

REPORT ON VISITS TO JAILS IN UTs OF DAMAN, DADRA AND NAGARHAVELI - 21 -23- 3-2018

----S. Jalaja, Special Rapporteur, NHRC

1. Visit to Sub Jail, Daman

Profile of Daman, UT

Daman is a part of the Union Territory of Daman And Diu which comprises two distinct regions namely Daman and Diu. Portuguese colonies since the 1500s, the territories were amalgamated in India in 1961. Daman has an area of 112 km² and a population of 2.42 lakhs.

Crime profile

As per report of the National Crime Records Bureau (NCRB) 2013, 246 crimes were reported in Daman and Diu. The UT has a crime rate of 101.13 compared to National crime rate 218.67, in 2013.

Jail Profile and history

The UT of Daman and Diu has no central or district jails, but only two sub jails, one located in Diu and the other in Daman, each with a capacity of 60 male prisoners and 20 female prisoners.

The Daman sub jail is located inside Daman Fort, a historic site which is declared as a protected monument by the Archeological Survey of India. The jail is located within the premises of an old church (known as The Monastery of Eleven Thousand Virgins) which was founded in 1567 . The church is visited even today by many worshippers. It was converted into a jail in 1947 and since then continues to function as Sub Jail, Daman.

Land and infrastructure

The jail building, though very old, is still in fairly good condition, but its roof had to be changed for protection against natural elements.

The jail building is in two storey's, having a total built up area of 988 sq. m. Prisoners are accommodated in 06 cells, 03 on the ground floor and 03 on the first floor. Besides, it has an office room, an advocate's room, video-conferencing room

and a staff room with a separate toilet for staff use. Male prisoners are seen accommodated in 05 Cells and the lone female prisoner in a Cell, on the top floor.

Manpower

The Mamlatdar (Tahsildar), Daman, is in additional charge as Superintendent of the jail. District Collector, Daman is ex-officio IG (Prisons) and the Regional Development Officer (RDO) ex-officio DIG (Prisons). Regular staff of the jail comprises of 01 Asst. Jailor, 01 Head Guard, 05 Jail Guards, 01 Woman Warder, 01 LDC and 01 MTS (Peon).

Jail capacity and occupancy

Against a sanctioned capacity of 60, 48 prisoners are accommodated in the jail. Only one female prisoner is lodged here, rest are male prisoners..

Category-wise details of prisoners

Out of 48 prisoners, 32 (all male) are under trials. 16 convicted prisoners (one female) are lodged in the jail. No high security prisoners/life convicts/ death penalty cases are lodged here. Civil prisoners/ extremist prisoners are also not housed in this prison.

Under trial prisoners

As per data provided by jail administration regarding length of stay of under trial prisoners, 21 prisoners have stayed for one year or more in this jail. It would be necessary for jail authorities to produce them before concerned courts and track their cases regularly. DLSA ought to assist the prisoners in getting bails, filing appeals etc wherever feasible.

Mentally ill prisoners

It was reported that no mentally ill prisoners are present in this jail. It was stated that screening for mental health is done at the time of admission.

Condition of prisoners.

I visited the different Cells and had interactions with the inmates. The Cells are large and spacious, floors are tiled, and are seen provided with lights and fans. Every Cell has a toilet and bathroom each. Their condition was satisfactory. It was

mentioned that the inmates are also provided all essential items of daily use like clothing, linen, beddings, blankets, mat, towels, soaps etc. TV sets have been provided. It was stated that personal hygiene of prisoners is given attention by the authorities. A small back yard is available in the ground floor, where an old well is located. Here prisoners are able to at least breathe some fresh air.

I spoke to some of the prisoners. Bharat Singh Chauhan 50+ is lodged in jail. He is said to be involved in a case u/s 376 IPC and section 4 of POCSO and has been in jail since 2015. He said that he has already written to the Government about his case. Raju Rahim Gazi is from Bangladesh and stated that he has stayed in India for the last 10 years. His family lives in Ahmadabad. He was picked up from Vapi, Gujarat in a connection with a Human Trafficking case. Annant Kumar (Shivayan Rawat) 42 has a case against him u/s 302 and has been in jail for last 10 months. Shahid Rahman Khan 24 is allegedly involved in a case u/s 376/POCSO and has been in jail for 11/2 years. He too has an advocate. Kamlesh Rathod Yadav 58 is a life convict. He has to spend 3 more months before his release. He was admitted in 2007. Jagdish Rathod 46 is booked in an accident case under section 302 IPC. He has been in jail for almost two years. He has engaged a advocate. The case is at witness examination stage. He stated that he did not know who caused the accident. Alahudhin Sheikh 35. has been in jail for last 19 months as an under trial. He is allegedly involved in a kidnapping case. He stated that he is a UK citizen. He further stated that he has injuries and wanted medical leave. His Visa has expired. He alleged that Jail Inspection Committee in the jail had members only from Delhi. Sandeep Varli is allegedly involved in a POCSO case. Kaushik Kasiram 27 has been proceeded against in a Kidnapping case and is booked under POCSO. He has been convicted and has been in jail since 2015.

Women Prisoners

As mentioned, only one woman prisoner named Baya E Pereira 40 is lodged in this jail. She is convicted in a case of murder of her husband and has been in jail for last 13 years. She is expected to be released in July, 2018.

She is lodged in a large room with two windows. It had lights and fans which were found working. She said that she preferred to stay here alone so that she could be near her family. She has three children. She stated that they came to meet her only once with her sister in law. She stated that she had no complaints. She is guarded by a woman guard.

Custodial Deaths /violence

No custodial death or violence was reported in the jail in last three years.

Escape of prisoners/jail break

It was stated that 06 prisoners escaped in a jail break incident that had taken place in 2013. They had climbed on the bathroom roof and scaled the prison wall and escaped. 05 were caught. One is still absconding. The bathroom has been shifted from near the wall.

Basic amenities

Water supply and Sanitation

It was mentioned that pipe water is being supplied to the jail by PWD . RO system has been provided for drinking purposes. Although a well is available in the jail premises, it is not functional. As far as sanitation facilities are concerned, every barrack has a cage toilet and bathroom . A set of 03 common toilets and bathrooms for day use are available. Water was available in toilets. Toilets were generally clean and well maintained.

Power Supply

24 hour power supply is said to be available in the jail.

Food supply

There is no provision for a jail kitchen, as the building is a very old and has wooden flooring. Food supply is arranged through contractors. Rs.84/-day is being spent on each prisoner.

Education

No literacy/ education programs are seen taken up in the jail. Since convicted prisoners and long staying prisoners are lodged here a regular teacher ought to be posted without any further delay.

Health care

No regular hospital facilities are available in the jail. It was stated that one doctor from nearby PHC visits the jail on monthly basis. In emergency patients are

referred to Moti Daman Government Hospital, Marward, or Vinobha Bhave Hospital, Silvassa.

Video-conferencing

Video-conferencing facility is said to have been installed in the jail, but is not seen functional, as there is no connectivity. Optic fiber cables are to be laid by the PWD.

Legal Aid

It was stated that free legal aid is being provided to prisoners. District Legal Services Authority deputed 3-4 advocates who provide counseling and legal aid. A room for advocates is available in the jail. Awareness programs are held for prisoners by DLSA.

Sanction of bail

It is understood that there are no prisoners who are languishing in jail after getting bail, for want of sureties.

Lok Adalats

There were no reports about Lok Adalats being organized in the jail. It was stated that District Judge and CJM regularly visit the jail. Lok Adalat ought to be introduced and petty cases placed before it for disposal.

Parole/ Furlough/ Remission

It was stated that parole is sanctioned as per rules by the Administrator. Power to sanction paroles ought to be delegated to the Superintendent of the Jail and District Collector as the case may be, depending on the number of days for which parole is sanctioned, based on police reports.

In the matter of premature release of prisoners under Cr PC, the administration has constituted a Sentence Review Board. The Board reviews the cases as per Guidelines issued by UT Administration.

It may be mentioned that one of the prisoners convicted u/s 302 IPC Parisan Uchit Mukhia complained to me that although he has completed 14 years in jail, his case has not been favorably considered by the Board. It is seen from the records of this

case that his case had come up before the Board in its meeting held in 09-10-2017. The Board found that he has committed the murder of his wife in a very brutal manner. As per the Guidelines issued vide Notification No. Home/Prison (PMR) Part-1/18/2017-18/1190 dated 20-9-2017 the offence committed by the accused came under category-2(c)-wherein crime is committed with extreme brutality. The period of imprisonment required in such cases is 26 years, including remission. In the case of the accused it comes to 24 years and 10 days only. Hence his remission was rejected by the Board. This position has also been confirmed by the Bombay High Court in its orders dated 23-11-2017 in Criminal Writ petition no 4065 of 2017.

PCOs/Telephone facility/waiting room/visitors

It was stated that telephone facilities are available to prisoners for communication with their families. Prisoners can communicate once in 15 days with their family members. However, it is seen that landline available in the office often does not function.

Meeting with family members is facilitated. Monday has been fixed for this purpose. 10-15 minutes are allowed to prisoners to meet visitors.

Board of visitors

A Jail inspection Committee has been set up.

Complaints management

It was explained that a system is available for receiving complaints from the inmates. Daily rounds are taken by the Superintendent/Jailor to learn about the problems faced by the inmates. A complaint box has been installed to receive complaints. The box is opened in the presence of the District Judge. Prisoners are free to express their problems relating to legal issues before the Legal Aid Counsels who visit the jail.

Library

No library facilities are available in the jail.

Cultural programs

It was stated that with the help of NGOs, programs are organized in the jail.

8

Sports

No sports activity is taken up in this jail, except some indoor games.

Religious activities

It was stated that the prisoners are allowed to have their own religious practices. A temple and chapel are available in the jail premises.

Yoga and other activities

No regular Yoga classes are conducted in the jail. Yoga classes are conducted with the help of NGOs at times.

Recreation

TV sets have been provided for the entertainment of prisoners. News papers are being supplied to prisoners.

Jail Canteen

It is seen that canteen facilities are not available to the inmates.

Vocational activities/ employment

Vocational activities have not been taken up in the jail to keep the prisoners engaged,

Drug De-addiction program

No Drug De-addiction program is being organized in the jail.

Role of NGOs Services of some of the community based Non Governmental Organizations (NGOs) are available but it is understood that their services are not properly channelized.

Inspections

It was stated that the Jail Inspection Committee visits the jail. Besides, District Judge and CJM also visit the jail regularly.

Security

It was stated that apart from a jail Guard and Woman Guard, IRBN (Indian Reserve Battalion) team is involved in maintaining security of the jail.

Solar Lighting/water harvesting

As the jail has heritage buildings, these facilities have not been taken up.

Training

It is seen that no regular training programs are being organized for officers and staff.

Budget

It was confirmed that sufficient funds are available for jail activities in the budget 2017-18.

Jail Manual

Prison administration in Daman is guided by Goa Prison Manual 2016 which was adopted vide notification No. SJDm/IVPM-2016-17/200 dated 19-1-2017 of the UT Government

Modernization

There appears to be no program for modernization of the jail. It was mentioned that land is being identified in Dadra and Nagar Haveli for a new jail.

Observations/ Recommendations are given at the end of this report.

11. SUB JAI, DADRA & NAGAR HAVELI

The union territory of Dadra and Nagar Haveli is located in south of Goa and north of Maharashtra in the Western Ghats of India. It comprises of two separate geographical entities: Nagar Haveli, wedged between Maharashtra and Gujarat, and, the smaller enclave of Dadra, which is surrounded by Gujarat. Silvassa is the capital of Dadra and Nagar Haveli. With a population of 342853, the UT is spread over 491 sq.kms.

Crime profile of the district

As per crime reports by the National crime records Bureau (NCRB) 2013, only 314 crimes were reported in Dadra and Nagar Haveli. It reported a crime rate of 91.36 compared to National crime rate 218.67 in 2013. It stood 33rd in all crime records in the country in 2013.

Jail Profile and history

In the UT of Dadra and Nagar Haveli there is only one jail- Sub Jail, D&NH. This jail was originally set up as a Remand Prison in 1951 under police administration. In 1991, after the escape of a prisoner from the jail, it was brought under Revenue administration.

Land and infrastructure

The jail is located in 1/2 an acre of land; the buildings occupy almost all land. There is hardly any open space around the jail, except a small patch, that too in a corner. The jail has limited infrastructure. It comprises of 06 cells -only 05 in the old block and 01 new the block .One Cell is reserved for female prisoners.

Manpower

The Mamlatdar (Tahsildar), Silvassa is in additional charge as Superintendent of the jail. District Collector, Daman is ex-officio IG (Prisons) and the Regional Development Officer (RDO) Silvassa ex- officio DIG (Prisons). No post of officials and staff is sanctioned for this jail. A proposal for creation of 42 posts is stated to be under consideration of the UT Government.

Jail capacity and occupancy

Against a sanctioned capacity of 60, 29 prisoners are accommodated in the jail. 02 female prisoners are lodged here. Out of 29 UT prisoners 05 have spent one year in jail, the rest have spent between 1-3 months.

Category-wise details of prisoners

All 29 prisoners are under trials. It is learned that convicted prisoners are sent to Central Jail, Surat. No high security prisoners/life convicts/ death penalty cases/ elderly prisoners are lodged here. Civil prisoners/ extremist prisoners are also not lodged in this prison.

Mentally ill prisoners

It was reported that no mentally ill prisoners are present in this jail. It was stated that screening for mental health is done at the time of admission.

Condition of prisoners

I visited the different Cells and had interactions with almost all inmates. Five of the Cells are old, not very large, having no toilet or bathroom. The new block has this facility. Cells are seen are seen provided with, fans and lights. The cells had barred doors and windows which let in some air. It was mentioned that the inmates are also provided all essential items of daily use like clothing, linen, beddings, blankets, mat, towels, soaps etc.

Against a sanctioned capacity of 20, only 10 prisoners are lodged in the new block. Mukesh Shukla along with 04 others - Siraj, Tapendra Sharma 30, Rohit Dubey 22 and Wali Ahmed Khan 48 are lodged in one of the Cells. They have spent 14 months in jail. They also have engaged a lawyer.

In the old block also male UT prisoners are accommodated. I spoke to most of them. Nilesh Mukesh Patel 21 is booked in a murder case. He has spent 02 years in jail. He has engaged a lawyer. Himanshu Choudhury 24, Hiran Gulab Halpati (ST) and Vishal Vankhade 20 are allegedly involved in the same quarrel case. They are in jail for last 03 months. Rahul Rajesh Patel 27 also is involved in a quarrel case. He has spent 15 days in jail. Aswin Kakya 25 (ST) is alleged to have murdered his father. He has been in jail for last 21/2 months. Umesh Sadhu Yadav 21 from Gopalganj is booked for theft of mobile phone. He denied that he did it. Sandeep Dharmesh Thakur is also involved in a theft (gold) case. Both confirmed that they have lawyers.

Ramesh Kumar Mandal 21 is from Deoghar, Jharkhand. He is involved in illegal sale and transport of alcohol. Ajit Kumar Jha 21 from Deoghar is also involved in the same case. Sunil Ganesh Naika 21 is from Valsad district and has a murder case (ex- Sarpanch of his village) registered against him. Siraj khan 32 and four others are booked for kidnapping and abduction of their employer's daughter. Dharmendu is from Meerut. He has been in jail for theft of a mobile , for the last 03 months. Shamsudhin Basheer 30 has been in jail for one month in connection with a theft case. Vinod Babu 23 is booked in a Kidnapping case. Akash Patel 23 is involved in a quarrel case. He was admitted on 4th march, 2018. Dileep Ransad Valvi 31 and Sandeep Kumar 23 have cases under sec 307 IPC registered against them . Hasmukh Kuvra 24 has spent 05 months in jail.

12

Nilesh Prabhakar Patel 24 has spent only 12 days. Rajan Singh 24 has spent 15 days. All three are booked in POCSO cases. Sheikh Abdul Aziz 38 has a case against him u/s 379 IPC. He has spent 10 days in jail. He stated that he is yet to engage a lawyer. It is seen that all prisoners are young in the age group between 20-30. All UTs stated that they do have lawyers. Some of them stated that the lawyers do not regularly attend to cases.

Women Prisoners As mentioned, two women prisoners namely Tehmina Mahboob 28 and Susheela 32 are lodged in one of the new Cells. No children are staying with them. Both have cases registered under NDPS Act against them. They both have spent 21/2 months in jail. Both confirmed that they do have lawyers. Both have studied up to 10th class. Their Cell is seen provided with lights and fans which were in working condition. Bottled drinking water is also available. A toilet and bathroom are also provided in the Cell.

Custodial Deaths /violence

No custodial death or violence was reported in the jail in last three years.

Escape of prisoners/jail break

No escape of prisoners or custodial violence was reported.

Basic amenities

Water supply and Sanitation

It was mentioned that pipe water is being supplied to the jail by PWD . No RO system has been installed; instead bottled water is being supplied which is expensive. An RO system ought to be installed in this jail. A set of 10 bathrooms and toilets are seen provided on the back side of the Cells which were in bad condition.

Power Supply

24 hour power supply is available in the jail.

Food supply

There is no provision for a jail kitchen, as the building has no space; further no post of cook is sanctioned. Food supply is arranged through contractors. It was

stated that per head cost comes to Rs 120/prisoner/day. Most of the cost is due to purchase of bottled water.

Education

No literacy/ education programs are seen taken up in the jail as this is a remand prison.

Health care

No regular hospital facilities are available in the jail. It was stated that the Health Department has deputed a nodal officer for overseeing health care of prisoners. One Medical Officer visits the jail every week. Medicines are provided by the Department. Serious cases if any, are referred to Vinobha Bhave Hospital, Silvassa.

Video-conferencing

Video-conferencing facility is stated to be available in this jail. But it is connected only to District Court, Silvassa. No prisoner has been produced before courts up to now using this facility.

Legal Aid

It was stated that all prisoners have been provided legal aid. District Legal Services Authority deposes two advocates, who provide counseling and legal aid. No para-legal Volunteers have been trained. It is seen that five UTs have spent more than one year (one prisoner two years). DLSA ought to look into the complaints that lawyers are not regularly appearing in their cases.

Sanction of bail

It is understood that there are no prisoners who are languishing in jail after getting bail, for want of sureties.

Lok Adalats

There were no reports about Lok Adalats being organized in the jail. District Judge and CJM are said to regularly visit the jail. However, petty cases ought to be placed before the CJM during his visits, so that they do not remain pending for long.

14

Parole/ Furlough/ Remission

It was stated that since this is a remand prison parole/furlough are not sanctioned.

PCOs/Telephone facility/waiting room/visitors

It was stated that Telephone facilities are available to prisoners for communication with their families. Inmates are allowed to speak to their families once a week. Meeting with family members is facilitated. A separate room is available for meeting visitors.

Board of visitors

No Jail inspection Committee has been set up in this jail.

Complaints management

A complaint box has been installed to receive complaints from the inmates. The box is opened in the presence of the District Judge. Prisoners are free to express their problems relating to legal issues before the Legal Aid Counsels who visit the jail.

Library

No library facilities are available in the jail. News papers and Magazines are , however, provided to the prisoners.

Cultural programs

Since prisoners stay for a short while it appears that cultural programs are not being organized in the jail.

Sports

No outdoor sports activity is taken up in this jail .Provision for indoor games has been made for male prisoners.

Religious activities

It was stated that the prisoners are allowed to have their own religious practices within the jail premises.

Yoga and other activities

It was learned that no Yoga classes are being conducted in the jail.

Recreation TV sets were not seen provided for the entertainment of prisoners. News papers are being supplied to prisoners.

Jail Canteen

It is seen that canteen facilities are not available to the inmates.

Vocational activities/ employment

Vocational activities have not been taken up in the jail.

Drug De-addiction program

No Drug De-addiction program is being organized in the jail.

Role of NGOs

No involvement of NGOs in any of the activity was reported.

Inspections

It was stated that the District Judge visits the jail every month. His last inspection was on 22-02-2018. Inspections are also being carried out by Revenue officials.

Security

It was seen that apart from 04 Jail Guards, IRBN (Indian Reserve Battalion) team is also involved in maintaining security of the jail.

Solar Lighting/water harvesting

These facilities have not been taken up.

Training

It is seen that no regular training programs are being organized for officers and staff.

Budget

It was confirmed that sufficient funds are available for jail activities in the budget 2017-18. A sum of Rs 35/- lakhs has been sanctioned for the current financial year.

Jail Manual

Prison administration in D&NH is guided by the Jail Manual of Goa, Diu and Daman. It was stated that Model Jail Manual was adopted by D&NH in December, 2017. It ought to be implemented. Jail and Revenue and police officials ought to be trained in understanding the provisions of the Manual. Inmates also ought to be made aware of the provisions.

Modernization

There appears to be no program for modernization of the jail. It was mentioned that identification of land for a new jail in Dadra and Nagar Haveli is under examination.

Observations/ Recommendations:- Sub Jail, Daman is one of the two historic prisons located in heritage forts built by the Portuguese in the Union territory of Daman & Diu. Despite the long passage of time these jails continue to exist in the same old mode. Jail being located inside old forts are not only a functional problem, but also a security issue. Sub Jail, D&NH cannot be classified as a jail, but can be considered as only as a temporary lodging for remand prisoners.

No regular posts have been created to man the jails. In both these jails prisoners are not able to get adequate exposure to nature or is there a place where they could breathe fresh air. In fact there is no adequate /open space available around the jails. Food is supplied through contractors, as no kitchen facilities are available. Educational facilities have not been provided for. Video-conferencing facility although installed, is not functional in either of the jails. Communication facilities are inadequate. No vocational trainings have been taken up for convicted prisoners with the result that the prisoners are found whiling away most of their time. No proper inspection system also has not been put in place. Convicted prisoners from D&NH are presently lodged in Central Prison, Surat, far away for families of prisoners, especially poorer families, to reach.

It remains a fact that not much attention has been paid to custodial institutions in these two UTs. This is a matter of concern, especially because there appears to be no paucity of funds for improving jail infrastructure or creation of posts. The two

UTs were liberated from Portuguese rule long ago. By this time a proper (common) jail ought to have been constructed for accommodating prisoners, both convicts and under trials from the two UTs D&NH and Daman (Diu is at a distance). Unfortunately, the establishment of a proper prison is still at proposal stage. UT Governments ought to draw up a plan for a common modern jail, taking up infrastructure in phases, depending on needs and based on the number of prisoners. Modern technology ought to be engaged in improving efficiency in prisoner management by introducing PRISM (Prisoner Management System), -e governance, e-Health Management, e-Mulakat (online), Visitor Management System (VMS) etc. Modern approach to prisoner management -change from criminalization to reformation- ought to be an integral part of part of modernization.
