

4110/2007

47

4

**Report of Shri Chaman Lal, Honorary Representative, NHRC on  
his visit to Jails in Nagaland from 24 to 29 November, 2007**

As directed by the Commission, I have carried out a study of the jail set up of Nagaland in order to assess the strengths and weaknesses of its infrastructure and the efficiency of its functioning. For this purpose, I have visited one Central Jail (Dimapur), one District Jail (Kohima) and one Sub-Jail (Dimapur). Nagaland has neither a Women Jail nor an Open Air Jail. The study was concluded with a visit to HQs. DG Prison and discussion with him on various aspects of the functioning of the jail Department.

**CENTRAL JAIL, DIMAPUR**

I visited the Central Jail, Dimapur on 24 November and again on 29 November, 2007. I was accompanied by Shri N. Aonochet, IPS, DG Prison, Nagaland and Shri R. Haralu, DIG Prison, Nagaland. Shri Avi Kechu, AIG Prison is functioning as Supdt., Central Jail, Dimapur. Before taking a round of the campus which included visit to Convict enclosure, UTP enclosure, Kitchen and Vocational Training barrack, I received a briefing from the Supdt. on its functioning. He narrated the history of the jail established in 1965 following the creation of State of Nagaland in 1963. Spread over in an area of 60 bighas, Central Jail, Dimapur comprises 11 living barracks - 4 occupied by convicts and 7 by UTPs. Its authorized capacity is 600. The Supdt. stated that actual population of this jail

ranges from 250 to 350. The daily average strength of the previous month (October 2007) was 296. On the day of the visit i.e. 24.11.07, the Central jail, Dimapur was holding 250 prisoners, all male with the following break-up:

Convict	93
UTP	152
NSA detenue	5

The Convicts included six lifers. Overcrowding, a common feature of all jails in most States, has never been a problem in this jail.

Visit to the barracks revealed that actually three barracks are occupied by the convicts and 9 barracks have UTPs and convicts combined which is objectionable. Convicts seem to have been carefully selected for the physical and mental ability to exercise control over the UTPs. Visit to ward-I (on 29.11.07) revealed that UTP G. Barua, a businessman, admitted on 24.10.07 in connection with a case of cheque bouncing was the only UTP lodged in an exclusively convict ward. On being questioned, he said that he was allowed there on his own request. Living conditions in this ward were seen to be relatively better than the conditions in the UTP wards. It transpired that he was allowed this unmerited favour by some lower functionary without consulting the jailer who expressed his annoyance despite the presence of his D.G. and the undersigned. One could sense that the favour must have been done for some consideration.

Central Jail, Dimapur used to hold female prisoners also till 2 years back when they were shifted to Sub-Jail, Dimapur. However, female warders (numbering 8) sanctioned specifically for female prisoners continued to stay in Central Jail, Dimapur. The Supdt. explained they are being utilized in handling interviews. I did not feel convinced.

### SANITATION

Availability of 19 toilets gives a toilet to prisoner ratio of 1:16 for an average strength of 300 although the sanctioned capacity is 600 inmates. There is a definite need for more toilets in order to bring this ratio down to 1:10 as against the generally accepted norm of 1:8. Availability of 13 bathrooms gives a very unsatisfactory bathroom to prisoner ratio of 1:23 calculated for a strength of 300 prisoners. The overall standard of sanitation can be rated as poor. Water supply arranged from a ring well is told to be satisfactory although shortage is experienced in summer months when the services of a tanker are requisition. The Jail has to depend on other Govt. Departments as it does not have a tanker of its own which is considered essential.

### STAFF

Central Jail, Dimapur is authorised a total staff of 119 personnel including one AIG Prison, one Dy. Supdt. Prison, one Jailer, 4 Assistant Jailers, one Chief Head Warder, 9 Head Warders and 75 warders including 8 female. It is heartening to note that there is only one vacancy (Asstt. Jailer). Although staff has been provided in sufficient strength in relation to the current commitments of the jail,

their training needs do not seem to have received much attention. While officers – Deputy Supdt. Jailer and Assistant Jailers have received training at the Jail Training Institutes outside Nagaland, such as at Lucknow (UP), RICA, Vellore (Tamil Nadu), the warders are trained at the Police Training Centre, Chumukedima, Dimapur alongwith police constables. It is a matter of concern that the jail warders are imparted only police training, mainly physical training without receiving any knowledge and skill related to their Jail duties. No wonder most of them are found totally unaware of the elementary provisions of the Jail Manual. Even the officers, including their senior bosses, are found highly deficient in the knowledge of rules and regulations governing the working of prisons. 2 Assistant Jailers out of a total of 3 held at Central Jail Dimapur and 4 male warders have not received any training so far.

## **FOOD**

The daily scale of ration comprising 600 grams rice including 100 grams Atta, 150 grams meat, 200 grams vegetables, 100 grams dal, 20 gram sugar appears to be sufficient. The daily cost on food comes to Rs. 47 per head. In actual practice, Mutton is served twice a week and egg curry once a week. Use of fire wood as fuel for cooking needs to be replaced by LPG. Meal timings – Lunch at 9 AM and Dinner at 3 PM with a gap of 18 hours between the main meals indicate a lack of care and concern for prisoners. Early lunch time was explained by the requirement of court production for which prisoners have to be moved from jail around 10 AM. D.G. Prison was requested to examine the possibility of changing the meal times to 11

AM and 4 PM. While UTPs going out for court production can be served lunch around 9 AM others may be fed around 11 AM.

UTP Rajiv Sharma kept in convict ward-2 mentioned that the quantity of food actually served is found not sufficient to satisfy the appetite of some prisoners. Although this complaint did not receive support from other prisoners, it should not be ignored. DG Prison was advised to make surprise checks and satisfy himself that the food is actually supplied to prisoners is as per the prescribed scale.

### **CLOTHING AND BEDDING**

Rule 390 of the Assam Jail Manual which governs the functioning of Nagaland Jail says that "convicts shall wear prison clothing in accordance with the scale laid down in Rule 393, 395". I was surprised to find all convicts were wearing their private clothes, something I have not witnessed in any jail in any other state so far. The Jail Manual also provides for supply of clothes to undertrial prisoners "who cannot or do not provide for themselves". DG Prison informed that issuing of clothing was stopped 10 years back. He could furnish no additional information on this subject. I was informed that destitute and poor prisoners who cannot arrange clothes for themselves are looked after by NGOs and charity organizations.

Although the Jail Manual provides for the supply of bed sheets, blankets, pillows and mosquito nets, prisoners are actually receiving only blankets and no other items of bedding. I have no hesitation in remarking that it displays a lack of regard for the worth and dignity of human person of prison inmates.

Roughly, fifty percent of the prisoners have not been supplied beds and are therefore, forced to sleep on ground. In Ward-2 holding 22 prisoners, 10 were found without cots. I must add that prisoners in most other States are also deprived of the elementary comfort of sleeping on a cot. Some jails can be seen having cemented planks which serve as joint cots for 2-3 prisoners because of overcrowding. However, I have not come across any prisoner complaining denial of this basic need. That only denotes the state of helplessness in which they live. What I found most objectionable in Nagaland jails is the fact that some prisoners are provided cots and some have to sleep on ground, with no objective criterion being followed for allotting cots. DG Prison informed that Jail Department has not received supply of cots since 1988 when a scandal relating to purchase of cots at a rate of Rs. 5000 or so per cot had shaken the Department. What happened to the actors involved in this scandal is not known but the purchase of cots for prisoners is found to have been stopped for all times.

### **MEDICAL FACILITIES**

It was shocking to see that Central Jail, Dimapur with an authorized capacity of 600 prisoners is virtually without any medical cover. The Jail has no doctor of its own. I was informed that a part-time doctor used to be available till 2004 when the system was stopped. Even the system of visiting doctors designed for District Jail, Kohima, Sub-Jail, Wokha and Sub-Jail, Zunheboto has not been extended to the only Central Jail of the State. Only one Pharmacist

has been provided to attend to the medical needs of prisoners. 15 to 20 inmates report to the Pharmacist daily. I refused to believe that the Jail is holding no case of TB as no testing has ever been done and TB is a fairly common disease in Nagaland. One NGO NEDHIV Organisation, Dimapur was involved in prisoner health care during the year 2005-06 only. Why it stopped looking after the prisoners could not be explained.

### **DEATH IN JAIL**

The statement furnished by the AIG, Prison showed that there has been no death of prisoners during the last three years. However, the examination of relevant records revealed three cases of death since 1st January, 2004. The instructions of the NHRC that every case of death of prisoner has to be reported to the Commission within 24 hours are not being followed. The Commission's Annual Report has been showing nil death in jails in Nagaland for the past several years. This happy picture is found to be false on examination of records of 3 jails which I have visited in Nagaland. It is confirmed by the Custodial Death Cell (CD Cell) of the Commission that none of these cases have been reported to the Commission. AIG Prison Dimapur on my demand furnished a statement showing 8 deaths from 1.1.2000 onwards. I examined all these cases. Following observations are made:

1. UTP Babul Ali, involved in a case of house breaking, was admitted to the Central Jail, Dimapur on 24.2.01. As per the detailed report of the Supdt., he fell sick on 26.2.01 and was immediately shifted to Civil Hospital, Dimapur on 27.2.01.

GTC

He died on 28.2.01. Since his relatives could not be contacted, the body was handed over to Dimapur Town Committee for disposal after post-mortem examination which mentioned cardio respiratory failure as the cause of death. NHRC was not informed.

2. UTP Raju Basumatry was admitted on 21.8.01 as an NSA detainee. He fell sick on 12.6.02 but was shifted to Hospital on 13.6.02 because of delay in arranging police escort. He died on 15.6.02. Since his family/relatives could not be contacted in Karbianglong (Assam), the body was handed over to Dimapur Town Committee for disposal. The detailed report prepared by Shri R. Keppen, Senior Supdt. Central Jail, Dimapur on 19.6.02 makes no mention whether post-mortem was conducted. The records do not reveal the cause of death. No information was sent to the NHRC.
3. Convict lifer Uttam Kumar Gurung, 45 years had been undergoing life imprisonment awarded by Army Court Martial since 24.2.93. Detailed report dated 1.8.04 prepared by Shri E.T. Odyuo, Supdt. Central Jail, Dimapur mentions a riot amongsts the inmates of Central Jail, Dimapur on 31.7.04 at about 3.45 PM in which Uttam Kumar Gurung functioning as Headmate was beaten up by inmates, 10 of whom were identified by name. He was rushed to the Hospital at 4.10 PM, admitted about 5.30PM and succumbed to his injuries at 7.10 PM the same day. The body was handed over to the relatives who came from Manipur. While three prisoners - two Convicts Mughavi Sema and Nthuga



Rengma and one UTP Hetobo Sema involved in this case were tried and convict Mughavi Sema was convicted and awarded life imprisonment, no information could be obtained about action, if any, taken against the jail staff involved in this case. Death of a prisoner resulting from beating by other inmates is a clear case of negligence on the part of the jail staff in preventing the right to life of the prisoner. It is shocking to note that even this case was not reported to the NHRC. The Commission accordingly recorded that there was no death of prisoner in any jail in Nagaland in 2004.

4. UTP Solomon Singh was admitted on 11.2.04 in a case u/s 419/420/468 IPC of PS Dimapur East. Detailed report dated 16.8.04 prepared by Shri E.T. Odyuo, Supdt., Central Jail, Dimapur showed that he vomitted blood suddenly on 13.8.04 and was rushed to the Hospital. The Jail was informed at 6.35 AM on 14.8.04 by the police control room about his death in the hospital. His body was buried at Nagaland cemetery, Dimapur in the presence of ADC (Judicial) alongwith 2 First Class Magistrates and Jail Officers on 16.8.04 after waiting in vain for the arrival of his family from district Midnapur, West Bengal. Post-mortem Examination was not done. No intimation was sent to the NHRC.
5. Convict Shiv Narayan, ex-CRPF was admitted on 1.5.02 on conviction for 14 years. Detailed report dated 20.12.05 prepared by Shri Avi Kechu, Supdt of Central Jai, Dimapur

shows that he was sent to Civil Hospital, Dimapur "for medical treatment on emergency basis" on 23.11.05 but the hospital authority discharged him on 31.11.05 on the ground that "he has no attendant to look after him while under treatment". The Supdt. Mentions clearly that "he was brought to jail without any progress of his health and since the inmates of the Central Jail refused to accept him back because of serious condition, he was sent back to the Civil Hospital the same evening and got admitted in the PR room. He was discharged on 3.12.05 and re-admitted on intervention of ADC (Judicial) on 6.12.05. He expired on 14.12.05. The detailed report mentions "Chronic TB patient as declared by the medical officer". As his family could not be contacted, the body was cremated by Hindu Shiva Samiti, Dimapur. NHRC was not informed.

6. UTP Bendangnungba, 22 years, was admitted on 5.10.05 in a case u/s 511/379 IPC (pick-pocketing). Detailed report dated 17.1.06 prepared by Shri Avi Kechu, Supdt., Central Jail, Dimapur show that UTP Bendangnungba had "suddenly collapsed and become unconscious at about 3.30 AM on 15.1.06". He was taken to Civil Hospital and produced before the emergency doctor at 4.40 AM. He was declared dead at 4.45 AM. Post-mortem was not conducted because of opposition from the family members. The body was handed over to the family in the presence of Magistrate and OC Diphupar Police Station. Inquest was conducted by JMFC. No intimation was sent to the NHRC.

7. UTP Babul Mukherjee was admitted on 6.9.05 in a case u/s 420/464/468/34 IPC. Detailed report dated 19.5.06 made by Shri Avi Kechu, Supdt., Central Jail, Dimapur shows that he felt seriously ill and suddenly became unconscious after coming out from the toilet at about .45 PM on 15.5.06. He was rushed to the hospital and was examined by the doctor on emergency duty at 9.30 PM. He was declared dead at 9.50 PM. Inquest was held, post-mortem examination was dispensed with on receipt of an affidavit from Shri CD Mukherjee, brother of the deceased who came from Tinsukia (Assam) to claim the body. No intimation was sent to the NHRC.
  
8. Convict Ghoito Zhimo, 26 years, was admitted on 25.4.05 after being sentenced to undergo three years six months R.I. in a case u/s 392/34 IPC. Detailed report dated 16.1.07 prepared by Shri Avi Kechu, Supdt., Central Jail, Dimapur shows that he fell sick on 2.1.07 and was shifted to Civil Hospital, Dimapur the same day. He expired on 10.1.07. Even the mandatory inquest was not held in this case. Detailed report says that "as the cause of death was natural, the family members requested to abstain from taking post-mortem for which a written and signed application was accepted and the dead body was later handed over to the family members on 10.1.07 at about 1 PM".

## RECREATION FACILITIES

Not much concern is being shown to education, recreation and welfare interests of the prisoners. As many as 71 prisoners – 5 detenues, 32 convicts and 34 UTPs out of 250 held on the day of visit are literate. Many of them expressed their desire to read newspapers. It is a pity that no newspapers are supplied for the use of prisoners in the Central Jail. There is no prison library. Recreation facilities are inadequate. Only three out of a total of 12 barracks have been provided small screen Black and White TV sets. Facilities for games such as Volley Ball, badminton, Carrom, Chess and Ludo are, however, being provided.

## CONVICTS

I interviewed individually. 5 out of 6 life convicts held in Central Jail, Dimapur. The 6<sup>th</sup>, Khutimia was sick and admitted to Civil Hospital, Dimapur. One of them, named Kevisilie was awarded life imprisonment by Army Court Martial. All the four convicted by civil courts were defended by Govt. pleader provided as free legal aid. None of the life convicts in Nagaland has filed an appeal against the conviction. In fact, I found them totally unaware of their right to make an appeal to the High Court. In reply to my question, they said that the Govt. advocate defending them in the trial did not inform them about this provision.

1. Convict Duliram Baglari, 52 years has completed 14 years and 4 months of actual imprisonment on 20 November, 2007. This

does not include remission of 1718 days (4 years 8 months 18 days) earned by him. DG Prison was found aware of the fact that this convict has become eligible for consideration of premature release. He informed that the Govt. of Nagaland has, following the receipt of guidelines from the NHRC, constituted the State Sentence Review Board under the Chairmanship of C.M., Nagaland. He is under a wrong impression that the release order in this case is required to be issued by the Governor, Nagaland in exercise of his Constitutional power under Article 161. It was explained to him that a pre-mature release of a lifer after completion of 14 years imprisonment is to be ordered by the State Govt. in exercise of powers u/s 432/433 Cr.PC. The matter has to be dealt with by the Home Department in consultation with the Law Department. The D.G. Prison said that considering his conduct and other relevant facts, the Review Board has already recommended this prisoner for premature release. This would be the first order of its kind issued by the Govt. of Nagaland. This may be done at the earliest.

2. Convict Nehto Angami - He has completed 12 years and 6 months. His case for pre-mature release should be initiated 6 months before the completion of 14 years.
3. Convict Kudukhoyi Chakhesang - His date of conviction to life imprisonment has all along been mentioned as 13.10.04. Perusal of the file shows that he was convicted on 10.11.03 with 'set off' period to be counted from 23.5.03. Supdt. Central Jail, Dimapur was asked to make necessary corrections.

4. Convict Zahed Ali - He is shown to have been sentenced on 25.4.2000 which is also mentioned as the date of his admission to Jail. This does not appear to be correct as he must have spent a good deal of time in custody during investigation and trial of the case. On questioning him, it was learnt that he was initially arrested in case GR -452/96 u/s 307/302 IPC in 1996 and was released on bail after about a year. His file shows that he was sentenced in 2 separate cases – one u/s 302 and another in 307 with the sentences to run concurrently. The Supdt. was asked to collect the details of the period spent by this convict in custody during investigation/trial so that he may get the admissible benefit of the 'set off' period u/s 428 Cr.P.C. A similar correction is required to be made in the record of convict Khutimia who could not be interviewed because of his absence on treatment in the civil hospital. In his case also the date of sentence and the date of admission as UTP are found recorded as the same i.e. 24.3.2000. I hope DG Prison, Nagaland will take personal interest in ensuring that these vital corrections are made in Jail records.
5. Convict Kevisilie, 28 years – He is an ex-army personnel who was convicted on 2.11.03 to life imprisonment by Army Court Martial at Jammu. He was received on transfer from Jammu on 15.10.06. The order clearly mentions adjustment of the 'set off' period amounting to 468 days. It was explained to the Supdt. that while counting the period of 14 years from the date of sentence, the 'set off' period of 468 days will be added to his actual incarceration. This was also explained to the convict.

332

## **WORK PROGRAMME**

No regular jail industry has been set up in Central Jail, Dimapur till now. Bomboo craft and mura making units were started in October, 2006. Only six prisoners are currently engaged in this work without receiving any wages. DG Prison informed that the issue of wages to prisoners for such work is now being considered. He was advised to contact the industry department and obtain assistance from them for starting vocational training of prisoners in trades like carpentry, electrician, pump/motor repair, etc. His attention was drawn to the Supreme Court directions about constitution of a wage fixation body to fix rate of wages to prisoners to be classified as a skilled workers, semi-skilled workers and trainees. He was advised to obtain from the I.G. Prison, Assam relevant information on this issue.

## **PAROLE**

Assam Jail Manual contains a specific provision for the temporary release of prisoners titled the Assam Prisons (Leave and Emergency Release) Rules 1968. It provides for emergency release for 14 days in case of death or serious illness of father/mother, father-in-law/mother-in-law, uncle, aunt, brother, sister, spouse or children or on the occasion of the marriage of son, daughter, brother or sister. Lifers are entitled to benefit under this rule after completion of three years imprisonment. DG Prison was candid in admitting his ignorance about this provision which has never been used in Nagaland so far.

## UNDERTRIAL PRISONERS

The Supdt., Central Jail, Dimapur presented the following state of UTPs as of 24.11.07:

1 to 3 months	62
3 to 6 months	65
6 months to 1 year	15
1 to 2 years	7
2 to 3 years	1
3 to 5 years	2

The statement needs correction in respect of the last category where UTPs received on transfer from Kohima in 2003/2004 have actually been in custody since 1999. Both of them would come under 'more than 8 years' category. I interviewed individually all the prisoners numbering 18 who have been in Central Jail Dimapur for more than one year. Following observations were made:

1. UTP Vilazo Trukruno – He was received on transfer from Kohima Jail on 11.12.03. He was arrested in a case of murder (his wife) of PS Kohima (N) on 1.10.99. He has thus completed over 8 years in custody. He submitted that while at Kohima he was produced twice in the court. His last court appearance was before ADC (J), Kohima at the camp court held at Central Jail, Dimapur on 1.10.04. He is being defended by a Govt. lawyer. He has resorted to



hunger strike to draw attention to the extremely slow pace of his case. It is really shocking that he has been languishing in jail now for 3 years without being taken to the court at all.

2. UTP Rukuvoyi Chakhesang - He was received on transfer from Kohima jail on 11.2.04. He was arrested in 1998 in a case of murder. While in Jail he committed second murder. He stayed in Kohima Jail from 1998 to 11.2.04. While he was in Kohima he was produced in court 9 times in 2002, 2 times in 2003, once in 2004. He was last produced before the ADC Kohima who held a camp court at Central Jail, Dimapur on 1.10.04. The case remains frozen at that point of time.
3. UTP Raju Benarji - He has been in Central Jail, Dimapur on 21.12.05. He is being produced regularly in the court of JMFC, Dimapur with the next date of appearance intimated as 17.12.07. He said that the evidence in his case is over and his statement has also been recorded. There are two other co-accused in his case who were released on bail.
4. UTP Haijul Ali and 8 others were admitted on 25.11.05. They are jointly involved in 2 cases - 57/05 u/s 397 IPC (Dimapur West PS) and 158/05 u/s 396 IPC (Dimapur East PS). They are being defended by a Govt. advocate. They are being produced in court regularly with the next date of appearance fixed for 12.12.07. They stated that they are taken to court regularly but not actually produced before the

Magistrate every time. They also complained about the lack of interest shown by the Govt. advocate in their cases.

### **JAIL ADALATS**

The directions issued by the Supreme Court of India in 1999 followed by the NHRC directions in 2003 regarding the camp courts to be held in prisons to dispose of petty cases have not been implemented in Nagaland. However, Legal Aid Society occasionally holds programmes in jail premises and arranges legal aid to the poor and indigent UTPs. It is heartening that most of the UTPs on being asked confirmed that they have been provided free legal aid. However, not one of them was found happy with the level of interest shown by the Govt. advocate in the prisoner's case. The quality of legal aid actually provided to the poor and indigent UTPs needs to be evaluated. It cannot be a co-incidence that all the lifers held in Nagaland Jails (I saw seven out of a total of 8) were defended by Govt. advocates provided under the scheme of free legal aid to the poor.

### **BOARD OF VISITORS**

Rule 20 of the Assam Jail Manual provides for a Board of Visitors headed by the District Magistrate and including Chief Judicial Magistrate and 4 non-official members at the District level. There is a similar provision for Board of Visitors at the Sub-jails which is headed by SDO. The system is seen to have gone defunct. Directions issue by the NHRC in 2003 in the form of a D.O. letter

29

from the Commission's Secretary General to Chief Secretaries of all States do not seem to have produced any response in Nagaland.

The Supdt. Informed that the jail has been visited thrice by Judicial authorities – DC (Judicial), ADC (Judicial) and JMFC, Dimapur during the last one year. Besides DG Prison and DIG Prison, Additional Secretary (Home), Govt. of Nagaland and D.C. Dimapur have also visited the jail.

### **INVOLVEMENT OF NGOs**

Some Dimapur based social activists such as Spirit of Faith, CRI and TAFTE Organisations are involved in matters like counselling and personality development. There is need for greater involvement of the NGO sector in activities like literacy programme, education, vocational training and rehabilitation of prisoners.

### **SECURITY**

Central Jail, Dimapur is holding a good number of militants/UG prisoners and NSA detenues. Security arrangements for this category of prisoners are required to be worked out carefully. The Govt. may consider having a high security enclosure adequately guarded within the same jail. I found the DG Prison and Supdt. confident about the adequacy and effectiveness of the External security being provided by the CRPF.

## DISTRICT JAIL, KOHIMA

I visited District Jail, Kohima on 25.11.07. I was accompanied by Shri N. Aonochet, DG Prison and Shri R. Haralu, DIG Prison, Nagaland.. Shri Kedi Angmi, Supdt. District Jail, Kohima briefed me about the history of the prison. District Jail, Kohima is the oldest prison of Nagaland established in the late 19<sup>th</sup> century when the British Govt. annexed Naga inhabited areas and formed Naga Hills District as one of the districts in "Assam Province around 1870.

District Jail, Kohima consists of six separate buildings – four constructed in 1950, one kitchen built in 2000, and one double storey barrack added in 2006. The jail has 9 wards – 8 male and one female designed to accommodate 15 inmates each. There are two cells also meant to serve as isolation wards for patients infected with TB, Leprosy and other infectious diseases. District Jail, Kohima has an authorized capacity of 110 – 102 male and 8 female. The jail was holding 107 prisoners on the date of visit i.e. 25 November, 2007 – 100 male and 7 female. One of the female prisoners was also keeping a child (below 5) with her. Convicts Numbered 3 and UTPs 104. The daily average strength of the previous month was 117. The Supdt. stated that he has seen the strength of this prison ranging from 95 to 155.

### SANITATION

Availability of 24 toilets, 18 inside the wards and 6 outside gives toilet to prisoner ratio of 1:5 for male and 1:2 for female

prisoners, which presents a very good standard of sanitation facilities. Bathing facilities (18 bathrooms) are adequate. Supply of water arranged through PHE is satisfactory except in the period March to May when difficulties are experienced. For want of tanker of its own, the jail has to arrange water for prisoners by hiring water tanker from Home Guard, Fire Brigade or Kohima Municipal Council. The Jail needs a tanker of its own.

### **STAFF**

District Jail Kohima has a sanctioned staff of 83 personnel including one Supdt., one Deputy Supdt, one Jailor, 4 Asstt. Jailors, one Chief Head Warder, 7 Head warders and 58 warders. While there are six posts of female warders, the staffing pattern does not hold a post of female warder. While Jail officers have been trained at the Jail Training Institutes at outside Nagaland (Lucknow, Vellore), the training of Head Warders and Warders is confined to the basic police training imparted at PTS, Chumukedina. The functioning staff of the jail is, therefore, totally untrained. This has its adverse impact on the status of human rights observance in the Jail.

### **FOOD**

The prisoners were found satisfied with the quantity and quality of food provided as per the scale mentioned in the report on the Central Jail, Dimapur. The average daily cost of food comes to Rs. 35/- per head. The meal timings need the same review as has been suggested for the Central Jail.

**CLOTHING AND BEDDING**

Despite a clear provision in the Jail Manual, convicts are denied the free supply of clothes and full items of bedding. Only blankets, 4 per prisoner, are issued. On the day of the visit I counted 50 prisoners out of a total of 107 who were not provided cots.

**MEDICAL FACILITIES**

2 Visiting doctors – both lady Doctors - have been provided from Nagaland Hospital, Kohima. They come once a week (Monday). Dr. Lozinu John was present during the time of my visit. She informed that the average daily OPD is around 15. Common ailments are: respiratory Tract infections, acute Gastero enteritis, gastritis and general body ache. She said that the present stock of medicines is not enough. She made a very useful and acceptable suggestion that the centralized supply of medicines should be arranged in consultation with doctors as sometimes “unnecessary medicines are supplied in huge amount and some basic medicines are not provided”. I found it difficult to understand why both the doctors - Dr. Lozinu and Dr. Asano - should come together to attend the average OPD of 15. The visiting doctors are posted in rotation for a term of 3 months. Before the posting of present incumbents, two male doctors were provided. Dr. Lozinu informed that it has now been decided to depute only female doctors. She was frank enough to state that lady doctors preferred jail duty in order to avoid the not very popular task of conducting post-mortem examinations. I feel the visiting medical facilities provided to the Jail can be made more effective by ensuring 2 visits of one medical officer every week

9/5/02

instead of 2 doctors coming together once a week. Since this jail is holding female prisoners also, it would be more useful if one male and one lady doctor are assigned this duty.

I was surprised to learn that the doctors deputed for jail duty are not receiving any honorarium. No worthwhile information could be furnished by the Supdt. Jail or DG Prison on this point. However, the Supdt. Jail produced a copy of the Govt. of Nagaland (Home Department) order dated 26 July, 2002 sanctioning an honorarium of Rs. 750 per month to Dr. Seden Gulie Nagi deputed on part time basis to District Jail, Kohima in 2002-03. This order shows that doctors are provided on part time basis to District Jail, Kohima at an honorarium of Rs. 750 per month and Sub-Jail, Wokha and Sub Jail, Zunheboto at an honorarium of Rs. 500 per month. The sanction order mentions that the expenditure is attributable to the "head of account 2050-Jails-salaries". It seems the practice of posting part-time doctors with an incentive of honorarium has been replaced by deputing visiting doctors without any financial implications. He Central Jail and District Jails must have their own Doctors. Pending creation of additional posts, the system of visiting Doctors may continue. However, the visiting Doctors must provide OPD services at the Jail twice a week and both the Doctors need not come together. The visiting Doctors must get honorarium at a suitable rate. DG Prison was advised to move a case to the Govt. accordingly.

## DEATH IN JAIL

The information obtained from the Commission's C.D. Cell shows that no death of prisoner has occurred in Nagaland since 1997-98. The Supdt., District Jail, Kohima informed that one UTP Meshanti Kath had died on 21.4.06. As it was a case of natural death, they thought that no information was required to be sent to the NHRC.

UTP Meshanti Kath arrested in a case u/s 379/34 IPC was admitted to District Jail, Kohima u/s 379/34 IPC on 14/12/05. The detailed report dated 20.4.06 addressed to DG Prison, Nagaland says that the prisoner was suddenly taken seriously ill on 20 April, 2006. The Pharmacist gave preliminary treatment and advised his immediate shifting to Naga Hospital, Kohima for further treatment. Since approval for shifting the accused to hospital had to be obtained from ADC (J), Kohima, all the necessary paper works was done on the 20 April, 2006. The report says: "however, as it was late in the evening we decided to send the paper to ADC(J) Kohima on the next day 21.4.06". The prisoner died at 5.05AM on 21.4.06. The ADC (J) along with APP, Kohima and police staff from South Police Station, Kohima reached jail for observing the procedural formalities. The detail report mentions that "since the dead body of the deceased on examination did not bear any physical injury, the accused close relative and elders from Rengma Community requested the authority not to conduct post-mortem". The body was handed over without PME. This case makes following shocking revelation:



23

1. Despite clear instructions issued in 1994 which are being followed meticulously by all other States, no intimation about death of this prisoner was sent to the Commission.
2. It is difficult to believe that a seriously ill prisoner in need of immediate medical treatment outside jail cannot be shifted without obtaining permission from a judicial authority. Supdt. Prison stated that this is the requirement of the Jail Manual of Assam which governs the functioning of jails in Nagaland. I had visited Central Jail, Guwahati (Assam) in January, 2002 and a detailed report was submitted to the Commission. I did not notice a stringent provision like the one being followed at Kohima requiring court permission for taking a prisoner to hospital in a case of emergency. Surprisingly in Nagaland itself during the current study, I found that this provision was not being enforced in the Central Jail, Dimapur where the Supdt. has been arranging the shifting of prisoners from jail to the District Hospital without obtaining any permission from the judicial authorities. Even if it was considered necessary to obtain permission and the condition of the prisoner warranted his immediate move to hospital, efforts should have been made to obtain the permission from the ADC (J) at his residence. The casual manner in which the detailed report mentions that it was decided to approach the ADC (J) the next morning shows a callous indifference to a prisoner's life.

3. The Commission has made Post-Mortem Examination and Videography of the PME compulsory in each case of death of a prisoner. Besides the mandatory inquest report, Magisterial inquiry is required to be held to find out whether death was caused due to negligence on the part of the Jail staff. These directions are seen to have been totally disregarded. The ease with which the requirement of post mortem has been dispensed with in all cases reinforces my impression about the casualness of the approach towards the issue of death in jail.

I found the Supdt. District Jail, Kohima holding the view that the death of a prisoner in hospital outside the jail is not a custodial death and as such the Commission is not required to be informed. The death of Meshenti Kath had taken place in the jail itself and as such even by their own reasoning they were required to inform the Commission.

No death register is being maintained and as such information about death of prisoners cannot be gathered easily. On being informed that death certificates obtained in every case of death of prisoner are being kept in a separate file, I asked for this file and perused it. This led to the discovery of a very pathetic case of death of a convict prisoner Jeteram who was admitted to District Jail, Kohima as an undertrial prisoner on 18.3.2000 in a case u/s 354 IPC. He was convicted on 18.5.2000 and sentenced to undergo S.I for 2 years. Because of his good conduct and hard working and honest

nature he had earned 149 days remission and was due for release on 20.11.2001. Detailed report dated 29.11.01 submitted by the Supdt., District Jail, Kohima mentions "that the deceased expired only because of the physical assault meted out to him by his room mates". It further says "that the Head mate of District Jail, Kohima who admitted to have beaten the deceased alongwith another UTP Simon from the same room (Hospital Ward) was handed over to O.C South Police Station, Kohima for further investigation of the case". In his findings, the Supdt. held the Assistant Jailer, Bayam Khinamugam, Head warder Hunkher Rengna and warders Neipelo and Rakeotuolie negligent in their duty and responsible for the incident. He recommended suspension of these persons. However, the file was made available to me does not throw any light on what action, if any, was taken against them. Death of convict Jeteram is a clear case of homicide involving his prison mates with contributory negligence of the jail staff. It is a clear case of the negligence of the jail staff in preventing violation of prisoner's right to life. The detailed report does not show whether any criminal case was registered. However, as again got confirmed from the C.D. Cell of the Commission, intimation of this case was not sent to the Commission.

UTP Zothiebelo was admitted at 3 PM on 16.1.2002 as an undertrial prisoner. He fell sick on 19.1.02 morning was examined by the Pharmacist and taken to district hospital. He was brought back at 4.20 PM and died at 6.27 PM the same evening. NHRC was not informed. Cause of death is not known as Post-mortem was not conducted.

## **EDUCATION, RECREATION AND WELFARE**

Not much attention is being paid to the education of inmates. A number of inmates are illiterate and can benefit if a literacy programme is started. One of the educated inmate prisoners can be identified to undertake this work. Recreational needs of the inmates are not being met satisfactorily. No newspapers are supplied to prisoners. Even the TV facility is not available in three out of a total of 8 male barracks. The indoor game facilities are there but not adequate in numbers. Prisoners can be engaged happily if volleyball game is made a formal part of the prisoners' daily life.

## **WORK PROGRAMME**

This vital component of jail administration has been thought of only recently. The Women Development Department, Kohima has recently provided 10 sewing machines to the Jail. 5 male and 2 female undertrial prisoners have started receiving training in tailoring. The Women Development Department has provided a lady tailor instructor for the female jail. In male section, one UTP Umgo, a tailor by profession is doing this job without receiving any remuneration. No wages are being paid to the prisoners working in the tailoring section. DG Prison informed that the matter is being taken up with the Govt. for fixing the wage rates.

## **WOMEN PRISONER**

Women Jail is situated inside the main jail in a separate building but without any enclosure of its own. The female warders are supervised by male staff from head warden onwards. I spoke to all

the women inmates numbering 7 UTPs individually. Four of them have completed 90 days. Two of them have been provided Govt. lawyers. UTP Menu u/s 398/307 IPC is not aware of the legal aid provided to her. The position may be ascertained and explained to her. UTP Nukusalu u/s 364/302 IPC has the longest stay (one year 8 months). She has been produced in court 9 times and is satisfied with the progress of the case.

### UNDERTRIAL PRISONERS

The Supdt. submitted the following statement of undertrial prisoners:

Below 3 months	42
Upto 3 months	7
3 to 6 months	8
6 to 12 months	12
1 to 2 years	18
2 to 3 years	11
3 to 5 years	5
above	1

I spoke individually to all the UTPs numbering 17 who have completed 2 years. Following observations are made:

1. UTP Chotu Lakra was admitted on 8.2.02. He is being prosecuted for rape by a Fast Track court. He has been provided a Govt. lawyer. He stated that because of the death of the Magistrate, the recording of evidence has not started.

2. UTP Mohan Rai and four others (all from Jharkhand) are facing trial in a murder case since January, 2003. They have complained about the slow progress of their case which is with a Fast Track Court.
3. UTP Raju Rai admitted on 4.7.05 is facing trial in a case u/s 307 IPC. He complained that he has not been produced before court since 7.3.07. He accused the ADC (Judicial) of threatening him with imprisonment of 7 or 10 years, if no body from his family meets him. On being explained the implications of his statement, he reiterated that the ADC (J) is wanting a bribe. This complaint may be brought to the notice of the D.C (Judicial).
4. Allauddin Ali alias Mazoni Ali is an UTP u/s 366 IPC admitted on 23.6.05. He says that he has not received any remand for appearance in the court after 3.4.07.
5. UTP Ango Khanjam is from Thobal (Manipur). He was admitted in a rape case on 4.4.05. The case is going on in Fast Track-II of ADC (J), Kohima. He said he has not been provided a Govt. Pleader to defend him. He says that he has been produced before the Magistrate only when sittings are held in jail. Record shows that he has been produced on 22.7.06, 22.8.06, 26.9.06, 26.10.06, 15.11.06 and 9.7.07. He has not received any remand for appearance after that.
6. Suburuddin, an UTP u/s 366/511 IPC said that he was produced in court 9 times in 2006 and 5 times in 2007. However, every time, he was sent back after signing the attendance sheet and

without any progress of his case. He has not been produced in court after 4.4.07.

### **JAIL ADALATS**

Jail Adalats to dispose of petty cases, as directed by the Supreme Court and NHRC, are not being held.

### **BOARD OF VISITORS**

The Board of visitors headed by District Magistrate provided under Rule 20 of the Assam Jail Manual has not been constituted. The judicial authorities have been visiting the jail regularly since 1<sup>st</sup> January, 2007. ADC (J) Kohima had visited the jail 3 times. ADC (J) Phek once and JMC Kohima twice. Advocate General, Nagaland has also visited the jail on 7.8.07.

### **INVOLVEMENT OF NGOs**

All India Prison Ministry Kohima branch, Keze Society, Shalom Bible Seminary and St. Joseph College, Kohima have been visiting the Jail, mainly for counseling purposes. There is no involvement of NGOs as regards literacy, education, vocational training, rehabilitation and welfare of prisoners.

## **SUB-JAIL DIMAPUR**

I visited Sub-Jail, Dimapur on 24 November, 2007. I was accompanied by Shri N. Aonochet, IPS, DG Prison, Nagaland, Shri R. Haralu, DIG Prison, Nagaland and Shri Avi Kechu, AIG Prison, Nagaland. Dy. Supdt. of Central Jail Dimapur Shri L.Thwngdemo is functioning as ex-officio Supdt. of this jail.

The 30 year old jail building comprises 3 male and 2 female barracks. It has a registered capacity of 100. The actual population on the day of the visit (24.11.07) was 39 prisoners – 24 male, 15 female and one child. 16 were convicts including 2 lifers, 22 UTPs and one detenué. The daily average strength of the previous month was 62. Sub-Jail, Dimapur has always been having idle capacity.

### **SANITATION AND HYGIENE**

Availability of six toilets gives a toilet to prisoner ratio of 1:16.66 calculated for the registered strength of 100. If 60 is taken as normal strength, the ratio would be 1:10 which is acceptable. Availability of 2 toilets in the female section giving the toilet to prisoner ratio 1:8.5 seems alright. Bathing facilities are adequate. Supply of water from two ring wells available in the campus is satisfactory and reliable.

### **STAFF**

The jail staff comprises 75 personnel including one Jailer and 2 Assistant Jailers. It is more than adequate for the current commitments. Functional staff is virtually untrained. There are 17



female Warders but there is no post of female Head warden. The functional staff of the Women Section of the Jail is supervised by male staff.

## **FOOD**

Prisoners were found happy with the quantity and quality of food. Use of firewood as cooking fuel must be replaced by gas cooking. The meal timings (9 AM and 3 PM) need to be reviewed as some prisoners complained about their harshness in causing a long gap of 18 hours between dinner and lunch. 11 AM and 4 PM could be tried. No separate scale of food has been prescribed for children allowed to stay with mother prisoners. In fact, children are not receiving any thing other than the normal ration drawn for them as per the adult scale. A separate scale must be fixed based on an expert assessment of food and nutritional requirement of children in 0-3 and 3-6 year age groups. Immunization of children is totally neglected. The sole child seen in the jail was not covered even by the Universal Polio Programme in progress outside Jail in Dimapur with great fanfare.

## **CLOTHING AND BEDDING**

Prisoners are sleeping on ground as no cots are available. Convicts are not supplied clothes as per their entitlement which they are entitled under the Manual. Except blankets, no items of bedding are issued. Jail Manual provides for bed sheets, pillow and mosquito nets.

## **MEDICAL FACILITIES**

One senior Pharmacist is providing medical cover at Sub-Jail, Dimapur. On an average of 15 patient prisoners report to him every day. Common ailments are: fever, headache and waterborne diseases. Medical examination of every prisoner on admission required to be done as per the NHRC's guidelines does not seem possible.

## **DEATH IN JAIL**

The Supdt. stated that there has been no death in this jail since 1st January 2004. However, this information cannot be accepted at face value because of the discrepancies noticed at Central Jail, Dimapur and District Jail, Kohima in the matter of death of prisoners. The Jail Department is found under the wrong impression that the death of a prisoner in a hospital outside the jail is not a custodial death. The jail staff is also unaware of their obligation to report every case of death of prisoner to the NHRC.

## **EDUCATION, RECREATION AND WELFARE**

No literacy or education programme is being run for the prisoners. Entertainment facilities are highly limited. Prisoners are not supplied any newspapers or reading material. Television is the only source of entertainment.

## **WORK PROGRAMME**

There is no regular work programme for prisoners. A tailoring unit has been set-up recently with the help of the Women Development Department which has supplied 10 sewing machines. 2 male and 2 female convicts are currently engaged. They are not receiving any wages.

## **UNDERTRIAL PRISONERS**

A total of 22 UTPs were held in the prison at the time of the visit. 17 belong to less than 3 months and 5 belong to 3 to 6 months category. As such, no comments are called for. An undesirable practice of keeping the UTP and convicts together is continuing despite feasibility of keeping them separate.

## **INVOLVEMENT OF NGOs**

A Tailoring Instructor has been provided by one NGO Prodigals Home. There are weekly visits by members of Mother's Hope, (NGO) and Spirit of Faith Church. The NGOs involvement is confined to religious matters with no interest seen in activities like literacy, education and rehabilitation of prisoners.

## **DISCUSSION WITH D.G. PRISON**

I had a detailed discussion with D.G. Prisons and DIG, Prisons, Nagaland covering all important aspects of the infrastructure, administration and functioning of jails in Nagaland. The gist of the discussion is recorded below:

### **1. INFRASTRUCTURE**

Nagaland with a population of 19.89 lakh as per 2001 census has 11 districts. It has 10 jails – one Central Jail, 3 District Jails and 6 Sub-Jails with a total registered capacity of 1250. 2 Sub-Jails are under construction – Sub-Jail Naginimora and Sub-Jail, Kifri. Interestingly, the construction of these Sub-jails was started long back in 1988 under the State Plan. It seems the construction was abandoned for want of funds. It has been resumed after receipt of Modernization Grant from the Govt. of India. The modernization grant provides for construction of these Sub-Jails. However, the DG Prison was unable to confirm that the construction will be completed within the Budget allocation and the time period of the current Modernization Plan (2002-03) which has been extended upto 31 March, 2009. The Modernization Plan also provides for construction of a Sub-Jail at Longleng. DG Prison stated that decision to start this work has yet to be taken. Considering its current needs, the jail infrastructure of Nagaland appears to be alright. The State does not have an Open Air Jail. The decision to have an Open Air Jail will have to be taken carefully after considering the security situation and the utilization of the existing infrastructure which has a substantial

idle capacity. Nagaland does not have a Women Jail either. Women prisoners are kept in a separate barrack in the same campus in every jail without being provided even a separate enclosure to restrict the entry of men. However this may be accepted as a cultural peculiarity of the Naga Society. Women do not feel unsafe and insecure.

Jails in Nagaland are totally free of the problem of overcrowding. As per the latest analysis carried out by the NHRC, Nagaland has a total jail capacity of 1160 with actual population of 625 as of 31 December, 2005. This gives an idle capacity of 46.1 % against the national average overcrowding of 44.2%. I have examined the latest position as of 31.10.07. The jail capacity has since been raised to 1290 as per statement received from the D.G. Prison. The actual jail population on 31.10.07 was 633. This gives an idle capacity of 50.93 %. It would be interesting to note that only 3 jails are utilizing more than 50% of registered capacity – Central Jail, Dimapur with 304 prisoners against the registered capacity of 600, District Jail, Kohima with 107 prisoners against the registered capacity of 150, Sub-Jail, Dimapur with 67 prisoners against the registered capacity of 100. The occupancy was as low as 14% in District Jail Tuensang, 32 % in District Jail, Makokchung and 15% in Sub-Jail, Peren

## **2. MEDICAL FACILITIES**

The most glaring deficiency of the prison infrastructure of Nagaland is the utter lack of medical facilities. The sole Central Jail, Dimapur having a registered capacity of 600 with normal strength

ranging from 300 to 350 has been provided with just one Pharmacist to look after the health needs of the inmates. One Pharmacist each has been provided at District Jail, Kohima, District Jail, Mokokchung, District Jail Tuensang and Sub-Jail, Dimapur. The remaining five jails - Sub-Jail Zunheboto, Sub-Jail Phek, Sub-Jail Peren, Sub-Jail Wokha, and Sub-Jail, Mon do not have even a Pharmacist of their own. They depend entirely on the local Govt. hospital. A system of visiting doctors is operating at District Jail, Kohima where 2 lady doctors from the Govt. hospital are making weekly visit on the same day and attending an OPD average of 15 patients. DG Prison informed that visiting doctors have also been provided at Sub-Jail, Zunheboto and Sub-Jail, Wokha. Neither the DG Prison nor the DIG Prison could offer any worthwhile information about the honorarium being paid to the visiting doctors. This issue has been dealt with in the report on District Jail, Kohima. The absence of medical facilities is having its toll on the life of prisoners. Death of a prisoner is a common incident in almost all Jails. What has shocked me more is the fact that the NHRC is not being informed about these deaths. I explained to the DG Prison the instructions of the NHRC and a set of the same has been sent to him by the Commission's Custodial Justice Cell on 1.12.2007 after I returned to Delhi. I have advised the DG Prison to send a formal proposal to the Govt. for the provision of medical officers at all jails. It would be reasonable to follow a scale of 2 medical officers for the Central Jail Dimapur and one each for the District Jails, Kohima, Tuensang and Mokokchung. The Sub-jails can be covered by one visiting doctor each. The visiting doctors should make at least one visit every week and be available on call. They must

be provided financial incentive by way of honorarium. The rate of honorarium for the visiting doctors is found to be ranging from 1000 to 3000 in other States.

### **3. TRAINING**

The Jail staff at the functional level (Head Warders & Warders) is found totally unaware of the prisoners' rights and related legal provisions. This deficiency is rooted in the fact that they have received no formal training about their duties as prison officials. Their training has remained confined to the basic Police training which imparts them no knowledge or skills for the job for which they were recruited. Even the officers – Supdt., Dy. Supdt. Jailer, Assistant Jailer - who have received some training in Jail Training Institutes outside Nagaland e.g. Lucknow, Vellore are found lacking in sensitivity to the prisoners' rights. DG Prison was advised to arrange short duration orientation courses for the Jail personnel on prisoners' rights and the obligations of the Jail staff to protect them.

### **4. CONVICTS**

#### **(a) Parole**

The provision of Leave and Emergency Release laid down in the Assam Prisons (Leave and Emergency Release) Rules, 1988 is not being used in Nagaland. These Rules were explained to the DG Prison in detail. DG Prison was advised to visit the office of I.G. Prison, Assam to familiarise himself with the working of these rules. It is unfortunate that convicts including life convicts are totally deprived of the benefit of leave admissible to them under the rules.

**(b) Pre-mature release of lifers**

DG Prison informed that following the receipt of guidelines from the NHRC, a State Sentence Review Board has been constituted under the chairmanship of the Chief Minister, Nagaland. Presently, there is only one life convict eligible for consideration of pre-mature release. DG Prison mentioned that the matter is being examined in the Law Department for obtaining the orders of Governor, Nagaland. I explained to him the NHRC guidelines regarding the Pre-mature release of lifers whose cases fall under the provisions of section 433-A Cr PC. Pre-mature release in such cases is to be considered after completion of 14 years actual imprisonment. The release orders are to be issued by the State Govt. in exercise of powers u/s 432/433 Cr.PC. These cases are not required to be referred to the State Governor for issuing orders under Article 161 of the Constitution. Only in those cases where the provision of 433-A Cr.PC are required to be relaxed for reasons of age, health etc. and the life convict is granted pre-mature release before completion of 14 years actual imprisonment, the constitutional provision of Article 161 is used. A fresh set of the NHRC's guidelines has been sent to the DG Prison in this connection.

**5. UNDERTRIAL PRISONERS**

As of 31 December, 2005, undertrial prisoners constituted 77.4% of the total prison population of Nagaland against the national average of 69.9%. Although exact proportion of the undertrial prisoners in the total population of 633 prisoners as of 31.10.07 could



not be obtained, undertrial prisoners are roughly estimated to constitute more than 80 % of the prison population in Nagaland. Separation of Executive and Judiciary has been effected in Nagaland only recently. While it is heartening to note that almost all the indigent UTPs are being provided free legal aid, the progress of their trial in courts is found to be slow. Some UTPs have complained about disinterestedness on the part of the Govt. lawyers provided as part of free legal aid to them. Cases of UTPs Viluzo Tsukruno and Rukuvoyi Chakhesang languishing in Central Jail, Dimapur for over 8 years and Chotu Lakra in District Jail, Kohima for nearly six years have been specifically mentioned in the report. DIG Prison informed that UTP Soma Mehindra and UTP Setingla are held in District Jail, Tuensang since 23.3.2002 as undertrial prisoners in GR 08/2002 u/s 302 IPC of PS Tuensang. DG Prison was requested to bring these cases to the notice of the State Legal Authority.

## **6. BOARD OF VISITORS FOR JAILS**

DG prison was apprised of the instructions issued by the NHRC through a D.O. letter from the Secretary General to the Chief Secretaries of all States for reviving the system of Board of visitors for all Jails. A copy of this letter also been sent to DG Prison with the request to move the State Govt. for constitution of these Boards as per the provisions of the Assam Jail Manual.

## 7. MODERNISATION GRANT

Govt. of Nagaland has received a Central grant of Rs. 1185 lakh split into five annual allotments of Rs. 237 lakh for the years 2002-03 to 2006-07. With State share of Rs. 395 lakh, the total grant comes to Rs. 1580 lakh. The period of utilization of this grant has been extended to 31 March, 2009. The modernization grant is to be utilized on (i) construction of New Jails, (ii) creation of additional capacity in existing jails, (iii) improvement of water supply and sanitation facilities and (iv) construction of staff quarters. DG Prison has confirmed actual availability of the full grant which is being utilized as planned. However, details of works completed and works in progress could not be furnished. DG Prison feels that a revenue starved State like Nagaland cannot improve its Jail infrastructure without cent per cent central assistance. While this may be true, I am of the view that release of any additional grant to the State for Jail Modernisation must be linked to a proper outcome audit of the utilization of the current grant amounting to Rs. 1580 lakh. Despite repeated requests DG, Prison has not furnished full details of utilization and status of pending construction.

## CONCLUSION

The visit to one Central Jail, one District Jail and one Sub-Jail has given me a fairly good idea of the strengths and weaknesses of the jail administration in Nagaland. The predominant cause of poor living conditions in jails in most States in India is overcrowding. Nagaland offers a unique example of pathetic jail conditions with nearly 50% of the established jail capacity lying unutilized. Sanitary facilities are poor, recreational facilities limited and educational facilities non-existent. Jails are virtually without any medical cover of their own. While incidence of death in jail is fairly common, the NHRC directions regarding intimation of death followed by magisterial inquiry report are not being followed. Absence of Works Programme is a glaring deficiency of prison management in Nagaland which shows a total lack of concern for reform and rehabilitation of prisoners after they are released. Staffing pattern provided at a fairly liberal scale with hardly any vacancies is a credible entry in the balance sheet. However, actual performance of jail personnel is suffering because of inadequate training at officer level and no training at the functional level. The staff officers as well as men have little knowledge of prisoners' rights and their obligations to protect them. I have, however, noticed that they are trying to make up this deficiency by being gentle in treatment of prisoners. While legal aid is being provided on request, its actual usefulness to indigent undertrial prisoners is doubtful. The convicts are denied the right to basic needs of clothing and bedding as per their entitlement. The system of parole provided in the Jail Manual has never been put into

(4)

practice in Nagaland. There is no evidence of Board of Visitors having ever functioned as per the provisions of the Jail Manual. While church bodies and charitable institutions do visit jails and address religious needs of prisoners, there is no sign of involvement of NGO sector in activities like recreation, education and rehabilitation of prisoners. The deficiencies in performance brought out by the study have to be viewed in the light of the constraints and deficiencies under which the jail staff is functioning in Nagaland.



8.1.08

(Chaman Lal)

Honorary Representative

8.1.08