

1

5 31

4/11/2008

**A REPORT ON THE VISIT OF SHRI CHAMAN LAL,
HONORARY REPRESENTATIVE, NHRC TO JAILS IN
ASSAM FROM 20 TO 24 DECEMBER, 2007.**

As directed by the Commission, I have visited Central Jail, Jorhat, District Jail Golaghat and Mohendra Nagar Open Air Jail of Assam from 20 to 24 December, 2007 to assess the strengths and weaknesses of the infrastructure and functioning of the Jail Department with focus on the living conditions and problems of inmates. The visit to jails was preceded by a meeting with Shri Deepak Sharma, acting I.G. Prison in the absence of the regular incumbent Mrs. Ryitticka Kalita on training. I was briefed about the history, growth and current status of the Jail Department. The presence of Shri Dilip Kumar Neog, former DIG Prison appointed as OSD in view of his long and varied experience after retirement was found extremely useful. After completion of the visit to jails I had another meeting with Shri Dilip Kumar Neog, OSD at Jorhat Circuit House in order to clear some of my doubts before finally formulating my observations and suggestions. The observations of the visit and related suggestions follow.

DISTRICT JAIL GOLAGHAT

I visited District Jail, Golaghat on 20-21 December, 2007. Shri Vidyadhar Saikia, Supdt. Jail, with able assistance from Shri Dilip Saikia, Jailer briefed me about the history, growth and functioning of the Jail. Dr. Diganta Kumar Das, Medical Officer described the health care facilities and the functioning of the Jail Hospital. Dr. Das struck me as a thorough professional with deep commitment to his job and transparent compassion for the ailing prisoners.

PRISON PROFILE

District Jail Golaghat was shifted from its old location in the heart of Golaghat Town to the present site in March, 2005 after construction of a new building. Built over an area of 74 bighas campus, the jail comprises 9 living barracks - 6 male and 3 female, 15 cells, kitchen, library, hospital and women enclosure. Cells are meant for segregating prisoners suffering from TB and other infectious diseases.

The registered capacity of District Jail, Golaghat is 148 - 115

male and 33 female. On the day of the visit i.e. 21 December, 2007, the jail was holding 339 prisoners – 329 male and 10 female. This shows an overcrowding of 129 % against the national average of 42% and Assam State average of 30.9% as per NHRC analysis of jail population of the country as of 30 June, 2006. 113 prisoners were convicts and 226 UTPs. The convicts included 64 lifers. The Supdt. stated that he has found the jail population fluctuating from 320 to 370. The average jail population of the last month (Nov.07) was 362. 350 can be taken as normal population of this jail which means an alarmingly high overcrowding of 136%. UTPs numbering 226 constitute 66.67% of the total population against the national average of 69.2% and Assam average of 57.1% as of 30.6.06.

SANITATION

Availability of 18 toilets – 9 inside the barracks and 9 outside gives a toilet to prisoner ratio of 1:12.5 which needs to be improved by constructing more external toilets. The need for a few more toilets also figured during the interaction with convicts and undertrial prisoners. 14 bath rooms have been provided outside the barracks for bathing purposes. Bathing platforms are also available. Prisoners

were found generally satisfied with this arrangement. While the supply of drinking water arranged through a deep tube-well with filtering system and 4 hand held tube-wells and an overhead tank of 8000 litre capacity is satisfactory, the quality of water needs to be tested. The Medical Officer informed that following the out break of a diarrhoea epidemic in April, 2006, he had written to the E.E., PHE Golaghat on 21.4.06 with copy to Joint Director, Health Services, requesting for supply of WHO water testing kit mentioning that "all jail inmates have been suffering from acute danger since 17.4.06". There has been no response from the PHE to this well explained urgent medical need. The Supdt. was advised to approach the Deputy Commissioner Golaghat and get the water tested. I.G. Prison, Assam is requested to write to all the Deputy Commissioners and ensure that water testing is carried out in all Jails.

As the jail forms part of the rural grid, the supply of electricity is reported to be erratic with frequent interruption and load shedding. The jail needs a stand by generator.

FOOD

Prisoners were found satisfied with the quantity and quality of

food being provided as per the provisions of the Jail Manual. Average daily expenditure on food comes to Rs. 24 per day. Environmentally unfriendly practice of use of fire wood as fuel needs to be stopped by introducing gas cooking in jails as can be seen in most other States.

CLOTHING AND BEDDING

Convicts are being provided all items of clothing as per the provisions of the Jail Manual. Prisoners are entitled to have bed sheet, mosquito net, pillow and blankets. 26 prisoners out of a total of 339 were found having not been provided bed sheets and pillows because of short of supply of these items. Prisoners are sleeping on ground in all Jails in Assam, as Cot is not an authorized item of supply. This is clearly out of tune with a number of progressive measures introduced in Jail administrations in Assam.

MEDICAL FACILITIES

The jail hospital has a fairly good building of its own with separate provisions for OPD and indoor services. 11 beds have been provided. Daily average OPD is 15. The common ailments are viral fever, RTI, body ache, backache, vertigo, skin disease and gastritis

(PUS). Prisoners detected with TB are provided treatment under DOTS. Although no prisoner was found on the day of the visit under treatment for TB, the documentation of previous cases clearly showed that the medical officer is thoroughly familiar with the requirements of the DOTS. The initial medical examination of prisoners on admission is being carried out with due seriousness. The referral system for specialist treatment in the Civil Hospital, Golaghat is working satisfactorily. One case of diabetes, one of chronic asthma and one of hepatitis C are receiving personal attention from medical officer. The Hospital is also looking after 7 epileptics. 5 prisoners are receiving OPD treatment from the Civil Hospital for mental illness. One UTP Sumsum Hazarika is under treatment in Mental Hospital, Tezpur since 2.11.2007. The Supdt. and the MO were advised to regularly monitor his condition by maintaining a constant touch with the Mental Hospital authorities. In a diarrhoea epidemic which broke out in April, 2006, as many as 881 prisoners were affected. The crisis was tackled effectively without allowing any casualty. An epidemic of conjunctivitis faced in September, 2006 was effectively controlled by requisitioning the services of an eye specialist.

I visited the hospital and saw 13 indoor patients. None of

them was seriously ill. The bed facilities were developed in June, 2007. The doctor informed that the Bed Head Ticket would also be introduced in 15 days' time. On an average 8 to 10 patients are referred to Civil Hospital in a month. The M.O. stated that the police are able to provide escort but only with a delay of 2 to 3 days.

The hospital is authorized one medical officer and one pharmacist. One nurse Smt. Nira Bora has been provided on attachment. She resides in Jorhat and commutes the distance by bus spending Rs. 40 daily. It was learnt that she is actually available for one hour only. This arrangement reported to have been made on some compassionate considerations is at an obvious disadvantage to the hospital and patients.

Life convict Biju Bora working in the Hospital since June, 2005 is providing useful assistance to the medical officer. He is a dedicated worker who was described by the MO as very effective in managing patients and keeping watch over sick prisoners. Now that he has worked for about 13 months to the satisfaction of the medical officer, he deserves to be paid wages at a higher rate of Rs. 18 per day applicable to the skilled category. I.G. Prison is requested to examine

this suggestion and lay down some objective criteria for promoting workers from unskilled/semi-skilled to skilled category after they have proved their competence for the job in question. Considering the constant presence of female prisoners in this jail, a monthly visit of a Gynaecologist from the Civil Hospital is considered necessary.

DEATH IN JAIL

The incidence of death in Jail was reviewed from 1.1.2004 onwards. Records show that one prisoner (convict) had died in 2004. There was no death in this prison in 2005 and 2006. Two deaths occurred in 2007 (till 21 Dec.). The Supdt. was emphatic in his statement that intimation of death is being sent to the NHRC without fail in every case. I had also observed in my report of visit to the Central Jail, Guwahati in 2002 that the directions of the Commission on the subject are being complied with strictly. However, major discrepancies have been noticed at Golaghat. These are explained below.

Convict AC/4553 Khasia Bhuyian was admitted on 29.4.98. He died due to acute renal failure on 17.1.04 at Civil Hospital, Golaghat. The Supdt. stated that information to the NHRC was sent

through I.G. Prison, Assam vide WT No. 162 dated 18.1.04. Inquest, post mortem examination and video filming of the PME were also done. C.D. Cell of the Commission on being questioned by me, has denied having received intimation about this death.

Anil Boaik, UTP, 35 years was admitted on 14.5.07. He died on 5.6.07. The Supdt. stated that NHRC was informed through AHRC vide WT No. CDJ 634 dated 5.6.07. Inquest, post-mortem examination and video filming were done. The cause of death was found to be pathological asphyxia. CD Cell of the Commission has confirmed the receipt of intimation in this case but detailed report is still awaited.

Convict AC 6333 Ali Karmakar, 55 years, was admitted on 23.2.04. He died on 6.8.07 as a result of heart disease in Civil Hospital, Golaghat. As per the statement furnished by the Supdt., the NHRC was informed through AHRC vide WT No. CDJ 915 dated 6.8.07. The inquest, PM examination and video filming were done. The CD Cell of the Commission has denied having received intimation in this case.

It is a matter of concern that in 2 cases out of 3 relating to death in jail intimation about death of prisoner has not been received

in the Commission. This denotes a clear decline from the situation that was observed at the Central Jail, Guwahati in January, 2002. It is also significant to note that intimation to NHRC is now being sent through Assam State Human Rights Commission which, in my view, is contrary to our directions. I hope the Commission will take serious note of this observation as it has a bearing on the correctness and credibility of its annual reporting about death in Jails.

STAFF

District Jail, Golaghat is having full authorization of staff with no vacancies. It is holding 28 personnel including one Supdt., one Jailor, two Assistant Jailors and one Medical Officer. One nurse has been provided on attachment from outside. While supervisory staff is adequate, provision of only one head warder and just 20 warders at the functional level is much below the actual needs of this jail which remains overcrowded to the extent of 136%. It is a matter of concern that the entire jail staff, including the officers, have not received any training relating to jail work. Assam has not developed any facilities of its own for the training of jail staff. Unlike some other States of the North East, Assam is not sending its jail officers for training to the

Training Centres in other States like UP (Lucknow) and Tamil Nadu (Vellore).

One constable of the Assam Armed Police and 17 Home Guard have been provided for external security. Only 7 Home Guards out of these are armed. Although I found the Supdt. not so worried about the matter, the security aspect needs thorough examination in view of the disturbed conditions in Assam and increasing incidence of attacks on Jails reported from a number of States.

EDUCATION, RECREATIONAL AND WELFARE

Educational needs of the prisoners are receiving good attention. The jail is regularly running literacy classes. A convict Bhogeswar Neog, an ex-employee of the Adult Education Department is taking literacy classes for the past 3 years. I feel it is not fair to pay him wages at the lower rate of Rs. 12 meant for unskilled category. One should have no doubt in view of his background and experience that he is doing a skilled job and should be paid accordingly. I enjoyed talking to him and found him very conscientious. He intends visiting jail to continue this mission even after he is released from the jail. I

advised the Supdt. to consider cases of this kind for award of special remissions within powers of the I.G Prison.

The jail has a small library for prisoners holding 351 books. It is heartening to note that Smt. Ajanta Alok, local MLA and Minister of Jail has given a special grant of Rs. 50,000 for up-gradation of the jail library.

Recreational facilities for the prisoners have been carefully designed and are working satisfactorily. Televisions sets have been provided in all barracks and the Jail Hospital. It would be very much appreciated if the small screen (14") Black and White TVs are replaced by 19/21" colour TVs. Indoor game facilities such as Carron, Ludo, Chess are available. Volley Ball is also a regular feature. Sometime cricket matches are also arranged. A yoga and meditation programme run by Vivekanand Kendra is a regular jail feature since 3rd October, 2007.

WORK PROGRAMME

Work programme for the prisoners, an essential component of modern jail administration aiming at rehabilitation of prisoners, has been introduced only recently. A bamboo cane work unit has been

started in the male and a weaving unit in the female section. I visited the bamboo cane unit where a life convict prisoner Mohd. Akoni Ali transferred from Central Jail, Jorhat is imparting vocational training to 8 prisoners. I interacted with them. The Instructor considers 3 of them, namely Maheswar Hazarika, Ludu Tanti and Jibon Das as having acquired sufficient skill to work independently and make an honest living after release from Jail. I was surprised to find that the Instructor who was selected on the basis of his acknowledged skill and expertise for the work is also being treated as an unskilled worker for payment of daily wages at the lower rate of Rs. 12 per day. There should be no doubt in any reasonable mind about his entitlement to receive wages at the higher rate of Rs. 18 per day (which is not a big sum) meant for the skilled category from the day he undertook this work. As regards the 3 prisoners judged by the Instructor as having acquired good skill in their work they should be objectively examined along with others after they complete six months on the work and considered for upgradation. IG Prison should lay down objective criteria for such upgradation in various trades being practiced in different jails.

In the female section, a weaving unit has been started recently

with the help of an NGO Women Self-Help Group Kumar Patti Golaghat who have imparted training to 3 female prisoners.

The Supdt. informed that the work programme is still running purely on ad hoc basis as a local initiative and arrangements for the supply of raw materials are yet to be made. A proposal has been forwarded to the IG Prison.

As per a statement furnished by the Supdt., convict prisoners are also being used on following jobs:

Garden outside	27
Garden inside	20
Compound cleaning	10
Office	3
Hospital	1
School-cum-Library	1
Barber	1
Corner Wall Guard	15
Kitchen	5

Daily wage rates have been fixed as Rs. 12 for semi-skilled and Rs. 18 for skilled work in all jails in Assam by constituting a Wage

Fixation Body as per the directions of the Supreme Court given in State of Gujarat Vs. High Court of Gujarat in 1998. The Supdt. informed that presently no prisoner in this jail is being paid Rs. 18 per day. As wages have been paid only upto October, 2006, the prisoners engaged in bamboo cane and weaving sections have not yet started receiving any wages for their work. I spoke to some of the convicts working on maintenance and administration jobs and they confirmed receipt of wages upto the period ending October, 2006. As per a statement received from the Supdt., an amount of Rs. 2,30,124 has been disbursed as wages in 2007-08. An additional allotment of Rs. 4,33,920 has been demanded to clear prisoners' wages for the period October, 2006 to November, 2007. The Supdt. was confident that like in previous years, supplementary budget allotment would be received and prisoners will be paid their wages.

CONVICTS

53 life convicts out of a total of 64 held in this jail attended an interaction arranged on my request. I spoke individually to those who have completed 5 years. Almost all of them expressed satisfaction with the grant of parole to them as per the provisions of the Assam

Jail Manual. A statement received from the Supdt. says that parole was granted to 44 convicts in 2007 and 8 cases are pending with IG Prison. It is significant to note that none of the pending cases is more than 2 months old. I could, therefore, accept the statement that a decision on a parole application forwarded by the Supdt. duly supported by the recommendations of the village headman which the prisoner's family has to arrange is taken by the IG Prison within four weeks' time.

Following complaints were received from convicts:

- (i) Life convict Pa Majhi was received on transfer from Central Jail, Jorhat on 10.3.06. As his house near village Adhar Satra falls between two villages, none of the two 'Gaon Burhas' involved is willing to clear his case. He had applied while he was in Central Jail. He was advised to submit a fresh application and the Supdt. was asked to help him in obtaining the recommendation of the Gaon Burhas by taking personal interest.
- (ii) Convict Parshuram Bhumiz was been received on transfer from the Central Jail, Tezpur on 30

November, 2007. He is undergoing life imprisonment since 1997 and has not visited his family even once. He says that his application for parole was dropped because of his transfer. The Supdt. was advised to obtain a fresh application from him and help him in getting his due.

- (iii) Convict Pa Majhi complained about non-payment of wages to him for the work done in Central Jail, Jorhat from August, 2003 to August, 2004.
- (iv) Convict Lohit Hazarika made a similar complaint about non-payment of wages for work from January, 2003 to December, 2003 while he was in Central Jail, Tezpur. A similar complaint was made against Tezpur Central Jail by convict Gunaram Saikia. He said that he had worked for 5 years but was paid only Rs. 2500 which he considers very much less than his entitlement.
- (v) Convicts Dipin Bora, Parshuram Bhumiz and Ajit Das also made similar complaints against the Central Jail, Tezpur. It indicates a strong possibility of some

malpractices in the matter of payment of wages to prisoners in Central Jail, Tezpur. IG Prison is requested to have the records of Central Jail Tezpur, thoroughly checked in order to ascertain the actual position of utilization of funds allotted for the purpose of payment of wages to prisoners. The specific complaints made by 3 convicts mentioning the period of non-payment should be got looked into by an officer deputed from the HQ of IG Prison.

- (vi) Convicts Alomo Lotha and Thongjemo Lotha belonging to Nagaland are undergoing 10-years sentence in an NDPS case. They have requested for transfer to Central Jail, Dimapur. The Supdt. informed that their applications have been forwarded to IG Prison, Assam on 3.11.07. As Jails in Nagaland have a lot of idle capacity and overcrowding is not a problem there, it should not be difficult for the IG Prison, Nagaland to concede their request which is very much in order with the provisions of the Jail Manual. IG Prison is advised to forward their

applications to IG Prison, Nagaland.

As many as 26 appeals of Life convicts are pending for more than 3 years in the Guwahati High Court, the following appeals pending since 1999 may be brought to the notice of the Legal Service Authority:

1. Convict 4720 Patritro Tassa pending since 26.10.99 (filed from Central Jail, Tezpur).
2. Convict 4705 Deepak Paharia pending since 13.9.99.
3. Convict 6797 Parshuram Bhumiz pending since 13.5.99.

UNDERTRIAL PRISONERS

Out of a total of 226 UTPs held in this jail on the day of the visit, 17 have completed more than one year of detention. I spoke to them individually. Following observations are made:

1. UTP Madhuriya Saikia involved in session case No. 115/03 u/s 302/34 IPC has been in Jail since 17.5.06. He stated that all witnesses except the Investigating Officer, S.I. Apurba Bora have been examined. He is languishing in Jail alongwith UTP Sunku Soren, co-accused in this case because of non-appearance of the I.O.

2. UTP Kisun Garl was admitted on 25.4.05 in Saru Pathar PS C.No. 39/05 u/s 399 IPC read with section 25 (1)(a) Arms Act. He complained that challan has not yet been filed in his case.
As he is unable to arrange surety, he can not manage bail.
3. UTP Prantosh Seal is in jail since 23.8.06 in Saru Pather PS crime No. 75/06 u/s 302 IPC. He complained that challan has not been filed.
4. UTP Kula Gogai was admitted on 13.3.06 in a case of attempted theft. Challan has not been filed.
5. UTP Bagai Das was admitted on 27.11.06 in a case of rape. Charge-sheet has not been filed. Bail was ordered with surety of Rs. 5000 which he cannot arrange.

These UTPs are entitled to be released on bail because of failure of price to file challan within 90 days of their arrest. As they are unable to arrange surety, they cannot manage release on bail. The Supdt. was instructed to forward these cases to the District Legal Aid Cell.

On the day of the visit, District Jail, Golaghat was holding 32 UTPs who have been granted bail but are not in a position to arrange

surety. 4 of them mentioned above have completed one year imprisonment. 12 of them are involved in cases of theft and 5 in house breaking.

WOMEN JAIL

Women prisoners are lodged in a separate enclosure within the main jail compound. There are 3 living barracks and one hospital building. Women prisoners are being guarded by female warders under the supervision of a male Assistant Jailer. The jail was holding 10 female prisoners – 3 convicts and 7 undertrial prisoners – on the day of the visit. I spoke to all of them individually. Inmates expressed satisfaction with the sanitation facilities, supply of water and the food supplied to them. All the 3 convicts belong to one family - a mother with 2 daughters convicted in connection with the murder of her husband.

The convict prisoners numbering 3 are working in the recently started weaving section. Their wages are yet to be fixed and paid. All the seven UTPs belong to less than 3 months category. They had no complaints to make.

T.V. and indoor game facilities have been provided. There are 3

literate prisoners amongst the UTPs who are willing to join literacy classes. Convict Rebina Sultan Bora who is higher secondary pass can be engaged as an Instructor and paid Rs. 12 per day to begin with.

INVOLVEMENT OF NGOs.

Lion Club Golaghat has helped the Jail in organizing the prison library by donating 82 books. The Women Self-Help Group, Kumarpatty, Golaghat is providing training in weaving to women convicts. There is need and scope for expanding NGOs' involvement in Prison activities related to education, recreation, vocational training, counseling and rehabilitation of Prisoners.

BOARD OF VISITORS

A Board of Visitors headed by D.M., Golaghat including CJM, Golaghat and four non-official members was constituted vide Govt. notification dated 6 March, 2007. The Board has held a formal meeting on 9.4.07 and the individual members have made 3 visits since then. The Board is yet to make itself effective in discharging its obligations under the provisions of the Jail Manual. It is heartening to note that the Judicial Officers are visiting the Jail almost every month. The District and Session Judge has visited the Jail twice and CJM 11 times in 2007.

CENTRAL JAIL, JORHAT

I visited the Central Jail, Jorhat on 21-22 December, 2007. Shri P.K. Saikia, Supdt. assisted by Nabajyot Sarmah, Jailor briefed me about the history, infrastructure and functioning of the jail. It was a District Jail from 1947 onwards and was made Central Jail in 2002.

PRISON PROFILE

The Jail building constructed in 1911 comprises eleven living barracks - 9 male and 2 female, 8 cells, hospital building in both male and female sections, Kitchen, TB ward/barrack and prayer building (Namgarh). There is a separate administrative building with attachment of security guard.

Central Jail, Jorhat has a registered capacity of 670 – 646 male and 24 female. On the day of the visit i.e. 22.12.07, the jail was holding 485 prisoners – 471 male and 14 female. 4 children below 6 years of age were also staying with their mothers in the women jail. With actual population of 485 against the registered capacity of 670, the jail was having an idle capacity of 27.61%. Overcrowding, therefore, is not a problem in this jail despite the fact that Assam is

experiencing an overcrowding of 30.9% for the State as a whole. The average jail population of the last month was 532. The Supdt. informed that the jail population had registered a minimum of 460 and maximum 549 since 1.1.07. He is of the view that 550 can be taken as average population of this jail. This means occupancy of 82.1%.

UTPs numbering 194 constitute 40% of the total jail population. The proportion of UTPs in jail population for the State as a whole is around 60% which is commendable as against the national average of 69.2% (NHRC's analysis of June, 2006). Convicts include one case of capital punishment and 227 including 3 female of life imprisonment. The jail is holding 15 detenue – 12 male and 3 female.

SANITATION

Availability of 11 day and 18 night latrines in the male section gives a toilet to prison ratio of 1:22 for registered capacity of 646. Although 9 separate urinals (male) have been provided, sanitation facilities are inadequate. Shortage of latrines figured specifically during the interaction with Convicts. Although only 5 bath rooms are available, bathing facilities provided in the open can be taken as satisfactory since no prisoner complained of inadequacy.

In the female section, 2 day and 2 night latrines are considered sufficient for a registered capacity of 14.

Supply of water from a tank outside the Jail by means of a pump set with a reservoir capacity of 5000 litres is considered inadequate. Installation of one deep tube-well is in progress and is expected to be completed in March, 2008. The supply of electricity is reported satisfactory but the jail does not have a generator of its own.

FOOD

Prisoners were found satisfied with the quantity and quality of food being served as per the provisions of the Jail Manual. However, some convicts requested for variety in the menu. There was a mild complaint about the same 'dal' being supplied every day of the week.

There is no separate scale of food fixed for the children upto age of 6 years allowed to be kept with prisoner mothers. Supdt. and M.O. informed that children are provided milk, bread and egg as daily diet. This claim was found to be false on verification in visit to the female section. There is need for laying down a separate scale for children as per their nutritional requirements to be determined by an expert committee. I.G. Prison is requested to initiate action. Useful

information can be obtained from I.G. Prison, Jharkhand where this measure was introduced at the instance of the NHRC.

Kitchen compound was found to be unhygienic having open drainage close to the place of cooking. Prisoners working as cooks must be subjected to medical examination periodically. This is not being done.

CLOTHING AND BEDDING

Convicts are provided clothes as per the provisions of the Jail Manual. Prisoners sleep on ground. Although the Assam Jail Manual does not mention bed as an entitled item, the old Prison construction used to provide cement planks to serve as beds. It is high time the elementary facility of sleeping on bed is extended to prisoners.

The scale of bedding includes bed sheets, blankets, pillows and mosquito nets. As of 22 December, 2007 out of a total of 485 prisoners, 422 were without bed sheets and 442 could not be provided pillows because of shortage of these items. This kind of thing in a Central Jail presents a very poor picture of the state of living conditions in Assam Jails which are otherwise being administered very efficiently. Procurement of clothes and beddings which are

items of the basic minimum needs of the prisoners should be planned in a manner that such situations are avoided.

EDUCATION, RECREATION AND WELFARE

Educational needs of prisoners are receiving proper attention.

The staffing pattern includes a regular teacher to conduct education/literacy classes. I visited the school and interacted with the teacher Biman Saikia. A total of 406 prisoners – 283 literate and 123 illiterate had benefited from the elementary education class in jail school in 2006. 34 Prisoners - 23 convicts and 11 UTPs (17 literates & 17 illiterates) are now attending the jail school from 10 AM to 3.30 PM in 2 batches. Recreational facilities are adequate. 6 colour and 5 black and white TVs have been installed for the use of prisoners. The round of the campus revealed that one barrack (barrack No.1) is without this facility. A number of literate prisoners has expressed their interest in reading newspapers. Supply of newspapers to prisoners needs to be improved. Indoor game facilities – Carrom, Ludo and Chess have been provided but are inadequate in terms of number of sets – 7 Carroms, 5 Ludo and 5 Chess boards for 11 barracks. Art of living and other meditation camp are organized by

the visiting members of NGOs like Missionary of Charity Parjapati Braham Kumari. Outdoor game facilities – Volley Ball and Badminton are also available. It would be appreciated if the Volley Ball is made a regular daily activity which does not seem to be the case at present.

MEDICAL FACILITIES

Dr. Dhurva Jyoti Saikia, Medical Officer briefed me about the medical facilities available at Central Jail, Jorhat. Later I visited the hospital complex and interacted with the staff and patients. Central Jail, Jorhat has been provided a 12 bedded hospital managed by one Medical Officer, one Pharmacist, one Lab. Technician and one Staff Nurse. The daily average of OPD in Jail hospital is 25 in summer and 20 in winter months. Normal bed occupancy is 5 - 6. During an emergency upto 15 indoor patients can be managed. Civil Hospital, Jorhat provides referral services. Prison cases can be referred further from Civil Hospital to Medical College, Dibrugarh. ^{monthly referral} Average rate is 10 to 15. The doctor was assertive in saying that no difficulties are being experienced in arranging police escort for referral purposes. The Civil Hospital has also been providing services of visiting specialists. In

the year 2007, there have been 19 such visits.

The common ailments noticed among prisoners are: viral fever, RTI, skin and soft tissue infection (SSTI), injuries, pain abdomen, (acute gastritis, pus etc.), acute diarrhoea, ABD, amibiosis, LBA, enteric fever, malaria, dyspepsia, etc. In 2006, epidemics of diarrhoea and conjunctivite eye flue were effectively tackled by the Jail Hospital. The Medical Officer feels the need for water testing to make arsenic estimation. The PHE has been slow in responding to the request but has now communicated that arsenic estimation would be carried out very soon. This needs to be pursued by the IG Prison.

One convict and 3 UTPs are being treated for treatment of TB under DOTS. The M.O. was advised to ensure that the Govt. instructions regarding continued treatment are followed in case of release of the UTPs on bail or acquittal before completion of the treatment.

3 convicts and one UTP are receiving treatment for epilepsy. Convict Digranta Das is suffering from fits at an alarmingly high frequency. Specialist advice may be sought in this connection. He is a life convict who has completed four years in prison and can be

considered for release on probation on medical grounds.

10 prisoners, all convicts (9 lifers and one 10 years R.I) have been detected as mentally ill persons. 2 are admitted to LGB Mental Hospital Tezpur and 8 are receiving OPD treatment. I saw all of them individually. Daya Ram Borah has been undergoing life imprisonment since 3 2.3.93. He has also earned a remission of 1992 days. The Supdt. informed me that his case has already been forwarded for pre-mature release. This case deserves special attention on medical grounds. Gobin Kakati is serving life imprisonment since 18.4.93. He has also earned remission of 895 days. Although he has completed 14 years of actual sentence on 18.4.07, the total imprisonment including remission is less than 20 years. Considering his deteriorating mental condition, his case may be taken up as a special case in accordance with the guidelines issued by the NHRC on pre-mature release of prisoners on medical grounds.

The visit to Hospital revealed that the Lab. facilities for routine pathological examinations are yet to be developed although the hospital has been holding a qualified Lab. Technician - Namita Sonawal for over 7 years. The explanation of the Medical Officer that he has submitted once or twice indents to the Jail Supdt. for supply of

chemicals is not very convincing. It reflects lack of initiative on the part of the Medical Officer and lack of interest on the part of the Lab. Technicians, who is happily idling without doing any work. It is surprising that such a situation which can be easily rectified has been allowed to continue by the IG Prison.

Beside the sanctioned staff, 4 convict prisoners – 3 male and one female are working as medical attendants in the hospital. Convict Probitra Tamuli undergoing life imprisonment has the experience of running a licenced pharmacy. He has been providing useful service for the past 4 months. It would be fair and just to treat him in the skilled category for payment of wages. Convict Deepak Das, looking after isolation ward for one year, has acquired good expertise. He should also be considered for higher rate of wages after obtaining recommendation from the Medical Officer.

Considering the normal holding of 10 – 15 women prisoners in this Jail, a monthly visit of a Gynecologist from the Civil Hospital is recommended.

DEATH IN JAIL

I scrutinized the statement of Death in prison since 1.1.2004 furnished by the Jail Supdt. As per this statement no death had

occurred in 2004. Years 2005 and 2006 had registered one death each. 2 deaths occurred in 2007. This information was tallied with the statement collected from the C.D. Cell of the Commission.

Convict AC/900 Sri Ram Mura died on 23.6.05 in Assam Medical College Hospital, Dibrugarh. Post-Mortem examination was done without video filming. No intimation has been received by the NHRC.

Convict AC/9372 Ananda Borha, 60 years, died while on leave at home on 8.8.06. Convict AC/9537 Sunder Das, 55 years died while on leave at home on 18.2.07. These cases, in my opinion, are not covered by the instructions issued by the NHRC regarding death in custody.

AC/9815 Ramesh Murah, 55 years died on 7.11.07 at Medical College Hospital, Dibrugarh. Post-mortem examination and video filming were done. No intimation has been received by the NHRC.

WOMEN JAIL

Women Jail is situated in a separate enclosure within the main jail. Prisoners are being guarded by female warders and head warder under supervision of a male Assistant Jailor. The Jail was holding 4 convicts including 3 lifers, 7 UTPs and 3 detenues (total 14)

alongwith 4 children on the day of visit i.e. 22.12.07. The Supdt. informed that the female jail population has touched a minimum of 8 and maximum of 16 in the year 2007 (till 21.12.07) against a registered capacity/accommodation provided for 24 prisoners. Obviously, overcrowding is not a problem. Living accommodation and sanitation arrangements are satisfactory. Prisoners are satisfied with water supply and food served from the main kitchen. However, a serious irregularity was detected as regards the diet to children. The Supdt. and MO informed that children kept with women prisoners are being provided special diet consisting of milk, bread and eggs. On actual verification, only one child out of four (child of UTP Purni Majhi) was found receiving special diet. 3 children of UTP Smt. Rekha Kolita admitted about 20 days back in a case of immoral trafficking in women are not receiving any item of special diet. They are being fed adult meal of rice and dal. Female head warder Nero Saikia was found totally unaware of this. Assistant Jailor Jogender Nath did not seem to have ever taken any interest in such matters. Inoculation of children does not seem to have received any attention from the medical officer. Even the highly publicized ongoing Polio Programme is not seen to have covered these unfortunate babies

languishing in Jail with their mothers.

3 life convicts have been provided work in the newly started weaving section. They have yet to receive any wages. All of them have availed of leave. Only one UTP Smt. Purni Majhi has completed more than 90 days. She was arrested on 27.9.06 alongwith her relative Hemraj Majhi for the murder of her husband. She complained of slow progress of her trial.

STAFF

Authorised staff of Central Jail is 63 personnel including one Supdt., one Jailor and one Medical Officer. The following posts numbering 12 are lying vacant:

Assistant Jailors	: 2
Chief Head Warder	: 1 (only one is authorized)
Male Head Warder	: 1 against sanctioned strength of 3
Male Warders	: 8 against sanctioned strength of 41.

Except the Medical Officer and school teacher, the entire jail staff is untrained. This has serious implications for human rights situation of prisoners although no complaints of ill treatment or deliberate denial of basic needs were received.

WORK PROGRAMME

Prisoners' Work Programme has not received much attention.

This shows lack of concern for reform and rehabilitation of prisoners
which is claimed to be an important component of Govt. agenda for Prison improvement. There is only one trade – bamboo and cane unit established recently by District Rural Development Agency (DRDA) under Swaran Jayanti Gram Swarojghar Yojna (SJGSY) with a grant of Rs. 50,000 released by the Rural Development Department. A life convict Jeban Chakraborty from Open Jail, Jorhat was posted as Instructor in October, 2007. He is imparting training to 10 prisoners, all life convicts. It is a pity that this man selected on the basis of his recognized skill in the trade is being treated as a semi-skilled worker for the purpose of payment of wages. He identified on my request 2 prisoners Deb Saikia and Pulin Savitha who have acquired good proficiency and can work independently. Another prisoner Puleswar Sangmai has worked for more than 3 years in Mura making unit before coming to this jail. Convict Pulin Savitha is a carpenter by trade. His services can be utilized to start carpentry section. The Supdt. furnished the following statement of work programme on the

day of the visit which includes prisoners engaged on campus maintenance and administration work:

Agriculture	:71
Water supply	:40
Sanitation	:10
Kitchen	:12
Garden	:14
Ration godwon	: 2
Canteen	: 1
Cane bamboo	: 10
Weaving	: 4
Hospital attendant	:3
Office attendant	: 4
Total	171

Wages have been paid upto June, 2007 to all prisoners engaged in agricultural, maintenance, office work etc. at the rate of Rs. 12 per day which is meant for unskilled category. Rationale of treating every prisoner in every unit as an unskilled worker regardless of his date of induction and competence gained needs to be explained. The Supdt. informed that the budget allotment of 2007-08 would enable payment

of wages upto November, 2007. A sum of Rs. 9,98,884 has been demanded to clear the arrears of wages of previous years since Feb. 2002. This must be the situation in other jails as well.

CONVICTS

I interacted with life convicts number 78 who have completed more than 5 years of their sentence. Following information collected from them would be found very revealing:

(i) 59 (75.6%) of them had availed of Free Legal Aid and were defended by Govt. lawyers.

(ii) 55 convicts (71%) have availed of leave as per the provisions of Jail Manual. 97 convicts had availed leave in 2005, 77 in 2006 and 97 in 2007. 16 cases of leave were pending with the I.G. Prison with only 5 for more than 2 months. Disposal of applications for leave seems to be fast and prompt.

The interaction with convicts brought to light the following cases of denial of leave:

Jeevan Lohar, Life convict since 23.4.99, was received on transfer from Dibrugarh on 5.10.02. While in Dibrugarh he had applied for leave but before it could be sanctioned he was transferred

to Jorhat. His family is not in a position to obtain required certificate from 'Gaon Burha'. As he has been in detention for about 9 years without availing of his right to go on leave, his application should be processed and pursued by the jail, to obtain clearance from 'Gaon Burha'.

Convicts Lakhishwar Orang and Dinesh have also missed going on leave because of their transfer from Dibrugarh jail to Jorhat and inability of their families to obtain clearance from 'Goan Burhas'.

10 life convicts out of a total of 78 (15.4%) are not engaged in any work. 8 of them had some physical difficulty in doing hard work. One Shiva Bhumiz, a convict apparently to be belonging to a well to do family, is absolutely fit and must be made to work. Another convict Ramjit Ghai has Higher Secondary qualification and can be engaged in running a literacy class for illiterate prisoners. Jail work, beside being a rehabilitation measure, is part of the punishment in all RI cases.

PRE-MATURE RELEASE

Pre-mature release of life convicts is being ordered, by and large, in accordance with the guidance issued by the NHRC. 4 lifers were released in 2006 and 9 in 2007 (last on 3.10.07). 5 cases are

under consideration. I spoke individually to 13 life convicts who have completed more than 12 years of sentence. Every life convict is considered for pre-mature release after incarceration of 14 years actual and 20 with remission. There are two lifers who have completed more than 14 years and are still not eligible for pre-mature release. I examined these cases. AC/9889 Dheni Karmakar is undergoing life imprisonment since 16.3.93 after adjustment of 'set off' period. Although he had completed 14 years on 16.3.07, he could not be considered for pre-mature release because of shortage of remission (only 16152 days). Similarly AC/356 Acharam Nayak has completed 15 years of imprisonment on 30.3.07. He could not be considered because he was on leave for a long time and has earned remission of 1243 days only.

I saw AC/811 Tute Dewan who is under death sentence. He was awarded capital punishment on 29.12.03. An appeal submitted from outside has been dismissed by the Supreme Court on 8.8.05. Mercy petition addressed to the Governor of Assam has been forwarded to the Chief Secretary from Jail on 2.9.07. A period of 2 years and 5 months has elapsed since the disposal of appeal by the Supreme Court. His case may be brought to the notice of District

Legal Cell.

APPEAL

36 appeals filed by the life convicts are pending – 33 in High Court and 3 in Supreme Court. Only 5 of them are pending in High Court for over two years.

UNDERTRIAL PRISONERS

I reviewed the state of UTPs and found that only 14 UTPs have been languishing in jail for a period longer than one year. I spoke to them individually. Following observations are made:

(i) UTP Babul Das admitted on 14.10.06 is facing trial in 2 cases – Ulibor PS case No. 15/06 u/s 397 IPC and Jorhat PS case No. 717/06 u/s 224 IPC. He said that he has not been provided any legal aid. His trial is yet to start. Every time he goes to court, his remand is extended.

(ii) UTPs Mitku Bouri and Nitai Bouri were admitted to Jail on 24.10.06 in Jorhat PS case No. 562/06 u/s 341/302/34 IPC. 3rd accused Lalit Borha was granted bail on 17.12.07. They were found unsure about legal aid provided to them.

(iii) UTP Hemram Majhi admitted on 27.9.06 with co-accused Smt. Purni Majhi has been appeared in court 5 times but the case has

not progressed because the witnesses are not being produced.

(iv) UTP Lalit Chakma admitted on 13.1.05 in session case No. 4(J-J)/05 u/s 302 IPC said that all the witnesses in his case have been examined and the case is at a stand still since September 2007 for non-production of medical officer.

(v) UTP Barnabarh Barla admitted on 6.12.06 in session case No.96/07 u/s 302/201 IPC is not sure whether he has been provided a Govt. lawyer. His trial has not commenced. Similar complaint was made by Khireswar Nath admitted on 11.12.06 in session case No.89 (J-J)/ 06 u/s 302 IPC.

I scrutinized the list of UTPs who have completed 90 days as of 21.12.07. 46 UTPs have completed 90 days as of 21.12.07 after admission to jail. Charge-sheet has been filed in 19 cases only. 27 cases are yet to be charge-sheeted. 10 undertrial prisoners with period of detention ranging from 2 months to 14 months as of 22 December, 2007 have been granted bail but are still in jail because of their inability to arrange a bailer. It is heartening to note to find that Supdt., Central Jail has, on his own initiative, written to the Chairman, Legal Aid . Jorhat on 12th December, 2007 in this connection.

JAIL ADALATS

8 Jail Adalats were held during the period 30.1.06 and 17.1.07:
23 cases were disposed of and 23 accused were released.

BOARD OF VISITORS

A Board of Visitors for Central Jail, Jorhat has been constituted on 6 March, 2007. It is headed by DM, Jorhat with CJM as an official Member and 4 non-official members. The Board has not visited the jail even once. Judicial authorities have been visiting the jail regularly.

CJM, Jorhat has made 13 visits in 2006 and 9 in 2007. District and Session Judge, Jorhat had visited the jail once in 2006 and 3 times in 2007. A judge from High Court, Guwahati had visited this jail on 22.6.06. The jail has been visited by Minister of Jail and a Member of National Commission for Women in 2006. District Magistrate Jorhat has visited the jail only once on 2.12.06. I.G. Prison has not visited the jail after 24.6.06.

NGOs INVOLVEMENT

Except for a little interest shown by the Lions Club, Jorhat and the Missionaries of Charity in Prisoners' Welfare, there are no signs of involvement of NGOs in prison activities.

MOHENDRA NAGAR OPEN AIR JAIL

I visited Mohendra Nagar Open Air Jail situated adjacent to the Central Jail, Jorhat on 22.12.07. I was accompanied by the Superintendent of Central Jail Shri Padma Kant Saikia. The visit to the sole Open Air Jail of Assam was a disappointing experience. Shri D.N. Loying posted as Jail Supdt. on compassionate grounds related to state of his health cannot be expected to run the Institution effectively. Jailor B.N. Dutta briefed me about the history, infrastructure and current status of the Open Air Jail. Established in the year 1964 as a "COLONY" which means an Open Air Agricultural-cum-Industrial Reformatory", the Open Air Jail spread over an area of 160 Bighas, is governed by the Assam Superintendence and Management of Jails (Supplementary Provisions) Rules, 1968.

Set-up with a capacity of 100 (all male), the Jail was found holding only 41 inmates including 37 lifers on the day of the visit. The facility of Open Air Jail is meant for non-habitual convict prisoners in the age group of 21 to 60 years with good conduct and record in jail and having physical fitness for hard working whose term

in prison is 5 years or more, who have served at least 1/3rd of the period on sentence with remission and have at least one year of unexpired portion of sentence. The Rules say that IG Prison, Assam would select suitable prisoners, particularly lifers from Jails all over Assam in the month of January every year. As the documentation was found to be very poor, no worthwhile information could be collected about the strength of the prison in early years i.e. 60s and 70s. 16 out of a total of 41 prisoners were admitted in 2006 and 2 in 2007. Assistant Jailor Shri T.K. Chutia informed that the strength was found even less (29) in April 2004. Praveen Kumar Baz Barua, Store Keeper/Typist who is the oldest member of the staff informed that the strength was just 25 when he joined in 1990.

WORKS PROGRAMME

The facility of Open Air Jail was set up to provide vocational training and gainful employment to eligible prisoners and help them in rehabilitation. As per the Rules, the Govt. was required to provide work of both agricultural and industrial type. However, no one could inform me whether any industries were ever set up in the 'Colony'. It seems that agriculture is the only activity developed which has also declined over the years. Only 83 Bighas out of a total of 160 Bighas

available for agriculture is being utilized for cultivating paddy, mustard and winter vegetables.

Rule 12 of the Assam Superintendence and Management of jails (Supplementary Provisions) Rules, 1968 says that 1/3rd of the sale proceeds would be given as wages to the prisoners. It was made 1/10th in 1990 when payment of daily wages @ Rs. 12/- to inmates of open Jail engaged in Agriculture work was introduced. However, the prisoners have not received their annual wages out of the sale proceeds from 2002-03 onwards.

The following statement of the total annual sale proceeds presents not a satisfactory picture of farming activity on an area of 83 bighas:

Year	Total sale proceeds
2003-04	Rs. 65,131
2004-05	Rs. 60,127
2005-06	Rs.56,367
2006-07	Rs.63,610

Prisoners confirmed that they work for 22 to 25 days every month and receive wages at the rate of Rs.12 per day. The following chart shows the budget allotment under the head "Wages" to prisoners

and its utilization:

Year	Allotment Rs.	Utilisation Rs.
2003-04	65,000	64,992
2004-05	1,30,000	1,22,940
2005-06	1,37,000	1,36,992

A statement furnished by the Supdt. shows that wages arrears amounting to Rs. 2,40,640 are to be paid to the prisoners for their work from 2001-02 onwards. Because of irregular and delayed release of funds for clearing the wages, a number of prisoners leave the prison on release without receiving their dues. Record shows that an amount of Rs. 34,141 has been lying for disbursement. It relates to 54 released prisoners (2 escapes) some of whom were released as long back as 1989. By way of illustration, names of those whose amount exceeds Rs. 1000 are given below:

Name of the convict	Amount of wage money	Date of release
1. Phulchand Mura	Rs. 117	21.12.98

2. Poromeswar Koya	Rs. 1078	9.9.97
3. Pradip Kolindi	Rs. 1668	Transferred to District Jail Jorhat (date not mentioned). It is not understood why this amount cannot be disbursed if the prisoner is still at Jorhat.
4. Sonika Mura	Rs. 1271	30.6.99
5. Rupan Orang	Rs. 1799	22.8.99
6. Sunu Munda	Rs. 2453	1.1.98
7. Sunu Tanti	Rs. 1557	Escaped from Jail on 7.5.96.
8. Nimai Gulala	Rs. 1215	15.11.02
9. Rangta Majhi	Rs. 1190	2.10.2000
10. Nand Lal Karmakar	Rs. 1279	5.10.02
11. Sham Majhi	Rs. 3219	30.6.99

LIVING CONDITIONS

I visited the barracks and reviewed the living arrangements. I

interacted with the convicts of the Open Air Jail, numbering 35 including 31 lifers. All convicts have been provided cots. Availability of just 2 latrines for the prisoners numbering 41 gives a toilet to prisoner ratio of 1:20 which is highly unsatisfactory. Water supply arrangements are unsatisfactory. The single tube well which supplies water has been lying out of order for more than a month. Water is being fetched from the jail tank of the Central Jail. Bathing facilities do not exist in the form of bath rooms. Prisoners take bath in the open, which they do not mind.

Only indoor game facilities such as Carrom, Ludo, etc. have been provided. I was shocked to learn that even Volley Ball facility which is the most common game facilities in jails all over India is missing in the so-called Open Air Jail. It may be added that the rules envisage that efforts will be made to arrange game competitions of volley ball, kabaddi etc. between prison inmates and the villagers of nearby area. No such initiative has been noticed.

Recreation facilities are inadequate. Even the TV facility installed in a Verandah which cannot accommodate all the inmates is not satisfactory.

There is no separate supply of newspapers to the prisoners.

Only one Assamese daily newspaper is supposed to serve the needs of both the staff and the prison inmates. As many as 10 out of a total of 35 prisoners present in my interaction were found to be illiterate. Rule 8 says that Open Air Jail must have a Library-cum-School room with sufficient books, slates, pencils, Newspapers and information leaflets and posters from the Agriculture and Industry Departments. It further says that if no teacher is available, the prison school will function under the supervision of a literate person. No attention has been paid to the educational needs of the prisoners despite specific provision in the rules. All of them expressed their willingness to attend literacy classes. One inmate Prabat Barua is a graduate and is prepared to take literacy classes. I.G. Prison is requested to order this arrangement immediately by engaging this prisoner as a teacher and paying him a suitable wage.

All convicts without exception confirmed that they have been availing of the facility of leave provided in the Jail Manual. They had only one complaint to make, namely delay in disposal of their appeals by the High Court. The Appeals filed by AC/493 Budheswar Karnakar, AC/479 Raju Ali, AC/500 Kedar Chetry, AC/497 Harukan Murah, AC/519 Haren Pa have been pending for over 5 years.

STAFF

Mohendra Nagar Open Air Jail has a sanctioned staff comprising 23 personnel including one Supdt., one Jailor, one Assistant Jailor and one Medical Officer. The sole sanctioned post of Head Warder is lying vacant. The post of pump operator has been lying vacant since 13.9.03 following the retirement of the last incumbent. The bamboo and cane Instructor sanctioned for the Open Air Jail has been attached with the Central Jail.

HEALTH CARE

Open Air Jail has a sanctioned post of a Medical and Health Officer. Dr. Rani Barua posted on deputation from the Health and Family Welfare Department informed that the daily OPD average is just one. Since only physically fit persons can be selected, no TB cases have ever been detected. I found the Medical Officer with hardly any work to do but not unhappy with her under-utilisation. She said that she visits a Children Observation Home 2 or 3 times a week situated about 2 to 3 kilometers away. She did not say clearly whether she is doing this informally or there are formal orders issued to this effect. However, I consider it criminal to waste a qualified doctor when conditions in some other jails in Assam need the services of a

regular Doctor.

BOARD OF VISITORS

The Board of Visitors constituted for the Central Jail, Jorhat vide Govt. Notification dated 6 March, 2007 is meant for Open Air Jail also. However, no visit of the Board has taken place so far. No judicial member has visited this Open Air Jail in recent years, as per the Jail records. NGO involvement is NIL.

DISCUSSION WITH OSD SHRI DILIP KUMAR NEOG

In a discussion held with Shri Dilip Kumar Neog, OSD held at Circuit House, Jorhat on 24 December, 2007 the following major issues concerning Jail administration and Management for the Staff as a whole were covered.

(I) OVERCROWDING IN JAILS

Assam has 27 districts and as many jails. It has 6 Central Jails, 18 District Jails, one Special Jail, one Open Air Jail and one Sub-Jail. One of the districts, namely, Tinsukia is without any jail and has been attached to Central Jail, Dibrugarh for this purpose. District Krabi Aonglong is being served by a Sub-Jail at Haflong. The registered capacity of 27 jails of Assam was 6357 as of 30 November, 2007. The actual jail population of 9343 as of 30 November, 2007 denotes

an overcrowding of 46.97%. It is worth noting that the overcrowding in Assam was 30.9% as against the national average of 42% as of 30 June, 2006. Rise in the extent of overcrowding should be a matter of concern.

Uneven distribution of overcrowding has resulted in some jails having alarmingly high congestion while a few showing idle capacity. Overcrowding is more than 100% (double the capacity) in as many as 12 jails. These are: Central Jail, Guwahati (102.96%), District Jail Barpeta (143.8%), District Jail Mangaldoi (143.60%), District Jail Hailakandi (150%), District Jail North Lakhimpur (119%), District Jail Sivasagar (286.36%), District Jail, Golaghat (145.27%), District Jail, Biswanath Chariali (130.85). District Jail, Dhemaji (110%), District Jail Morigaon (421.15%), Sub-Jail, Haflong (175%) and District Jail, Karimganj (186.84%).

The OSD informed that under the Modernization Scheme funded by the Government of India, 2 new jails are under construction. Construction of the new Central Jail at Guwahati with 1000 capacity will reduce congestion at Guwahati. Construction of District Jail, Tinsukia with 500 capacity will reduce congestion at Central Jail, Dibrugarh. 3 new District Jails have been constructed

with capacity 50 each. These are : District Jail, Sarha, District Jail Udalguri and District Jail, Sonari. The State Govt. is required to sanction staff for these Jails whose commissioning will reduce congestion at Dibrugarh, Mangaldoi and Sivasagar.

Under the Modernisation Grant, District Jails Morigaon and Barpeta are being provided additional capacity of 130 and 70 each.

The 7 jails, namely, Central Jail, Tezpur, Central Jail Jorhat, District Jail, Kokrajhar, District Jail, Goalpara, District Jail, Majuli, Sub-Jail, Nagaon, and Open Air Jail, Jorhat have idle capacity ranging from 18% to 59%.

(II) STATE OF UTPs

The state of UTPs as of 30 September, 2007 was reviewed for the entire State. The UTPs numbering 5686 constitute 60.86% of the total Jail population which compares favourably with the national figure of 69.2 % as of 30 June, 2006. It is heartening to note that the UTPs' situation in the State is being regularly reviewed jail-wise, particularly to ensure compliance with the provisions of the recent amendment to Sec. 436 Cr. PC. The OSD informed that there is no UTP held in any jail in Assam for half of the maximum period of imprisonment awardable on conviction.

The number of UTPs languishing for more than 3 years is less than 2% of the total. I examined individually the cases of UTPs (27) in detention for a period exceeding 5 years as of 24 December, 2007. Five of them UTPs have completed more than 8 years, Ten have completed 7 years, three 6 years and nine 5 years. The review revealed that the following four UTPs with date of admission to jail indicated against each have neither engaged any lawyer nor been provided with Govt. lawyer:

1. Benjamin Momin, Breshan Sangma and Singrup Marak - they were admitted to Central Jail, Guwahati on 11.2.2000 and are involved in three cases –

(i) Boko Police Station case No. 196/99 u/s 120(B)/121(A)/121/396 IPC (session case No. 112(KD5).

(ii) Nongstain PS case No. 9(2)2000 u/s 25(1)(b)(a) Arms Act.

(iii) Nongpoh PS case No. 84(12)99 u/s 341/397/398/352/332 IPC.

4. Rajesh Borman - he was admitted to Central Jail, Silchar on 28.4.2001 in session case No. 93/01 u/s 302 IPC.

This information has been received in a statement signed by the IG Prison, Assam. It is difficult to understand how the trials in these

cases are proceeding without the accused being defended. This constitutes a violation of the prisoners' right to fair trial which is an integral part of the Fundamental Right to life governed by Article 21 of the Constitution. There may be more cases of this kind among the UTPs with period of detention less than 5 years. The Commission may like to bring this information to the notice of the Registrar, High Court, Guwahati or the Chairperson of Legal Aid Authority, Guwahati.

(III) STAFF

Consolidated staff position was reviewed. Jail Department has a sanctioned strength of 1055 personnel including one IG Prison, 3 DIG, 4 Grade I and 22 Grade II Jail Supdts. It is authorized 2 Psychiatrists, 27 doctors and 25 Pharmacists also. The functional staff comprises 7 Chief Head warders, 72 Head Warders and 643 warders. Overall staff position is satisfactory. Following key posts are lying vacant:

Name of post	Number of vacancies
1. Superintendent Grade-II	3 - against the sanctioned strength of 22. These posts need to be filled up immediately as District Jails Majuli,

	Hailakandi and Hamren are without Supdts.
2. Psychiatrists	2 posts of Psychiatrist authorized - one each at Jorhat and Dubri.
3. Doctors	6 in a sanctioned strength of 27. Sanctioned Medical Officers are not in place at District Jail, Dubri, District Jail, Hailakandi, District Jail Karimganj, District Jail Abhaypuri, District Jail Hamren, District Jail, Bishwanath Chairali.
4. Jailor	1 against the sanctioned strength of 27.
5. Assistant Jailors	24 against the sanctioned strength of 89.
6. Crafts Instructors	5 against the sanctioned strength of 30.
7. Chief Head Warders	5 in a sanctioned strength of 7.
8. Head Warders	26 in a sanctioned strength of 72.
9. Warders	69 in a sanctioned strength of 643.

OSD informed that steps have been initiated to fill up vacant posts of Head Warders by promotion of warders and those of warders

by open recruitment.

(IV) WOMEN JAIL

Assam does not have a Women Jail which is considered essential as per the recommendations of the Krishna Iyer Committee Report on Women Prisoners and Margaret Alva Committee Report on Empowerment of Women. The OSD informed that a Women Jail set up at Barpeta in 1989 in the form of Nari Sadan where mentally ill destitute women also being kept for "safe custody". Following the Supreme Court judgment in Sheila Barse case in 1984, which totally stopped detention of non-criminal mentally ill persons, this the Women Jail was closed in 1985.

(V) MEDICAL FACILITIES

Based on the recommendations of 1979 Assam Jail Reform Commission, medical facilities have been provided in all jails of Assam. It is heartening to note that 26 out of a total of 27 jails have their own medical officers and pharmacists (only Open Air Jail is without a pharmacist). 18 jails have facility of bedded hospital and the remaining are being served with dispensaries. While the Central Jail Guwahati has 2 doctors and one pharmacist, other jails have one doctor and one pharmacist each. In Central Jail, Dibrugarh, one

additional Doctor has been deputed by the Health Department on full time basis. Only one Jail, namely Sub-Jail, Haflong does not have a medical set up of its own. Medical cover is being provided by 2 doctors deputed from Civil Hospital to attend the Sub-Jail once a week. One nurse each has been provided at all Central Jails numbering six and District Jail Barpeta. Lab. Technicians have also been sanctioned for all the Central Jails and have actually been in all available except at Central Jail, Dibrugarh. I.G. Prison is requested to take note of my observations at Central Jail Jorhat and ensure actual utilisation of Lab. Technicians by developing Lab. Facilities in these Jails. Only one post of Pharmacist is lying vacant at District Jail Hamren. The posts of Medical Officers are lying vacant at Dubri, Hailkandi, Karimganj, Abhaypuri, Hamren and Bishwanath Chairali. However, part time doctors are entrusted from Health Department to all these Jails except Hamren where doctors of Civil Hospital attend the jail on call.

(VI) DEATH IN JAIL

Instructions of the NHRC are being followed in processing the incidence of death in Jail. Post-mortem examination is being conducted in every case of death of a prisoner whether in jail or in the

hospital. Video filming of post-mortem examination is also carried out in accordance with the Commission's instructions. I am, therefore, surprised to notice discrepancies in the data related to death in jail. The information furnished by the IG Prison is found to be at variance with the records of the C.D. Cell of the Commission as shown below:

Year	Death of prisoners as per statement furnished by the IG Prison	Death of prisoners as per records of C.D. Cell of the Commission
2004	30	16
2005	31	28
2006	31	30
2007 (till 20 Dec.)	31	17

The statement furnished by the IG Prison says that all the cases of custodial death were reported to the NHRC/SHRC which raises doubt whether some cases have been reported to the SHRC and not the NHRC. This is contrary to the instructions of the Commission which require that every case of death is to be intimated to the NHRC.

Since the discrepancy is fairly large, I suggest the C.D. Cell of the Commission should obtain from the I.G. Prison, Assam the names of prisoners with all necessary particulars who have died in custody from 1.1.04 onwards. It would then be possible to see which cases of death were not intimated to the Commission. I consider this exercise necessary in the interest of the credibility of our reporting on death of prisoners.

RECRETATION AND EDUCATION FACILITIES

Only 9 jails have been provided full time teachers for education and literacy classes on regular basis. Teachers should be provided in all the jails having registered capacity of 100 or more. Pending sanction of posts and appointment of incumbent suitably qualified convict prisoners, preferably lifers should be selected to conduct education/literacy classes. They should be treated as skilled persons for the purpose of wages.

The facility of the special study centre of IGNOU established in Central Jail, Guwahati on 18.2.2002 is under utilised. It was learnt from the OSD that only 15 prisoners have actually been benefited so far by passing the following courses:

1. Certificate Course in Tourism studies

5

- | | |
|--|---|
| 2. Bachelor Preparatory Programme (BPP) : | 7 |
| 3. Certificate Course in Food and Nutrition: | 3 |

2 students have been enrolled in BA degree programme. 10 prisoners have taken CFN Examination and result is awaited. 20 prisoners have attended 2 weeks' training in fundamentals of computer applications. Efforts should be made to extend the facility of IGNOU centre to prisoners in other jails and increase its utilization.

WORK PROGRAMME IN JAILS

Work Programmes which are mandatory for prisoners undergoing rigorous imprisonment are being run in only 15 jails. The number of trades is just one or two – weaving, bamboo and cane work. Soap making unit has been set up in Central Jail Guwahati only. Tailoring has been introduced only in Central Jail Tezpur and Central Jail Silchar. Blacksmith Unit is working at Tezpur and Dibrugarh only. In other jails, it is bamboo and cane work with addition of weaving at a few places. A good initiative has been taken by forming Self-Help Groups of Jail inmates at Central Jail, Guwahati and Central Jail, Jorhat. The DRDA Jorhat has sponsored the Bomboo and Cane Work programme at Central Jail, Jorhat with a

grant of Rs.50,000.

The rates of daily wages payable to prisoners are Rs. 18/- for skilled work and Rs. 12 for unskilled work as revised w.e.f. 15.8.01. Payment of wages needs to be streamlined by introducing a transparent procedure for categorization of prisoners into skilled and unskilled categories. There are huge outstanding payments relating to varying periods from 2001 onwards in Central Jail, Guwahati, Central Jail, Jorhat, Central Jail Nagaon, Sub-Jail, Nagaon and Open Jail Jorhat. I.G. Prison has informed that additional budgetary allocation of Rs. 105.04 lakh has been received through supplementary demand and the same is being utilized in clearing the outstanding wages of prisoners.

MENTALLY ILL PRISONERS

It is a matter of great satisfaction that following the NHRC's intervention in cases of long staying mentally ill undertrial prisoners detected in the Mental Hospital, Tezpur, the issue is now receiving full attention from the Govt. and Jail Department. The OSD informed that following the NHRC's guidelines, mentally ill prisoners who are in need of institutionalized treatment are shifted to the LGB Regional Institute of Mental Health (LGBRIMH) Tezpur after obtaining

permission from the competent authority. Those who do not need institutionalized treatment are given treatment by jail doctors under periodic supervision of the Psychiatrists. As many as 96 prisoners are currently being treated as OPD cases in jails with Central Jail, Dibrugarh having the largest number (25), followed by Silchar (17) and Tezpur (16). Position of jail prisoners under treatment at LGB Regional Institution of Mental Health, Tezpur is regularly monitored by the I.G. Prison. The Supdt. Jail, Tezpur has been made responsible for collecting reports on the conditions of jail patients undergoing treatment at LGBRIMH, Tezpur and forward them to the I.G Prison for monthly review. As of 30 November, 2007, four prisoners were receiving indoor treatment at Mental Hospital, Tezpur. One Hemkant Changmai since 4.1.2003 and the remaining 3 admitted in the last four months. One of them has since been released and taken back to jail.

BOARD OF VISITORS

Responding to the observations made by the NHRC, the Board of visitors have been constituted for all the jails in Assam vide Home Department notification dated 6 March, 2007. However, these have not yet started functioning actually. I.G. Prison is requested to write to the District Magistrates who are Chairpersons of these Boards

drawing their attention to the relevant provisions of the Jail Manual and request them to activate the functioning of the Boards.

JAIL ADALATS

A statement received from I.G. Prison shows that the instructions of the Supreme Court issued in 1999 and reiterated by the NHRC in 2003 for the holding of Jail Adalats to dispose of petty cases are being followed only in Central Jail, Guwahati, Central Jail, Jorhat, District Jail, Goalpara. Registrar, Guwahati High Court may be requested to arrange the holding of such Adalats in other districts.

MODERNISATION GRANT

A 5-years Scheme for modernization of Prison Administration (2002-07) is under implementation with funds provided by the Govt. of India on 75:25 matching basis. The period of implementation of this scheme has been extended by the Govt. of India upto March, 2009. The scheme involves a total outlay of Rs. 39.17 crore meant for

- (i) construction of 2 new jails at Tinsukia and Guwahati;
- (ii) Expansion of 2 existing jails;
- (iii) Renovation of 25 jails
- (iv) Construction of 342 staff quarters and
- (v) Improvement of water supply in 7 jails.

The scheme is being implemented from 2002-03 onwards. During 2002-03 and 2003-04 the Govt. of India released Central share amounting to Rs. 1174.50 lakh which together with the corresponding State share amounting to Rs. 391.50 lakh come to a total allocation of Rs. 1566 lakh. Out of the total outlay of Rs. 1566 lakh, the expenditure made upto November, 2007 is Rs. 1496.54 lakh (95.56%). In October, 2007, the Govt. of India has released another amount of Rs. 1691.87 lakh (instead of balance amount of Rs. 1763.25 lakh by deducting an amount of Rs.71.38 lakh being utilized portion of Central assistance released earlier for the period 2002 to 2004) as Central share which together with the corresponding State share amounting to Rs. 563.96 lakh comes to a total allocation of Rs. 2255.83 lakh. With this release, the total Central share so far released by the Govt. of India has become Rs. 2866.37 lakh against Rs.2937.75 lakh planned originally and the State share Rs. 955.46 lakh. Thus, the total allocation is Rs. 3821.83 lakh which falls short of the original outlay of Rs. 3917 lakh by Rs. 95.17 lakh. This shortfall has arisen because of utilisation of Rs. 1470.83 lakh against the allocation of Rs. 1566 lakh released for the years 2002-03 and 2003-04.

The shortfall of Rs. 95.17 would adversely affect (a) construction of staff quarters in District Jail at Majuli and (b) Improvement of water supply in Central Jail, Dibrugarh. Both these works are essential and as such deducted amount of Central assistance needs to be restored to the State. Commission may like to recommend the State Govt.'s case to the MHA. State needs continued modernization grant for the following:

Construction of new jails - at least 2 more jails are required to be constructed in place of the existing small jails at District Hqrs of Hailakandi where a 20 bigha plot of land was acquired long back in 1990 but construction could not be taken up for want of funds and Haflong where only a sub-Jail is functioning with inadequate provisions and acute overcrowding.

Creation of additional capacity in a number of jails.

Upgradation of sanitation and Water supply facilities at remaining 20 jails.

Construction of additional 295 Staff quarters to raise the level of satisfaction from 72% (after completion of ongoing work) to 100%.

ASSAM JAIL MANUAL

The Assam Jail Manual first compiled in 1899 and revised in 1934 has undergone a number of progressive changes since independence. Whipping was abolished in 1956. With the enactment of the Prisoners Probational Release Act, 1998, a useful provision was made for the conditional release of prisoners including life convicts under probation – under supervision of an individual guarantor or an institution. This is being used carefully and helping in the reform and rehabilitation of the law abiding prisoners. In 1968, provisions were made for Leave & Emergency Release for convicted prisoners, which were further liberalised in 1986 on recommendation of the Assam Reforms Committee (1979-80). These are being administered effectively and fairly. In 1985, scales of Diet, clothing and bedding of prisoners were amended and improved after abolishing the earlier distinction/discrimination based on the mode of living. Remission System was streamlined in 1986. Wage structure of Open Air Prison was amended in 1990 by providing for both daily and annual wages.

The state is examining the Model Prison Manual prepared by

the BPRD and the Draft Prison Management Bill circulated by the NHRC for the purpose of re-enactment of the State Prison Act and State Jail Manual. In my opinion, the Assam Jail Manual is one of the most comprehensive and excellently drafted Jail Manuals, which can ensure good governance of Jails after it is imparted a human rights orientation in accordance with the guidelines circulated by the NHRC.

JAIL SECURITY

Only one of the 27 Jails of Assam, namely Special Jail Nagaon is a double-walled Jail and can be considered as a maximum security Jail from infrastructural point of view. Barring Open Jail which is a minimum security institution, rest of the Jails may be considered as medium security Jails. While Internal Security and discipline are maintained by the Jail Custodial Staff i.e. Jail Warden, Head Warden and Chief Head Wardens under supervision of Jailers and Assistant Jailers, the external Security cover is being provided by Armed Police Personnel. Presently, 24 Jails have Armed Police deployed for external security. Armed Police personnel are not deployed in two Districts Jails at Karimganj and Majula which have no extremist inmates and in the Open Air Jail where such security is not considered

necessary. As of 31.10.2007, there are 364 extremist prisoners lodged in 20 Jails of whom 18 are detained under TADA, 310 under UA(P) Act and 36 under NSA. Considering the disturbing reports about attacks on jails and attempts at Jail breaks coming from some States facing extremist problem, the external Security arrangements provided at all jails in Assam need to be reviewed urgently.

CONCLUDING REMARKS

From what has been observed at the Central Jail, Jorhat, District Jail, Golaghat and Mohendra Nagar Open Air Jail plus the discussion held with the I.G. Prison and OSD, the following picture of strengths and weaknesses of Jail infrastructure and its functioning in Assam emerges.

Assam has a systematically planned and well designed Jail infrastructure which is being steadily upgraded to meet new demands.
A sincere effort is being made to reduce congestion in Jails by opening new jails and creating additional capacity in the existing ones through efficient utilization of the Modernization Grant.

Regular monitoring of the UTP situation by the judicial authorities and also the I.G. Prison is a significant feature of jail management in Assam. The proportion of UTPs in the total jail

population has been brought down to around 60% against the national average of 70%. Regular visits of the District judicial authorities to jails is an important feature of jails in Assam. Its impact is visible in the relatively faster disposal of court cases and a satisfactory human rights situation.

Assam is probably the only State where all jails (with exception of one Sub-Jail at Haflong) have well equipped and efficiently administered medical set up of their own.

Educational needs of prisoners are receiving good attention although there is a need to extend the developed facilities to jails which do not have a sanctioned post of school teacher.

Parole rules are being administered with exemplary efficiency and fairness. Pre-mature release of life convicts is being decided in accordance with the guidelines of the NHRC and by exercising powers u/s 432 Cr.PC read with 433A using sparingly the provisions of article 161 of the Constitution.

On the negative side, absence of a Women Jail, underutilization of Open Air jail and unsatisfactory sanitation facilities are prominent infrastructural weaknesses. Sanitation and water supply arrangements, under upgradation in 7 jails need to be

strengthened in other jails.

The range and content of work programmes for prisoners currently being run in 15 out of 27 jails need to be expanded. Payment of wages needs rationalization. Recreational facilities are inadequate and need more attention.

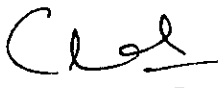
Food and health care facilities of children particularly the immunization requirements do not seem to have received proper attention of jail authorities so far.

Although the processing of cases of death in jail is, by and large, in accordance with the instructions of the NHRC, some lapses have been noticed in the matter of reporting to the Commission. This needs to be examined and remedied immediately.

Boards of Visitors have been constituted for all jails in response to the instructions of the Commission. However, they are yet to start functioning as per provisions of the Jail Manual.

A number of progressive changes have been made in the Assam Jail Manual to bring it in tune with the requirement of prisoners' rights and ensure humane and decent treatment of prisoners, which is a notable feature of Jails in Assam. No undue restrictions are imposed on the movement of prisoners inside the campus. Prisoners are found

relaxed and generally cheerful with hardly anybody having any complaint about matters falling within the jurisdiction of Prison Department.


(Chaman Lal) 28.1.08

Honorary Representative