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Report on the visit of Shri R.S. Kalha, Member and Shri Chaman Lal, Special Rapporteur, NHRC to the Presidency Correctional Home and Howrah District Correctional Home on 17-18 November, 2003

Shri R.S. Kalha, Member and Shri Chaman Lal, Special Rapporteur NHRC visited the Presidency Correctional Home Kolkata and Howrah District Correctional Home on 17 November, 2003 to study the living conditions and assess the human rights situation of the inmates.

Shri Jaydeb Chankrabarty, IG, Correctional Services, West Bengal and Shri Anoop Tripathy, DIG(Prisons) South remained present during the visit to the Homes. Shri S. Kishore D.M. Howrah joined at the Howrah Distt. Correctional Home.

PRESIDENCY CORRECTIONAL HOME

Shri S.R. Hassan, Supdt. made a detailed presentation on the jail infrastructure and its functioning. This was followed by the team's visit to various sections of the Prison including hospital, kitchen and work sites. The team also paid homage at the historical site of incarceration of Netaji Subhas Chandra Bose during the days of struggle for freedom.

PRISON PROFILE

Presidency Jail, the oldest jail in West Bengal was established in 1887. It was renamed Presidency Correctional Home after the West Bengal Services Act 1992 came into force on 13 June 1997. It covers the Commissionerate of Kolkata and also accommodates the convicts of Howrah & Hoogly Districts, as well as the female prisoners of District 24

Parganas (South) and 24 Parganas (North). It is spread over an area of approximately 20 acres which includes a built-up area of 12 acres.

The Jail has 27 wards – 20 for male and 7 for female prisoners. Three wards in the male section and one in the female section are functioning as hospital wards. The Cell Block in the male section has 44 Cells where high security prisoners such as the accused of the Terrorist Act on American Centre are detained. Separate wards have been provided in the male and female sections for mentally ill prisoners kept under observation. The segregation of UTPs from convicts, juveniles from adults, first offenders from recidivist and long term UTPs has been done with proper planning and care.

POPULATION

The registered capacity of the Presidency Correctional Home is 2386 – 2140 male and 246 female. The actual population on the day of the visit i.e. 17 November 2003 was 2156 – 1966 male and 190 female prisoners. The Supdt. informed that average population of the Correctional Home fluctuates around 2200. Overcrowding is thus not a problem. Besides the above 63 children and 65 Released Prisoners- 63 Bangladeshis and 2 Pakistanis awaiting repatriation are also being held in this Correctional Home. Under-trial prisoners numbering 1532 constitute 71% of the total prison population. The figure for West Bengal as a whole is 86% as of 31 December 2002.

SANITATION

Availability of a total of 164 toilets gives a toilet to prisoner ratio of 1:14.5 for the registered capacity of 2386 and 1:13 for the average capacity

of 2200. It is proposed to add 4 additional toilet blocks of 10 toilets each which will reduce this ratio to 11.6 and 10.78 respectively. The number of toilets needs to be increased further to bring this ratio down to 1:8.

Regular Bathrooms have not been provided in the male section. However, the inmates expressed satisfaction with the arrangements of bathing platforms provided in the open.

65 Taps have been provided for regular supply of drinking water drawn from 2 deep tubewells, 15 OHTs with a total capacity of 22700 Lt. are ensuring a satisfactory supply of water for drinking, bathing and washing purposes. No one complained about supply or quality of water.

Open sewers and uncovered gutters are found to be a common sight in this Correctional Home. Although, efforts are being made to develop lawns and create flower beds, the general standard of sanitation leaves much to be desired. Such a poor standard of sanitation at an important Correctional Home at the State capital does not speak well of the prisons management in West Bengal.

FOOD

The scale of food has been prescribed on calorie calculations for labouring (3648 calories) and non-labouring (2721) prisoners. Nursing mothers are entitled to the labouring scale. Fish and Meat are provided once a week for general prisoners. Meat is given thrice a week and Fish 4 times a week as part of medical diet. Separate scales of age-appropriate, nutritious food have been prescribed for children in Group A (one month to 1 ½ years) and Group B (1 ½ years to 6 years). Diesel is used as fuel for

cooking purposes. A special diet is supplied on special occasions and festivals which are Bengali New Years Day (14/15 April), second day of Durga Puja and Idul-Fitr. Surprisingly, the National festivals (26 January, 15 August and 2nd October) are not treated special occasions for this purpose.

HOSPITAL

Round the clock medical facilities are available in the Home separately for male and female prisoners.

A total of 142 beds have been provided – 120 in male and 22 in female sections. Separate Wards have been set up for the mentally ill prisoners, one each in male & female Hospitals. The average daily OPD is 150 and the bed occupancy is 80%.

The Hospital has been provided full medical staff as per its authorisation of 5 male and one female Medical Officers. The Lady Medical Officer is a Gynecologist and looks after the hospital in the Women Section. Arrangements have been made for the periodical visits of the Specialists in the field of medicine, Orthopedic, ENT, Skin, Dental, Eye and Psychiatry. One female convict Sunita Bhattacharjee who was a Nurse in a Government hospital before her conviction is attached to the Women Hospital. She has ably assisted the Medical Officer in carrying out 19 safe deliveries in the Home. In the male section, 14 convicts have been trained to work as Para-medics.

24 patients are receiving treatment for TB after being properly segregated. A statement received from the M.O. Incharge shows that four

patients have been cured of TB in 2001, 6 in 2002 and 7 in 2003 (till 17.11.03). However, 8 patients undergoing treatment for TB were released without completing their treatment in 2001, 13 in 2002 and 4 in 2003. Considering the high incidence of TB and the poor economic status of most of the prisoners, something needs to be done to ensure that their release does not interrupt their treatment

The Medical Officer Incharge confirmed that no difficulties are experienced in arranging consultation or admissions in cases of referral to outside Hospitals. However, the availability of police escort for taking patients from the Presidency Correctional Home to outside hospital is not more than 40%.

11 prisoners are being treated for serious illnesses such as chronic asthma (5), Hypertension (3), Cardiac problem with diabetes (3). The IG (Prisons) informed that regular Medical Officers have been provided even at sub Jail levels in West Bengal which is commendable in view of the absence of adequate medical facilities even at District Jail levels in many States.

MENTAL PATIENTS

17 male and 7 female prisoners are kept under observation for mental illness and are receiving treatment under the supervision of the visiting Psychiatrist. The male patients are accommodated in a separate ward in a remote corner far removed from the Home Hospital. The NHRC team was shocked to find these unfortunate persons kept in twos in cages of 4'x6'x8' size inside a spacious ward which can decently accommodate all of them. The surrounding area was found dirty, lighting was poor and everything indicated utter neglect and disregard of the inherent dignity of these persons.

Most of them were found totally withdrawn and hardly 2 or 3 gave a coherent response to simple inquiries about their State. The IG (Prisons) South is requested to examine the progress of trial of the mentally ill UTs numbering 10 and ensure that the provisions of the Cr.P.C. (sections 328 to 339) are being followed. This is all the more necessary in the case of female UTPs who are under observation for mental illness.

DEATH IN JAIL

All the cases of death in this Home reported since 1.1.2001 were scrutinised. In the year 2001 (1st January to 31 December), 7 deaths had taken place. Intimation was sent to NHRC within stipulated time and six cases have been closed after examination of the detailed report. However, report is still awaited in the case of death of Akbar Ali Gazi on 9.5.2001 (case No. 130/25/2001/02-CD). In the year 2002, 4 prisoners and one child had died. Intimation regarding the death of a male baby of Mushima Khatoon on 25.12.02 sent to the Commission vide Radiogram dated 26.12.02 does not seem to have been received in the C.D. Cell of the Commission. Two cases have been closed after examination of relevant records. Reports are still awaited in the case of death of Gautam Burman on 28.1.02 and Laltu @ Pachhu Das on 25.9.02. In the year 2003, 7 deaths have taken place till 17.11.03. The NHRC has received intimation in respect of 6 only. The death of UTP Pradyut Chakraborty on 25.6.03 reported to have been sent to the Chairman NHRC vide Radiogram No. 344/AB dated 25.6.03 does not seem to have been received by the Commission. Reports are awaited in all these cases. DIG (Prisons) was requested to monitor the submission of these reports to the Commission.

STAFF

The staff position appears to be satisfactory. Although 35 posts of custodial staff, 6 of administrative staff and 4 of welfare staff are lying vacant, the available staff is adequate to cope with the current work load. However, the posts of Discipline Officer and Matron need to be filled.

WOMEN PRISONERS

Women prisoners are lodged in a separate enclosure fully segregated from the main Home. They are looked after by women staff at functional as well as supervisory level.

There is a separate 10 bedded hospital provided in the Women jail which can accommodate upto 15 indoor patients. One Lady Officer is available from 10 to 4 p.m. on all days except Sunday. One female convict who was a Nurse in a Government hospital before her conviction is nicely managing the hospital almost round the clock. There is a separate 10 Bedded ward for mentally ill women prisoners also. 7 Beds were seen occupied on the day of visit. 4 of these patients appeared totally unaware of their surrounding and did not respond to any question put to them by the Special Rapporteur. They appeared to be acute cases requiring proper treatment in a mental Hospital.

Facilities for vocational training of female inmates are available in five trades namely Cross stitch, Tailoring, Handicrafts, Computer Training; and Typing. 22 inmates are being imparted this training. In addition, 6 inmates are being trained in wool embroidery on jute panels by NGO VIVEK CHETNA, 4 in Paper bag making by KEERTIKA and 4 in Painting on Glass tumber by SCORPTIMIST International. They receive wages at

the rate of Rs. 13/- per day for unskilled, Rs. 15/- for semi-skilled & Rs. 18/- for skilled category. Prisoner Rekha Chatterjee informed the team that she gets Rs. 15/- per day for working from 10 AM to 4 PM and the work is available throughout the month.

A properly equipped Creche is available for small children. In addition, an Anganwari Centre under the I.C.D.S has been functioning at this Correctional Home since 30 March 1995. Anganwari staff comprising a worker and a helper have been provided by the Women & Child Development Deptt. The number of beneficiary children was 42 in 2001, 53 in 2002 and 30 in the current year. A Mid-day Meal (khichdi) is served to children and pregnant mothers every day. This is a commendable initiative of the Government of West Bengal which has not been seen in any other State by the Special Rapporteur.

CHILDREN

The Correctional Services Manual allows female prisoners to retain their children up to the age of 4 or with the approval of Supdt. Jail up to the age of 6 years. The NHRC team observed that out of a total of 59 children staying with their mothers, as many as 12 children are above 6 years of age. Najma Khatoon d/o Sayeed Bibi is 13 years, Roshanara d/o Salma Bibi is 12 years and Rahima Khatoon d/o Mumtaz Begum and Liza d/o Noor Nehar Bibi are 10 years old. Mothers of 50 children are foreign nationals awaiting repatriation to Bangladesh/Pakistan.

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JAIL INDUSTRY

Vocational training and gainful employment are being provided to convict prisoners in the following trades:

1. Typing
2. Phenyl manufacturing
3. Oil Mill Section
4. Candle-making
5. Umbrella manufacturing
6. Carpentry
7. Tailoring
8. Utencil manufacturing (Tin) and aluminium.
9. Radio/TV maintenance.

A total of 303 convicts and 15 UTPs are shown involved in these activities. Wages are being paid at the following rates fixed by a Wage Fixation Body in compliance with the directions of the Supreme Court in Criminal appeal No. 308 of 1986 State of Gujarat vs. Hon'ble High Court of Gujarat (1998 7SCC 392):

Unskilled	Rs. 13/-,
Semi-skilled	Rs. 15/-
Skilled	Rs. 18/-.

The visiting team took round of the Worksheds and interacted with a number of inmates. Wages are paid regularly and one can see a fairly good deal of transparency and openness in these transactions. Individual prisoners were found aware of the rates at which they are receiving wages and have full idea of their accumulated earnings. Inmates are paid 50% of wages and the balance is credited to their account and paid on their release. 145 male and 10 female wage earning prisoners have their individual Bank Accounts.

A vegetable garden has been developed on a piece of land measuring 4 acres. 47 prisoners are employed and are paid wages @ Rs. 13.60 per day for 3 months every year.

The jail work programme gives an approximately net profit of Rs. 3 lakh per annum.

UNDERTRIAL PRISONERS

A statement received from the Jail Supdt. shows that the number of UTPs was 1534 as of 1.11.03 with the following break-up:

Detention Period	Male	Female	Total
Up to 3 months	605	46	651
3 to 6 months	378	23	401
6 to 12 months	235	18	253
1 to 2 year	96	16	112
2 to 3 years	52	7	59
3 to 5 years	39	4	43
Above 5 years	13	2	15

The Special Rapporteur held a separate interaction with female UTPs who are languishing for more than 2 years and heard the following grievances:

1. Hafizan Bibi with two others has been an Undertrial prisoner since 1998 in an NDPS case and her case is pending for arguments for a long time.
2. Smt. Indu Singh was admitted on 2.8.99 in a case under an NDPS Act along with Malti Singh & Malti Devi. She complained that she gets 'long dates' of 2 or 2 ½ months duration.

3. Rashida Khatoon has been an Undertrial for more than 4 years in NDPS case. She stated that her case is making little progress.
4. Anju Sahu, Baran Devi and Urmila Sahu are facing trial in a case u/s 498A/306 IPC for over 3 years. They complained that their case is taken up irregularly and progress is slow.
5. Shabnam Saram and Tristoraj were admitted on 25.1.2000 as Undertrials in a case u/s 302/201/34 IPC. Their examination u/s 313 has been completed and the case is pending at the argument stage for over 3 months.

A separate meeting of Special Rapporteur with Male Undertrials who have completed more than 3 year^s was arranged. Their number was 64 and 13 of them have been in jail for more than 5 years. Following complaints were heard:

1. Bishnu Dev Yadav s/o Bhola Yadav was admitted on 3.8.97 in a case of murder. Only two witnesses out of a total of seven have been examined so far. Others are not turning up and his case is at a standstill for a long time.
2. Mahadev Kalsa s/o Sunder Kalsa was admitted under an NDPS case on 18.1.98 along with Sankar Mirdha. The case was challaned within 6 months but only 5 witnesses have been examined out of a total of 8 and long dates are given. The case is adjourned every now and then for the absence of either the public prosecutor or the defence pleader provided by the Government.
3. Raju Yadav s/o Duleshwar Yadav, Sanjoy Kumar Show and Baimeshwar Prasad were admitted on 10.8.98 in a case u/s 392

IPC. All the prosecution witnesses have been examined except the I.O. S.K. Hashmi who is not turning up for evidence.

4. Jhulan Show s/o Shabir Show and 3 others were admitted on 30.10.98 in a case u/s 302 IPC and 25/27 Arms Act in the court of 6th ADJ Alipore. Jhulan Show stated that 5 Judges have been transferred during this period. After the trial commenced and one witness was examined, the post of Addl. District Judge remained vacant for 2 ½ years. 8 witnesses remain to be examined. The prosecution is unable to produce them.
5. Noor Alam s/o Mohd. Suleman was admitted on 20.11.98 in a case u/s 21 of NDPS Act. Only 5 out of a total of 9 witnesses have been examined till now. The case is adjourned for 3-4 months every time.
6. Gopal Mali s/o Dhananjay Mali was admitted on 10.1.99 in a case u/s 21 of NDPS Act. The case is pending a long time for evidence of only one prosecution out of a total of 10.
7. Om Prakash Yadav, Kailash Yadav and two others were admitted on 19.7.99 in a case u/s 364/328/411/302/201 IPC. Only 11 witnesses out of a total of 33 have been examined so far. Dates are given at an interval of 3-4 months and the case has been at a standstill for the last 8-9 months.
8. Sheikh Iqbal Ali, his father Zakir Ali and one Tarkeswar Singh were admitted on 7.8.99 in a case u/s 21 of NDPS Act. Only 5 witnesses out of a total of 12 have been examined so far and adjournments of 8-10 months duration are given.

9. Budhadev Karmakar s/o Pran Krishna Karmakar was admitted on 1.10.99 in a case of murder. He said that his case has seen transfer of three Judges. Six witnesses remain to be examined. The defence pleader provided by the Government is not taking much interest in his case.

10. Rizwan Alam s/o Noor Alam was admitted along with 5 others on 15.1.2000 in a case u/s 395 IPC. 14 witnesses including the I.O. remain to be examined.

The Supdt. was instructed to place these cases before the monitoring committee headed by the Commissioner of Police, Kolkata.

CONVICTS

The Special Rapporteur met a number of convicts in Barracks/Cells and at the site of vocational activities. Many of them complained about (i) denial of parole, (ii) strictness in deciding cases of premature release of lifers and (iii) delay in decision on appeals filed in the High Court.

Mohd. Shakil, Hasad Alam and other accused involved in the case of Terrorists Act on the American Centre Kolkata complained that they are not allowed to come out of their block. Hasad Alam complained that the Court order about supply of food is also not being complied with. As their trial is proceeding very slowly, they requested that extra restrictions imposed on their freedom of movement should be lifted and they should be allowed freedom of movement within the jail campus like other prisoners.

PAORLE

Grant of parole to convicts is governed by section 62 of the West Bengal Correctional Services Act, 1992. Parole can be granted for a

maximum period of one month to a prisoner sentenced to imprisonment for a period of two years or more. The prisoner is required to execute a Bond for a sum not exceeding Rs. 1000/- with or without surety and on giving an undertaking of good behaviour during the period of his release on parole. A prisoner becomes eligible for release on parole after serving imprisonment of one year if he has been sentenced to imprisonment for a period of two years but not exceeding 5 years or he has served imprisonment for two years if he has been sentenced to imprisonment for a period of more than 5 years.

While Rule 62 says that no prior permission or approval of the police report shall be necessary before release on parole, in actual practice parole is being granted totally on Police recommendations. Only three paroles have been granted in the last three years. These are: Ishaque Khan on 16.11.2000, Hatem Ali Mandal on 3.10.02 and Kartick Biswas on 28.12.01. A statement received from the Jail Supdt. shows that 9 requests for release on parole were entertained since 1.1.2001 - 3 in 2001, 4 in 2002 and 2 in 2003 till 31.10.03. Not a single case out of these has been accepted. In the year 2001, 3 applications were processed, two were rejected and one is still pending for want of police report. A reminder has been sent to Commissioner of Police Kolkata on 30 July 2003. Two out of three cases sent in 2002 are still pending and third has been rejected by ADM, 24 Parganas. Two out of three of the current year have been rejected and one is still pending.

The following life convicts complained about repeated rejection of their petitions for grant of parole:

1. Kailash Gupta s/o Badri Prasad: He has completed 19 years in this jail without availing of parole even for a single time. He said his request for parole has been rejected twice.
2. Pratap Khatik: He has completed 16 years imprisonment without a single parole. His position for parole has been rejected twice.
3. Sheikh Jamal s/o Late Sheikh Sallaudin is undergoing life imprisonment since May 1994. He said his application for parole has been rejected 2/3 times.
4. Mukhtiar Ahmed undergoing life imprisonment since 1981, Bijoy Mukherjee and Sukumar Choudhry since 1991, and Panna Lal Jaiswal since 1992, all also complained about rejection of their petitions for parole.

PREMATURE RELEASE

Shri Anoop Tripathi, DIG (Prisons) South explained the procedure being followed in West Bengal for premature release of prisoners undergoing life imprisonment. The cases of those who are sentenced to life imprisonment for an offence for which death is one of the punishments provided by law, are forwarded to the IG (Prisons) within 7 days of completion of 14 years of actual imprisonment. IG (Prisons) refers these cases to the Judicial Department where decision is taken after obtaining recommendations of the DM and SP concerned.

Only 3 lifers of this Home have been released during the last three years - Jahangir Khan s/o Kayum Khan on 29.01.02 after over 20 years of actual imprisonment, Sukumar Singh @ Kachi s/o Bangashi Singh on 30.01.02 after nearly 22 years of actual incarceration & Halder Mondal s/o Maloder Mondal on 15.5.02 after 14 years.

A number of lifers are found languishing in jail even after completing well over 14 years of imprisonment. A statement obtained from the Supdt. shows that 16 life convicts have completed more than 15 years. The cases of the following who have completed more than 20 years of actual imprisonment deserve specific mention:

1. 5869/A Ramu @ Tanghani Mahato s/o Babani Mahato was awarded death sentence on 13.5.81 which was modified to life imprisonment on 22.4.85. His case for premature release has been turned down three times, last time on 24.1.03.
2. 3294/A Mukhtiar Ahmad s/o Sheikh Khuda Baksh sentenced to life imprisonment on 30.1.81. He has completed about 23 years of actual imprisonment including the UT period. His appeal for premature release has been rejected three times, the last time on 24.1.03.
3. 4059/A Kartik Biswas sentenced to life imprisonment on 14.3.83 has actually completed about 22 years. His premature release was considered and rejected four times.
4. 8101/A Sultan Khan Barka s/o Sheikh Mohd.Khan sentenced to life imprisonment has completed about 21 years. The case for premature release was rejected twice. It was sent again on 10.5.03.
5. 8085/A Ishaque Khan @ Kati s/o Late Ali Khan has completed actual imprisonment of about 21 years. His case for premature release was considered and rejected on 16.11.2000. Thereafter the case has not been taken up.
6. 6733/A Rajbir Balmiki @ Raju s/o Asha Balmiki was sentenced to life imprisonment on 5.10.83. He has completed about 21 years of

actual imprisonment including the UT period. His case for premature release has been rejected three times, the last time on 25.3.03.

7. 1292/A Rajendra Singh s/o Jagannath Singh was sentenced to life imprisonment on 21.11.83. He has actually completed 20 years. His case for premature release was rejected twice the last time on 10.4.03.

APPEALS

A number of convicts complained about inordinate delay in disposal of their appeals by the High Court. The following appeals preferred from jail are pending before the High Court for over 5 years:

1. Appeal of Shri Samir Das - pending since 1993
2. Appeal of Shri Ramesh Nayak - pending since 1994
3. Appeal of Shri Kailash Yadav & Babu Lal Yadav – pending since 1995
4. Appeal of Shri Banamal Sethi – pending since 1996
5. Appeal of Narayan Das – pending since 1997
6. Appeal of Shri Azimul Gani – pending since 1997
7. Appeal of Ansaj Ali – pending since 1998.
8. Appeal of Mohd Yasim –pending since 1998

INTERVIEW

Convict prisoners as well as Under-trials are entitled to a weekly interview with their family members and friends. Monday, Tuesday and

Friday have been fixed for Under-trials, Thursday, Saturday for convicts and Wednesday for female prisoners. The daily average interviews are

Male UT prisoners - 114
(Mon. Tue. Fri.)

Male convict prisoners - 62
(Thurs. & Sat.)

Female convicts & UTPs - 72
(Wed.)

While the interviewers of male prisoners have a choice to select one out of two (convicts) or 3 (Under-trials) days, those of the female prisoners are required to arrange their visit on a fixed day i.e. Wednesday in the week. Although no female prisoner complained against this arrangement, the discrimination needs to be removed by providing one more day for the interview with female prisoners. No Waiting Room has been provided for the visitors. A small shed accommodating 20 persons provided for this purpose can hardly offer protection against sun & rain. A new Waiting Room with capacity of 50 persons is under construction.

RELEASED PRISONERS

Presidency Correctional Home is holding 65 released prisoners, 63 Bangladeshi (48 male and 15 female) and 2 Pakistanis (1 male and 1 female) awaiting deportation to their countries. 12 of them had completed their sentence more than 3 months back. The following case is worth specific mention:

Mumtaz Begum was received in this jail along with her husband Mohd. Ali from Burhanpur about six months back. They were sentenced to S.I. for 3 months with a fine of Rs. 100 or S.I. 10 days in case of default

under the Foreigner Act by Judicial Magistrate (Ist Class) Murshidabad on 12.11.99. They were declared released on 21.3.2000 but are still held in jail along with their daughter Raheema Khatoon (10 years) and two teenaged sons. The Supdt. informed that their cases have been taken up with MHA and MEA and they were also provided Consular access at Jaipur on 1st September, 13, 15, 16 November, 2000 and 13/14 May 2002. Dr. P.K. Agrawal, Principal Secretary, Deptt. of Jails, Government of West Bengal apprised the team of the efforts being made by the Government of West Bengal for arranging repatriation of Bangladeshi prisoners. The number of such released prisoners of Bangladeshi origin was 582 on 31.5.03. As a result of the efforts of the Home Deptt., the figure came down to 141 in July, 03. Since West Bengal has common boundary with Bangladesh, it is bearing the brunt of illegal immigration from that country. Since the convicted infiltrators can not be deported immediately after completion of jail sentence, their overstayal in prisons can not be helped. What is therefore required is, to set up a suitable transit facility on the border where such persons could be kept pending their deportation. The West Bengal Govt. has proposed the construction of a Transfer Facilitation Centre operational on the Indo-Bangladesh Border where such persons could be lodged after they are released from the prison. Dr. Agrawal informed that the proposal is under consideration of the MHA. The construction of the Building for the centre is nearing completion.

JAIL ADALATS

The directions issued by the Chief Justice of India in November 99 through the Chief Justice, Kolkata High Court regarding the holding of Jail Adalats to take up the cases of these UTPs who are involved in petty offences and are keen to confess their guilt, are yet to be implemented. The

Principal Secretary, Deptt. of Jails, Government of West Bengal has written to the Registrar General, Kolkata High Court to this matter on 24 February 2003 and requested that appropriate instructions may be issued to the Chief Metropolitan Magistrates and the Chief Judicial Magistrates to hold regular courts once or twice a month in jails as desired by the Apex Court.

VISITORS

The West Bengal Correctional Services Act 1992 provides for constitution of a panel of visitors comprising official and non-official members for each Correctional Home. The panel shall include at least one woman member as non-official visitor. The visitors are made responsible for visiting the Correctional Home, examining the living conditions, treatment of prisoners, maintenance of records and hear the complaints. Although the Act came into force on 13 June 1997, action for constituting the Panel of Visitors is yet to be taken. IG (Prisons) informed that this is being done now. The term of the non-official visitors last appointed in January 94 for Presidency Jail under the provisions of the old Jail Manual had expired on 31.1.96. The system is virtually defunct for a long time. The need for reviving the non-official visiting team has also been pointed out by the Chairperson, West Bengal State Women Commission who visited the female section of the Home on 26 October 2003.

ADVISORY BOARD

The West Bengal Correctional Services Act 1992 provides for the constitution of an Advisory Board for Correctional Services having ex-official members and non-official members for "advising the Government on the matter concerning prevention control and treatment of delinquency and

crimes” and for better coordination between the Departments of Home (excluding Jail Branch) Home (Jails), Judicial, Social Welfare, Education and Health & Family Welfare which are involved in the treatment, reform and rehabilitation of prisoners. The Board is required to hold four meetings in a year and the members of the Board are authorised to visit any Correctional Home and talk to or interrogate any prisoner. The non-official members shall hold office for a term of 3 years. The Act provides also for the constitution of District Advisory Board for Correctional Services for each District with well defined functions and powers for bringing about improvement in custody treatment, reform and rehabilitation of prisoners. Although the Act came into effect on 13 July, 97, these mandatory actions are yet to be initiated.

VISITS OF CJM/CMM

The West Bengal Correctional Services Manual lay down that the CMM/CJM will visit the Correctional Home at least once a month. The records show that CJM, 24 Parganas Alipore had visited the jail four times in 2001 on 13 July, 24 August, 9 October and 13 December. In 2002 also, 4 visits were made on 3 January, 11 March, 1st July and 29 August. He has visited jail thrice in the current year on 7 March, 21 July and 1 September 2003. The District & Sessions Judge Alipore has visited the jail only once in 2003 during this period. The Chief Judge, City Session Kolkata has paid one visit in 2003. CMM Kolkata has paid no visit in 2001 or 2002 and only one visit on 13 August 2003.

NGOs

A number of NGOs are involved in promoting education, vocational training and Aids awareness among the prisoners. The Special Rapporteur

interacted with Dr. A.K. Nag of Vivekanand International Health Centre which is involved in creating Aids awareness and also helping in detection followed by clinical service of HIV positive cases. The organisation has covered 10,000 prisoners in 8 jails in 2002-03. The Special Rapporteur was briefed by Dr. Kirti Shah of Veyakti Vikas Kendra imparting Meditation and Yoga training to the male inmates through Art of living programme and Dr. Kishore Srivastava, Society for Education and Environmental Development (SEED) conducting Literacy Programme. Genuine efforts are being made to involve the civil society in the welfare reform and rehabilitation of the prisoners.

PRISONERS' PANCHAYAT

The Special Rapporteur held a separate meeting with the members of the Prisoners' Panchayat. The West Bengal Correctional Services Act 1992 provides that every Correctional Home shall have a Prisoners' Panchayat constituted with members from amongst the prisoners excluding political prisoners and detenues. Besides looking after basic needs of the prisoners such as food, sanitation and recreation etc., the Panchayats have proved useful in fostering cooperation between the staff and the inmates and inculcating a spirit of discipline and friendliness among the prisoners. The members of the Panchayat used this opportunity mainly to bring to the notice of the Commission the cases of life convicts who are languishing in the Home despite having earned eligibility for premature release.

HOWRAH DISTRICT CORRECTIONAL HOME

Shri R.S. Kalha, Member and Shri Chaman Lal, Special Rapporteur, NHRC visited the Howrah District Correctional Home on 18 November 2003. Shri Jaydeb Chakrabarty, IG Prisons, Shri Anoop Tripathy, DIG Prisons (South) and Shri S. Kishore, DM, Howrah were present. Shri Kamal Mukherjee, Superintendent briefed the visiting team about the infrastructure and functioning of the Correctional Home. This was followed by the team's visit to various sections of the Home.

Howrah District Correctional Home was set up in 1864 as a Sub Jail of District Hoogli at that time which had Howrah as one of its sub-divisions at that time. It was upgraded as District Jail in 1906. It was renamed as Howrah District Correctional Home after West Bengal Correctional Services Act, 1992 came into force on 13 June, 1997.

PRISON PROFILE

The Howrah District Correctional Home is located in a congested and crime infested area. It is surrounded by high-rise buildings from all sides posing security hazards.

The Home has 13 wards and 10 cells. 2 wards and 5 cells have been earmarked for female section, which has been properly segregated from the male section of the building. The Home serves the Howrah Sadar, Sessions, CMM and City Sessions courts.

PRISON POPULATION

The registered capacity of the Howrah District Correctional Home is 460 – 400 male and 60 female. The actual population on the day of the visit i.e. 18 November 2003 was found to be 602 – 591 male and 11 female. The average daily population is 610, which shows an overcrowding of 32.6 %, something significant in view of the fact that jails in West Bengal are not experiencing the problem of overcrowding. The total jail population in West Bengal as of 31 December 2002 was 94 % of the sanctioned capacity. It is obvious that the population unevenly distributed and overcrowding is experienced at some district jails and sub-jails.

Undertrials numbering 491 constitute 81.56 % of the prison population in this Home. While the All India figure of undertrials is 74.15 % of the total jail population of the country as of 31.12.02, UTPs constitute 85.96 % of jail population in West Bengal. West Bengal would thus find itself in the category of States/UTs like UP, Bihar, Manipur, Nagaland, Mizoram and Delhi where UTPs account for more than 80 % of population in jails.

Only 2 out of a total of 111 convicts belong to RI category. One of them is a lifer who has been kept here because of his skill for para-medical work. All the 11 female prisoners are undertrial prisoners. The Correctional Home is holding 3 foreign nationals (Bangladeshees) amongst the undertrial prisoners.

SANITATION AND HYGIENE

Internal toilets have been provided one in each cell and 2 per ward in the male section. 7 outside toilets have been provided for female and 20 for male prisoners. The toilet to prisoner ratio comes to 1:14 which indicates a need for additional toilets. Although the construction of one additional toilet in ward No.9 has been sanctioned, the work is yet to start. The Home needs a block of 20 additional toilets for the male prisoners in order to attain as an interim measure the minimum acceptable level of 1:10 as against 1:6 recommended by the All India Jail Reforms Committee.

One bathroom has been provided in each ward. 5 platforms are available in the open for bathing purposes. At least 5 more are required.

Supply of water arranged through own source of a deep tube-well and reservoir with capacity of 53000 litres with taps provided in each ward is found to be satisfactory. No complaints were received on this count.

KITCHEN

Food is cooked under hygienic conditions using diesel as fuel. An Aquaguard filter has also been installed at the dining place although it can hardly meet the requirements of inmates. Food is cooked by prisoners who receive regular wages.

Prisoners get special diet on special occasions, which are: Bengali New Year Day (14 or 15 April), 2nd Day of Durga Puja and Idul-Fitr. The National holidays – 26 January, 15 August and 2nd October do not qualify for this consideration. The team was informed that sometimes some NGOs

visit and distribute sweets among the prisoners on Independence Day and Republic Day.

STAFF

Although staff has been provided as per authorization and there are no vacancies, the available staff sanctioned more or less for a sub-jail needs augmentation. Considering the size of this Home and various problems of the inmates, it must have a Welfare Officer. The team was given to understand that most of the District Homes, including some much smaller than Howrah, are holding a Welfare Officer.

HOSPITAL

Howrah District Correctional Home has a hospital of its own equipped with 15 beds for male and 2 for female prisoners. It has been provided 2 doctors against an authorization of one. There is a qualified Pharmacist also. Lifer Shambu Yadav, a trained dresser is providing useful assistance and receiving wages at the rate of skilled category. A Medical Officer is available from 8 AM to 8 PM and on call during night hours.

Daily average of OPD is 60. Although TB seems to be a common disease, there are no arrangements for segregation of TB patients. Records show that 17 cases of TB were detected in this Home during the period July 2001 to December 2001, 19 in 2002 and 26 in 2003 (till 17 November). Realising the need for segregation, a separate ward for TB patients was created in July 2003 by renovation of ward No.12. Because of a sudden and unmanageable increase in jail population it was closed in September, 2003 and the TB patients numbering 5 were transferred to Presidency Correctional

Home. Thereafter the said ward, after sanitization, is being used as one of the general wards. The Medical Officer informed that TB patients are transferred to the Presidency Correctional Home. It was not difficult to sense that this has, in fact, resulted in a lack of seriousness towards detection of TB cases. It is proposed to get one of the old wards renovated for use as a TB ward. Considering the rate of incidence of TB this is considered essential.

DEATH IN JAIL

5 prisoners died in this Home during the period 1.1.2000 to 17.11.2003. It is significant that 2 out of a total of 5 deaths were due to TB which confirms the Team's feeling that TB is a common incidence among the prisoners. The statement submitted by the Supdt. tallies with the information collected from the CD Cell of the Commission and no discrepancies are found. Intimation of death was sent to the NHRC within the stipulated time in each case. 2 cases, namely, death of Ranjeet Adek on 3.9.2000 and death of Mohd. Safiullah on 29.11.2000 have been closed by the Commission after examining the detailed reports. Reports are still awaited from the Govt. of West Bengal in respect of the following cases of death in this Home:

1. Case No. 393/25/2001-02-CD - Sheikh Irshad died on 7.9.2001. It is a case of suspected poisoning where the report of the chemical examination is awaited.
2. Case No. 223/25/2003-04-CD - Surah s/o Gulab died on 17.6.03 due to TB.

3. Case No. 421/25/2003-03-CD – Gobinda Behra died on 24.9.03 due to cardio respiratory failure in a case of multiple self-inflicted injury.

The Jail Supdt. and the DIG Prison (South) were requested to expedite submission of detailed reports in these cases to the Commission.

WOMEN PRISONERS

Women prisoners are accommodated in a separate enclosure which has a capacity of 60. Only 11 women prisoners, all undertrials, were held on the day of visit and only 8 of them were present in the ward visited by the team. Others had gone for court appearance. The Member was shocked to observe that while the male prisoners are provided cemented berths, the women prisoners have to sleep on floor. Responding to his observation, the Special Secretary, Home (Jail) assured that beds would be provided to these women prisoners forthwith.

Women prisoners are being guarded by female Wardens. 7 wardens have been provided although the Home is sanctioned one permanent post. There is no female supervisory staff - which is a glaring deficiency in view of the recommendations of the Krishna Iyer Committee and the Parliamentary Committee on Women Empowerment. The Home should be authorized at least 1 Matron and the sanctioned strength of female warden should be increased from 1 to 10.

Considering the sanctioned capacity (60) and the average strength fluctuating around 20, at least a fortnightly visit of a lady Doctor to the Home is considered essential.

Women prisoners are being imparted training in Toy-making and Book binding through arrangements of the Community Polytechnic Cell of the Govt. of West Bengal. A total of 16 female prisoners have received this training since December 2002.

The women UTPs confirmed to the visiting team that their trials are in progress and they being regularly produced in court. However, Geeta Majhi, a disabled woman undertrial prisoner could not confirm that she has been provided a Govt. lawyer for her defence in an NDPS case. The Supdt. was asked to examine her file and arrange necessary help.

UNDERTRIAL PRISONERS

The Special Rapporteur spoke individually to all the 8 UTPs who have completed more than 2 years and following complaints were received:

- 1) Rabi Singh was admitted on 14.3.01 in an NDPS case. He stated that not even one out of a total of 5 witnesses in his case has been examined till now. As he belongs to Orissa, he cannot enjoy the facility of interview because of financial inability of his family to visit him.
- 2) Sheikh Salim alias Kalu was admitted on 14.11.01 in 2 cases – one of murder and the other under Explosive Act. Challans were filed within 3/4 months. He said that he has not yet been provided a Govt. pleader. The jail records show that he has made no formal request. The Jail Supdt. was asked to look into his case.
- 3) Gautam Das alias Goga was admitted on 12.10.01. The case was challaned 5 months back. He said that he has not been provided a Govt. lawyer.

- 4) Mohd. Lal Babu was admitted on 25.6.97 in a case of murder which had 11 accused persons. Six of them got bail. Since 2 of them jumped bail, the trial could not progress. A total of 28 witnesses are to be examined.
- 5) Topan Mandal was admitted on 23.6.97 in a case u/s 304 IPC. He bears a sickly look and is reported to be suffering from TB. He was not sure whether he has been provided a Govt. lawyer which he needs. However, records show that Shri Swapan Kumar Byarbarto, Advocate, Howrah court was appointed on 23.4.03.
- 6) Bapi Das was admitted on 6.1.2000 and is involved in 4 cases including one of murder. He was also not sure whether he has been provided Govt. lawyer. However, records show that State Defence Sri Sunil Basu Roy Choudhury, Advocate, Howrah was appointed on 1.9.03.

The team could clearly sense the dissatisfaction of the poor UTPs provided with State Defence. This was confirmed by the Superintendent who has been briefing and complaints to the notice of the D.L.S.A. It was not possible to hear UTPs of less than 2 years category but the team could sense that many of them had similar complaints to make. The Special Rapporteur requested the DM to take up a thorough review of the UTP situation of the Home in a meeting of the Monitoring Committee which could be called at the earliest by requesting the District Judge.

JAIL INDUSTRY

The Howrah District Correctional Home is not running any jail industry. However, vocational training is being imparted to convicts in

making of envelopes and file covers and in Book binding. Training is also being imparted in Toy-making through the arrangements of community polytechnic cell.

2 convicts and 38 UTPs female are engaged on miscellaneous jobs in kitchen, garden, library, hospital washing point, office etc. Except the convicts working in the Hospital who get Rs. 16 per day, all others are receiving wages @ Rs. 13 per day applicable to unskilled category. Considering the hazardous nature of the kitchen jobs, the inmates working in kitchen deserve better wages.

VISITORS

The District Advisory Board, as required vide Sec. 29 of the West Bengal Correctional Services Act 1992, has not been constituted so far although the Act has come into force from 13 June 1997. The panel of visitors for the Home had also become due for fresh nomination of non-official members w.e.f. 7.6.2001 when the term of the last incumbents expired. No orders have been issued in this regard. The Board of Visitors has, in fact, not been functioning after July, 2001.

JAIL ADALATS

No Jail Adalats have been held in this Home.

VISITS OF CJM AND DM

CJM Howrah has been regularly visiting the Home once a month. In 2002 he had visited the Home every month except in March. This year he has already made 9 visits till the date of NHRC Team's visit. Only February was missed. However, this does not seem to have eased the UTP situation in this Home.

The District Magistrate has not been visiting the Home as per the provisions of the Jail Manual. Shri S. Kishore, DM joined his post 4 months back and has visited the Home only once while escorting the State Women Commission.

NGOs


NGOs are being encouraged to come forward and work for the welfare of the prisoners. VEYAKTI VIKAS KENDRA conducts **ART OF LIVING** programmes and also teaches MEDITATION to inmates. The NGO has also offered its services to prisoners even after their release. VIVEKANANDA INTERNATIONAL HEALTH CENTRE has been helping in organizing Annual Sports for inmates. SOCIETY FOR EDUCATIOONAL & ENVIRONMENTAL DEVELOPMENT (SEED) has undertaken plantation programmes in the campus of the Correctional Home.

GENERAL

West Bengal is probably the only State which has enacted a new law in replacement of the Prison Act 1894. The West Bengal Correctional Services Act, 1992 is in tune with the new thinking on criminology and penology. It has renamed jails as Correctional Homes and defined their main function "to give correctional treatment to the prisoners in custody so as to efface from their mind to evil influence of anti-social ways of life and rehabilitate them in the society as good as useful citizen" and "adopt measures whereby a prisoner may not fall prey to the depriving mental attitude which may make him believe that he is lost to the society and it is his fate to pass the rest of his life as a social outcast". The Act has

accordingly declared the Rights of prisoners and liberalised provisions regarding communication, interviews, remission, parole and premature release. However, the team's visit to the Presidency Correctional Home offers sufficient material to conclude that this change in thinking has not yet been translated into prison practices. Matters like parole and premature release are still being governed with undue harshness which is not seen in many other States whose Jails have been visited by the Commission.

From its visit to a Central and a District Correctional Home in West Bengal, the team can conclude to a reasonably fair extent that basic needs of the prisoners such as accommodation, food and health care are being satisfactorily met by the Jail Administration. However, the standard of sanitation and hygiene leaves much to be desired. The plight of the mentally ill prisoners also presents an area of neglect and a lack of concern. While the overwhelming number of Undertrial prisoners and an extremely slow progress of their trials is the defining feature of jails on the negative side, increasing involvement of NGOs in the welfare of prisoners is a positive development which should be exploited to the full in implementation of the new Act.


(Chaman Lal) 12/11/02
Special Rapporteur