

**Report on the visit of Dr Vinod Aggarwal, Special Rapporteur, Central and North Zone, NHRC to Tihar Central Jail. Delhi.**

I visited this Central Jail on 25<sup>th</sup> and 29<sup>th</sup> Jan, 18, to understand the living conditions of the convicts and under-trials in this jail and see whether rights of theirs are being respected by the local jail administration or not. In course of my visit, I interacted with the DGP. of Jail Mr Ajay Kashyap and Jail Superintendent Mr Ajay Yadav DANICS, of Prison no 2, Mr Harish Tyagi DANICS Jail Superintendent of Central Jail-3, and the Deputy Suptd., Asst suptd. incharge of Open and Semi-open jail at Tihar, Jail Physicians and other functionaries of this jail. The prisoners and the under-trials, also met me during the visit to various wards. Based on the information furnished as per the inspection format, copy of which is enclosed, and scrutiny of various related documents, I record my observations as follows:

**1. History of the Jail.**

This jail was established in the year 1958 and came into being as Tihar Jail with present central jail 1, 2 and 3 came into use. They were being constructed for long time. The construction started much before independence but this could not be completed by 1958. The other jails like no 4, 5, 6 etc were added later. The last jail campus built in Tihar Jail complex came into use by 1998. Now a Rohini and Mandawali jails have been lately constructed which are under the overall supervision of Tihar Jail Complex management.

**2. Land, Campus and Buildings.**

The premises is spread over large tract of land but with construction many jail buildings now there is no land is available for expansion. The capacity given by Jail Suptd of central jail-2 is 422 and it is only for Males.

There are 72 watch towers and generally distance is maintained from the wards. In barracks, cells and wards, as such

there is bit of congestion in the wards and the perimeter wall is located at the prescribed 60 years old but the maintenance is satisfactory.

In Central jail 2, there are 5 wards and 72 special cells. The wards are not of standard size, but of 60 ft. By 18ft, 60 ft. by 8ft, supposed to house 20-40 inmates. But in actual practice 25-60 prisoners were staying in these wards. All of the 72 cells being used and are of 25 ft. by 8 ft. These cells house 4-6 inmates. The flooring is of cement, not of mosaic or tiles. In Central jail 3, there are 49 barracks and 132 cells. The wards are not of standard size, but of 60 ft. By 18 ft, 60 ft. by 8ft, supposed to house 20-40 inmates. But in actual practice 25-60 prisoners were staying in these ward. All of the 132 cells being used and are of 25 ft. by 8 ft. these cells house

**3. The Sanctioned strength and Average population.**

The sanctioned capacity of the prisoners in central jail-2 is 422 ( all males ). The actual strength on the day of the visit was 598 (all males), which included, 1 under-trial and 597 convicts. Out of 597 convicts, 468 are with life imprisonment, 58 with rigorous, 66 with simple imprisonment and 6 Death Sentence. The daily average strength of inmates in the previous month was 592. The wards meant for 40 inmates in actual there were 56 inmates.

In central Jail-3, the authorised capacity is 733 but actual strength is 2096. There are 1843 under-trials and about 251 convicts, who are basically kept for maintenance of this jail. Out of 261 convicts, 116 are with life imprisonment, 137 with rigorous, 08 with simple imprisonment and 2 Death Sentence. , There seems to be overcrowding as compared to jail 2, in the Jail-3, but reasons of comparative more over crowding in jail-3 was not replied on questioning.

In open and semi-open jail, about 21 class III staff residential accommodation has been converted in these 2 categories of jail, with capacity of 105 but actual occupants are

59 only. Only 5 could be selected for open jail. The difference between occupants of semi-open and open jail is that inmates of semi-open are allowed to work within the wider concept of Tihar Jail, but inmates of Open jail are allowed to work outside and have to come back by evening (almost 8 am to 8 pm) they can go outside and work and come back and mark their attendance.

#### 4. Administrative Staff

The semi-open and open jail is managed by Assistant Superintendent, supported by 1 head warder and 4 warders. For about 100 inmates, number of personal in this part of jail are less strength wise.

A statement showing the sanctioned strength and in position personal with vacancy in central jail- 2 is given below:

Sl. No.	Designation	Sanction Posts	In Position	Vacant
1.	Superintendent	01	01	0
2.	Office Suptd..	01	00	01
3.	Dy. Superintendent-I	02	01	01
4.	Dy. Superintendent-II	03	03	00
5.	Asst. Suptd.	29	13	16
6.	Head Clerk	01	01	0
7.	Welfare Officer	01	00	01
8.	Head Warder	44	44	00
9.	Warders	128	67	61
10.	Legal Assistant	01	00	01
11.	Asst.Accts. Officer	01	01	00
12.	U.D. Clerk	03	01	02
13.	LDC	03	01	02
14.	DEO	01	00	01
15.	Driver	08	03	05
16.	Barber	01	01	00
17.	Sweeper	12	05	07
18.	Cook	02	01	01
19.	Head Matron	01	00	01
20.	Matron	02	01	01

From the above table, it is quite clear that there is bit under-staffing and some measures are required by the State Government to appoint the personal on the vacant positions. The number of assistant-superintendents and warders are grossly

inadequate. Sweepers are although many in position but cleanliness left lot to be reach the desirable level of cleanliness. But when this position is seen with total no of inmates, than compare to all other states, like UP, Rajasthan, Bihar and Jharkhand, the positions are much more than these states. The posts of social workers under a senior sociologist and psychologist with some assistants are also now a need of the hour in these jails. Personal with vacancy in central jail- 3 is given below:

	Designation	Posts	In Position	Vacant
1.	<b>Superintendent</b>	01	01	0
2.	Office Suptd.	01	00	01
3.	Dy. Superintendent-I	03	00	03
4.	Dy. Superintendent-II	03	03	00
5.	Asst. Suptd.	31	12	19
6.	Head Clerk	01	00	01
7.	Welfare Officer	01	00	01
8.	Head Warder	43	36	07
9.	Warders	105	58	47
10	Legal Assistant	01	00	01
11	Asst.Accts. Officer	01	01	00
12	U.D. Clerk	03	02	01
13	LDC	01	00	01
15	Driver	07	02	05
16	Barber	01	01	00
17	Sweeper	09	07	02
18	Cook	02	02	00
19	Head Matron	01	00	01
20	Matron	02	01	01

Video conference operator, computer operator, tailor master, carpenter and other trade experts should be appointed on regular basis to train and supervise the work in the industrial units of the jail. As the jail has its own bakery, oil-extraction unit, spices grinding unit, carpentry, paper making and printing units, it is requested that some more posts for supervision may be created, by reducing some posts of warders and posts are created to train and get much more production from more than 770+ convicts with rigorous imprisonment in central jail 2, 3, semi-open and open jails.

The service condition of the Jail personal is although similar to other services of the State Government, But kept at a tad low level. Jail service rules had been framed, long time back. But morale of the personal was in general low because of lack of promotional avenues and it has lot of impact on the efficiency of the jail administration.

The human resource development of the jail personal is a subject under consideration of the Government and institutional arrangements for training of officers and other staff are not being there. The basic training course of 4 months for Warders and assistant Superintendents as these are the 2 levels where direct recruitment takes place. This training takes place in the police training institute. There is no Senior Leadership Course (S.L.C) course for the Head warders .Otherwise they are trained for 1-7 days program at RICA (Regional Institute of Correctional Administration, Chandigarh) But it is felt that, training module for human resource development has to done in much more structured way and with home department taking lead for training in techniques to handle and reform the convicts to bring them into main stream of the society

For rehabilitation of prisoners, the jail has provision of training in:

- i) Bakery
- ii) Oil(mustard) extraction.
- iii) Masala Grinding unit.
- iv) Carpentry works
- v) Paper making and printing.
- vi) Power-loom weaving and cloth making.
- vii) Hand-loom weaving
- viii) Tailoring and stitching

Once these units are developed it would engage 100% convicts and majority of under-trials who want to work and send home some money.

It would be of use that 6 month training imparted with formal certificates could be granted by the Jail Administration in following disciplines:-

- a) Printing, which could incorporate, offset printing, screen printing and fly leaf making as one training module.
- b) The other certificate program could be weaving whether on hand loom, power-loom or for jute weave.
- c) Tailoring and cloth designing could be a third program
- d) Carpentry and steel works could be 4<sup>th</sup> certificate program
- e) Bakery techniques, and Spices and oil grinding

For rehabilitation of prisoners, once they go back in the main stream of the society, it is felt, that sociologists and psychologists need to work with the profile of each of the convicts and once they go back to the society there could be pool of entrepreneurs who should also be encouraged to keep them as workers in their factories/units under the supervision of sociologists and psychologists, who should become a bridge between the reformed convicts on completion of their terms and their getting reabsorbed in the society in general and the confidence of entrepreneurs specifically to be won for at least 5 years after their release.

## **5. Rights of Prisoners**

Rights of prisoners, is an evolving subject. In our Constitution, directly any rights have not been given to prisoners. But their rights emerge, through either rights to the citizens or through various judgements by the Supreme Court or various High Courts, who have passed certain judgements through which the rights of prisoners have arisen. In brief these rights could be:

- a) The right to get paid for work done. Various courts have said that, when a prisoner is sentenced to rigorous imprisonment, the prisoner is supposed to do work, but that doesn't imply that he/she has to work free of cost. The

prisoner is supposed to be paid minimum wages for the work done.

- b) The right of dignity, is that an under-trials / prisoners, should not be chained ordinarily and even when taken out of prison normally not to be hand cuffed as per judgement.
- c) Right for reasonable facilities of food, lodge, clothing, medical facility.
- d) Female prisoners, right to have a child, delivery and care of new-born till 6 years of age.
- e) Rights of under-trials is for a speedy trial,
- f) Right of bail for under-trials, and parole and remission for convicts,  
can be considered as rights of prisoners.

The no. of under-trials lodged in central jail-3, about 1893 and the jail administration is not able to give bifurcation of how many are there for more than three or five years. This information is important, for the visitors and other judicial authorities visiting the jail. Had this information be readily available the senior judiciary could be requested for accelerated disposal of certain cases but can't be even attempted as I close the subject when the Jail Superintendent has said that he is finding it impossible to furnish this information.

### **5.1 Right of Speedy Trial:**

When the jail administration is so apathetic that they are not ready to maintain the details of inmates that how long the inmates are incarcerated in the jail, than how can they help in requesting the judiciary for cases long pending, where the period of detention might have surpassed the period of imprisonment etc. I feel NHRC must give directions to all jails, that they should maintain the list of under-trials in the custody and for how much time, they are in jail. How many inmates are in jail for more than 50% time if the crime is proved would be quite important. As the DG of prisons and jail authorities were mentioning that so many levels of authorities from judiciary visit the jail, regularly. Many NGOs also visit the jail. But still jail authorities are not even give

details about under-trials despite asking repeatedly, either felt that special rapporteur is not worth sharing the information or so many VIPs are visiting and they will not share the information with any Tom, Dick and Harry, than It is recorded that I am not in position to say what this jail is doing for speedy trials except that under-trials are granted remand on video conferencing. This has reduced pressure on Jail administration that they don't have to produce the prisoner by personal appearance before the court. But this video-conferencing facility is being used for only remand. For hearing of cases, statements of witness generally not being recorded by courts as the lower and middle judiciary is demanding that each court room should have video-conferencing facility. This issue need to be resolved, so that videoconference facility may be used in more effective manner. It is felt that, costs and risk of taking an under-trial to the court is quite heavy and cumbersome and this single reform if used effectively, is going to be one of the greatest reform and will reduce the time an under-trial remains in jail as this has hastened the process of trial in Jharkhand.

Jail Lok-Adalats are being arranged, last Saturday of every month in the jail premises. 3-4of the under trials are in jail, because they are unable to arrange sureties.

### **5.2 Right of an Under-trial to be Released on Bail:**

The jail administration couldn't give information of no of petitions pending in the trial court for disposal. It was also not known about the number of cases, where prayers for the bail have been rejected but the advocate concerned has not yet been communicated the reasons of rejections. The cases where the bail amount is high and becoming hindrance in release of an under-trial remains to be gathered.

### **5.3 Right of Convicts for Premature release/ parole/ Remission.**

- a) The state government honours the right of convicts for their various rights and has constituted the state sentence review



board headed by Home Minister, Home Secretary. Law Secretary, One District & Sessions Judge nominated by Delhi High Court, Director Probation and DG of Police or his representative in the rank of IG of Police are members and DG Prison is the Secretary on this Board.

- b) The information about cases pending before the SSRB from this Jail was not made available.

#### **6. Right of food to convict and Under-trials Prisoners:**

The scale of diet includes 500/400 gm. Rice/ Wheat flour for convict/ under-trial, 90 gm. Lentils, 2 pieces of bread along with 50 gm. of potato and 250 gm. of green vegetables and 25gm. of sugar makes it a about 3500 calories on average with 60gm of proteins which is reasonably a balanced diet. 25gm of mustard oil, 15 gm salt, 5 gm of condiments, along with 25gm of biscuits are provided. If 80% of prescribed menu, reaches the inmates than there can't be inmates suffering of mal-nutrition. The important part is that in actual practice the food to scale is provided or not, is to be seen by local Jail authorities and State Jail Administration. The look of food was not up to mark and lentils curry was very thin. The 4/5 chapattis, which are given on average to each prisoner is 50 gm each. No one complained, about quality of food, but it is felt that there is need for inspection of food by higher officials is required.

- c) **The kitchens have chimneys,** Sufficient number of exhaust fans have been installed. Platform for washing, cleaning and cutting vegetables with water point and washing bays has been provided. More electric kneaders are required, if food is expected to be served with in 2hrs from the time its preparation begins. The 3 chapatti making machines, along with mixers and grinders are provided.

#### **7. Water Supply and right to water of the inmates.**

Supply of water is sufficient. At present water quality is not been tested. Periodic cleaning of water storage tanks is done. The

water supply in the toilets and for bathing and cleaning of cloths is available,

According to the jail manual water used for drinking and culinary purposes should be analysed once every quarter and bacteriological examination on request. No such test appears to have been done in recent past. Jail Supt. should ensure that samples are periodically sent for required examination and analysis, although informed orally that test on water analysis are being done

### **8. Sanitation, Personal Hygiene & Clothing.**

The jail authorities have given information, that there are sufficient cage latrines and outside the wards in both jail-2 and 3 and all are in working conditions, If I have to answer the question whether sufficient cage latrines are there in place, my reply is no for the barracks and wards but sufficient for cells. Each ward which I visited had only 1 cage latrine which is normally used between sunset to sunrise, the time when the inmates remain locked inside the wards. There are 30-60 inmates in each barrack and night time there is only one WC in the ward. Each ward should have at least 2 cage latrines instead of one. And bathing area and toilets for day time use are to be there in good condition, that they are used by the inmates.

Although it has been ensured that toilets are placed on impermeable floor, higher than the surrounding ground and but the sun's rays can't easily enter the toilets The latrines are designed that excreta and wash materials get into receptacles without falling on the sides in general, but shortage of water, the sweepers' training and training of inmates need to be improved.

The prison provide for covered cubicles for bathing @ one for every 20 prisoners The jail administration ensures that each prisoner washes his cloths once a week. But when only 2 sets of clothing are given how once a week washing should be considered enough especially in summer months. Washing soap

once in 15 days and bathing soap is provided to each one of them.

Water logging is a problem in the jail no 2, but not in other jails.

### **9. Health & medical care**

Tihar Central Jail no 3 had 150 bed hospital + 100 bed drug addiction centre with facilities of indoor, outdoor and emergency services. The hospital along with small dorms in each jail of 8 beds, are being run by jail administration. There are 67 medical officers 8 senior residents and 14 junior residents are also being employed to look after the jail. In a letter written by Medical officer incharge to Jail suptd. of jail-3, is as follows. There are 6 General Duty medical officers along with 2 Junior Residents along with medical, orthopaedic, ophthalmic, ENT, skin, pathology and psychiatry along with dental jr are available with 12 nursing staff and 25 para-medicals. Some are available for 6 hrs and majority are available round the clock. As such the jail is of lesser capacity than 5% of total capacity of jail. The hospital is not sufficiently away from the jail wards. Floors and walls have glazed ceramic tiles and have uninterrupted supply of water and electricity.

There is no shortage of medicines reported by jail administration and the inmates. Ambulance service is available. The jail administration reported that there are large no. of drug addict among the inmates and big drug de-addiction centre for 90-100 inmates is being run and counselling service are available.

Hospital administration is not maintaining no of patients are suffering from chronic renal failure, heart failure, cancer, leprosy and details of their treatments.

With such a large no of medical officers, nurses, specialists, and para-medicals being availability, along with 150 beds a very

poor facility is being provided and need major improvement and better deployment.

#### **10. Children living with Convicts (mother)**

As per directions of Supreme Court in R.D. Upadhaya Vs. State of A.P. in criminal appeal No. 69 of 2009 decided on 1/11/2010 that children from 0-6 years can be allowed to stay with their mothers. Every such child staying with mother has a right to requisite food, as prescribed in jail manual. This jail is providing food, crèche and nursery education which have been deployed in the women ward. As per norms each of these children are allowed to go out of jail premises for playing and mixing with general population. The sports goods or such desirable equipments are also provided to such children. As the women jail was not visited could not see the facilities personally..

#### **11. Industrial production and payment of daily wages to the prisoners.**

This central jail no 2 has bakery, oil extraction machine, spices grinding machine, carpentry, power-loom, hand-loom, tailoring, paper making and printing as an opportunity to work and earn for the prisoners who have to undergo rigorous imprisonment. As a welfare measure Jail administration has fixed rates of Daily wages for such prisoners who work, according the order of Hon'ble Supreme Court. The expenditure incurred on food, medicines, clothing and others is 191 Rs. per day, which is being deducted from the daily emoluments and now are paid at the rates given below in the table:

Trainee or unskilled	103 Rs
Semi skilled worker	112 Rs
Skilled worker	191 Rs.

The 20% of the total earned goes to the victim. Paying share to victim is a good step to ameliorate the condition of victim's family and will also act as penance

The annual production of the jail is about Rs 21.21 Cr. in financial year 2016-17 and in 9 months of the current year it is about 9,34 cr. It seems the production or sales are getting tapered or reduced.

Seeing the availability of space and expertise already gained with life convict and other rigorous imprisonment prisoners, it should be endeavour of jail administration that they can raise their production to much higher level as no of prisoners with rigorous imprisonment are around 400 and production that way is much lesser. If all prisoners( including some under-trials) work for 300 days a year and on average earn RS. 120 perday, the annual expenditure on wages should be

$10000 \times 300 \times 120 = 36 \text{cr}$  only on wages, The total expenditure on jail can be recovered if the jail inmates are used judiciously-

## **12. Educational Facilities to the prisoner, whether convicts or under-trials.**

The prisoners or under-trials have the various options for Yoga, physical training. They can also enrol through IGNOU, NIOS, training in vocational subjects, spiritual development though Yoga and Prayers. Also organised by jail authorities about music and Gymnasium. A functional gym has been developed but a regular gym is under construction in the jail.

## **13. Interview facility provided to prisoners.**

As per jail manual and also e mulakaat (video -conferencing facility through pragra Kendra) and telephone booth facility available to the prisoners. The V.M.S. system is available to the relatives for granting interviews, about 600 such requests are received daily which are disposed of as per jail manual. It has been mentioned by jail authorities that very few of the requests

have been turned down. It has been gathered that under trial can meet once in 7 days and convicts once in 15 days

#### **14. Visits/Inspections during last one year.**

It has been informed that the judicial authorities had visited once in last year and among the non judicial authorities, there have been 5 visits in last one year. The visit of local N.G.O.s or social activists in jail is quite large and jail administration controls it. The reports are complied with wherever funds and recruitment of personal is not in hand of the local jail administration.

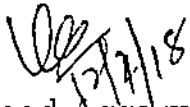
#### **General Remarks**

This is a central jail with almost a capacity of about 15000 inmates. The major problems according to me are 4:

1. There is need for creations of posts of sociologist, social workers, psychologist, Master trainers for the various trades. Besides these, we need to upgrade skill and production centre, for which supervisor in Bakery, hand looms, power-looms, printing ,carpentry are required to upgrade skills and 3-4 fold increase in production can be achieved.
2. The major part of building, although not very old, but many parts building are in state of disrepair, poor and shoddy maintenance. The flooring of cement makes it look very old. With changing times and easy and simpler maintenance, it would be desirable that flooring should be at-least mosaic, if tiles are considered to be expensive. The no of bathing space and toilets are much lesser in number. Many of the Jails have overcrowding by inmates. It is to be rationalised and either prisoners be shifted to newer jails if not fully occupied or new jails be constructed, to house them.
3. The water- logging is another major problem. A part of the campus, jail no 2 is in low lying area, but in these

months the problem is not seen; This becomes a problem in the monsoon.

4. The poor management of jail cadre, there promotional avenue is an issue of concern. The training need are also need to be looked into. In one of the foremost jail of the country the t lack of motivation because of the dis-affection among jail personal need to be addressed at the earliest
5. The jail has 67 general duty medical doctors, 14 junior residents, and 9 senior residents and sufficient supporting staff, which is quite high seeing the capacity of 15000 inmates. The deployment of doctors is lop-sided and done in a way very little work for each doctor is coming out. Much better use with reduction of General duty doctors and addition of specialists can be developed in a 500 bedded tertiary hospital which can become a training of personal in techniques to deal with convicts and that opportunity is being lost. The training of manpower in management of hospital by Convicts, which include educated and professionals, can also be utilized with full potential and can treat 99% of illnesses inside the jail campus itself. The training of manpower in such a tertiary hospital can help the country to train manpower in techniques to deal with such persons.
6. The open Jail and semi-open jail has a capacity of only 105. It is felt the Capacity of open jails should be about 1500 to such convicts who have already spent 10 years and are of good behaviour, should be allowed to live in open jail on pattern of Rajasthan with few changes.

  
 Dr Vinod Aggarwal  
 Special Rapporteur