

Report on the visit of Shri Chaman Lal, Special Rapporteur to Jails in Kerala from 29 October to 2nd November 2004.

As directed by the Commission, I have visited Central Prison, Thiruvananthapuram, District Jail Kollam, Women's Prison Neyyattinakara, Open Prison Nettukaltheri and Sub Jail Pathanamthitta in Kerala from 29 October to 2nd November 2004 to study the living conditions and assess the human rights situation of inmates. As Shri M.G.A. Ramen, DG (Prisons) Kerala was on leave on medical grounds, I was briefed about the jail set up in Kerala by Mr. T.S. Raghupathy, DIG (Prison) HQ. I had another meeting with him after finishing my round of all the prisons in order to seek clarifications and additional information on some points. Shri Raghupathy accompanied me in my visit to the Central Prison, Women's Prison and Open Prison. Shri B. Pradeep, Vice Principal, State Institute of Correctional Administration (SICA) escorted me throughout my tour in Kerala.

CENTRAL PRISON, THIRUVANANTHAPURAM

Prison Profile

Shri V.P. John, Supdt. Central Prison explained the salient features of the prison. The prison established in the year 1886 is spread over an area of 107 acres including a built-up area of 9 acres. It has 14 blocks and 175 cells. The prison was planned and constructed to accommodate 1000 prisoners. The actual strength on the day of the visit i.e. 30 October was 1629 including 25 female prisoners which shows an overcrowding of 62.9%. The daily average strength of the previous month (September) was 1600 which

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can be taken as the normal strength of this prison. The extent of overcrowding in prisons in Kerala is 8.45% against the All India average of 35.76% as per the prison statistics on 31.12.03. Because of uneven distribution of jail population, overcrowding is very high in the Central Jail Thiruvananthapuram, District jails Kollam and Kozhikode, Special sub jails Kottayam, Palakkad and sub jails Kottarakara, Pathanamthitta, Devikulam, Muvattupuzha, Aluva, Manjeri, Tirur, Vythiri, Kannur and Kasargode.

Under-trial prisoners numbering 604 constitute 37% of total prison population which is below the State average of 65.5% as of 31 December 2003. It is worth mentioning that the proportion of under-trial prisoners in the total prison population in Kerala (65.5%) is below the national average of 70.70%.

Convicts numbering 995 excluding 25 on leave include 3 condemned prisoners and 570 lifers. The prison is holding 5 COFEPOSA detainees and 8 civil prisoners also.

Sanitation and Hygiene

A total of 144 toilets gives a toilet to prisoner ratio of nearly 1:11 for the average population of 1600. While the overall situation is satisfactory in the convict blocks, the actual number of toilets available in the Under-trial prisoner blocks is very small. Block No. 8 accommodating 91 UTPs has only 4 toilets. Block 11 holding 140 UTPs has only 6 toilets. Barracks constituting the blocks have been provided with attached toilets also which



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can also be used for bathing purposes. Cells have been provided with toilets for emergency use only.

Availability of 32 bath rooms gives a bath room to prisoner ratio of 1:50. Bathing facilities provided in the open are adequate and inmates expressed satisfaction.

The supply of water from the Municipal Corporation is dependable and adequate for drinking, bathing and washing purposes. Water is stored in two overhead tanks, one spacious underground tank and one ground level tank outside the jail. Inside the jail, 26 ground level water tanks have been provided besides 4 wells available for pumping the water for bathing purposes when municipal supply is interrupted. One water tank is exclusively available for laundry purposes.

Clothing and Bedding

Prisoners sleep on the ground and have been provided with gross mats and 'jamukalam' (ground-sheets). These items are found to be in short supply in the District/Sub Jails. Prisoners are receiving other items of clothes as per the prescribed scale and no complaints were received on this count. Although women prisoners are being provided sanitary napkins as per actual needs, the item has not been formally included in their entitlement.

Education, Recreation and Welfare

Sports and recreation facilities need improvement. There are no facilities for outdoor games. The jail is holding only two TV sets – one for the female and one for the male sections. This elementary facility should be

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available in each block. Welfare aspect does not seem to have received much attention.

Staff

The Superintendent is assisted by 2 Jailers, 2 Deputy Jailers, 6 Asstt. Jailers Gr. I and 8 Asstt. Jailers Gr. II. There are no vacancies in these ranks and the available strength of supervisory staff is considered adequate. While all the sanctioned posts of Chief Warder (1) Gate-keeper (1) and Head-warder (60) have been filled, only 87 warders are held against the sanctioned posts of 165. For the Women Section, 7 Female Warders have been provided as per sanction. As the prison population has increased immensely since the authorization of 165 Warders was made many years back, 78 vacancies in this rank indicate a major deficiency in the staffing pattern. While the number of warders actually required to maintain round the clock watch on prisoners would be much more than the authorized sanction of 165, the least that can and should be done is that the vacancies in the existing authorization are filled. The prison is authorized one Welfare Officer Gr.I and two Welfare Officer Gr.II. Both the posts of Welfare Officer Gr.II are lying vacant.

The Central prison is authorized one Medical Officer, one Pharmacist, one Lab. Tech. And two Nursing Asstt. Both the posts of Nursing Assistants are lying vacant since long.

Diet

It is heartening to note that a uniform scale of diet has been prescribed for all the prisoners and no differentiation is seen on the basis of their social

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and economic status and addiction to superior mode of life. The detenues are entitled to an extra supply of milk, tea and sugar. The daily scale of cereals (200 gm. of wheat and 450 gm. rice) is found sufficient as was confirmed by a number of prisoners questioned on this point. Fish is supplied on every Monday and Wednesday and Meat on every Saturday. Over 95% of prisoners are non-vegetarians. Per head daily expenditure on food is Rs. 30.

Special food with extra diet worth Rs. 8 per head is served on festive days numbering 9 in a year - Onam and Vishu (Hindu Festivals), Ramzan and Bakrid (Muslim Festivals), Easter and Christmas (Christian Festivals) and 26 January, 15 August and 2nd October (National Festivals). LPG is used as fuel for cooking purposes. The kitchen run with the help of inmates was found to be neat and clean. However, the delivery of food to various blocks can be improved by having trolleys instead of using the primitive method of carrying the huge containers on shoulders using bamboo poles.

89 prisoners are working in the kitchen, 12 have been categorized as skilled and 77 as unskilled receiving daily wages @ Rs. 18 and Rs. 13 respectively. The wage fixation ordered vide Home Department G.O (MS) No.77-2000/Home 3/4/2000 mentions two rates of wages - Rs. 18 for Class I and Rs. 13 for Class II for work in kitchen. The job of cooking is extremely strenuous in terms of duration, discomfort and hazard. In most States, prisoners working in the kitchen are paid at the higher available rate. DIG (Prions) HQ. was advised to get kitchen work categorised appropriately for enhancement of wages within the prescribed scale. I am sure the DG Prison will respond positively to this suggestion.

A number of prisoners requested for supply of items like upma, idly at breakfast which now consists of chapattis only. The DIG HQ. informed that

a Committee headed by the Additional Secretary (Home) was appointed by the Government for this purpose and its report is under consideration of the Government. Action on the recommendations of the Committee is expected to meet a long overdue grievance of the prisoners by revising the scale and variety of diet.

Jail Hospital

Dr. Manoj, Medical Officer explained the medical facilities available at the Jail hospital which has a spacious accommodation. The hospital is sanctioned one Medical Officer, one Pharmacist, one Lab. Tech. and two Nursing Assistants. The posts of Nursing Assistants are lying vacant for the last 10 years.

The hospital is not sufficiently equipped to carry out the initial medical examination for all the inmates on admission as per the guidelines issued by the NHRC. It was surprising to learn from the Medical Officer that he has not seen the proforma supplied by the NHRC for this purpose. Obviously, this serious matter is not receiving due attention.

The daily average of OPD attendance at the hospital is 75 – 70 male and 5 female. 40 Beds are available for indoor patients. The average weekly occupancy is 35. Average length of stay in the hospital is one week.

Supply of medicines through a centralized system as per the indent placed by the Medical Officer was reported to be satisfactory. Local purchase restricted to the maximum of Rs. 500 per day is also authorized. The ceiling has recently been raised to Rs. 1000 per day. The system of referral of emergency cases to the Medical College Hospital Thiruvananthapuram is working very well.

Five inmates are undergoing treatment for TB under DOTS. Three prisoners were provided full TB treatment last year. Three prisoners undergoing treatment for TB were released before completion of treatment. Although the Medical Officer stated that their details were provided to the District Medical Authorities concerned, this could not be taken at face value.

The incidence of mental illness among prisoners is rather high. As many as 78 prisoners are undergoing psychiatric treatment. These persons are kept in a separate barrack. They are being taken to the Psychiatry unit of the Medical College hospital every week. 20 prisoners had undergone treatment as indoor patients in the Mental Health Centre in the year 2004.

Three cases of terminal/serious illness have been identified. I saw all these persons. Convict 8390 Rajappan is 48 years old. He is undergoing treatment for lymphoma at the Regional Cancer Centre (RCC) Thiruvananthapuram. Convict 1700 Gangadharan is 83 years old. He is suffering from chronic asthma and prostate enlargement. Convict 8656 Sukumaran is 58 years old. He is undergoing treatment for coronary artery disease awaiting angioplasty. He has completed 6 ½ years. An estimated expenditure of Rs. 75,000 for his By-pass surgery is being arranged. 8 convicts and one UTP are cardiac patients. The cases of Rajappan suffering from lymphoma and Gangadharan are fit for consideration by the State Prison Review Committee which recommends cases for premature release u/s 161 of the Constitution.

Death in Jail

A statement submitted by the Medical Officer showed that 6 deaths had taken place in this prison in the calendar year 2001, 4 in 2002, 12 in 2003 and 14 in 2004 (up to 30 October 2004). The information was tallied

with the list obtained from the C.D Cell of the Commission. The following discrepancies were noticed:

- (i) As per the information collected from the C.D. Cell, the Commission has not received intimation regarding the death of C 3706 Radhakrishnan on 28.1.03, C 7801-Jose on 13.1.04 and UT 5783 Benny on 21.3.04.
- (ii) Prisoner A.K. Chandrasenan had died on 7.11.03 while undergoing treatment at NIMHANS Bangalore. The Commission was informed about his death but his name does not figure in the list compiled by the Medical Officer. This needs to be explained.
- (iii) The Commission has received the detailed reports in respect of all the death cases of 2001 and 2002 and closed those cases after consideration. Detailed reports are awaited in 11 out of a total of 12 cases of 2003 and all the 14 cases of 2004. D.I.G. HQs was requested to get these expedited.

Jail Industries

Central Prison Thiruvananthapuram is running a well established jail factory where convicts are provided vocational training and gainful employment in weaving-handloom and powerloom, tailoring, carpentry and blacksmithy. The sanctioned staff of the prison is one post each of Carpentry Foreman and Carpentry Instructor, Blacksmithy Instructor and Tailoring Instructor. In the weaving section, one Weaving Instructor and two Weavers have been provided. The prison is also running a printing press.

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I took a round of the factory area and interacted with the prisoners at work. The prisoners are paid wages as per the rates fixed by the Wage Fixation Body constituted under the orders of the Supreme Court. Wages are paid w.e.f. 3.4.2000 at the rate of Rs. 9, Rs. 13, Rs. 18 and Rs. 20 per day depending on the skill and proficiency of the worker or in terms of output in task based work such as tailoring. I was informed that a worker is treated as an unskilled worker for six months and paid Rs. 13 per day. Thereafter he is considered for upgradation as a skilled worker entitled to a daily wage of Rs. 18. It was observed that this promotion has been left entirely to the Instructor and is being affected rather arbitrarily. In the Carpentry section 20 prisoners are shown on the roster and 18 were actually seen at the time of visit. Two are shown as skilled and 18 unskilled workers. Four of them namely Convict 8747 Ponappan, Convict 7608 Rajesh, Convict 8745 Harikuttan and convict 3148 Balachandran were professional carpenters before entering the jail. Only one of them who has completed more than 6 years is getting Rs. 18 per day. Two have completed 14 months but are receiving Rs. 13 only. The fourth one is a recent entrant. In the Blacksmithy section, 5 prisoners are working and all were found present. The Instructor informed that the work order has recently been received and one prisoner Ganesh C 8415 Ganesh who will be completing 6 months, could be considered for payment as a skilled worker. In the Tailoring section, 11 inmates were actually seen, although 15 are shown posted to this unit. All of them are being paid the wage rate of unskilled category although one of them has completed two years. The payment in this section is on piece rate basis. On an average workers are engaged for 13 days a month and earn Rs. 200 per month only. 130 workers are shown in the weaving section and 113 were found present. The Instructor Mr. Benedict told that only two are

treated as skilled category and paid Rs. 18 per month. Although as many as 75 workers have completed 6 months, they are still being treated as unskilled workers. There is a definite need of streamlining the system and procedure of elevation of workers from unskilled to skilled category.

It was heartening to note that the prisoners working in the factory section were aware of the rates at which wages are being paid to them and also knew their accumulated earnings. It is remarkable that wages have been paid up to the previous month. The Supdt. was firm in asserting that as per the orders of the Government, the prisoners are paid wages regularly and their dues are cleared fully at the time of their release.

Convicts

I interacted with a number of convicts in the cells and at the work place. Following grievances were received.

A. Appeal

The following convicts complained about delay in the disposal of their appeals against the sentence of life imprisonment which the Supdt. informed normally taken 3 years:

1. Convict 5797 Suman – 4 years.
2. Convict 5936 P.K. Das – 5 years. He submitted that arguments in his appeal case in the High Court were over in August 2003 but the judgement has not been delivered.
3. Convict 7029 Radhakrishnan – 3 ½ years.
4. Convict 5212 Uttaman – 4 years.
5. Convict 3863 Mahendra Lal – 6 years.
6. Convict 7122 Ishwaran – 3 ½ years.
7. Convict 8555 Shashidhar Kurup – 3 yrs. 8 months.

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B. Parole (Leave)

The Parole provisions of Kerala Jail Rules are fairly liberal. Two kinds of parole are admissible to well-behaved prisoners sentenced to one year and above. Emergency leave granted in very exceptional circumstances such as death, serious illness or marriage in family can be sanctioned by the Supdt. up to 7 days and the IG (Prisons) up to 10 days at a time. Ordinary parole is granted by DG (prisons) up to a period of 30 days at a time. Parole is granted only on receipt of favourable recommendations from the local police. Another noteworthy feature of the system is that a prisoner has to execute a bond with two sureties of Rs. 10,000 each undertaking to return to the prison on the expiry of parole. This obviously limits the operation of the facility to the prisoners belonging to the well-off sections of society:

A statement received from the Supdt. showed that 123 prisoners were granted emergency parole in 2002, 88 in 2003 and 93 in 2004 (till 29 October). No case of emergency parole was rejected in 2002 or 2003 and only one in 2004. As regards the ordinary parole, 116 prisoners were granted parole in 2002, 122 in 2003 and 127 in 2004 (till 29 October). Six cases were rejected in 2002, 9 in 2003 and 3 in 2004. The Supdt. could not furnish information about the cases which are still pending with the DG (prisons) or with the District Police. A number of prisoners complained about the denial of parole to them. Following names are offered by way of illustration:

1. Convict 3148 Balachandran; has completed 6 years of his imprisonment.
2. Convict 7540 Manikuttan, 75 years old, has completed five years.
3. Convict 6122 Sridharan, 11 ½ years.
4. Convict 305 Jose Kutty - 8 years.

5. Convict 4295 Francis Xavier – 7 years.
6. Convict 8321 Anil Kumar – 6 years.
7. Convict 3344 Amir – 9 years.

C Set-off period

Convict 1170 Gopi was sentenced to life imprisonment in September 1997. He requested for the benefit of the set off period u/s 428 Cr.P.C. which has not been mentioned in the judgement. Similar complaint was made by convict 7838 Unni Pillai. Shri Unni Pillai has met with accident twice while working in the jail factory and has become severely handicapped due to injury to his neck. His is a fit case for consideration of premature release.

Convict 6931 Perumal s/o Alagar undergoing life imprisonment since 29.5.90 has also requested for the benefit of set off turn amounting to 437 days.

Convict 1637 Mohan Kani s/o Damodaran is undergoing life imprisonment since April 1991 without availing of parole even once. His case has been rejected three times on police report.

Convict 964 Ashokan s/o Sridharan Pillai is undergoing life imprisonment since August 97. His request for parole has been rejected 5 times by Allepy police.

Convict 3927 Anandan s/o Sankaran has completed 8 years of his life imprisonment without availing of a single parole. His request has been rejected 9 times by Kollam Police.

D. Ex-Army

Convict 7555 ex-Subedar Valiathan s/o Ramakrishna Pillai submitted that he was sentenced to life imprisonment on 12.8.03, 20 years after his retirement from active army service. His pension was stopped w.e.f.

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1.11.03. He attributes it to his failure to appear before the Bank and fill up life certificate. He has submitted four applications to the Defence Pension Disbursal Officer, Trivandrum but received no reply. Convict ex- Naib Subedar G. Bhaskaran Pillai s/o Govind Pillai's case is similar. He was drawing pension from the army before his conviction on 31.12.02. His pension has been stopped w.e.f. 1.1.03. He showed me the letter he has received from the office of Defence Pension Disbursal Officer dated 6.6.03 saying that " as per para 29 of PCDA(P) circular No. 91 dated 4.7.2002, the pension of a convict will be suspended from the date of his imprisonment till the competent authority issues orders to the contrary". His case has been referred to PCDA (P) Allahabad, the Pension Sanctioning Authority. In both these cases decision has to be taken by the Army authorities considering the nature of offences resulting in their imprisonment. The Supdt was requested to pursue the matter with them.

E. Premature Release

Premature release of prisoners is ordered on the recommendations of two separate Bodies. Kerala Prison Rules 1958 provide for the constitution of a Prison Advisory Board to recommend cases of premature release u/s 432 Cr.P.C. The cases of all lifers who have completed actual imprisonment of 14 years excluding remission are referred to the Board. Premature release is also ordered on the recommendations of the State Prison Review Committee which finalises recommendations for premature release under article 161 of the Constitution. The cases of lifers who have completed 8 years of actual sentence and 10 years with remission are considered by the Review Committee. The Review Committee has been freshly constituted vide Home Department G.O (MS) No. 130/2004-Home dated 31.3.04. The

Committee is headed by the retired Judge, Justice M.R. Hariharan Nair of the High Court and has 7 other Members including Secretary (Home), Law Secretary and Addl. Director General of Prisons. The Committee considers the cases of life convicts who have completed 8 years of actual imprisonment including set off period and excluding remission considering the nature of the crimes committed, possible effect on the community and the prisoners' conduct. Professional or hired murderers, persons involved in communal/cast murders, smuggling operations, murder of prison staff, prison visitors', public servants on duty, premeditated murder of women and children, NDPS cases are debarred from consideration. The Committee is required to meet quarterly.

Central Prison Thiruvananthapuram is holding 15 lifers who have completed 14 years without remission. One of them namely 5665 Anushad s/o Ibrahim has been an under-trial since 10.10.88. He was sentenced to death on 8.5.92 in Karnataka. The sentence was later commuted to life imprisonment. He submitted that his co-accused Shashidharan has since been released in Karnataka. Of the remaining 14, 11 have been found guilty of overstays on long paroles granted to them.

It was learnt that no premature releases have been ordered on the recommendations of the Advisory Board that is u/s 432 Cr.PC in respect of the Central Prison Thiruvananthapuram after 11.7.01. The Prison Review Committee has not met after March 2001 when as per records of the DG (Prisons) the last premature release order was issued. While most of the cases rejected by the last Review Committee pertain to lifers who have overstayed parole for long period, the following lifers deserve consideration of their cases by the Prison Advisory Board:

- Convict 526 Jaffer s/o Mustafa has been in jail since 12.4.88.
- Convict 1329 Josef alias Jozes s/o Scariah has been in prison since 10.9.89.
- Convict 5361 Pookunju has been in prison since 6.12.89.
- Convict 931 Perumal s/o Alagan has been in prison since 29.5.90 (he has been denied benefit of set off period of 437 days. He submitted that his co-accused Jaipal was released from Open jail about 5 years back.
- Convict 8324 P.V. Ashokan has been in jail since 22.10.89.

The Prison Advisory Board is required to hold separate meetings for the 3 Central Jails (Thiruvananthapuram, Kannur and Viyyur. Open prison Nethukaltheri and Women's prison Neyyattinkara to consider the cases of lifers. Complaints heard from some lifers indicated a lack of uniformity in the matter of release of lifers within the state. The guidelines issued by the NHRC on premature release of prisoners vide 233/10/97-98 dated 8.11.99 and 26.9.03 have not yet reached office of DG (Prison). The Commission may like to ask the Government for its response.

Under-trial Prisoners

The statement of Under-trial prisoners received from the Supdt. gave the following break-up in terms of period of detention:

Up to 3 months	- 245
3-6 months	- 233
6-12 months	- 62
1-2 years	- 13
2-3 years	- 4
3-5 years	- 1
above 5 years	- Nil -

I spoke to all the 18 UTPs individually who have been in prison for over one year. The following complaints were received:

1. UTP 115 Soman s/o Mosa was admitted to this jail on 24.2.02 in a Abkari case under Act which was committed to the sessions Court on 22/12/03. He said his case has not been heard even once during the last 10 months.
2. UTP 3287 Rajendran s/o Chellapan was admitted in a case under Abkari Act on 8.5.03. The case was committed to session on 5.7.03. He complained that he has not been produced before the Court even once since then.
3. Shivasudan s/o Shivankutty Nair was admitted in a robbery case on 7.5.02. He is involved in 3 cases. All the three have been committed to sessions (on 22.2.02, 16.4.03 and 7.1.04). He complained that he has not been produced before the Court after that even once.
4. UTP 4463 Robinsan s/o Dasan Nadar is in jail since 24.9.03 in a case under Abkari Act. He complained that charge sheet has not been filed in this case.
5. UTP 9390 Jaymni Pereira s/o S. Pereira is in this jail since 11.11.2001. He is a Sri Lankan national involved in a case u/s 379, 420 IPC and section 3 Passport Act. The charge sheet has not been filed in this case. He pleaded that he is not in a position to avail the benefit of the bail offered by the Court.

The Superintendent was advised to bring these cases to the notice of the District Legal Service Authority for being placed before the Courts concerned.

Female Section

Women prisoners are kept in a separate jail building adjacent to the main jail. The building has 18 cells which can accommodate 100 prisoners. This prison can keep women convicts sentenced to imprisonment up to 3 months only. Other female convicts are required to be transferred to the Women Prison Neyyattinkara. They are being guarded by one matron and 7 warders. On the day of the visit, the prison was holding 25 female prisoners and one child born recently. It was included 3 lifers and one convict sentenced to ten years, kept here for medical treatment. The convicts included 3 lifers.

The average number of female prisoners in this prison is around 30. Only 13 cells are being used at present while 4 bath rooms are being used to dump fuel wood, the inmates are made to take bath in the open. When they were asked whether they were happy with the arrangement, they clearly indicated their preference for the bathroom facility which was created for them but is not being provided because of insensitivity of the staff. In fact the matron wanted me to believe that the prisoners were not keen to use bathrooms.

The Supdt. stated that one month old child of convict Somaya is receiving milk as diet. However, the prisoner denied any supply of milk to her child. One more instance of lack of sensitivity was noticed. While two women prisoners are seen to be in advance stage of pregnancy, only one of them is being provided hospital diet. I was later informed by the Supdt that

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the consideration has been extended to the other lady also w.e.f. 1 November 2004.

Convict Achamma has completed 10 years and is being treated for cancer.

10 inmates are receiving vocational training in tailoring.

Although one TV was seen in the common room, the inmates informed that they are seldom allowed to use it. The treatment and care of the women prisoners leaves much to be desired.

Jail Adalats

Jail Adalats as directed by the Supreme Court of India for disposing of cases of petty offenders who are willing to confess their guilt are not being held in Kerala.

Board of Visitors

The Kerala Prison Rules 1958 provide for a Board of Visitors with District Collector as Chairman and having both official and non-official members. The Board is required to meet quarterly at the Jail. The Chairman is required to arrange the roster and ensure monthly visits to the jail by each visitor official and non-official in turn. The institution of Board of Visitors is seen to have gone defunct and needs to be revived. Under the Commission's directions, the S.G. has written to the Chief Secretary, Kerala on this subject vide his D.O. No. 4/1/2003-PRP&P dated 12.7.04. No reply has been received till date.

Visits by D.J.

The District and Sessions Judge, Thiruvananthapuram has been visiting the prison regularly. He had made two visits in 2002, 4 in 2003 and 5 in 2004 (till 29 October 2004).

Interview

Interview arrangements at the Central Prison Thiruvanthapuram are perhaps the best that I have seen anywhere so far. Convicts and UTPs have equal entitlement to a weekly interview. A maximum of 3 visitors are allowed for each prisoner. Interview timings are 10 to 5 p.m. and duration is allowed up to 30 minutes. Interviews are arranged in a newly constructed Hall with intervening space of not exceeding one foot.

Quarters for Staff

113 staff quarters are available including 15 for officers. Almost the entire staff of this prison is living in the prison campus. However, the quarters are old and need regular maintenance.

OPEN PRISON, NETTUKALTHERI

Accompanied by Shri T.S. Raghupathy, DIG Prisons HQs., I visited Open Prison, Nettukaltheri and its annexe Thevancod on 31 October, 2004. Shri Ajit Kumar. P, Superintendent briefed me about the history, organizational structure and working of this prison. Shri Alexander Samuel, Agriculture Officer explained the agricultural activities undertaken by the prisoners.

Open Prison, Nettukaltheri was established on August 20, 1962 with a capacity of 500 prisoners as an experiment in helping prisoners to acquire life of self-respect and dignity by providing them with agricultural work in

an open atmosphere. Prisoners sentenced to imprisonment of two years or more are eligible for admission to open prison. Selections are made from amongst the eligible prisoners by a committee headed by DIG (Prison) with Supdt. Open Jail and Supdt. and Medical Officer of the Central Jail concerned as members. Prisoners undergoing sentence for heinous crimes - rape, dacoity, cheating, kidnapping, forced labour or involved in disturbance of public order are debarred from admission to Open Prison.

Prison Profile

The prison is spread over in an area of 454 acres including cultivable land measuring 350 acres. It has 7 prison blocks, 2 office buildings, 4 kitchen buildings, one head warders' room and 12 other buildings. The buildings are being nicely maintained.

The prison is currently holding 234, all male prisoners. Except one convict C/2201 Abraham C. Kunju whose life imprisonment was reduced to 10 years on appeal, all are lifers. Daily average strength of the previous month was 165.

45 toilets give a toilet to prisoner ratio of 1:6 for the normal strength.

Supply of water for drinking, bathing and washing purposes is satisfactory.

Inmates were found happy with the quality and quantity of food served to them.

Staff

The post of Supdt. is lying vacant after the move of the last incumbent V.P. John to the Central Prison, Thiruvananthapuram on 13.10.04. The entire complex is now being looked after by the Deputy

Supdt. who is otherwise responsible exclusively for the annexe. The post of Welfare Officer is also lying vacant. The prison is authorized 6 head warders and 25 warders. 10 posts of warders are lying vacant. While the available staff is sufficient to meet the current commitments, the post of the Supdt. needs to be filled at the earliest.

Health Care

The prison has been provided with a qualified pharmacist. A doctor from the Govt. Hospital is supposed to visit the prison every week and is available on call for attending any emergency. The response time was reported to be within one hour. The doctor is supposed to visit the annexe, where around 100 inmates live, at least once a month. Inmates informed that the doctor has not been visiting the annexe. There has been only one visit some 3 months back.

The Pharmacist informed that on an average 2 cases of jaundice have been reported every month. Convicts 2015 Kurien, 2205 Satyam, 2094 Nanu, 2218 Jose, 2212 Ajit Kumar, 2201 Joyce Polous, 2141 Veeny and 1903 Louise complained about the poor quality of water. PHE Department should be approached for a thorough checking of drinking water. As a matter of precaution, only boiled water is being supplied to inmates for drinking purposes. One case of TB was detected and the patient was transferred to the Central Jail, Thiruvananthapuram on 28.4.2004. Ambulance service is available at the prison.

A few prisoners requested for the service of an Ayurvedic doctor. It should not be difficult to arrange a monthly visit of an Ayurved from one of the Govt. or private hospitals to the open prison.

Death in Jail

4 deaths occurred in the Open Prison in 2002, only 3 were reported to the NHRC. Intimation regarding death of Convict 2155 Yesudas alias Tomy in a train accident on 28.11.02 while on leave was not reported to the Commission. In 2003 one prisoner convict 2064 Santosh committed suicide on 25.8.03 while he was on parole. The matter was not reported to the Commission. In the current year, 2 deaths have occurred till the day of the visit i.e. 31.10.04 and timely intimation was sent to the NHRC. This included one case of suicide while on parole. It was explained to the DIG (HQ) that intimation of death of prisoner even while on leave has to be sent to the Commission giving brief facts of the case.

Education, Recreation and Welfare

Not much attention is being paid to the welfare of prisoners in terms of recreation. Even the elementary facility of television has been provided on a very restricted scale. Only 2 TVs – one for the main complex and one for the annexe are available. Televisions should be provided in each barrack. At the annexe, TV is installed in a verandah and the prisoners have to sit in the open to watch the programmes. As such the facility stands suspended when it rains which is very common.

Although prisoners are encouraged to play volleyball, volleyballs are not being supplied regularly. Only one carrom-board and one chess board have been provided. The inmates requested that a volleyball should be supplied every two months. The number of carrom boards and chess-boards should also be increased suitably.

Home Leave

Well-behaved prisoners are eligible for home leave of 15 days in a year on completing one year in the Open Prison. Leave is granted on the recommendations of the Probation Officer concerned. This is in addition to the ordinary parole admissible to prisoners under the Prison Rules, 1958. I interacted with about 100 prisoners assembled at two places. Most of the prisoners confirmed that they have been availing of home leave and also ordinary leave in some cases. Following complaints were heard:

- (i) Convict 2101 Ravindran has completed 2 years in Open Prison without being granted home leave. The incharge Supdt. explained that his record mentions two addresses and as such 2 Probation Officers are being asked to give report. He wants to visit his family in Pathnamthitta. The DIG (Prison) assured that he will look into this matter.
- (ii) Convict 2125 Peter has completed 3 years without being granted home leave.
- (iii) Convict 2191 Ramachandra has completed 2 years without being granted home leave because of want of report from the Probation Officer, Kannur. He has completed 9 years of imprisonment and has never been granted ordinary parole. DIG (Prison) promised to look into the matter.

Convicts 2200 Mathew, 2061 Walson, 2193 Purushotam, 2035 Anandan, 2044 Mathew and 1981 Sridharan have undergone imprisonment for periods ranging from 9 to 14 years without availing of a single parole. Since parole is being ordered solely on the basis of police recommendations, a sample check from a suitably higher level would help in ensuring that

these powers are not being abused and prisoners are not being denied their legitimate rights without sufficient reasons.

Con. 2172 Bashir has completed 11 years of his life imprisonment. He was received in open prison 2 years back from Kannur Central Prison. He had applied 8 months back for emergency parole to see his ailing father undergoing treatment in the medical college. He could not be granted parole for want of police report from his district. DIG HQs was asked to bring these cases to the notice of the DG Prisons.

Work Programme

Prisoners are engaged in agriculture and dairy farming. While rubber plantation is the main activity. Coconuts and vegetables are also being grown. Income from agricultural/dairy farming was Rs.21,41,375 in 2001-02. It rose to Rs. 31,39,500 in 2003-04. In the current year (upto September 2004), income of Rs.25,33,500 has been reported.

Prisoners are paid wages at the rate of Rs. 30 per day (8 hours) and Rs. 21 overtime upto 4 hours. Over 50 % of the prisoners are earning Rs. 51 per day which means a monthly income of above Rs. 1500. It was heartening to note that every prisoner I spoke to had a fairly good idea of his accumulated earnings.

Visitors

The institution of Board of Visitors provided in the Prison Rules is not in operation. However, the DIG (Prison) visits Open Prison twice a month as directed by the Session Judge, Trivandrum. The D.J. and Session Judge visit the Prison regularly. The record shows that he had visited the Open Prison 5 times in 2003 and paid 3 visits in 2004.

Pre-mature release

Conv. 1580 Ulahannan alias Jose and Conv. 1737 Rajan have completed over 15 years of actual imprisonment. Conv. 1992 Ragunathan and Conv. 1788 Babu have completed 14 years of actual imprisonment. It appears that their cases were not found fit for release by the Prison Review Committee which met last in Feb. 2001. They are eligible for consideration by the Jail Advisory Board for pre-mature release u/s 432 Cr.PC. DIG (Prison) informed that the Prison Review Committee has held three meetings, the last one on 31.10.04 and is examining 332 cases for the entire State including 132 of open prison.

Interview

Prisoners of Open Jail are liberally allowed the facility of interviews with their family members.

WOMEN'S PRISON, NEYYATTINKARA

Accompanied by Shri T.S. Ragupathy, DIG (Prison), I visited Women's Jail Neyyattinkara on 31.10.04. Mrs. M.S. Mariam, Supdt. gave a briefing on the functioning of the prison.

Prison Profile

This prison was established in 1990 with a capacity of 60. It was holding 46 prisoners – 21 convicts and 25 undertrials on the day of the visit. Besides 2 children aged ½ years were also present. The daily average

strength of the previous month was 48. The Supdt. informed that the population in this prison remains within the capacity and as such overcrowding is not a problem. Undertrials numbering 25 constitute 54.34 % of the total prison population.

The prison is housed in a well-built and nicely maintained building sufficient to meet the functional requirements. However, it does not have any space for prisoners' interviews. An additional room is required for the tailoring unit also.

10 attached toilets give a toilet to prisoner ratio of 1:5. The inmates were found satisfied with the arrangement. The supply of water for drinking, bathing and washing purpose is satisfactory and no complaints were received on this count.

Prisoners were found satisfied with the quantity and quality of food. The children are being supplied extra diet of milk (500 grams daily on doctor's recommendation). However, this needs to be formally sanctioned as part of the prescribed scale.

Iron cots have been provided for convicts only. Undertrial prisoners are supplied with grass mats. Women prisoners are allowed to wear blouse and sarees instead of prisoners' mundu and towels.

Health Care

Women's Prison has been provided with one pharmacist. One post of nursing assistant is sanctioned but is lying vacant. A lady doctor makes a weekly visit from Taluka Hospital, 3 kms away. The Government Order dated 7.9.2002 says that the doctor would visit the prison twice a week. The record shows that she has made only one visit in the months of February,

March and September, 2 visits in August, 3 in July and nil in April and May 2004. The Supdt. had written to the District Medical Officer on 28.5.03 and thereafter to the additional DG (Prison) on 5.7.03 with no worthwhile results.

Emergency cases are sent to the Taluka Hospital. No prisoner is found suffering from T.B. 4 prisoners are undergoing treatment for psychiatric disorders. 3 of them have also undergone indoor treatment at the mental health centre. They are taking OPD treatment under the District Mental Health Programme, Nethukaltheri. They are being taken on every 3rd Monday and produced before the psychiatrist visiting the Taluka Hospital under the District Mental Health Programme. Besides, UTP Christina facing trial in a murder case remained in a mental hospital for more than a year and has now come back. Her drug compliance would need attention.

Staff

The Women's Prison has been provided staff as per its sanction. Only one post of nursing assistant is lying vacant.

Death in jail

There has been no case of death in this prison since its establishment, as per the statement of the Jail Supdt.

Interview

Interviews are allowed on week days from 10 AM to 5 PM. However, there is no suitable place to conduct the interviews properly.

Education, Recreation and Welfare

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2 Instructors have been provided to impart training in tailoring and embroidery. 10 prisoners are receiving this training. 4 prisoners are working in kitchen and 6 each on sweeping, cleaning and gardening jobs. They have been paid prescribed wages upto April 2004. The Supdt informed that the wages are paid at the time of release.

Although one Television set has been provided, the inmates are unhappy about the site of installation. They requested that the T.V. should be shifted back to its earlier location, which has been converted into a UTP Cell.

Convicts

I spoke to all the 21 convicts. They had no complaints to make. Conv. Anncha is a lifer and has completed 13 years. Her case is fit for consideration of the Review Committee.


Undertrial Prisoners

UTP Bindu has the longest stay. She was admitted on 13.10.03 in a case u/s 302/201 IPC. She has been provided a Govt. lawyer and the case has been committed to sessions. UTP Nalini was admitted on 1.7.04 in a case under Abkari Act. She has to be provided a Govt. lawyer. Her case may be brought to the notice of the D.J.

Board of visitors : not functioning.

Visits by Judicial Authorities

DJ/Session Judge has been visiting regularly almost every second month in 2003. However, he has so far made only 3 visits this year on 25.3.04, 19.5.04 and 29.7.04. He made no visits in December, 2003,



January 2004 and February 2004. This seems to have affected the UTP position in this jail.

NGOs involvement

The Blind Association carries out periodical visits for detection of TB cases. The PSH working under the NACO conducts counselling and moral classes. No NGO is involved in imparting vocational training and helping the inmates in their rehabilitation.

DISTRICT JAIL KOLLAM

Accompanied by Shri B. Pradeep, Supdt./Vice Principal State Institute of Correctional Administration (SICA). I visited District Jail Kollam on 1st November 2004. Mr. K.G. Gopalakrishnan, Supdt, Jail briefed me about the organizational structure and working of the jail. Mr. B. Srinivas, Collector, Kollam also joined me at the jail and was present throughout.

Prison Profile

District Jail Kollam jail was started as a Sub Jail in 1957. It was upgraded to District Jail on 1.12.2000. The sanctioned capacity of the jail is 86 – 66 male and 20 female. The Supdt. stated that as per the PWD assessment the available accommodation is meant for a total of 56 prisoners, 48 in male and 8 in female sections. The total area of the jail is 45 cent. It is divided into 8 Cells.

The jail population on the day of the visit i.e. 1st November 2004 was 188 – 19 convicts and 169 Under-trials. It includes 14 female inmates – 1 convict and 13 under-trial prisoners. District Jails in Kerala can keep convicts undergoing imprisonment of more than 3 months but less than 6 months. The average population of this jail is around 180 which shows an overcrowding of 109%. The Supdt. informed that there have been occasions when it crossed 200.

The jail building is 47 years old and is being maintained nicely. The Supdt. informed that additional land measuring 10 cents situated adjacent to the present jail is under process of transfer from the Municipal Corporation. Funds to the tune of Rs. 58 lakh released out of the modernization grant have been earmarked for this jail. Rs. 35 lakh have been sanctioned for construction of additional barracks and Rs. 25 lakh actually placed at the disposal of the PWD. The Supdt. informed that Kollam Corporation has promised to make the land available in May next year. The urgency of the matter was appreciated by the DC who promised to look into this matter and arrange an early transfer of the land so that the construction could be started.

Sanitation & Hygiene

Availability of 12 toilets including 8 attached to the Cells gives a toilet to prisoner ratio of 1:15 which presents a very poor standard of sanitation. The bathing facilities – 2 platforms are also inadequate.

Water & Electricity

Jail is served with piped water supply provided by the Municipal Corporation. Supply of water for drinking, bathing and washing purposes is

satisfactory. The electric supply is also satisfactory. One Generator is also available for use in emergency.

Food

The inmates were questioned and found happy with the quantity and quality of food. However, firewood is being used as fuel and the entire prison campus was found covered by a cloud of smoke coming from the kitchen causing discomfort and health hazard not only to the prisoners but also the staff members. Its pungency causing irritation to eyes was felt by us even while seated in the Supdt's room. Switchover to Gas cooking is recommended in all the Distt/Special Sub Jails.

Clothing and Bedding

Prisoners sleep on the ground and are provided with grass mats and Durries. Durries are found to be in short supply. The Supdt. informed that Durries are being supplied at a flat rate of 50 per annum irrespective of the demand projected on need basis.

Staff

While the Supervisory staff comprising 1 Supdt., 1 Dy. Supdt. and 2 Asstt. Jailers (Gr.II) is sufficient despite the vacancy of 1 Asstt. Jailer, Gr.I, staff at the functional level – 8 Head Warders, 8 male Warders and 3 Female Warders is far less than the authorization. It is amazing that only 8 Warders have been posted to this jail against the sanctioned strength of 35 despite the fact that it is holding more than double of its sanctioned strength.

Medical Facilities

District Jail Kollam has no medical set up of its own. It has not been provided with even the First-aid facility. Medical cover is provided by the District Hospital situated at the distance of 2 km. from the jail. The Doctor is supposed to visit the jail once a week. Examination of the Doctor's visit Register showed that he did not visit the jail even once in the months of January, February, April, May, June, July and September this year. One visit was made in March on 2.3.04 and 2 in August on 12th and 17th August. In October 2004, the ARMO visited the jail on 26 October.

Death in Jail

Incidence of death in jail was examined for the years 2001-02 onwards. In the year 2001-02, as per the statement submitted by the Supdt., 2 deaths had occurred in this jail. While intimation of death of Sivadasan on 4.12.02 was received by the NHRC that in respect of the death of Vishwambharam s/o Padmanathan on 13.11.02 was not received by the Commission. No death occurred in this jail in 2002-03. In the year 2003-04, only one death (Yashodharan) on 17.1.04 had occurred and the Commission was informed. The statement received from the Supdt. shows that there has been no death in this jail in the current year. However, the information collected from the CD Cell of the Commission shows that one under-trial 9247 Ramachandran Pillai s/o Kunjuraman had died in this jail on 6.5.04. He was admitted to this jail on 20.4.04 in case under the Abkari Act. The report received from the Supdt. District Jail Kollam dated 8.5.04 mentions that the prisoner had suddenly fallen down and started vomiting blood. He was rushed to Govt. District Hospital Kollam and expired on 6.5.04. The Commission has not yet received the Inquest report, Post-



mortem examination and Magisterial Inquiry reports in this case. The omission of this matter in the statement submitted by the Supdt. to me raises doubts about this case. DG (Prison) is requested to ensure that the contemporaneous record of inquest report, post-mortem examination videography of the examination and Magisterial inquiry report are sent to the Commission at the earliest.

The Collector Kollam was requested to expedite the detailed reports in respect of all the above cases which are still awaited.

The Supdt. was found unaware of the revised instructions regarding videography of post-mortem examination in cases of death in jail issued vide the Commission's letter No 3/2/99-PRP&P dated 21.12.01. DIG (Prison) HQ was requested to circulate the same among the Supdts. of all the Jails in the State.

Two inmates are undergoing treatment in Mental Health Centre Thiruvananthapuram since 13.9.04. UTP 197 Baiju s/o Kumar was admitted on 10.9.04 as a UTP in a case under section 341, 323, 324 and 354 read with 34 IPC. He was admitted to the Mental Hospital on 13.9.04. The next hearing of the case is 10.11.04. UTP 94 Shakunthala D/o Lakshmi was admitted on 23.8.04 in a case u/s 447, 325 and 326 IPC. She was admitted to Mental Hospital on 13.9.04. The next date of hearing is 8.11.04. The Supdt. was asked to ensure that the reports on the health status to these UTPs are furnished to Court for consideration on the date of hearing.

Recreation and Welfare

Recreation facilities are inadequate. Only one TV set is available for the entire male Block consisting of 8 Cells. Indoor game facilities have been provided but are not adequate enough to cater to the needs of the inmates.

Under-trial Prisoners

The statement of UTPs submitted by the Supdt. Jail gives the following information about their duration:

	<u>Male</u>	<u>Female</u>	<u>Total</u>
Up to 3 months_	143	11	154
3 to 6 months	20	2	22
6 to 12 months	6	1	7
1 to 2 years	6	-	6
Above 2 years		- Nil -	

I interviewed individually all the 13 UTPs who have been in this jail for more than 6 months. Following complaints were received:

1. UTP 9277 Stalin was admitted on 25 April 2004 charged u/s 55(A) Abkari Act. He complained that his co-accused Santosh s/o Baby has been released on bail. He is one of the few prisoners who are not receiving any visitors. The Supdt. was asked to bring this case to the notice of the District Legal Service Authority.
2. UTP 5728 John was admitted on 13 December 2002 charged u/s 489 A IPC. One accused of this case of counterfeiting currency notes dating back to 1992 is in Thiruananthapuram Jail and another in a jail in Tamil Nadu. His bail has been rejected by the High Court.
3. UTP 5993 Baiju was admitted on 25.1.03 charged u/s 55(a) Abkari Act in a case of hooch tragedy. The case was committed to the session on 31.5.03. There has been no hearing of the case after that. He stated that he needs legal aid. The Supdt was asked to send his application to the District Legal Service Authority.

In the Female Section, UTP Indira involved in a murder case was found unaware of the admissibility of legal aid to her. The Supdt. was asked to obtain applications for legal aid from those UTPs who cannot afford to engage private lawyers and forward the same to the Distt. Legal Service Authority.

Women Section

Women prisoners are kept in a separate enclosure which has a capacity of 20. It was holding 14 prisoners – 1 convict and 13 Under-trials on the day of the visit. Women prisoners are guarded by female staff (3 Warders). At least one female Head Warder or Matron should be available to ensure proper supervision over the warders.

Health care facilities are non-existent. The Collector was asked to ensure monthly visit of a lady Doctor to the jail. On Collector's suggestion, we spoke to the women prisoners in the absence of the jail staff. They confirmed that they are being guarded by female staff only and no male member of the staff ever enters their enclosure. They complained that the existence of public toilets adjacent to the jail is causing nuisance and health hazard to them and they find it difficult to take their meals because of the stink coming from the toilets. They categorically denied any instance of sexual harassment. They requested for better toilet/Bathroom facilities which can be arranged by providing a partition in the attached bathrooms. It was shocking to learn that the sole TV set meant for the recreation of the women prisoners has been lying under repairs for the past 9 months.

Interview

Although interviews are allowed as per the Jail Manual, proper facilities have not been created because of lack of accommodation.

Board of Visitors

The institution of Board of Visitors is not functioning.

Visits by Judicial authorities

The District Judge has not been visiting the jail as regularly as has been seen at other places. The visitor Register shows the visit of the DJ/Sessions Judge on 9.4.03, 5.8.03 and 4.5.04 only.

General

Although this jail was upgraded from Sub jail to District jail level on 1.12.2000, it is yet to be equipped as per the scale of District jail. One of its glaring deficiencies is the family accommodation for staff. Since staff quarters are not available at all; nobody is staying in the jail premises.

SUB-JAIL, PATHANAMTHITTA

Accompanied by Shri B. Pradeep, Supdt/Vice-Pincipal, SICA, I visited Sub-Jail, Pathanamthitta on 1st November, 2004. Shri M. Vellappan, Assistant Jailor Grade I is working as Supdt. since 11.12.03. He briefed me about the organizational structure of the jail and its working. Shri R.K. Agarwal, IAS Collector, Pathanamthitta also joined a few minutes later.

Prison Profile

Sub-Jail, Pathanamthitta is the only jail available in the District Pathanamthitta, which deserves to be provided a regular district jail. The jail having an area of 95 cents comprises 11 cells in the male section and a

separate block for the female prisoners. It has a sanctioned capacity of 65. On the day of the visit i.e. 1.11.04, the jail was holding 146 prisoners – 137 male and 9 female. As sub-jail, it is authorized to keep convicts sentenced to imprisonment of upto one month only. On the day of the visit it was holding 3 convicts including 2 under transfer to Central Prison, Thiruvananthapuram. The daily average strength of the previous month was 165. The Supdt. informed that the normal strength of this jail can be taken as 160 which means an overcrowding of 146%. As such, it is one of the highly overcrowded jails in Kerala. Out of available 11 cells, only 8 are being presently used for accommodating the prisoners. One Cell has been allotted to the prison warders who do not have any other place to live. 2 Cells are being used for keeping the prisoners' personal effects and unserviceable stores. A proper readjustment can make at least one more cell available for accommodating 12 prisoners in slightly better condition.

The jail building is 50 years old but it is being maintained nicely. The Supdt. informed that a number of proposals have been sent to the Prison HQs for additional construction/renovation works including the construction of a new two storeyed block with attached toilet facilities, additional cells for female prisoners, and Guard rooms for male and female warders and a new septic tank for 200 prisoners.

The Collector, Pathanamthitta admitted that he was not aware of the above proposals and stated that the District Magistrates in Kerala are not being involved in jail matters. District Collector, Kollam has made similar remarks. Since Kerala Prison Rules 1958 mention specific responsibilities of the Collector as Chairman of the Board of Visitors to improve the living conditions in jail and its overall functioning as per rules, this observation

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needs to be noted by the Home Department. In no other State have I, so far, seen District Collectors under this impression.

Sanitation and Hygiene

Every cell of the main block has an attached toilet and 12 toilets have also been provided outside in the rear portion of the campus. A total of 16 toilets gives an overall toilet to prisoner ratio of 1:8, which seems quite good. However, since the cells are holding 29/30 prisoners each, the existing facilities are highly inadequate. The toilet to prisoner ratio is actually as bad as 1:25 in the male section. In the female section, one attached toilet and one external toilet gives toilet to prisoner ratio of 1:5. No bath rooms are available for bathing purposes. However, the bathing platforms provided in the open are sufficient in number. Arrangements in the female section are satisfactory.

Water facilities

Piped water supply by municipality is satisfactory for drinking, bathing and washing purposes.

Food

The daily per head expenditure on food is Rs. 22. The prisoners were found satisfied with the quantity and quality of food.

Clothing and bedding

Shortage of Darrys and even grass mats is being felt. Prisoners Kumari, Omana and Chllana in the female ward were found using torn grass mats which need immediate replacement.

Staff

The jail has been provided full staff as per the authorization - one Supdt (assistant Jailor Grade I), 3 head warders, 8 male warders and 3 female warders. As this jail is functioning as a District jail, it should be provided staff, at least, as per the scale of a special sub-jail. The Incharge should be in the grade of Dy. Supdt. to be assisted by one Asstt. Supdt. It should be provided at least one matron Grade II, and the scale of warder should be suitably revised keeping in view the normal strength.

Medical facilities

No medical facilities are available. The Jail does not have even a first-aid center. One male doctor from the Govt. hospital is supposed to visit the hospital once a week. However, the inspection of the doctor's visit register showed that the doctor has not been visiting the jail regularly. There was only one visit in 2003 (on 9.3.03) and one in the current year so far (on 1.2.04). The register, however, shows that sick prisoners are taken regularly to the district hospital. Shri Agarwal, Collector was requested to appreciate the importance of this arrangement and ensure that the instructions regarding weekly visit of the doctor to jail are enforced.

Death in Jail

The incidence of death in Jail was examined from the year 2001-02 onwards. There have been 4 cases of death in this jail during this period - 2 in 2001-02, one each in 2002-03 and 2003-04. Timely intimation was sent to the NHRC in all the cases. However, detailed report containing inquest report, post mortem examination report and magisterial inquiry report has not been received in any case so far. The District Collector was requested to expedite the submission of these reports to the Commission.

Female Section

Women prisoners are being guarded by female warders with supervision by male staff which is objectionable.

Monthly visit of a lady doctor is the least that can be done since no medical facilities of any kind are available in this jail.

Recreation

Only one TV set is available in male section. It has been installed in the room occupied by the prison staff. The prisoners are allowed to watch TV only on Sunday when the TV set is shifted to the varandah. There is no space for out door games like volleyball. The prisoners' basic need of physical exercise can not be met. Even the facilities of indoor games are not adequate. 4 carrom boards have been provided to the entire male population numbering around 120. There should be at least 10 carrom boards and 5 chess boards at any time to make these facilities worthwhile.

Undertrial prisoners

The statement of undertrial prisoners received from the Supdt. presented the following information on the duration of their stay in jail:

Duration	Male	Female	Total
Upto 3 months	112	8	120
3 to 6 months	14	1	115
6 to 12 months	8	-	8
1 year to 2 year	2	-	2
Above 2 years	-	-	-

I spoke individually to all the undertrial prisoners numbering 10 who have completed six months in the prison. Following observations are made:

1. 7418 Venu s/o Rajappan was admitted on 31.1.04. He was charged in a murder case and is also involved in a case of theft. He has not yet been provided a Govt. lawyer. His application should be obtained and forwarded to the DLSA.
2. Joginer Kumar s/o Mauji Lal Saha and Vinod s/o Sarju Yadav were admitted to this jail on 10.10.04 for action u/s 109 Cr.PC. They are from Bihar and were arrested by police u/s 41 (2) Cr.PC. They informed that they were produced before the court on 21.10.04 and were asked to produce sureties. 2 persons came from Madhepur in Bihar but their surety was not accepted. They stated that they are not in a position to arrange any local sureties and are thus condemned to stay in prison. It was learnt that as many as 32 UT prisoners are held in this jail after being arrested u/s 41(2) Cr.PC. In my opinion, such large-scale arrest of persons merely on suspicion about their likelihood of committing a cognizable offence is not a good example of professional policing especially when the jails are already overcrowded with accused persons involved in substantive offences.
3. 6549 Krishnan Kutty was also admitted to this jail u/s 41(2) Cr.PC on 25.9.03. He is a habitual thief and is not able to furnish surety. The session Judge has directed the Revenue Divisional Officer, Aranmla to try the case and directed these persons to be kept in sub-jail for one year w.e.f. 19.3.04 "for want of bond execution with good sureties".

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4. 7359 Keshwan s/o Eravi was admitted on 29.1.04 in a case under Abkari Act. He said that he has not been provided legal aid. Similar request was received from the following UTPs:

UTP 8465 Sunil s/o Madhwan Achan, UTP 8072 Sivan Kutty s/o Chellapan Pillai, UTP 8531 Rajan s/o Bhaskaran, UTP 8647 Kalidasan s/o Ganapathy, UTP 7192 Kuttapan s/o Kochu Kunju, UTP 8923 Vargese s/o Charles, UTP 7966 Ashokan s/o Karuppu Swamy, UTP 8157 Ramdas s/o Subbhaiah, UTP 8996, Lal alias Murngan s/o Raju, UTP 8992 Sathyam s/o Balakrishna.

5. UTP 6658 Shanta d/o Janaki was admitted on 11.10.2003 in a case under Abkari Act. She has been provided a Govt. lawyer. She was granted bail but could not arrange sureties. Her trial is yet to begin. This case could be recommended for a fast track court.

Work Programme

Prisoners sentenced to imprisonment upto one month only are kept in this jail. As such, there is no need for establishment of any jail factory. 5 UTPs are willingly working in jail kitchen and getting daily wages at the rate of Rs. 13/ per day. However, payment is made only at the time of their release or transfer to another jail.

Board of Visitors

Board of Visitors is not functioning.

Jail Adalats

Jail Adalats not being held.

Visits by Judicial Authorities

The register does not show any visit by the Judicial authorities in 2003. This year, there have been six visits (till 1.11.04) – 3 by the Session Judge and 3 by the CJM. The last visit was of the CJM on 20 October, 2004. The District Collector was requested to take up the matter relating to arrest u/s 41(2) Cr.PC with the Dist. Supdt. of Police and D.J.

Living accommodation for staff

This jail has no staff quarters. 5/6 members of the Guarding staff are staying in a cell meant for prisoners. The Supdt. stay in a hired house and pays monthly rent of Rs.650 against his entitlement of Rs. 200 p.m. as HRA. Warden Murlidharn Pillai is paying a rent of Rs.800 and getting house rent of Rs. 180 p.m. The adverse impact on the morale of the staff can be very well imagined.

Conclusion

My visit to one Central Jail, one District Jail, one Sub Jail, Open Jail and Women's Jail of Kerala, has enabled me to make a broad assessment of the strengths and weaknesses of the jail management and administration in Kerala. The overall overcrowding is less than 10% in Kerala against the national average of 40%. This does not indicate any significant overcrowding in jails in Kerala. However, because of uneven distribution of jail population, overcrowding is being experienced in Central Jail Thiruvananthapuram, District Jails Kollam and Kozhikode, Special sub jails Kottayam, Palakkad and sub jails Kottarakara (Distt. Kollam), Pathanamthitta

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(functioning as a District jail), Deviculam (Distt. Idukki), Muvattupuzha and Aluva (Distt. Ernakulam), Manjeri and Tirur (Distt. Malappuram), Vythiri (Distt. Wyanad), Kannur (Distt. Kannur) and Kasargode (functioning as a Distt. Jail). Out of a total of 14 districts, 6 districts of Kerala namely Pathanamthitta, Idukki, Ernakulam, Malappuram, Wyanad and Kasargode do not have district jails. These districts do not have even a special sub jail which has been provided as substitute for the district jails in Districts of Alappuzha and Kottayam.

Only 3 jail buildings in Kerala, namely open prison, Nettukaltheri, women prison Neyyattinkara and sub jail Alathoor (district Palakkad) are post-1950 constructions. All the remaining jail buildings belong to pre-independence period. Kerala Government has received its due share in the modernization grant of Rs. 1800 crores released by the Government of India for improving jail infrastructure in various States. Including the State's share of 25%, the Jail Deptt. has received an allotment of Rs. 13.10 crores- Rs. 6.5 crore each in 2002-03 and 2003-04. The grant is being utilized to improve jail infrastructure.

The position of UTPs is slightly better in Kerala with UTPs constituting less than 60% of the total population against the national average of 70%. This is explained largely by the fact that the judicial authorities – District/Sessions Judge and CJM are regularly visiting jails to review the state of UTPs and hear complaints from prisoners. Disposal of appeals against the award of life sentence is also found to be expeditious in Kerala than in many other States.

Administration of parole can also be mentioned as a plus point of Kerala jails although incidents of repeated rejection of requests mainly because of total reliance on police report are far too many to be accepted as

a routine matter. There is need for a sample check of such cases to guard against the abuse of powers by the police.

The work programmes provided at the Central prisons where convicts undergoing sentence exceeding 6 months are kept, are being run efficiently. Almost all the convicts are being provided vocational training in useful trades with wages and helped to prepare for a life of honest work after release. The system of payment of wages is transparent enough to minimize malpractices and irregularities.

Open prison Nettukaltheri demonstrates the concern of the Government to train and prepare the progress for a life of law abiding citizen after their release. The institution is running efficiently and serving the intended purpose although its capacity (500) is under utilized. One more open prison with a capacity of 300 is being set up at Kasargode. The construction of the building has been completed. Water and electricity connections are being arranged.

On the debit side of the balance sheet, the inadequacy of health cover can be mentioned as a major deficiency of jail establishing in Kerala. Proper jail hospitals with staff of their own are available only at the Central jails numbering three in the State. A regular hospital has been sanctioned for District jail Kozhikode but is yet to be set up. All the District jails, special sub jails and sub jails are being served by visiting Doctors provided from the nearest Government hospital. Although the system is functioning at a fairly good level of efficiency and there are no complaints of neglect of health care of prisoners. the absence of proper medical facilities at jails is a serious lacunae of jail administration.

While prisoners' basic needs of food, water, bedding and clothing are being met satisfactorily, the standard of sanitation and hygiene is poor at

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most placed. The recreation facilities are found to be inadequate at all places. Even the elementary facility of TV is not really available because of a pathetically poor scale of one or two TVs for the entire jail. Outdoor game facilities are non-existent. The facilities of indoor games such as carrom and chess have been provided but on a very small scale.

The time-tested system of the Board of visitors provided under the jail rules is seen to have gone defunct at all places. The Commission's directions on the subject communicated demi-officially by the Secretary General to the State Chief Secretaries have not so far evoked any positive response. Another negative feature of the jail administration of Kerala is the absence of NGO's involvement in the education, recreation and welfare of prisoners. Although one or two NGOs are associated with some jails, no serious attempt has been made to identify and involve NGOs in promoting the welfare and rehabilitation of prisoners in a systematic way.

The plight of women prisoners reflects poorly on jail administration in Kerala. Women prisoners can be found in all jails including sub jails. Although they are kept in separate enclosures, closed to entry of mail staff, and are guarded by female warders the supervisory arrangements are poor. Female Head warders/matrons have not been provided even in jails at Distt. HQs. Medical facilities for women prisoners can be considered as non-existent in most jails. All the women prisoners sentenced to more than 6 months are lodged in the only Women's jail of the State at Neyyattinkara at the southern end of the State. This causes obvious hardships to the families depriving many women prisoners of the comfort of visits by their near and

dear ones. It is no wonder that a good number of women prisoners are found to be suffering from mental depression.

The issue of premature release of prisoners particularly the lifers has not been receiving proper attention of the Government for the last three years. There has been no premature release of lifers ordered after July 2001. A number of lifers who have actually completed 14 years imprisonment without remission are entitled to have their cases considered for premature release u/s 432 Cr.PC. It is learnt that the State Prison Review Committee constituted vide Government's order dated 31.3.2004 has held a couple of meetings to consider the cases of eligible prisoners for release under Article 161 of the Constitution. The response of Kerala Government to the Guidelines issued by the NHRC on the subject in November, 99 (modified in September, 2003) is still awaited.

C Lal

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Special Rapporteur
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