

**Report on the visit of Shri Damodar Sarangi, Special Rapporteur NHRC (East Zone-1) to Jalpaiguri Central Jail from 1.11.08 to 6.11.08.**

I visited Jalpaiguri Central Correctional Home, on 1.11.08, 2.11.08, 3.11.08 and 6.11.08, to verify the living conditions of the prisoners and to determine if their Human Rights are being properly respected and protected by the prison and other authorities. Shri Panchanan Biswas, Addl IG prisons, Shri Bimalendu Mukharjee, Superintendent of the Central Jail, Shri T.R Bhutia, Jailor and Shri Manoj Kumar Roy, Probation Officer JPG attended to my visit and assisted me in my interactions with the prisoners and the verification of relevant documents.

**2. Brief history of Jalpaiguri Central Jail**

This prison was established in the year 1883 as a District Jail, and was upgraded to a Central Correctional Home on 4<sup>th</sup> March 2001, under Jail Department G.O No 199-HJ dated 14.2.2001. As would appear from the discussions in the following paragraphs, the upgradation was only notional and there was hardly any improvement in the infrastructure and other facilities commensurate with its upgraded status. ✓

**3. Prison population**

As against a registered capacity for 551 prisoners (544 males and 7 females), 1239 prisoners including 55 females and 7 children with their mothers, are lodged in this Correctional Home as on 1.1.08. 725 of them (509 male and 5 females) are convicts. The prison is therefore severely crowded. This in turn has very adversely affected the Health, Hygiene, Sanitation and welfare of the prisoners as would be discussed in course of this report.

Of the above prisoners, 151 are Bangladeshi Nationals, 54 are undertrials who have been granted bail, but have not been able to arrange for sureties. 51 are KLO agitators and 6 are GLO activists who are detained here for long, pending trial. As many as 78 UTPs are wanted in cases registered under section 498(A) IPC, and 83 are facing trial in cases registered under the NDPS Act.

**4. Accomodation**

The availability of wards and cells for the accommodation of prisoners, the plinth areas of such wards, and the number of night latrines attached to each such ward/ cell, are listed in the following table.

Sl.No	Ward No	Size	Nos of latrines inside ward	Nos of prisoners lodged
1	1	27' X 18'	01	17
2	1A	40' X 18'	01	34
3	2/3	82' X 18'	01	169
4	4	40' X 18'	01	77

5	5	40' X 18'	01	79
6	6	40' X 18'	01	83
7	7	27' X 18'	01	61
8	8	40' X 17'	01	58
9	9	123' X 18'	03	151
10	New Ward	61' X 18'	02	145
11	New Cells	12' X 12' (05 nos)	01 in each cell	64
12	Hospital Ward	51' X 20' (14 beded)	01	21
13	Mental Ward	36' X 20'	01	46
14	Divn Ward	68' X 21'	02	47
15	Conv Ward	36' X 21'	01	32
16	Cell Block(08 nos)	10' X 6' (5 nos) 12' X 8' (3nos)	01 in each cell	32
17	Female Ward	27' X 17'	01	55 (+7 children)
18	Recreation Club (presently ward)	64' X 20'	01	71

From the above table it is apparent that every ward is highly over crowded. The availability of attached toilets is awfully inadequate.

It is shocking to find that in many cases more than 50 prisoners have to share one night latrine. In one case (ward no-2/3) 169 prisoners have to share only one such latrine.

Convicts and UTPs are lodged together in most of the wards. The available cells in the prison are being used as barracks for 4 to 13 prisoners each. The wards and cells constructed for women (Sl.10 and 11 above) are being utilized for accommodating male prisoners, and 55 women prisoners and 7 children have been herded into a small barrack of 27' x 17' plinth which means that less than 8 sq feet of space is available for each such prisoners. Even condemned prisoners are not separated from the rest. There are two such prisoners (1 male and 1 female). Both are sharing common accommodation with other convicts and under trials.

It is however heartening to find that a new barrack with a capacity for 288 prisons and 16 cells is under construction. Each wing of these barracks is provided with 5 night latrines and 4 bath rooms. Construction of these wards and cells is almost complete. But the boundary wall of the prison is yet to be extended to bring the new wards inside the perimeter walls. Considering the acute shortage of living space

in the existing wards, the extension of the boundary walls and occupation of the new wards brook no further delay.

Against a sanctioned strength of 122 officers and men, 23 quarters for officers and 30 quarters for the guarding staff are available. Barrack accommodation is available for 50 male and 2 female guards.

Some of the quarters including that of the Superintendent are in bad states of repair. The Superintendent's official residence has been abandoned and he is living in the quarters of an LD Assistant. The construction of a 50 men barrack for the warders has been abandoned by the contractor for the last 2 years. Measures should be taken for renewal of construction, as very soon the jail authorities will have to enhance the sanctioned strength of warders for opening the new wards now under construction. Accommodation for the Jail offices, the Interview Room, stores and other facilities are also inadequate. The jail buildings do not appear to have been repaired in recent years. Plasters are peeling off and the ceilings and walls are leaking at various places. Trees and bushes have grown over most of these buildings. The state government may take immediate steps for major repairs of the available buildings, besides completion of the ongoing construction of wards and barracks.

### 5. Staff

The sanctioned and actual strength of staff of this prison are reproduced in the following table

Sl. No	Designation	Sanctioned Strength	Present Strength
1	Superintendent	01	01
2	Medical Officer	01	01
3	Chief Controller	02	02
4	Security Officer	01	01
5	Welfare Officer	01	01
6	Controller & Asst Controller	03(02+01)	03
7	Head Clerk	01	Vacant
8	C.D.O	01	01
9	D.O	03	01
10	U.D Clerk	02	02
11	L.D Clerk	02	01
12	Junior Accountant	01	NIL
13	Cashier	01	NIL
14	Pharmacist	01	01
15	Jail Teacher	01	01
16	Chief Head warder	02	02
17	Head Warder	05	05
18	Warder	83	83

19	Female warder	01	01
20	Sweeper	03	01

## ON CONTRACT BASIS

21	Medical Officer	01	01
22	Pharmacist	01	01
23	Sweeper	01	01
24	Extra Female Warder	03	03

1 post of Head Clerk, 2 posts of LD Clerk, 1 post of Junior Accountant, 1 post of Cashier and 2 posts of Sweepers are lying vacant. There is no sanction for female guards for this prison. As has been discussed in the course of this report, against a sanctioned capacity for 7 female prisoners, 54 women prisoners with 7 children are presently lodged in this Jail. The prison authorities have engaged 3 female warders on contract basis for the female ward. As would appear from the above statement, there are gaping vacancies in the rank of ministerial staff, which require to be filled up early. The sanctioned strength of the guarding staff is too meager considering the actual prison population. It may be difficult to open the new wards and cells, construction work of which is almost complete, without augmentation of the strength of the guarding staff. Considering the fact that the prison population is more than double the registered capacity, it may be necessary to enhance the sanctioned strength of Chief Head Warders, Head Warders and Warders at least to 4, 10, and 160 respectively. In the interest of sanitation the strength of sweepers should at least be increased to six. A psychiatrist should be sanctioned for this Correctional Home in keeping with the provisions of section 73(1) (a) of the West Bengal Correctional Services Act, 1992.

**6. Food-**

The scale of diet for prisoners was last revised on 28.11.07 under Jail Department's notification no 1249-HJ/4M/175/07 dated 28.11.07. It was also specified that convicts and undertrial prisoners will get the same quantity of diet in all respect. The revised scales for adult prisoners and children are reproduced below.

**Scale of diet for Adult Prisoners**

SL NO	NAME OF THE FOOD ITEMS	PER DAY/ WEEK	QUANTITY/ HEAD
1	Tea ( One cup of tea for morning and afternoon tea)	Day	5gms
2	Milk( One cup of tea for morning and afternoon tea)	Day	25gms
3	Sugar( One cup of tea for morning and afternoon tea)	Day	15gms

4	Break Fast- Early morning meal(chira/muri/bread/chhatu/roasted/gram flour)	Day/ alternately	100gms
5	Rice	Day	250gms
6	Atta	Day	250gms
7	Dal	Day	100gms
8	Vegetables	Day	300gms
9	Meat	Week	75gms
10	Egg	Week	1pc
11	Soyabean	Week	25gms
12	Fish	week	75gms

### CHUTNEY

Chutney provided to the prisoners is made of either Tomato/Green Mango /Green Olive (jalpai) /Hog-plum (amra) according to the availability in the season and the additional quantity of following articles are used, Normally chutney is served to the prisoners on the day when no animal protein is served.

- i) Mustard oil -25 gms, ii) Turmeric-0.10 gm, iii) Ginger-1 gm, iv) Green chilly-2 gms, v) Mustard Seed-2 gms, vi) Velly Goor-15 gms.

SL. NO	NAME OFF THE FOOD ITEMS	PER DAY/WEEK	QUANTITY/ HEAD
14	Mustard Oil (This does not include the additional qty. Of Mustard Oil @3gms /head issued on the days of cooking fish/meat/egg/soyabean)	Day	25 gms
15	Velly goor (This also does not include the qty. Of 15 gms issued /head /week for chutney)	Day	25 gms

### The scale of Condiments per prisoner per day

Sl.No	PARTICULARS	QUANTITY/ Day/ Prisoner
1	Jeera & coriander	1 gm
2	Turmeric	2 gms
3	Onion	10 gms and additional of 5 gms given on days of fish /egg/Meat/Soyabean
4	Garlic	1 gm on days of fish/egg/Meat/ Soyabean
5	Ginger	1 gm days on fish/egg/Meat/Soya bean& chutney
6	Green Chilly	5 gms and additional 3 gms on days of fish/Meat/Egg/Soyabean
7	Pati Lemon	½ pc

8	Salt	20 gms
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### SCALE OF DIET FOR CHILDREN

Up to 6 months	Food Groups	Food item	6-12 months	1 - 3 Yrs	4-6 Yrs
Exclusive Breast Feeding	Cereals	Rice, Atta, Chira, Muri, Suji, Dalia, Bread etc	45 gms	120 gms	210 gms
	Pulses	Masur Dal, Moog Dal, Chhatu Dal etc	15 gms	30 gms	45 gms
	Milk	Milk	Breast milk & other milk 200 ml/500 ml respectively	500 ml	500 ml
	Roots and Tubes	Potato, Carrot, Onion	50 gms	50 gms	100 gms
	Green Leafy Vegetables	Notay Sag, Palang Sag etc	25 gms	50 gms	50 gms
	Other Vegetables	Bean, Papaya, Red pumpkin	25 gms	50 gms	50 gms
	Flesh Foods	Fish, Meat, Egg		25 gms fish in place of 15 gms pulses 2days/week, 1/2 egg in place of 30 gms pulses 1 day/week	50 gms fish in place of 30 gms pulses 2days/week, 1/2 egg in place of 30 gms pulses 1 day/week
	Fruit	Banana/Orange	100 gms	100 gms	100

					gms
	Sugar	Velly goor/Sugar	25 gms	25 gms	30 gms
	Fat Oil	Oil, Butter etc	10 gms	20 gms	25 gms

Subsequently in a separate notification issued on 5.12.07 the government ordered that in addition to 300 gms of vegetables, 100gms of potato will also be provided to all adult prisoners per head per day.

During my interactions with the prisoners, some of them complained about the quality and quantity of food supplied to them. In particular they complained that they do not get enough rice to eat and the dal is too watery. The Addl IG prisons, who was present during my visit confirmed that he too received similar complaints in the past and had issued directions to issue at least 750 gms of cooked rice (The weight of 250 raw rice when cooked) to each adult prisoner. I visited the kitchen during meal hours and got the cooked rice issued to individual prisoners weighed. Rice is distributed using a ladle which can not hold 750 gms of cooked rice. The jailor pleaded that in addition to the ladle full of rice, each prisoner is given an additional handful of rice. It is desirable that the ladles are replaced with those with capacity to hold 750 gms of cooked rice. The prisoners complained that they are being served mung dal everyday. The people of this state are fond of Masur dal. The jail authorities may consider providing masur and arhar dals in some meals.

Some prisoners complained about the quantity and quality of vegetables supplied to them. 100 gms of potato and 300 gms of vegetables per prisoner should be good enough for two meals, provided the entire quantity is actually cooked and served to the prisoners.

Convict prisoner Mangal Thappa complained that a favoured few are being provided with medical diet. The number of prisoners who could be supplied medical diet can not exceed 10% of the total strength. This facility is being provided to some favoured adult prisoners irrespective of whether they are sick or not. These complaints require verification by senior officers of the Jail Department. These complaints were raised during my open interactions with the prisoners in presence of jail officials and do not appear to be baseless.

### 7. Clothings and utensils

As per JCR 1159, the following uniforms / equipments are required to be provided to the convict prisoners.

Sl.no	Male	No of pieces	Sl. no	Female	No of pieces
1	Cotton Kurta	02 pieces	1	Cotton Chemises or Kurta	02 pcs
2	Cotton Trouser	01 (Pair)	2	Sarees	02 pcs
3	Cotton Jangeah	01(Pair) [Half pant]	3	Gumcha	02 pcs

4	Cotton Gamcha	02 pcs	4	Cotton Bed-Sheet	01 pcs
5	Cotton Bed Sheet	01 pcs	5	Blankets	02 pcs
6	Blankets	02 pcs	6	Al. Thala	01 pcs
7	Al. Thala	01 pcs	7	Al. Bati	01 pcs
8	Al. Bati	01 pcs	8	Al. Glass	01 pcs
9	Al. Glass	01 pcs			

The jail authorities claim to be issuing 3 pieces of blankets in summer and 5 pieces in winter. The quality of blankets supplied to the prisoners appeared to be poor. Very few convict prisoners were wearing the prescribed kurtas and trousers. Some were found wearing either a kurta or a trouser but not both. The Superintendent should ensure that the convicts wear full uniforms to ensure discipline & cleanliness. The Correctional Services Act 1992 provides for issue of clothings to indigent UTPs. A large number of undertrial prisoners lodged in this jail appear to be abjectly poor. This is borne by the fact that more than 50 of them, who have been granted bail, continue to languish in jail for failure to furnish bail bonds. The jail authorities should consider issuing clothings to such indigent prisons.

### 8. Sanitation

There are in all 63 toilets and 6 bathing platforms in the prison. As of now the toilet prisoners ratio is 1:20, which is very low. The prison requires at least 90 more toilets to improve this ratio to 1:8. Drains are mostly open and require to be covered. There are no beds or raised platforms in the general wards. Except for 51 KLO and GLO prisoners who have been declared as diversion I prisoners, all others have to sleep on the floor. The hospital has only 14 beds. Even in the hospital 34 mentally ill prisoners have been made to sleep on the floor of a common barrack. The wards (except the new ward) do not have ventilators. Ventilators earlier available in some barracks have been plugged on the ground that pigeons use these ventilators for their shelter. Even in the new barracks, now under construction no ventilators/ sky lights have been provided. The windows have not been wire netted to prevent entry of mosquitoes. Prisoners, except divisional prisoners and bedded patients in the hospitals, have not been provided with mosquito nets. The personal belonging of the prisoners are slung from pegs dug into the walls. Due to over crowding, prisoners are forced to sleep one against the other. In some barracks there is not enough space for them to spread their bodies except on their sides.

The jail officials reported that all prisoners are supplied with mustard oil at the rate of 7.24 gms per head per day in winter and 3.63 gms in summer. In addition women prisoners are supplied 8 gms of coconut oil per day per head for caring their hair. Many prisoners



however complained that they get only a spoonful of oil once a week. These complaints should be verified by the supervising officers. Half a cake of toilet soap is supplied to the prisoners per month. They are required to wash their clothes in common vats for which detergent powder is issued in bulk. The jail officials claimed that latrines and drains are regularly cleaned with bleaching powder and phenyl. Some prisoners however complained that these are cleaned only when dignitaries and superior officers visit the prison.

Water for the use of prisoners including drinking water is lifted from deep tube wells. Most prisoners complained that the same has high iron contents and is injurious to their health. Water in this belt is known for high iron contents. It is advisable that pipe water by the PHD, after proper treatment, is supplied to the prison. Alternatively an iron removal plant should be installed in the prison premises. All open drains should be progressively covered.

### **9. Health and Hospital**

There is a 14 bedded indoor hospital inside the jail. Two doctors and two pharmacists are posted in the hospital. Major cases of illness are as follows.

- i) Three UTPs are suffering from leprosy and are receiving treatment from the Sadar Hospital.
- ii) Three convict prisoners are suffering from Tuberculosis.
- iii) Three convicts and one UTP have been found HIV positive. One of them is also suffering from Tuberculosis.
- iv) 34 prisoners including 10 Bangladeshis are suffering from psychiatric disorders. They have all been herded to one wing of the hospital without any bed. The doctors posted in the hospital have no training or experience in dealing with psychiatric patients. The patients are occasionally taken to Sadar Hospital for treatment. No psychiatrist has visited them in the prison in recent years. The jail authorities and the jail doctors do not have the full history of their illness and treatment. This matter was discussed with the CMOH of the district in the workshop organized by the NHRC at Jalpaiguri on 5.11.08 and 6.11.08 and he has promised to send a psychiatrist periodically to the prison to supervise their treatment. As has been mentioned at Para 5 of this report the West Bengal Correctional Services Act 1992, provides for the posting of a psychiatrist in jails where mentally ill prisoners are lodged. The state government may not be in a position to do so, taking into consideration the financial implications and the over all shortage of psychiatrists in the state. It should however be possible to appoint two/three psychiatrists in the Prison Department to supervise the treatment of psychiatric patients, lodged in West Bengal Jails.

### **10. Custodial deaths**

Between 22.8.2000 and 28.4.2008 there have been thirteen custodial deaths in this Correctional Home. A list of these cases is given below.

Sl.No	Name	Dt of death & dt of intimation to NHRC	Documents submitted to the NHRC	Observation of the NHRC
01	UTP Monglu Oraon	22/8/2000	Inquest, Post-Mortem & Magisterial Enquiry Report-Memo No. 2034/ABdt17.11.2000	Case No not found
02	UTP Md. Moinuddin	29/5/2002	Inquest& Post-Mortem Report-Memo No.2065.CDdt.3.9.02	Case No not found
03	UTP Md. Sirajul	24/6/2002	Inquest, Post-Mortem & Magisterial Enquiry Report-Memo No2066/CDdt.3.9.02	Case no. 169/25/2002-2003-CD/UC
04	UTP Mongra Oraon	8/9/2002	Inquest& Post-Mortem Report-Memo no 332/CDdt.6.2.03	Case no. 368/25/2002-2003/CD/UC
05	UTP Shyamal Banik	30/4/2003	Inquest& Post-Mortem Report-Memo no 2503/CDdt.7.8.03	Case no.84/25/2003-2004-CD
06	Convit Gyanendra Barman	3/5/2004	Inquest& Post-Mortem Report-Memo no.2831/CDdt.27.9.04	Case no.623/25/2004-2005-CD
07	Convict Jamira Khatoon(F)	3/1/2005	Inquest& Post-Mortem Report-Memo no.1117/CDdt.23.4.05	Case no.768/25/2004-2005-CD
08	UTP Arunodaya Banarjee	8/7/2005	Inquest& Post-Mortem Report-Memo no.3362/CCdt 22.9.05	Case no.261/25/2005-2006-CD
09	UTP Md. Bhomoruddin	14/7/2005	--	Disposed off-closed
10	Sagar Saha @ Selim Life Convict	7/3/2006 (Suicide)	Inquest& Post-Mortem Report-Memo no.2020CCdt.11.7.06	Case no.795/25/05-06-CD Trial under progress in the Ld. Sessions Court, Jalpaigiri
11	UTP Binod Roy	31/7/2007	Inquest & Post-Mortem Report-Memo no.4421/CC-I dt 31/12/07 Judicial Enquiry Report- Memo no. 2520/CC-I dt 9.5.08	Case no. 459/25/10/07-08-DH/UC
12	Convict Saharai Oraon	15/1/2008	Inquest& Post-Mortem Report-Memo no.2526/CC-I dt.9.5.08 Judicial Enquiry Report- Memo no 1646/CC-I dt27.3.08	Case no.1046/25/10/07-08-JCD(Grp-II)
13	UTP Sudeb Das	28/4/2008	Inquest& Post-Mortem Report-Memo3520/CC-I dt 4.7.08	Case no.99/25/10/08-09-JCD

All these deaths have been promptly reported to the NHRC. The file relating to the death of UTP Md Bhomoruddin has been closed by the Commission after due analysis. NHRC file reference in regard to the deaths of UTP Manglu Oraon and Md Moinuddin (Sl.no 1&2) are not

available. I went through the case records of the pending cases. The facts and status of these cases are briefly discussed below.

i) Manglu Oraon

On 22.8.2000, at about 0315 his fellow inmates found him collapsing inside the ward. The jail doctor was called for who found the prisoners too have lost his pulse. At about 0400 hrs he referred the subject to the Sadar Hospital. But there was no driver to take him there. He could be sent to the Sadar Hospital only at 0430 hrs by calling a driver from Jalpaiguri Sadar Hospital, where he was declared brought dead.

While in jail he was treated for some 'usual ailments' like cough, cold and acidity etc. Cause of death was declared in the PM report as diseased condition of the heart. The WBHRC which had also taken cognizance of the case had called for the treatment records which were sent. No order has been received from the state Commission since then.

ii) Md Moinuddin

He was a Bangladeshi national admitted to this prison on 20.2.2002. He died on 29.5.2002. The COD has been declared as Bilateral Pulmonary Tuberculosis, but final opinion has been reserved for chemical examination report. He was sent for better treatment to the Sadar Hospital on 28.5.2002 and died the very next day. Sri Ashok Upadhyaya WBCS (Exe) was detailed to hold the M.E. Though six years have already passed no enquiry has been held by him. The state govt, besides initiating disciplinary action against Sri Mukharjee may arrange for such enquiry by another Magistrate at the earliest.

iii) Md Sirajul

He too is a Bangladeshi national. He was admitted to the prison on 17.4.02 and was brought dead to the Sadar Hospital at 1805 hrs on 24.6.02. History of treatment, if any, is not available. Magisterial enquiry was held and the cause of death was held to be cardio respiratory failure. The relevant report have been sent to the Commission on 3.9.02. Orders from the Commission are still awaited (case no 169/25//2002-2003-CD/UC).

iv) UTP Mongra Oraon

He was admitted to prison on 26.8.02 for his alleged involvement in two murder cases and died in less than a fortnight i.e. on 8.9.2002 at the young age of 36. He was shifted to the jail hospital on 29.8.02, to sadar hospital on 30.8.02 and to the North Bengal medical college on 2.9.02, where he expired on 8.9.02 due to "Diseased condition of brain with meningitis". Inquest of the body revealed reddish marks covered by powder in the right bullock and one black mark in the right side which 'seemed to be due to bed sore'. One piece of leuco plaster was found attached to the lower part of the left hand, dried up white particles suspected to be semen were seen near about the penis.

No Magisterial enquiry has been held so far. The fact that a young man of 36 died within two weeks of his admission to the jail and that injuries were found on his body raise suspicion on the circumstances of the death. It is distressing to note that no ME has been held in this case in all these six years. The state govt, besides arranging for immediate ME, may consider initiating disciplinary action against the concerned officers of the district, who were responsible for holding the enquiry.

v) UTP Shyamal Banik

He was admitted to prison on 24.11.02. On 30.4.03 he was sent to Sadar hospital where he died the same day. Treatment records support prolonged treatment for Tuberculosis. Executive Magistrate Sri Badal Sarkhel was detailed for holding Magisterial enquiry. Though more than 5 years have past no enquiry has been held. The state government must arrange for ME immediately besides initiating appropriate action against Sri Badal Sarkhel.

vi) Convict Gyanendra Barman

He was shifted to this prison in April 2003 from Berhampore Central Jail. He was 72 years old and was convicted on 5<sup>th</sup> June 99 u/s 498A/304(B)/306 IPC. He was very weak and about 39 Kg in weight and was suffering from acute breathing trouble. As per the ME report the patient required an inhaler which was not purchased. The enquiry found "Severe negligence on the part of the Administration for their failure to provide an inhaler as also delay in shifting the prisoner to the Sadar Hospital for treatment." He was shifted to the hospital only on 3.5.04 i.e. the date he expired.

vii) Convict Jamira Khatoon.

She was admitted to prison on 26.8.04 convicted in sessions case no 38/2002 u/s363/366 IPC. He died on 3.1.05 i.e. in less than five months due to "Diseased condition of heart and lungs" No Magisterial enquiry has been held in this case till to day.

viii) UTP Arunoday Banarjee aged about 57 years was admitted to prison on 4.7.2005 and died on 8.7.2005 i.e. in less than five days of admission while being shifted to Sadar Hospital. The inquest revealed several anti mortem injuries (abrasions) on the body. As per the PM report these injuries could have been caused "due to fall on hard blunt surface. The subject was diabetic and died due to disease of heart and kidneys. He fell down in the ward due to hypoglycemia, as is claimed by the jail authorities. No Magisterial Enquiry has been held into the circumstances of the death through more than three years have past.

ix) Convict Sagar Saha

He was sentenced to RI for life in case no 83/04 u/s 364/302/34 IPC and was admitted to prison on 13.10.04. He committed suicide on 7.3.08 at about 130 PM hanging from a mango tree in the jail premises.

A suicide note was found on his prison in which he had mentioned that two head warders, one warder and two convicts were responsible for his death. A criminal case u/s 306/34 IPC has been registered at Kotwali PS over his death against the above persons.

The suicide took place within lock up hours. How did the subject manage to get out of the ward at that hour is not understood. The AIG who held an enquiry into the matter had found one warder and one head warder guilty of negligence. Action taken against them, if any, is not known to the local officers. Magisterial Enquiry has not been held till today. This is a case which calls for compensation to the bereaved family, as the death was a consequence of harassment and negligence on the part of the jail staff.

From the above discussions it is apparent that some of these deaths could have been avoided if timely and proper treatment was arranged. In many of these cases Magisterial Enquiries have not been held. This is flagrant violation of the statutory provisions as also the directives of the NHRC.

The Superintendent should immediately open a running register where all such deaths should be registered. The progress of enquiry into the circumstances of these deaths should continue to be periodically monitored till the cases are formally closed by the National / State Human Rights Commission and/ or the Courts where complaints are pending disposal.

The Law / Investigation Division of the Commission may take into consideration the discussions above while forming a final view on the circumstances of the deaths.

### **11. Jail Industry**

There is no vocational or industrial unit in this prison except for a tailoring unit with 5 sewing machines for male prisons, where mosquito nets are being stitched to order. Five sewing machines have been provided to the female ward where women prisoners are given training in tailoring with out any wage. Convict prisoners are being utilized for guarding, cooking, gardening, sweeping and other such administrative duties. None of them has been paid after June 2008 due to lack of funds. Additional allotment of fund to the tune of Rs 9,85,935/- is required to clear the out standing dues up to October 2008. As per the jail code skilled workers are being paid @ Rs 25/- per day, unskilled workers Rs 21/- per day and trainees Rs 18/- per day. Many prisoners sentenced to suffer simple imprisonment are being made to work without wages. Many of them complained that they have worked for several months without being paid any wage.

The duties presently assigned to the prisoners hardly meet the requirement of rigorous imprisonment. Besides, the prisoners are hardly generating any income for the state. Jalpaiguri is otherwise famous for cane work. At least a cane furniture unit could be organized in the prison, Handlooms, Oil mills etc should also not be difficult to raise. The jail authorities may coordinate with the district Industries Officer for the

purpose of developing required equipments and infrastructures for the purpose.

The system of engaging SI prisoner for work without wage may be discontinued as there are enough number of convicts serving RI. in the prison. The deployment of 29 prisoners in veg garden, 8 in the school, 11 in the flower garden, 13 in the vegetable garden and 10 in the female ward appear to be superfluous and may be looked into by the supervising officers. The purpose of providing vocational units in jails is not only to keep the prisoners profitably engaged but to prepare them for post release rehabilitation. The present arrangement does not serve any of these purposes.

## 12. Undertrial prisoners

As on 4.11.2008 there were 729 under trial prisoners in this Correctional Home. 680 of them are male and 49 are female. The durations of their detention is as follows.

Sl. No	Period of detention	Male	Female
1	Up to 3 months	213	16
2	3 - 6 months	132	14
3	6 - 12 months	130	08
4	1 - 2 years	55	05
5	2 - 3 years	62	02
6	3 - 5 years	72	04
7	Above 5 years	16	-
8	Total	680	49

As would appear from the above table 16 of these UTPs have already spent more than 5 years in this prison awaiting for the completion of their trial. 72 of these UTPs have spent more than 3 years and 62 for more than two years waiting for completion of trial. Of them 47 are KLO (Kamtapuri Liberation Organisation) activists who have been provided with division 1 status. 4 other KLO activists and 6 GLO (Gorkha Liberation Organisation) cadres are also incarcerated in this prison pending trial of various cases in which they have been accused. Against some of these activists more than 10, 12 criminal cases have been registered.

Some of them complained that as and when they are granted bail the police show them involved/arrested in new cases, that were registered in various police stations prior to their detention, with the sinister motive to prevent their release. KLO and GLO activists are demanding for separate Kamtapur and Gorkhaland states respectively. Many of them have been accused of specific crimes, besides waging war against the state and have spent more than 4/5 years in prison. They claim to have represented to various authorities including the NHRC for their speedy trial without any result. The Hon'ble High Court and Supreme Court also issued directions for speedy trial. The Commission may consider initiating appropriate action in this regard.

As has been already discussed, 54 of the under trial have been granted bail but have not been able to furnish sureties. Many of them are wanted in cases involving petty thefts, ticketless traveling and Railway property (unlawful possession) Act. Some benevolent institutions like the Ramakrishna Mission had in the past stood surely to bail out such indigent prisoners. The Superintendent may explore the possibility of enlisting their assistance in favour of these prisoners, not only for the purpose of ending their ordeal but to ease overcrowding from the prison.

### 13. Remission, Release and Parole

As per the provisions of section 58 of the West Bengal Correctional Services Act 1992, all criminal prisoners sentenced to rigorous imprisonment for any period exceeding three months shall be entitled to remission at the rate of four days per month. The superintendent is also authorized grant special remission in consideration of meritorious service, arduousness of labour, extra labour and consistency in work, strict adherence to discipline and proficiency in educational and cultural affairs of the prisoner. Undertrial prisoners and prisoners sentenced to simple imprisonment opting for labour, are also entitled to such remission.

Many prisoners convicted under the NDPS Act complained that they are not being granted any remissions even after putting in hard labour. The NDPS Act expressly forbids grant of remission to person convicted under the Act except u/s 27 of the Act. Prisoners convicted under the Act except u/s 27 are therefore not entitled to get remission. As per the information furnished by the Jail Authorities there are only 5 life convicts who have served more than 14 years of actual imprisonment. They are listed below. Each one of them is entitled to be considered for pre mature release, as per the guideline circulated by the NHRC. Sl. No 1 & 2 have already served 24 and 22 years respectively, of their sentence including the period of remission. The state government may consider their early release sympathetically.

#### LIST OF LIFER CONVICTS DETAINED IN JALPAIGURI CENTRAL CORRECTIONAL HOME FOR MORE THAN 14 YEARS

Sl.no	Name of the convict and father's name	Date of sentence	Case reference sentence	Actual sentence served [Y-M-D]	Remission earned [Y-M-D]
1	PASKAL ORAWN S/O MANI HARI ORAWN	20.05.1991	Sessions Case no 32/87 Lifer u/s 302 IPC	21 years	3-0-0
2	BIRJU GOWALA s/o PALTU GOWALA	11.08.1989	S/C 88/07 Lifer u/s 302 IPC	19 Years	3-0-0
3	BIRSHA KEWAT S/O SEWKHA KEWAT	02.09.1991	S/C 51/89 u/s 302 IPC Lifer	17 Years	
4	CHANDRAI SOREN S/O DUAL SOREN	22.09.1992	S/C 5/88 u/s 302 IPC Lifer	16 Years +	3 years 2 months

5	TINTUSH MUNDA@ PINTUSH S/O MARKUSH MUNDA	31.7.1993	S/C 6/90 u/s 302 IPC Lifer	15 Years +	2 years 3 months
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The West Bengal Correctional Services Act 1992 authorises the Inspector General to release on parole upto one month, prisoners who have been sentenced to imprisonment for more than two years. He is also authorized to release any prisoner for a period not exceeding five days in case of any emergency, such as serious illness of his near relatives, or friends, marriage of son or daughter or brother or sister or any ceremony in which his participation, according to the prevalent customs is essential. In emergencies, even the Superintendent is authorized to release prisoners upto 5 days on parole subject to ratification by the IG.

One of the major grievances of most of the prisoners interviewed by me during my visit to the prison relate to the denial of parole to them. The jail Superintendent mentioned that the District Magistrates office is reluctant to recommended any such release on the ground that the prisoners while on parole may escape, or create law and order problems, or be attacked by their enemies. During the workshop organized by the NHRC at Jalpaiguri on 5-6 November 2008, the District Magistrate, was requested to consider all prayers for release on parole received from prisoners a little more sympathetically UTPs who are also entitled to short leave should also be considered to be released with the permission of the appropriate Court. As has already been discussed, there is very little scope for engaging prisoners in profitable work inside the prison. Besides limiting the scope of earning some wage and getting vocational training that could help in their rehabilitation after release, is also limiting the scope for earning remissions. The raising of vocational units in the prison is therefore inescapably necessary.

#### 14. Interview.

A small room of about 150 sq feet of plinth area is used as the Interview room for prisoners with their relatives. Two netted barricades separate the prisoners from their relatives during the interview. 6 to 7 minutes time is permitted for one interview. The eyes of the netted barricades are too small to offer a clear view of the prisoners and their relatives to each other. Interviews are not permitted on Sundays. Interview with convicts is arranged on Thursday and Saturday. Interviews with UTPS are allowed on the remaining four weekdays. In view of the heavy overcrowding of the prison it is advisable to permit Interviews on Sundays as well. In fact Sundays should otherwise be preferred for such interviews as that would make it easier for relatives working in Govt as well as in commercial establishments to find time for the same.

Interviews with lawyers is held in the prison office in the presence of an officer of the prison. The present arrangement does not ensure confidentiality of the conversations between the prisoners and their lawyers. A separate room with proper sitting arrangements should be provided for the purpose of Interviews



### 15. Education and Recreational facilities

The Jail teacher with the assistance of literate convicts, imparts elementary/primary education to the prisoners. There is a library with 487 books which are issued to the prisoners for their reading.

The Recreation hall has been converted to a dormitory for accommodation of the prisoners due to acute shortage of space. Prisoners have however been provided with playing cards, chess boards, Ludu, Carom boards for indoor games. Most wards have been provided with TV sets. The Republic Day, Independency Day, Polia Baisakh (The Bengali New Year Day), Gandhi Jayanti etc are organized in the prison. Durga Puja, Id and X-Mas festivals are also celebrated. Patanjali Yoga Peeth is giving instructions on Yoga to the prisoners.

### 16. Children confined in prison

64 tender aged prisoners have been accommodated in 5 cells (called new cells, mentioned at Sl 11 of Para 4 of this report). Many of them appear to be below 18 years of age. Some claimed to be of 15/16 years of age. But in their custody warrants their age has been mentioned to be above 18. Jalpaiguri District does not have a JJ Board. The nearest JJ Board sits at Cooch Behar which is about 150 km away. To avoid logistics and other difficulties associated with the production of these children before the Board at Cooch Behar, the local police appear to have manipulated their age to justify their production before the local courts. During group discussions with police officers of the district who had attended the workshop on Human Rights Awareness and facilitating assessment held at Jalpaiguri on 5<sup>th</sup> and 6<sup>th</sup> November 2008, these aberrations were dwelt upon and the Superintendent of police was requested to sensitize his officers in this regard. He is also requested to verify if the age of the following prisoners now lodged in this home is above 18. To the naked eye they appeared to be much younger.

Sl.No.	Name & father's name	Date of arrest	Case reference
1.	Israfil Dewan S/o- Ibrahim Dewan	27.7.08 Age as per police record 19 years	New Mal. GR. GRPS case no. 06/08, dt-26.7.08 u/s 14(A)Foreigners Act (GR no-3503/08)
2.	Biswajit Roy S/o- Sukumar Roy	13.10.08 Age as per police record 19 years	Kotwali Ps case no. 1484/08, dt-3.8.08 u/s 493/376 IPC. (GR case no 4079/08)

3.	Dalwar Hussain S/o- Md. Majirul Haque	13.9.08 Age as per police record 18 years	Banarhat Ps case no - 350/08,dt13.9.08,u/s 341/323/354/379/326/307/34 IPC.(GR case no. 5270/08 )
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### 17. State of appeal

The jail authorities furnished a list of 29 appeal petitions pending in the High Court and 5 SLPs pending in the Supreme Court, which are as follows.

Sl. no	Name of the convicts	S.R.A.No	Name of the advocate	Remarks
1	Dal Bdr.Gurung	314/01	Mr P.S Bhattacharya	Change of the state panel Advocate
2	Karma Nrg@Markar	317/01	Do	Do
3	Sriko Kerkota	515/01	Do	Do
4	Lotan Mjhi	491/01	Do	Do
5	Gobinda Majhi	259/04	Do	Do
6	Bifaiya Karwa	588/05	Y. Dastoor	Pending with High Court
7	M.d Kalu	853/06	Mr R.R. Biswas	Do
8	Sadhu @ Daroga Barman	854/06	Mr Subir Ganguly	Do
9	Matash Oraon	852/06	Mr R.R. Biswas	Do
10	Juwel Kharia	232/06	Do	Do
11	Prolus@Kanra Oraon	217/06	Ms Minati Games	Do
12	Tarajuddin Miah	216/06	Do	Do
13	Dhenu Murmu	632/06	Mr R.P Bhattacharya	Do
14	Mantu Oraon	628/06	Mr Subir Ganguly	Do
15	Anil Roy	133/06	Kallol Mandal	Do
16	Hardam Barla	435/07	Khandakar Jalal	Do
17	Rajendra Lohar	336/07	Mr Tirthankar Ghose	Do
18	Mangal Munda	748/04	Kasimali Ahmed	Do
19	Harish Chandra barman	462/07	Y.Dastoor	Do
20	Rajesh Oraon	66/08	Kallol Mandal	Do
21	Krishna Gupta	90/08	K.J Ahmed	Do
22	Bhairaw Prasad	525/08	Ms Hrushi Saha	Do
23	Mantu Barik	851/06	Smt. Minati	Do

			Gomes	
24	Druga Oraon	65/08	Mr. Subir Ganguly	Do
25	Nirmal Chandra Dhar	447/07	Khandokar Jalal	Do
26	Ajit barman	431/08	Bilpab Mitra	Do
27	Sastanan Singh	429/08	Do	Do
28	Budhram Asur & others	396/08	Subir Ganguly	Do
29	Paritosh Saha	631/06	R.P.Bhattacharya	Do

### List of the SLPs

Sl. No	Name of the convict with Regd. No	Reference
1	Subhas Das, Regd. No 51/A	CRA.No.84/02 U/S 302 IPC
2	Ali Hossain, Regd. No 8176/A	CRA.No.298/04 U/S 302 IPC
3	Rabi Barman, Regd. No 2269/A	CRA.No.749/04 U/S 302 IPC
4	Sancharua Oraon Regd No 320/A	CRA.No.517/01 U/S 302 IPC
5	Ganesh. Bdr. Khawas 3044/ A	CRA.No.349/98 U/S 302 IPC

Some of the appeals are pending since 2001. One SLP is pending since 1998, one from 2001 and another from 2002. Such inordinate delay in the disposal of appeals frustrates the very purpose for which such petitions are filed.

The case of convict Ganesh Bhusan Khamas will illustrate the point. Ganesh Khamas was sentenced to life imprisonment on 27.7.1998 and has already served more than 10 years in prison. During this period he has earned 2 years remission. In another 4 years he will be eligible for consideration for premature release. His appeal petition, filed in the year 1998 is yet to be disposed of. If the appeal succeeds now, it would be after 12 years of effective detention of the subject. From a purely human rights point of view, where the trial /appeal keep pending indefinitely for no fault of his, the accused should at least be enlarged on bail.

### 18. Interactions with prisoners

#### I) Convict Biplab Chandra Das

He was sentenced to RI for life in sessions case no 74/96 u/s 302/ 201 IPC and is in prison since 1995. While in Presidency Jail he took training on recitation of poems. The Hon'ble minister for jails was impressed by his performances and had promised to provide opportunities to him in future, for display of his talents. Requests for reciting poems in the programmes of the local station of Doordarshan. The jail superintendent may take up his case with the local Doordarshan authorities to examine if his performances could be video recorded for telecast.

II) Convict Sachindra Chandra Das

He has been sentenced to life in case no 38/88 u/s 302/34 IPC on 27.7.2001. His son's marriage is fixed on 23.11.2008. Requests for 7 days' parole. He further informed that in some cases parole granted in the past could not be availed by prisoners due to non availability of escorts. The superintendent is requested to ensure that his parole petition is processed in time and escort is provided enabling him to attend his son's marriage.

III) Convict Prana Gobinda Das

He was sentenced to RI for life in sessions case no 60/98 u/s 302 IPC on 29.3.01. He had applied for one month parole on 7.3.08 to see his daughter who was critically ill. But his prayer was not granted. He has again applied on 11.9.08. But the 2<sup>nd</sup> application has also not been considered till now. He had filed an SLP in the Supreme Court. He was provided with a lawyer, (Virendar Kumar Sharma) under the legal aid scheme. He was not satisfied with Mr Sharma's performances and has engaged another lawyer, Shri Raja Chatarjee by selling his ancestral property. But Mr Sharma did not hand over the case file to Raja Chaterjee and himself moved the SLP which was rejected. His grievances may be brought to the notice of the legal aid authority.

IV) Convict Subash Das

He was sentenced on 8.1.2002 to life imprisonment in sessions case no 237/99 u/s 302 IPC. He has left his wife and minor children back home. He has no means to arrange for the maintenance of his wife and children. Requests for early release. Since he has served only 6 years of his sentence, his premature release may not be possible. The District Probation Officer may explore the possibility of sending the children to a children home for their upkeep and education after necessary field enquiry.

V) Convict Atma Narayan Hembram

He was sentenced to 10 years RI on 7.9.2007 in sessions case no.82/07 u/s 304 IPC. He was granted bail pending disposal of his appeal petition, by the High Court but is unable to find sureties. There are more than 50 prisoners in this Correctional Home who have been granted bail but have failed to provide surety. Their cases have been separately dealt in Para 12 of this report.

VI) Convict Tintush Munda

He was admitted to prison in 1991 and sentenced to RI for life on 31.7.93. Prays for premature release. He has already served more than 17 years and is eligible for such release. The state govt may consider his case sympathetically.

VII) Convict Purna Bahadur Dorjee

He was sentenced to RI for life on 21.7.95 in sessions case no 47/93 u/s 302 IPC, and has already served more than 13 years of actual imprisonment. Prays for early release. He will be due for consideration only on completion of 14 years of actual imprisonment that is only after July 2009.

VIII) Convict Dillip Oran

He was sentenced to RI for life on 14.8.06 in sessions case no 36/96 u/s 302 IPC. He is in prison since 1995. Requests for 1 month parole. His old mother and minor children are staying uncared for back home. Also mentions about stones in his abdomen for which he is not receiving proper treatment. He has not been able to prefer an appeal in the High Court as copies of the judgment of the trying court are not available. The Superintendent may please collect the copies and arrange for his jail appeal. He may be referred to a specialist for his further treatment and his prayer for parole may be sympathetically considered.

IX) Convict Ratan Das

He was sentenced to RI for life on 16.2.01 u/s 302 IPC. Prays for 1 month parole. His prayer merits sympathetic consideration.

X) Convict Virendra Sarkar

He, along with his wife and his sons was convicted to 3 years RI on 29.6.06 in sessions case no 27/98 u/s 498A a/306 IPC. He has already served more than 3 years in prison including the period he spent as an UTP. But he is not being released in the absence of any directions from the court. The Superintendent may bring his case to the notice of the court for appropriate orders.

XI) Convict Rameswar Biswas

He was sentenced to 7 years RI on 29.9.07 in sessions case no 240/03 u/s 376 IPC. The case against him was started in 1995. He has married the victim girl and has a child of 12 years. He was convicted after 13 years of the incident. He has not received a copy of the judgement for filing an appeal against the order of the trial court. The same may be procured from the court and furnished to him.

XII) Convict Birsha Kewat

He was convicted to RI for life on 9.2.1991 in sessions case no 51/89 us 302 IPC. He has already served 18 years of imprisonment including the period spent as an UTP. Requests for premature release. His prayer may be sympathetically considered.

## XIII) Adhir Sarkar

He was sentenced to RI for 10 years along with 3 others in sessions case no 119/99 u/s 376(2) IPC, on 30.6.06. His co accused have all been bailed out but he is still languishing in prison as his lawyer Himansu De is not properly pleading his case. It is for him to decide if he should change his lawyer. The welfare officer may counsel him suitably after verifying the full facts of the case.

## XIV) Convict Bipad Barai.

He along with his elder brother Manoranjan Barai, sister- in- law Meena Barai and brother- in -law Krushnapada Barai were all sentenced on 29.10.05 in a case involving rioting and murder. In the incident, over which this case was registered, he and his above relatives were also seriously injured. His sister- in- law, who was pregnant at the time of the incident, suffered a miscarriage while in jail. The medical report in regard to that miscarriage will be useful in his defence in the appeal. But the jail authorities are not helping him in this regard. The superintendent may try to locate the medical report and furnish a copy to him.

## XV) Convict Debendranath Roy

He was sentenced to life imprisonment in sessions case no 10/01 u/s 302/201 / IPC on 23.4.2001. His lawyer has misplaced his case papers, for which he is not able to file his appeal petition. The superintendent may try to help him in retrieving/reconstructing the papers.

## XVI) UTP Harekrushna Das

He was admitted to prison on 1.1.2005 in connection with sessions case no 125/05 u/s 364/120B/302/201/379 IPC. He is languishing in prison for more than three years without trial. He has left his old parents, wife and two minor children back home, who have no means of sustenance. Not a single witness has so far been examined in his case. The last date for his trial was fixed from 15.9.08 to 22.9.08. Though he was produced in the court for 7 days continuously no witness turned up. He is not being granted bail either.

## XVII) Munna Khan

He is a Bangladeshi national. He came to India with valid visa, but over stayed. He was arrested in GR case no 4107/08 u/s 14(A)/14(C) Foreigners Act and admitted to prison on 15.8.08. The police have not submitted charge sheet against him till now. He has been returned from court lock up thrice. Next date of his production has been fixed on 7.11.08. Requests for early trial. SP Jalpaiguri may be requested for expediting investigation of the case.

## XVIII) Sakikul Islam

Md Samsul Alam  
Abdul Aziz.

Sri Haridas  
 Md Safar Imam  
 Md Nasim Ul Haque  
 Md Mostafir Rehman  
 Bablu Mostafir Rehman  
 Makbul Hussain  
 Md Mehboob Mia  
 Emanuel Hussein  
 Abdul Munaff  
 Rabiul Islam

They are all Bangladeshi nationals convicted under the Foreigners Act. Their relatives are in no positions to visit them. They have no money to meet their daily requirements like toiletry , warm clothes etc. which are not provided by the jail administration. Request for payment of part of their wages for meeting such expenditure. Half of the wages earned by labouring prisoners is payable to them during custody and the rest at the time of their release. As would appear from the discussions at Para 11 of this report, the prison is not getting enough money to pay wages. The jail administration, besides opening adequate vocational units, must ensure that wages are paid in time.

XIX) Ram Prasad Yadav & Sankar Yadav

They both belong to Nalanda district of Bihar. They were sentenced to 10 years RI on 17.6.08 u/s 20(6) (11) (C) of NDPS Act. Their relatives live in Bihar and are unable to visit them. Request for transfer to any jail in Bihar. This is possible. IG prisons may consider their prayers sympathetically.

XX) Convict Ganesh Bahadur Thapa

His appeal is pending in the Supreme Court. The legal services committee of the Supreme Court have asked for a legible copy of the trial court judgment dated 28.7.98. The superintendent should be able to collect a legible copy. He also pleaded that during long pendency of appeals, bail should be granted to prisoners.

XXI) Convict Majibul Rehaman

He along with his mother and wife has been sentenced for life on 28.4.04 in sessions case no 289/02 u/s 498A/304B IPC. He has left behind his 11 years daughter and 8 years son at home. There is no one to look after them. Requests for their education. The probation officer promises to make arrangements for the same at government cost.

XXII) Convict Tapas Roy

He has been sentenced to 7 years RI on 28.2.08 in sessions case no 199/07 u/s 376 IPC. Pleads to be innocent. As per the FIR the incident of rape took place on 14.1.06 as a result of which the victim conceived. The victim has delivered a child on 11.1.07 i.e. after one year which is absurd. FIR was lodged on 11.9.06. No DNA test was held. His

● appeal petition is pending in the High Court where his pleas will most certainly be taken into consideration.

XXIII) Md Amir Hussain

He has been sentenced to 2 years RI in case no 84/07 u/s 14(D) Foreigners Act. He pleads that he is a resident of one of the Indian enclaves in Bangladesh and therefore an Indian citizen. Relevant documents are at his residence.

He was bailed out after spending 26 days in the prison as an UTP and was convicted after two long years during which he stayed at home. It is therefore not understood why he could not produce the documents at the time of his trial. At the same time it seems unusual that a Bangladeshi National after being bailed out will voluntarily return to India for trial. The jail authorities may help him in filing an appeal against the sentence.

XXIV) Manoj Mishra

He was sentenced to 10 years RI in GR case no 235/07 u/s 20(6) (11)(C) NDPS Act. He has left behind two minor children, (a son of 11 years and a daughter of 9 years of age) back home in Arrah, Bihar.

Prays for the education of his children. He has already submitted an application to the welfare officer, who may take up the matter with the government of Bihar.

XXV) Convict Swapan Das

From 1<sup>st</sup> December 2007, he has been working in the general kitchen but not being paid any wages. The jailor informs that he has not enough money to pay labouring prisoners sentenced to RI. Swapan is serving simple imprisonment only. The jail authorities must pay wages to all labouring prisoners whether serving simple or rigorous imprisonment. They are however at liberty not to employ the former. But once they use their labour, they must pay them the prescribed wages.

XXVI) Convict Jogesh Choudhury and Ranjit Choudhury

They were sentenced to RI for life on 18.2.05 in case no 43/99 u/s 147/302/149/201 IPC. Prays for one month's parole. Their prayers may be sympathetically considered.

XXVII) Convict Sudhir Barman

He was sentenced to RI for life on 19.7.03. He has left back his old parents, wife and two minor children at home. Requests for one month parole which may be sympathetically considered. From his general disposition the prisoner appears to be mentally ill. Should be examined by a psychiatrist for appropriate treatment.

XXVIII) UTPs

Chhatra Subha  
Saran Dewan



Bijoy Chetri  
Sam Bahadur  
Kumar Chetri

They are all in judicial custody since the year 2001 in Keorsang GR Case no 9/2001 u/s 302/307/326/34/153-B/120B IPC 25/27 Arms Act, and 3/4 explosive substances Act. On their request the case was transferred to Jalpaiguri for trial. But the progress of trial has been very slow. While the court examined 57 witnesses between 2003 and 2005, only 11 witnesses have been examined during the last 3 years. They had moved the High Court and the Supreme Court for speedy trial. In spite of directions from the above courts for speedy trial, the pace of trial has not improved. They request for speedy trial and for short leave as they have not been granted bail. Pendency of trial for long 7 years is a matter of serious concern, but it is for the trial court and the higher courts to take appropriate measure in this regard. The Commission may consider bringing the matter to the notice of Hon'ble High Court, Kolkata.

As regards short leave, the West Bengal Correctional Services Act permits the grant of such leave to under trials also. The state government may consider granting such short leave/ parole to such long confined UTPs, with the permission of the court.

XXIX) UTP Pradip Kumar Barman

Claims to have been booked in a fabricated case under the NDPS Act and detained in prison for last four years. He has left behind his aged parents, wife and a minor daughter who are incapable of supporting themselves. Pleads for speed trial / bail. Next date for his trial has been fixed from 26<sup>th</sup> to 28<sup>th</sup> November .He may bring his grievances to the notice of the Hon'ble court.

XXX) UTP Nityananda Das

He is in prison since 2003. He has been implicated in four cases. He got bail in three cases. But to prevent his release from prison the police showed him involved in GR Case no 281/02, four years after the incident and 1 year after his initial arrest. It is difficult to believe that the police came to know about his involvement in the above case after 5 years of the incident, that too just after he obtained bail in other cases.

XXXI) UTP Shyamal Das

He is a Kamtapuri activist and was arrested in the year 2004. He was granted bail, but was rearrested at the jail gate showing him involved in case no GR - 159/01. He has obtained bail in the latter case, but due to some technical error his bail in the earlier case was cancelled and he is still languishing in prison.

XXXII) UTP Sankar Sarkar

He was arrested on 17.10.08 by the forest staff, at Teesta Forest Check post with 'Game bear biscuits' though he had necessary licenses to deal with the same. He was falsely implicated in a case under the

Indian Forest Act and sent to prison on 18.10.08. The superintendent of police may get the case supervised by a senior officer.

XXXIII) Kiliang Angsu

He was admitted to prison on 14.9.07 for his alleged involvement in case no 35/07 u/s 20 NDPS Act. He is not sure if charge sheet has been submitted in the case. Pleads that he has been falsely implicated. While it is for the court to examine his pleas, the superintendent may help him in knowing the present position of the case.

XXXIV) Gurupad Mandal

He along with his wife were allegedly arrested by NJP police on false charges under the NDPS Act. Nothing was seized from them. The actual culprits who were from Fuleswari were let off by the police and in their place he and his wife were shown involved. They were admitted to prison on 22.1.08. They have left behind two minor children at home who have no one to look after them. The local people had approached the police after their arrest and told them that they are innocent but the police refused to relent. SP Jalpaiguri may get the case properly supervised.

XXXV) UTP Babu Mia

He is a van- rickshaw puller, and was admitted to this prison on 13.2.07 accused of an offence u/s 20(6) of the NDPS Act. On the date of incident Falakanta police intercepted a Maruti van in which some army personnel were travelling. One of the army personnel was arrested, while the remaining six were allowed by the police to escape. The police asked him and another fellow van- puller to transfer the belongings of the army personnel including beddings and trunks from the Maruti van to their rickshaw vans and bring the same to the police station. At the police station the police discovered some drugs from the beddings and arrested them to save the army personnel whom they had allowed to escape. Surprisingly the maruti driver was not arrested.

XXXVI) UTP Judhistir Sarkar

He is a vegetable vendor. He buys vegetables from Kamakhyaguri, Alipurwar and sells the same in Naxalbari area. On 17.6.07, while he and his partner Sri Hari Singh were returning from Kamakhyaguri, the police arrested them with some cerefax tablets (pain killers) and charged them under the NDPS Act. As far as their knowledge goes, the chemical expert has opined that the tablets seized from them are used as sedatives. He has already served more than a year in prison. Of the 12 witnesses 7 have been so far examined. Prays for early completion of trial.

XXXVII) UTP Md Aliar

Naba Kumar Biswas  
Dhinesh Dutta

They claim to have been falsely implicated by the police in a case under the NDPS Act. Naba Kumar and Dhinesh have been provided a lawyer by the government. This lawyer, Sri Tapash Ghosh is demanding money from them. Only yesterday i.e. 1.11.08 a date was fixed for hearing. But the lawyer did not appear. Earlier he only met them in the court lockup to demand money from them. Md Aliar in his turn said that there are many prisoners in this correctional home who have been falsely implicated in cases under the NDPS Act. In his own case there are six witnesses, but not one of them has been examined during the last two years.

The superintendent may bring the grievances against lawyer Tapas Ghosh to the notice of the legal aid committee for appropriate action.

XXXVIII) UTP Kamaleswar Roy

He is a Kamtapuri activist. He surrendered to the police on 9.11.03. The police booked him in as many as 12 cases. He has been bailed out in all these cases except case no GR 1347/01 u/s 148,149, 307, 121, 122, 142A, 153B, 120B IPC and 25/27 Arms Act. Though more than 7 years have passed trial in this case has not started. He has applied for bail 3/4 times but each time his bail petition has been rejected. Pleads for bail/speedy trial.

XXXIX) UTP Bhupen Das

He is confined in prison for the last five years. In the beginning of this year the police implicated him in three more cases, which were registered much before his arrest, merely for the purpose of frustrating his bid for bail.

XL) UTP Khokan Bapan

He was admitted to prison on 31.7.07 in case no 30/07 u/s 20/22 NDPS Act. He had an altercation with the councilor of ward no 37 of Siliguri Corporation, Sri Arun Prasad Sarkar on 1.6.07 over removal of garbage from near his house. On the councilor's complaint, the local police registered a case against him u/s 448/427/506 IPC. When the police could not arrest him, they planted drugs on his wife and booked her in NDPS case no 30/07. Later he too was implicated in this case. He demands a fair enquiry into the circumstances of his arrest and implication in the case. It is not known if the case has since been chargsheeted. His prayer may be brought to the notice of the superintendent of the police with a request for proper supervision of the investigation of the case.

XLI) UTP Prasanta Sarkar

He is in prison since 26.5.07, accused of NDPS case no 20/07 u/s 20 NDPS Act. Claims that he was running a cloth shop before his arrest. ASI Dulal Chandra Mandal, Constable Subir Sen, Constable Pradosh Chakravarty and constable Sanjit Das of New Jalpaiguri police post, with whom he had a quarrel in the past had conspired to book him in the case

for which they planted drugs on his person. Earlier the ASI had demanded Rs 1 lakh from him for starting a business. His repeated prayers for bail have failed to move the court. The allegations against the ASI may be verified by the SP.

He further claims that a number of innocent persons, convicted under the NDPS Act, are languishing in this prison.

XLII) UTP Arjun Munda

He was admitted to this prison On 19.3.06 in connection with sessions case no 93/02 u/s 376 IPC. Not a single witness has been examined in his case till to-day. The investigating officer is dead. The victim girl has since married. He was granted bail by the court but is unable to furnish bail bonds. Prays for early trial.

XLIII) UTP Nityananda Sil

He is detained in this prison since 12.7.05 in case no 9/05 u/s 21/22 NDPS Act 1985. On the one hand trial against them has been very slow. On the other hand the honorable judge is calling them by name which is helping the prosecution witnesses to identify them. Of the 17 witnesses only 11 could be examined in last three years.

XLIV) UTP Sagar Chaudhury.

He is a Bangladeshi national and is lodged in this prison since 24.3.07, arrested in GR case no 411/07 u/s 12/14 Foreigners Act. He is not sure if any charge sheet has been submitted in the case. There has not been a single hearing in the case since his arrest 21 months back. The superintendent may help him in verifying the status of investigation/trial of the case.

XLV) UTP Dillip Karmakar

He was arrested in year 1992 in case no 2/92 u/s 20 of the NDPS Act in which he was falsely implicated. He was bailed out in 1992, met an accident due to which he could not appear before the court on the dates fixed. He was re arrested in October 2006 on the strength of a warrant. Of the six witnesses in the case only two have so far been examined. While in judicial custody he has suffered heart attack twice. Requests for speedy trial/bail.

XLVI) UTP Pasupati Paswan

He was arrested in a dacoity case in the year 1983. Jumped bail and was arrested in the year 2007. He is facing trial in sessions case no 121/91 u/s 395/ 412 IPC. The trial is not making any head way. Nor is he being granted bail. He appears to be largely responsible for the delay in trial. But now that he is in custody it is hoped that trial of this case could finally be over.

● XLVII) UTP Md Mafizur Rehman

Samsul  
Faruk Molla  
Mohammed Hussain

They are all Bangladeshis and were lured by touts to come to India in search of job. They were arrested in July 2008 under the Foreigners Act. Plead for early disposal of trial.

XLVIII) Convict Anand Biswas

He has been sentenced to 12 years RI on 10.12.07, in case no 14/04 u/s 20 NDPS Act. He is lodged in this prison for the last five years. His father died during this period. He has left his old mother uncared for back home. He prays for remission of sentence. It was explained to him that the NDPS Act expressly forbids the grant of remissions to prisoners convicted for committing offences under the Act.

XLIX) Convict Shyamal Chandra Barman

He is a Bangladeshi national. He was sentenced to 3 years imprisonment on 22.6.07, u/s 14(a) of the Foreigner Act. None of his relatives is in a position to meet him in prison. Some of his relatives live in Assam. Requests for transfer to any prison in Assam. IG prison may consider his prayer sympathetically.

L) Convict Bipayia Kalua

He is in prison since 2003 and has been sentenced to life imprisonment on 27.4.05 in sessions case no 33/03 u/s 302/201/34 IPC. His parents are dead. His minor children are afraid to meet him in prison. No one has met him in the last five years. Prays for six hours parole. The Superintendent should arrange for his parole as provided for in the Act.

LI) Convict Md Akturul Islam

He is a Bangladeshi National. He was arrested on 2.12.07 while crossing the border and has been convicted to 8 years imprisonment on 13.8.2008 in GR case no 952/07 u/s 14 Foreigner Act. Claims to be only 17 years old. He was studying in class VII when he was arrested. He pleaded that while most courts in North Bengal Region are awarding two years sentence to Bangladeshis illegally entering into India, Raigunj court is awarding the maximum punishment prescribed in the Act. Pleads that the punishment is harsh. The Superintendent may assist him in filing an appeal petition from the prisons.

LII) Convict Sahabuddin Mia

He is guarding the new kitchen since 1.12.07 but has not received any wage so far. He is entitled to get wages as an unskilled labour and should be paid the same early. Since the prison does not have adequate vocational units for effective employment of inmates, the Superintendent should first provide work to prisoners sentenced to RI. But in the event of

prisoner serving SIs or the UTPs being engaged for labour, they too should be entitled to get wages.

LIII) Convict prisoner Sirjul Sk.

He was admitted to prison on 24.7.02 and sentenced to 10 years RI under section 20 of NDPS Act on 29.7.03. Between 29.7.03 to 4.9.05 he had been granted remission for good conduct, but the same was cancelled. Wants restoration of the same. It was explained to him that the NDPS Act expressly forbids the grant of remission to prisoners sentenced for committing an offence under the Act, except u/s 27.

LIV) Agnu Barik

He has been sentenced to 10 years RI in sessions case no 56/02 u/s 376 IPC on 17.8.04. Ever since his admission to prison in the year 2004, he has been working in jail school as a sweeper but has not been paid any wage. The superintendent should arrange to pay the same. He also pleads that no remission has been granted to him. The West Bengal Correctional Services Act does not forbid remission to persons convicted of rape. Since he has been engaged in labour, he is entitled to remission u/s 58(3) of the Correctional Services Act. The Superintendent may consider the case sympathetically.

LV) Convict Kajal Sarkar

Zakir Hussain ,Md Motlub Hussain

They along with Ajjur Rehman, Manirul Haque, Rabiul Islam, Millan Sek, Fajul Khan, Majnu Rehman and Nur Amin have been sentenced to 28 months RI each. They have been working in the jail garden, but have not been granted any remission. Prisoner Zakir Hussain pleads that he worked as a night watchman in Siliguri prison for 5 months and 12 days but no wage has been paid to him. Md Motlub Hussain pleads that he will complete his prison terms on 15.11.08. Requests for early repatriation. Their grievances appear to be genuine and should be addressed accordingly.

LVI) Convict Jatan Das,Aminul Haque

Majnul Haque, Azibar Rahman and Ajijul Haque

They are all Bangladeshis and have completed their prison terms with effect from 30.5.08, 21.2.08, 21.8.08, 23.8.08, and 3.9.08 respectively. But they continue to languish in prison pending their repatriation to Bangladesh. Plead for their early release. The jail authorities have last moved the state govt on 19.9.08, for their early deportation to Bangladesh.They should be deported without further delay.

LVII) Convict Harun Sek, Md Abdul Jalil, Habibur Rehman, Dillip Sarkar, Saiful Islam, Nabir Hussain, Adam Alli, Samser Alli, Manirul Rehman Chaudhury, Md Khalek, Md Ali, Md Samir, Sadam Hussain, Md Dabirul,

Md Sajidur Rehman, Md Ujjal Kaji, Sri Dhanjaya Kumar Roy, Md Babul Miya, Sirajul Islam, Raja Mia, Niranjana Roy, Gopal Sarkar.

They are all Bangladeshis convicted to prison terms ranging from 25 months to 4 years. They also request for remission. Those of them who are giving labor should be entitled to remission.

LVIII) Convict Rameswar Biswas

He was wanted in a rape case registered in the year 1995. He married the victim and has a child by her. But 12 years after, on 29.9.07, he has been convicted to 7 years RI in that case i.e. sessions Case no 240/03 u/s 376 IPC. In the mean while he had married again. There is no one in his family to look after his wife, minor children and old mother. He has not received any charge memo or copy of the judgement from the court even after 17 months of the date of sentence. It is difficult to believe that he could be tried without receiving a copy of the charges framed against him. The Superintendent may however look into his grievances.

LIX) Convicts Md Mukul, Haider Ali, Md Bisnu, Abul Hakim, Abul Jalil, Md Majid, Enamul Haque, Md Haider Ali

They are all Bangladeshi national who had illegally immigrated into India. They have been sentenced to 5- 8 years imprisonment and fines ranging from Rs 10000/to Rs 50000/. They pleaded that the punishments are very harsh. They want to appeal against the same but have no means for the same.

The jail authorities may assist them in getting legal aid as is available to other indigent prisoners.

19. The grievances of the prisoners, with whom I interacted during my visit to the correctional home could be broadly categorized as follows.

i) A large number of them have allegedly been falsely implicated in cases under the NDPS Act by planting small quantities of drugs on them out of personal vendetta by the police.

ii) Those associated with Kamtapuri movement have been booked in a number of cases, trial in which has been very slow. Some have already spent 7 to 8 years in the prison pending trial. They are not being granted bail. Nor are they granted parole or leave to meet their relatives. Some of them complained that even when they are bailed out in a few cases, the police shows them arrested in other cases which have been kept deliberately pending for years for this purpose. Despite orders from the High Court and the Supreme Court for early disposal of their cases, the pace of trial has not improved. They have gone on repeated hunger strikes but that too has failed to move the authorities.

iii) Many convicts complained that their prayers for parole and short leave are mostly being rejected.

iv) Some Bangladeshi nationals, convicted under the Foreigners Act complained of discriminatory punishments. While some were awarded 2 years punishment others have been sentenced to 8 years imprisonment. In particular, the Raigunj Courts are awarding harsher punishments.

v) Some Bangladeshi prisoners who have completed their sentences have not been repatriated to Bangladesh due to logistics and other administrative problems.

vi) Lawyers provided to some prisoners under the legal aid scheme are demanding money from them.

vii) Prisoners undergoing simple imprisonment are also being engaged for labour, but are not being paid wages. Nor are they granted remissions.

viii) Some prisoners hailing from other states requested for their transfer to jails in their home states.

20. The detention of accused/ suspects for indefinite periods in prison pending investigation/trial of the cases against them is undoubtedly a serious violation of Human Rights. The criminal justice system provides no relief/compensation to them, if after trial they are found innocent, except for their release from prisons. While the Crpc provides time limits for production of the accused before Magistrates and for completion of investigation, no such limit has been prescribed for completion of trial. The matter falls within the purview of the judiciary. The West Bengal Correctional Services Act, does not spell out the role of the prison officials in regard to speedy disposal of trial. Chapter XXV of the Act which spells out the Rights of the prisoners does not mention the right to speedy trial. The Model Prison Manual formulated by the BPR&D speaks of the following facilities to be provided to undertrial prisoners by the jail authorities which have a bearing on speedy trial.

- a) Legal defence
- b) Interview with lawyers or family members, for legal purposes
- c) Signing Vaklatnama
- d) Applications to courts for legal aid at govt cost as per provisions of law
- e) Other Applications to court
- f) Application to legal aid societies for free legal aid

The govt of West Bengal have appointed a few welfare officers in select prisons who are assisting the undertrials in getting lawyers at govt cost, filing appeals in higher courts etc. This apparently has not been of much help to the prisoners in hastening trial of the cases pending against them. The appointment of adequate number of magistrates and judges,



the streamlining of procedures, plea bargaining, decriminalisation of certain marginal deviant behaviors, presently punishable under local and special laws etc may be of some help. The Commission may consider formulating suitable strategy/ recommendations in this regard for the ultimate purpose of ensuring speedy trial, denial of which undoubtedly amounts to the violation of the Right to liberty.

ii) The grievances regarding parole, wages, remissions, transfer to jails in home states, speedy repatriation of released Bangladeshi prisoners, health and hygiene, interviews and general living conditions of prisoners should be addressed by the prison authorities.

iii) Implication of habitual criminals and innocent citizens in NDPS cases have come to the notice of the NHRC in the past. As per one estimate about 90% of all drugs recovered in the country are seized in only 10% of the registered cases and the rest 10% of the drugs are seized in 90% of cases. This should give some indication regarding the scale of misuse of this act. The possibility of some of the prisoners, lodged in this jail accused of offences under the NDPS Act, being innocent could not all together be ruled out. Strict supervision by senior officers, and speedy trial may help in containing this menace. During the group discussions with police officers of JPG district, held in course of the two days workshop on 'Human Rights Awareness and facilitating assessment' organized by the commission, this matter was discussed, in a bid to sensitise the field officers to the seriousness of the problem.

iv) The practice of keeping investigation of an unsolved case indefinitely pending for the purpose of booking habitual criminals and cadres of radical/extremists groups, is widely prevalent in many states. Some police forces register a case or two u/s 120B/121/121A IPC along with other sections and keep the investigation of such cases open to implicate activists of radical groups when the 'need' arises. These practices are no doubt abominable. The fact that some of the Kamtapuri supporters have been shown arrested in such cases recorded prior to their admission to prison, after 4/5 years of their incarceration, and after they have been granted bail in other cases, suggests that such practices are also in vogue in this district. The police forces should be properly sensitized to stop perpetuation of such practices.

v) The demand for money by lawyers, provided to indigent prisoners under the legal aid scheme is reprehensible to say the least. Such complaints should be brought to the notice of the legal aid committees by the prison administration.

## **21. Summary of the Findings and Recommendations.**

i) The prison is heavily overcrowded. Against a registered capacity of 551 prisoners 1239 are presently lodged in this Correctional Home. The state govt may take necessary measures for early completion of construction of the new wards, now in progress and sanction additional guarding staff for easing congestion from the correctional home.

ii) Night latrines are very few. Immediate steps must be taken to increase their number.

iii) The wards do not have any raised platform, ventilator or mosquito wire nettings. After shifting excess prisoners to the new wards now under construction, construction of raised platforms may be taken up. The windows in the wards should be netted immediately.

iv) There are complaints regarding the quality and quantity of food and clothings provided to the prisoners. Though the scale of diet prescribed by the govt is fairly adequate, there are complaints of pilferage at the local level, which must be addressed by the supervising officers. Convict prisoners must be made to wear uniforms supplied to them. This is required both in the interest of discipline and hygiene. Clothings should also be supplied to indigent UTPs as is permitted in the Act. The quality of blankets, issued to the prisoners should improve.

v) Attention towards psychiatric patients has been inadequate. 34 mentally ill prisoners have been herded into a room attached to the hospital without beds. They have not been visited by a psychiatrist in recent months. The CMOH of the district has promised to arrange for regular visits of psychiatrists from the district hospital to this home, in future. There is a case for posting a few psychiatrists under the prison directorate to supplement the treatment of mentally ill prisoners.

vi) The number of undertrial prisoners exceeds the number of convicts lodged in this prison. Their trials have been slow. In some cases trials are pending for 7/8 years. A large no of Kamtapuri agitators are confined in this prison without trial for years.

vii) 54 UTPs have been granted bail out continue to languish in prison for their failure to provide sureties. The assistance of charitable organizations like the Ramkrishna Mission may be enlisted for standing surety for them. The matter may be brought to the notice of the courts with prayers to release them on personal bonds.

viii) A large number of UTPs have been charged with offences under the NDPS Act. Many of them complained that small quantities of drugs were planted on them to implicate them in such cases. Close supervision by senior officers may help in minimizing the abuse of the provisions of the Act.

ix) A large number of UTPs have been arrested u/s 498A IPC, many of them are women. There have been suggestions from various quarters for making this section bailable in view of reported abuse and misuse of its provisions. The commission may consider addressing the issue in a manner considered appropriate.

x) Between 2002 and 2008 there have been 13 custodial deaths. Proper magisterial enquiries have not been held in many such cases till now. The monitoring of these cases leave much scope for improvement. The state govt must take immediate measures for completing the magisterial enquiries, besides initiating disciplinary action against defaulting officers as suggested in para 10 of this report.

xi) No Board of visitors is in existence. The state govt should ensure the constitution of such a board immediately.

xii) No industrial or vocational unit is available, except for a few sewing machines. Convicts undergoing simple imprisonment are not being paid wages though engaged in labour. Immediate steps should be taken to raise adequate nos. of industrial/vocational units in the prison and clearance of pending wages due to the labouring prisoners. Prisoners, once engaged for labour should be paid wages irrespective of the category they belong to.

xiii) No leave or parole is being granted to UTPs. Even in cases of convicts undergoing long sentences, the grant of parole has been rare. The state authorities should be a little more sympathetic to the prisoners in the matter of granting parole/short leave.

xiv) There are a large number of Bangladeshi nationals in this prison who have been convicted u/s 14 Foreigners Act. While many of them have been sentenced to 2 years of imprisonment, some have been sentenced to 8 years imprisonment. Since they are guilty of the same offence, those sentenced to longer punishment have a genuine sense of grievance. Most of them are very poor and do not have the means to go in appeal. While stricter punishments may be considered desirable to discourage continued influx of Bangladeshis to India, the award of the minimum punishment to some and the maximum punishment to others may prima-facie appear discriminatory. In appropriate cases such convicts may be assisted in filing appeals in higher courts.

xv) Bangladeshis constitute more than 12% of the prison population of this correctional home. Their number in other prisons of the state, particularly those located in bordering districts is equally high. Despite the construction of the border fence and increased surveillance, Bangladeshi nationals, driven by abject poverty, keep trickling into India. Some of them are 'pushed back' by the BSF without formal prosecution. The West Bengal Govt have even issued an order to the effect that those intercepted within 8 kms of the border are to be pushed back without prosecution. 'Pushing back' is however becoming more and more difficult due to the border fence and resistance from the Bangladesh Rifles. Besides, pushing back of foreign nationals without prosecution is not strictly in conformity with the law of the land. The govt of Bangladesh are usually reluctant to accept them as their citizens. Successive

Bangladeshi governments have been disputing the fact that thousands of Bangladeshis have been illegally migrating to India. right from the time Bangladesh was created in 1971, and the number of such Bangladeshis who have illegally settled in India runs to a few millions. The problem does not offer any immediate solution. India has already been burdened by the influx of an estimated 15 million such illegal immigrants. As long as poverty and frequent natural calamities like floods and cyclones continue to haunt Bangladesh, this influx is likely to continue. Various proposals, like the opening of detention centers, giving access to international media to such centers to convince Bangladesh govt regarding the nationality of the migrants, issue of identity cards to the bordering population etc have been mooted in the past but have not been successfully worked out. This is a serious human right issue having international implications and requires to be seriously taken up at the appropriate level. The commission may consider issuing suitable recommendations/directions to the MHA and the MEA for addressing the issue.

**Damodar Sarangi**