoing sentences for various terms in the country at the end 2008. 345 of these were awarded death penalty accounting for 0.3% of the total convicts. The last execution in the country was of Dhananjay Chatterjee on August 14,

2004. It would not be possible for the Commission to intervene in this matter as it is not under the jurisdiction of Commission.

About Custodial death, the CP said that when the reports of custodial deaths are received by the Commission, appropriate amount of compensation is granted on a case to case basis. NHRC also keeps track and tries to ensure humane conditions in jail and responsibilities are fixed on failure to provide the same.

He added that Magisterial Enquiry Reports are sought to ensure that custodial torture does not take place. NHRC will continue to pursue prison reforms with right earnest, he said.

While extending the Vote of Thanks, **JS, NHRC Shri JP Meena** stated that several important issues were discussed in the meeting regarding decongestion in jails, provision of health and sanitation facilities, right to fair trial, visits of family members of prisoners, transparency, strengthening the industrial activity in jails, private-public partnership and so on. On the basis of these discussions, the Commission will work out modalities to further streamline prison reforms, he added.

**Recommendations** - The following recommendations emerged from the day-long deliberations on Prison Reforms :-

## **I PRISONERS' RIGHTS**

### **Overcrowding**

1. To reduce overcrowding, provisions in the statutes (in terms of parole, bail, furlough, short leave and appeal petitions etc) should be exercised liberally by the concerned officers in each of the jails.
2. A jail committee may be constituted, having representatives from the inmates, to assist the jail authorities in the cases of paroles, completion of bail documents, release of the inmates who have completed punishments and filing of the bail applications by the inmates in the court etc.
3. Financial status of the prisoners should not go against them. Legal assistance to prisoners must be provided. particularly for those who are not in a position to bear the cost.
4. Availability of time for prisoners to discuss their cases with their lawyers must be ensured.

5. Repatriation of cross-border prisoners, especially in case of Bangladeshi Prisoners, should be ensured as well.

### **Skill Enhancement/Capacity Building**

6. The energies of the prisoners, who are behind bars for 24 hours, should be channelized into constructive work. The educational programmes could be upgraded for both male and female prisoners. Student prisoners may be encouraged to continue their studies and to take the examinations.

7. Vocational training should be enhanced by imparting computer skills, horticulture, agriculture etc.

8. The model of skill training and campus placement of inmates, initiated by Tihar Jail Administration recently, may be replicated in other jails.

### **Health and Sanitation**

9. The health care system of jails should be improved. There should be medical examination of the prisoners at the time of their entry to the jail in the prescribed format and thereafter, a regular check up may be undertaken by the jail authorities. The records of the prisoners may be maintained properly.

10. Better sanitation facilities, hygiene and potable drinking water should be provided in all the prisons.

11. The prison conditions should be made more humane for the women, the aged and the mentally ill prisoners. Regular medical check-ups should be ensured and provisions should be made that the mentally ill prisoners and high risk prisoners are kept separately.

12. The jails should be provided with mechanical cleaning, treatment and maintenance of sewage plants so that the septic tanks do not have to be manually cleaned by the prisoners.

13. Regular meditation and yoga may be conducted on a regular basis for the benefit of all prisoners. Assistance may be sought from NGOs in this regard.

14. Proper sanitation facilities and construction of new toilets may be taken up at the earliest.



## **Women Prisoners**

15. Women Prisoners should be escorted by women staff only.
16. Frequent opportunities may be provided for women prisoners to meet or unite with their families to address their concern.
17. The Guidelines of the Supreme Court for the children of women prisoners mentioned in the case of RP Upadhyay vs. State of AP and Ors should be followed strictly.

## **Prison Visits**

18. Closing time for the prisoners may be advanced/increased, to allow them some time to spend in open.
19. Timings in supply of meals should also be revised as these are mostly based on the Old Prisons Act, 1894.
20. The Mulakat time may be fixed on phone, so that people may not have to come personally and wait for longer hours.
21. The family members of the prisoners should be allowed to meet on Sunday so that they do not have to take an off, on working days.

## **II PRISON MANAGEMENT**

22. Every jail must have an effective grievance redressal system.
23. Process of Modernisation of Prisons, as devised by BPR&D should be given the highest priority.
24. For an appropriate functioning of the prison administration and for the protection of the rights of the prisoners, it must be ensured that sanctioned posts (officers and medical staff) in the prisons are filled-up on priority.
25. Self sustainability of prisons should be encouraged by strengthening the prison industries. The model of Tihar Jail may be followed in this regard.
26. State Jail Manuals should be reviewed on a periodical basis to confront the new challenges.

27. Public private partnership model (in many countries) in prisons may be encouraged and followed in jails across the country. However, the experiment should be exercised with caution in view of their profit making objective.

### **III PRISON SERVICE/OFFICERS**

28. Creation of a National Cadre of jail service and training/refresher courses for the prison officers on priority.

### **IV NHRC SPECIFIC**

29. NHRC may undertake review of the status of implementation of recommendations and guidelines issued by it on Prison Reforms, so far.

30. Micro studies may be conducted by organizations to unearth the ground reality and to procure evidences with an intention to bring about a substantial change in the conditions of prisons.

31. NHRC may re-initiate its interventions on prison- visits/Board of visitorsq

### **V MISCELLANEOUS**

32. Arrests under NDPS, Section 498-A, and preventive detention should be exercised by the police with restraint and with right intent, to reduce the further impact on already crowded prisons.

33. Scientific classification of prisoners may be done in terms of age, type of crime committed and health, for better handling of prisoners and improved prison management.

34. The nomenclature of the Prisons may be changed to Correctional Homes to emphasize that the focus is on reformation rather than punishment.

35. Sharing of best practices should be encouraged, to learn and follow from each other, in terms of computerization of prison records, prison panchayats, mobility, infrastructure, education, connectivity, reorganization of jail industries, safety and security of prisoners, modernization and mechanization of kitchens and providing hygienic food, electronic surveillance, cultural programmes, fixing the mulakat time on phone, health care facilities etc.

36. Privatization of some of the duties like catering and escorting of prisoners may be considered to reduce the burden on prison administration. This is followed in advanced countries.

37. Presence of prisoners in courts may be done through Video-Conferencing.

38. Wages to the prisoners for the work done by them in prison industries be paid in accordance with the Minimum Wages Act.

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