

**Report on the visit of Dr. Justice A.S. Anand, Chairperson NHRC to Yervada Central Prison Pune on 12 June 2003**

Dr. Justice A.S. Anand, Chairperson NHRC visited Yervada Central Prison Pune on 12 June 2003. He was accompanied by Shri Chaman Lal, Special Rapporteur NHRC. Shri B.T. Nghinglova, IG (Prisons) Maharashtra, Shri T.S. Bhamre, DIG of Prisons (HQ.), Shri Madhukar Kokate, DM Pune and Shri V.D. Bendre, Prison Supdt. were present during the visit of the Chairperson. Shri Chaman Lal, Special Rapporteur had carried out a detailed inspection of the prison before the Chairperson's visit and identified important matters requiring the Chairperson's attention.

The Chairperson first visited 'Gandhi Yard' which is being preserved as a national monument. This was the place where Gandhi-Ambedkar Pact was signed in 1932. The Chairperson saw the Cells where Mahatama Gandhi, Pandit Moti Lal Nehru, Sardar Vallabh Bhai Patel, Pandit Jawahar Lal Nehru and Netaji Subhas Chandra Bose were confined in 1931-32. He perused the nicely kept photo copies of the extracts of the Jail Register relating to the confinement of these leaders of India's freedom struggle. He appreciated the upkeep of the monument. This was followed by visit to Factory section, Hospital complex, Women jail and Open jail.

### **Profile of the Prison**

Yervada Central Prison was established in the year 1866. It has a total area of 500 acres with 64 acres of land occupied by the main prison. It has 39 barracks, 246 Cells and 21 Worksheds. 33 Barracks and 246 Cells are being actually used at present.

Yervada Central Prison has a sanctioned capacity of 2179 – 2053 male and 126 female prisoners. There is a separate building for the women jail situated just opposite the main prison. An open jail for mail prisoners having a capacity of 150 was established adjacent to the Central Prison in 1956.

Prison Population on the date of the Chairperson's visit, i.e. 12 June, 2003 was 3696 including 315 women prisoners. Although it shows an overcrowding 69.6 %, the Barracks and Cells constructed way-back in the 19<sup>th</sup> Century offer substantial cushion to accommodate the surplus number. However, the State Government is required to create additional accommodation to provide a reasonable living space to inmates whose average number fluctuates around 3500. Congestion is found to be more pronounced in the Women Jail where 250 to 300 prisoners are lodged against the built-in capacity of 126.

Undertrial prisoners – 1190 male and 79 female – constitute only 33.3% of the total prison population. Overall proportion of undertrial prisoners in Maharashtra is 70% of the total prison

population. Yervada Central Prison is holding 2416 convict prisoners – 2183 male and 233 female. There are 15 prisoners under death sentence and 1311 undergoing life imprisonment.

### Sanitation

Availability of 535 toilets gives a toilet to prisoner ratio of 1:16 which is nowhere near the acceptable standard of 1:10. The All India Committee on Jail Reforms has recommended a scale of one toilet for 6 persons. In the women jail this ratio is found to be 1:13 which is hardly better. 43 bathing platforms have been provided in the male prison. The provision of just nine bathrooms in the women jail having an average population of over 300 is not a satisfactory arrangement.

The supply of water for drinking, bathing and washing purposes is found to be satisfactory. No complaint was received from any inmate on this count.

### Kitchen

The kitchen complex bears a neat and hygienic look. All cooking is done on diesel. Switch-over to Gas cooking is planned to be effected within six months. An automatic flour kneading machine made in the prison factory is being used. It kneads 35 kgs of wheat flour at a time. These machines have been supplied to a number of States for use in jails.

The scale of ration is found to be satisfactory and no complaints were received about the quantity and quality of food from any inmate. The Maharashtra Prison Manual provides for 5 scales of diet: Scale 1 & 2 for Class II Prisoners, scale 3 for Class I prisoners, scale 4 for hospital diet and scale 5 for Open Prison. Class I categorization can be accorded by the courts only on the basis of social and educational background and habit of superior mode of living. The Superintendent informed that presently no prisoner is categorized as Class I prisoner.

### **Staff**

44 posts are lying vacant in a total sanctioned strength of 502. The authorised staff sanctioned long back is far less than the actual requirement. It is, therefore, necessary that at least the vacancies of Dy. Superintendent (1) and Guards (9) are filled up immediately.

### **Prison Hospital**

Yervada Central Prison has a well equipped hospital which has a separate TB ward (capacity: 15), leprosy ward (10), Geriatric ward, (30) Psychiatric ward (15) and infectious diseases ward (15). A total of 63 beds available in General Wards. Average daily OPD attendance is 425 which includes 50 of the women jail and 25 of the Open Jail.

The Hospital is holding full sanctioned strength of one Chief Medical Officer and 3 Medical Officers. One Psychiatrist is also attached to the hospital. Paramedical staff consists of 3 compounders

and 6 Nursing orderlies. The post of Lab. Technician is lying vacant. Considering the average population of Women Jail (over 250), the hospital needs one lady Medical Officer also.

11 prisoners are undergoing treatment for TB. Some of them have also been diagnosed as HIV positive. Incidence of death due to TB aggravated by HIV is found to be very high in this prison. 20 out of a total of 38 prisoners who died in this prison during the period 1.1.2002 to 12.6.2003 were suffering from TB with some of them also diagnosed as HIV positive. The Special Rapporteur met one patient in the TB ward who is afflicted with HIV and another having acute asthma complications. They expressed unhappiness with their treatment and the one with HIV affliction complained that he is not receiving proper attention. He referred to the death of one Madhukar Dinkar Khartode, aged 20, a week back under very pathetic circumstances in that very ward.

Geriatric ward is holding 24 patients. Keshav Dhandu More is over 80 years of age. He has completed 12 years and 9 months of his life imprisonment. He has undergone surgery for cancer sometime back and is again complaining of pain in the afflicted organ. The Special Rapporteur considers it to be a fit case for pre-mature release on medical grounds.

The hospital has identified 12 cases for immediate surgical intervention – 2 each of hernia, hydrocele, osteomyelitis and cataract and one each of varicose vein, hip replacement (bilateral), prolapsed

rectum and fistulla Abd. The Medical Officers expressed before the Chairperson their difficulties in sending patients for referrals and specialist treatment due to poor availability of police escort. Availability of police escort for taking patients to outside hospitals was just 3% in the ear 2001. It increased to 24% in 2002. For the first 5 months of 2003 (January to May). it is found to be 22.18 %. Shri Madhukar Kokate, DM, Pune was asked to arrange surgery/specialist treatment of these prisoners. He assured that cataract cases can be taken up by organising an eye-camp in the jail itself.

The Psychiatric Branch of the hospital is also meant for patients belonging to Central Prisons, Nasik Road, Kolhapur and Aurangabad and District Prisons, Satara Ahmadanagar and Visapur. 140 to 150 prisoners are attending psychiatry OPD. 7 prisoners were admitted to Yervada Regional Mental Hospital in 2001 and 23 in 2002. 4 cases have been referred to the Government for seeking permission for admission to the Mental Hospital this year. Shifting mentally ill patients to the Govt. Mental Hospital requires permission from the Govt., which causes delay in treatment with serous consequences. 3 prisoners suffering from mental illness had committed suicide in 2001 and one in 2002. The Chairperson felt that the powers to order admission of prisoners to the Mental Hospital could justifiably be delegated to the I.G. (Prisons), Maharashtra whose HQs are located at Pune itself.

The Jail hospital should develop the routine testing facilities by filling up vacancy of Lab. Technician.

### Death in Jail

A statement submitted by the Supdt. Prison, shows that 38 prisoners had died in this jail during the period 1.1.02 to 12.6.03. As per the records of the Custodial Death Cell of NHRC, this number is found to be 27. Death of one Om Prakash s/o Ayodhya Prasad on 24.11.02 (File No. 1536/13/02-03-CD) relates to the Central Prison Nasik Road. As such the Commission has received intimation about 26 cases of death in Yervada Central Prison during the above period. The Commission has not received intimation about the death of the following persons:

1. C/Paramjit Rambir Singh Mathadu: died of renal failure on 4.1.02.
2. UT/49 Anil Ranganath Asthaputru: died due to TB & HIV positive on 25.1.02.
3. C/Vishnu Yashwant Sakhalkar: died of TB on 29.3.02.
4. UT/ Nitin Shankar Umberkar: died of TB on 3.5.02.
5. C/Balpir Dastgir Sheikh: died of coronary artery disease on 6.6.02.
6. C/Pratap Kumar Babu Lalji Soni: died on 1.7.02 - opinion about cause of death reserved.
7. C/ Nizam Usman Khan: died of TB on 13.7.02.

8. UT/ Biadya Anjaya Kale: died on 6.9.02 – cause not mentioned in the statement submitted by the Supdt.
9. C/ Sidhram Nakul Tambe: died of TB c HIV positive on 19.10.02.
10. C/Parsuram Bhanu Panwar: died on 21.2.03 – cause not mentioned.
11. C/ Anil Kesarimal Jain: died on 12.3.03 of TB c HIV positive.
12. C/Madhukar Dinkar Khartode died of IHD c Portal HT c TB on 6.6.03.

Shri Bendre, Prison Superintendent was instructed to furnish full particulars of the Fax messages/letters vide which intimation was sent to the Commission in these cases. As this is the responsibility of the DM Pune, he should arrange to send detailed reports including Post-Mortem examination and Magisterial inquiry reports of all these cases.

### **Prison Industries**

Yervada Central Prison has a well established and efficiently managed factory unit where prisoners are being imparted training and provided gainful work in as many as 15 vocations including handloom, powerloom, tailoring, blacksmithy, carpentry, leather work and motor repairing. The Prison is also providing manpower to the Government Printing Press situated just outside the jail premises. The Chairperson visited tailoring, carpentry and leather sections and



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interacted with the workers. He was happy to find that most of the prisoners engaged in work have acquired the skill after admission to jail. As per the assessment of the Supervisors, more than 50% of the workers are competent enough to work independently in their respective trades. On the day of the visit 736 prisoners were reported as actually engaged in 12 sections. Besides, 93 persons were shown employed on kitchen duties and 110 on campus maintenance duties. Thus 939 prisoners out of total of 2183 convict prisoners are being provided work. It comes to 43% of the total convict population.

Wages have been fixed in accordance with the Supreme Court's directions given in the State of Gujarat vs. High Court of Gujarat (AIR 1998 SC 3164). These are: Rs. 25.50 per day for skilled, Rs. 17.50 for semi-skilled and Rs. 12.50 for unskilled workers. Payments are being made regularly. The Supdt. Prison confirmed that a prisoner on being released is paid full amount of wages due to him. Average monthly earning is found to be ranging from Rs. 200 to 600 depending upon the trade. Annual production figures show a steady rise during the period 1992 to 1996 with a marked decline noticed from 1997 to 2001. Production seems to be picking up in the current year. Effort should be made to run all these units to their full installed capacity so that every able bodied convict is engaged in some gainful work.

The ruling of the Apex Court that a part of prisoners' earnings can be provided as compensation to the victim or his family has not been given effect so far. In some States such as Tamilnadu, MP and

Bihar, Prisons Rules have been amended to provide for this progressive measure.

### **Undertrial Prisoners**

The statement of undertrial prisoners was scrutinised. The number of those under detection for over one year is found to be around 16 % of the total number of undertrials. The Special Rapporteur came across a number of undertrials involved in property offences such as theft, robbery, who are unable to secure release on bail because of their inability to raise sureties. Some of them (aged 18-21) were seen in the juvenile ward also.

Availability of police escort for production of undertrial prisoners is found to be very poor. It was 41 % in the year 2001. It increased to 47% in 2002 and remains at the same level in the current year.

### **Lok Adalats**

A notable feature of this prison is the regularity with which Lok Adalats to settle petty and compoundable cases have been held in the Court premises since 1.7.2000. 35 sittings have taken place till the end of May 2003 and a total of 1534 cases have been decided. This received appreciation from the Chairperson.

**Convicts**

The Chairperson met a number of convicts in the factory section. The Special Rapporteur also met a few in the convicts barracks and took a stock of their living conditions and related problems. Following complaints were received from the convicts:

- i) **Delay in disposal of appeal filed in the High Court against the sentence of life imprisonment:** A number of appeals filed through the Prison authorities are pending for over three years. The disposal of appeals filed by the prisoners from outside is still slower.
  
- ii) **Parole and Furlough:** Convicts are sanctioned parole and furlough in accordance with the provisions of the Maharashtra Prison Manual after obtaining recommendations from the District authorities. A statement furnished by the Prison Superintendent shows that parole was granted to 109 convicts in 2001, 172 in 2002 and 74 in 2003 (upto 31 May). 301 prisoners were released on Furlough in 2001, 300 in 2002 and 103 in 2003 (till 31 May). However, the Special Rapporteur's assessment made in the factory section and convict barracks revealed that a sizeable number of convicts who have completed 5 years of imprisonment have not availed of any parole or furlough. It is, therefore, considered necessary to carry out a sample check of the rejected cases to find out whether parole and furlough are being

recommended by the District authorities on merit or these facilities can be purchased, as was alleged by some of the convicts.

### Pre-mature Release

Pre-mature release of lifers is being governed in accordance with the guidelines issued by the Govt. of Maharashtra in 1992 following the insertion of Sec. 433A Cr.PC. The cases of "Lifers" for review under the 14 years rule (FYR) are submitted by the Prison Superintendent on completion of 12 years of actual imprisonment. "Lifers" have been placed in five categories in accordance with their crime and the brutality involved in its commission. The minimum period required to be undergone including remission and subject to a minimum of 14 years of actual imprisonment has been fixed as 22 years. It is increased in its steps to 24 years, 26 years, 28 years and 30 years for categories 2 to 4. In the first category fall the convicts who have no previous criminal history and the murder was committed in individual capacity in a moment of anger and without pre-meditation. In the last category falls the cases of prisoners sentenced to life imprisonment for offences against the State, offences against the public justice, offences in respect of coinage, stamps. Prisoners in whose cases death sentence has been commuted to life imprisonment also belong to this category.

Norms laid down by the Maharashtra Government for pre-mature release of "Lifers" appear to be much harsher than what is

being followed in other States. In most other States, "Lifers" become eligible for pre-mature release after undergoing imprisonment of 20 years with remission subject to a minimum of 14 years of actual imprisonment. Since the total remission cannot be more than 1/3<sup>rd</sup> of the sentence except in the case of open prison where the prisoners are granted 30 days remission in every calendar month, most of the "Lifers" in Maharashtra are actually released only after undergoing actual imprisonment of 16 years or more. A statement submitted by the Prison Superintendent shows that 26 cases were forwarded to the Govt. under FYR rule in 2001. 25 of them have been cleared for being released as per their categorization. 2 of them were released on completion of 22 years including remissions and 14 on completion of 24 years imprisonment. 9 prisoners out of this lot are not yet eligible for release. In one case, the orders are still awaited. In the ear 2002, 42 cases were submitted to the Govt, only 6 have been cleared so far. The case of convict 10436 Devla Kakade Shinde makes an interesting reading. Vide order dated 18.1.2003 he was cleared for release after completing 24 years of imprisonment including all remissions. Subsequently, vide another order dated 23.1.2003, he was cleared for release on the basis of 14 years actual imprisonment regardless of the length of remissions earned by him. Another prisoner was released on completion of 26 years including all remissions. 4 prisoners are still not eligible as per their categorization. In the year 2003, 16 cases have been sent. Only one case has been received with orders for being release after completing the period as per his categorization. Orders are awaited in the remaining 15 cases.

**Women Jail:**

A Woman Jail operating from a separate building opposite the main Prison functions under the general directions and supervision of the Superintendent, Central Prison. Jailor Pallavi Kadam conducted the Chairperson to the Convicts Section, UTP section and the creche running by an NGO SAATHI for the prisoners' children.

Women Jail has a sanctioned capacity of 126 prisoners. It was found holding 315 - 233 convicts, 79 undertrial prisoners and 3 detenues on the date of the visit. The Prison is also holding 32 children including 4 who have crossed the age of 4 years, the maximum age upto which children can be allowed to stay with their mothers in the jail as per the provisions of the Maharashtra Prison Manual. This calls for some explaining.

Vocational training facilities for women prisoners are inadequate and do not seem to have been planned seriously as it has been observed in the male section. 70 women prisoners are shown engaged in tailoring, button work and making of stationery items. The DIG Prisons (HQ) informed that vocational training facilities for women prisoners are being upgraded.

One NGO SAATHI is running a Creche for 22 children by employing 2 teachers. They are also conducting adult literacy class for 15 women prisoners.

The Prison Manual does not provide for a separate diet scale for children allowed to be kept with their mothers in jail. However, the children are getting special diet of milk and bread.

The Chairperson advised the incharge about getting a nutritionalist to assess the food needs of the children and act accordingly. I.G. (Prisons) was requested to move the case for consideration of Government.

The women jail is holding 12 foreigners including 9 involved in NDPS cases. 4 of them complained about delay in disposal of their appeals pending in the High Court. A total of 32 appeals are pending for over 3 years. Mrs. Lily, a Swiss lady, aged 60, requested the Chairperson for transfer to Nasik Jail alongwith her husband who is lodged in Kolhapur jail. The couple was convicted in a case of child pornography. DIG (Prisons), Maharashtra suggested that her husband could be transferred to Yervada Central Prison, Pune and they can avail of the facility of monthly interview. She was advised to apply accordingly.

Convict Suman Yadav Gaisaminder submitted that she has completed actual imprisonment of 15 years and 3 months. The Superintendent (Prisons) informed that her case has already been cleared by the Government but she will be released on 1.5.2005 as per her categorisation. Another Lifer Kunde Prabhakar Chouhan has completed actual imprisonment of 14 years, 6 months and 3 days. Orders for her release has also been received from the Govt. She will be released on 17 November 2004 as per her categorization.

8 undertrial prisoners have been in women jail for more than one year. One Prema Bongar Sawmi was admitted on 29.8.98 in a case under NDPS Act. She complained that she has not been produced in the court even once. Another UTP Syeda Amin Sheikh has been in judicial custody since 15.12.2001. She complained that she has not been produced before the court even once although her case has been committed to the Session Court. A similar complaint was made by UTP Krishnamma Nagappa Pujari. UTP Preeti Joginder Walia has been in this jail since 27.10.2002 after her arrest on 22.10.2002 in a case u/s 420 IPC r/w 34 IPC. The case relates to some business scandal in which her father and brother are arrested. She submitted that she was granted bail ¼ months back but could not raise sureties. The case can be brought to the notice of the D.J. for consideration of release on personal bond.

### **Board of Visitors**

Although the Board of Visitors has been constituted as per the provisions of the Prison Manual, it is not holding the mandatory quarterly meeting regularly. Only 2 meetings were held in 2001 and 3 in 2002. However, this year 2 meetings have already been held till 12 June. The District and Session Judge, Pune had visited the prison twice in 2001, once in 2002 and twice in the current year till 12 June. These visits are in connection with the quarterly meetings of the Board of Visitors and not independent visits meant for reviewing the cases of UTPs and hearing the grievances of the prisoners. Non-



official visitors have, however, made 14 visits in 2001. 28 in 2002 and 15 in the current year (till 12 June 2003).

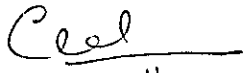
### Open Jail

192 lifers are held in the Open jail which has a capacity of 150. Prisoners are engaged in agricultural work and cloth manufacturing. 63 power-looms are in operation. A 'Sammelan' of convicts was arranged in the workshed where the following grievances were submitted to the Chairperson:

1. **Delay in grant of parole even in cases where parole is sought to attend funeral of a family member:** The Supdt. informed that permission in such cases is granted by him within his delegated powers. He assured that every such request would be cleared within half an hour of receipt. He stated that he could not help in some cases where the intimation of death was received late by the prisoner concerned.
2. **Harshness of policy of pre-mature release of lifers:** Convict Sharnappa Channappa Kore submitted that he has actually completed 16 and half years of imprisonment including 8 years in Open jail but is still awaiting orders for his premature release. Similar complaint was made by Bal Bahadur Charan Thapa who has completed 16 years of actual imprisonment including 6 years in Open Jail.

**General**

Yervada Prison is an efficiently administered and ably managed prison. Living conditions of inmates are satisfactory, although sanitary facilities need upgradation. Reform and rehabilitatory aspects are receiving good attention. The campus is being maintained with interest and care and the overall atmosphere is lively and cheerful.

  
(Chaman Lal) 1/7/03  
Special Rapporteur  
1.7.2003