

24/4/2008

14

Review of Prison Reforms,
Correctional Administration
and Modernization of Prisons
of Orissa State

By:

Dr. Lakshmidhar Mishra, IAS (Retd.)
Special Rapporteur, NHRC

Date of review: 28.1.2008 to 31.1.2008

Human Rights are a multi-faced concept. They have implications for a person at home, for a learner/student at the educational institutions, for a worker at the workplace, for a patient at the hospital and clinics (including mental health hospitals), for stakeholders, in the functioning of democratically elected people's institutions, functioning of local self-governing bodies and institutions of social science and research and for persons detained at the custodial institutions (central jails, district jails, special and circle jails, sub jails and open air jails) etc.

Treatment of an individual with dignity and decency is the quintessence of human rights at home alike in all the institutions as above. More specifically in the context of custodial institutions, promotion, protection and preservation of human rights would mean:-

1. Prisoners are kept in prison as a punishment and not for punishment. This means that a prisoner in jail who is already deprived of his personal liberty on account of confinement should not be further incarcerated by infliction of a cruel, inhuman or degrading treatment.
2. Regardless of the crime a man/woman may commit, he/she is still a human being, has the same urges and inclinations, hopes and aspirations as any other human being. The main reason as to why most inmates in prison today disrespect their keepers is on account of the fact that they themselves (inmates) are not treated as human beings.
3. Detention takes away the right of freedom of movement outside the jail but that should not take away the liberty to move, mix, mingle, talk and share company with co-prisoners. If substantially curtailed these would constitute violation of Article 21 of the Constitution.
4. The undertrials who are presumably innocent until convicted on being sent to jail cannot be allowed to be 'contaminated' by being kept with convicts

or even with 'habitual and injurious prisoners of international gangs'. That in the words of Justice Shri V.R. Krishna Iyer would amount to custodial perversity.

5. Continuously keeping a prisoner in fetters day and night reduces and dehumanizes the prisoner from the level of a human being to that of an animal. It is against human dignity and violative of Article 21.
6. The right of a prisoner to contact family members cannot be taken away but its exercise may be restricted in the interest of security. A father, for example, does not have unrestricted access to his children nor do they to him while under imprisonment.
7. The rights of mothers and children (upto 6 years) to be together cannot be taken away. According to Paediatricians, the closer such a child is to the breast of the mother, the better it is for his/her evolution and growth. While allowing a child upto 6 years of age to be with his/her mother, the State must take full responsibility to ensure health, medical care, immunization, nutrition and education of such children.
8. Prohibition of torture is absolute and may not be suspended, no matter how heinous is the crime for which someone has been arrested. It is a right from which the Government is not permitted to derogate, even in situations of emergency.
9. The arrestee should be subjected to a proper medical examination by a trained medical officer within 24 hours after being sent to prison and every 48 hours thereafter during his/her detention in custody.

There are several important pronouncements of the apex Court which reiterate and reinforce the above principles and it will be useful to quote extracts from some of these pronouncements to place the principles in a proper context.

1. In ADM Jabalpur Vs. Shivakant Shukla, Late Justice Shri Hriday Ranjan Khanna had observed, '...sanctity of life and liberty was not something new when the Constitution was drafted. It represented a fact of higher values which mankind began to cherish in its evolution from a State of tooth and claw to a civilized existence. Likewise, the principle that no one shall be deprived of his life and liberty arbitrarily without the authority of law was not the gift of the Constitution. It was a necessary corollary of the concept relating to the sanctity of life and liberty which existed and was in force before the coming into force of the Constitution.'
2. In Nalabati Behera Vs. State of Orissa, the apex Court observed that prisoners and detainees are not denuded of their fundamental rights under Article 21 and that it is only such restrictions as are permitted by law which can be imposed on the enjoyment of the fundamental rights of the arrestees and detainees. It was further observed, '.....there is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. His liberty is in the nature of things circumscribed by the very fact of his confinement and, therefore, his interest in the limited liberty left to him is rather precious. The duty of providing care on the part of the State is called for, if the person in the custody of the police is deprived of his life except according to the procedure established by law'.
3. In Francis Corallie Vs. the Administrator, UT of Delhi Justice Shri P.N. Bhagwati observed, 'the right to life enshrined in Article 21 cannot be restricted to a mere animal existence. It means something much more than just physical survival. The right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate food, nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving out and mixing and commingling with fellow human beings'.

4. In *Kashmira Singh Vs. State of Punjab*, Justice Shri P.N. Bhagwati observed, 'It would indeed be a travesty of justice to keep a person in jail for a period of 5 to 6 years for an offence which is ultimately found not to have been committed by him. Can the Courts ever compensate him for the incarceration which is found to be unjustified?'
5. In a number of judgements, the apex Court has observed that the right to bail is an invaluable right available to a person and that this right should not be denied arbitrarily and that its denial contravenes the fundamental right to personal liberty. The judgements are:-
 - In *Vidya Sagar Vs. State of Punjab* the Court observed, 'though the stage for raising the presumption of innocence in favour of the accused person does not arise till conclusion of the trial and appreciation of entire evidence on record, yet the matter of granting bail has to be considered in the background of the fact that in criminal jurisprudence which guides the Courts, there is a presumption in favour of the accused'.
 - In *Godikanti Vs. Public Prosecutor* case, Justice Shri Krishna Iyer observed, 'personal liberty deprived when bail is refused, is too precious a value of our Constitution recognized under Article 21 and that the crucial power to negate it is a great trust exercisable, not casually but judicially with likely concern for the cost to the individual and the community'.
 - In *Hussainara Khatoon Vs. State of Bihar*, Justice Shri P.N. Bhagwati, while effectively raising the inherent weaknesses of monetary bond observed, 'the bail system as we see it administered in the criminal courts today is extremely unsatisfactory and needs drastic change. In the first place, it is virtually impossible to translate the risk of non-appearance by the accused

into precise monetary terms. Even its basic premise that risk of financial loss is necessary to prevent the accused from fleeing is of doubtful validity. There are several considerations which deter an accused from running away from justice and risk of financial loss is only one of them and that too not a major one..... 'under the law, as it stands today, the Court must abandon the antiquated concept under which pretrial release is ordered only against bail with sureties. That concept is outdated. Experience has shown that it has done more harm than good. The new insight into the subject of pretrial release which has been developed in socially advanced countries, and particularly the USA, should now inform the decisions of our Courts in regard to pretrial release. If the Court is satisfied, after taking into account, on the basis of information placed before it that the accused has roots in the community and is not likely to abscond the Court can safely release the accused on his personal bond'.

'The bail system causes discrimination against the poor since the latter would not be able to furnish surety on account of their poverty This discrimination arises even if the amount of bail as fixed by the Magistrate is not high, for a large majority of those who are brought before the Criminal Courts are so poor that they would find it difficult to furnish bail even in a small amount'.

- In Sunil Batra Vs. Delhi Administration and others Justice Shri V.R. Krishna Iyer observed, 'Condemned Prisoners like the petitioner shall be merely kept in custody and shall not be put to work like those sentenced to rigorous imprisonment. These prisoners shall not be kept apart or segregated except on their own volition since they do not come under Section 30(2) of Prisons Act. They shall be entitled to the amenities of ordinary inmates in the prison like games, books, newspapers, reasonably good food, the right to

expression, artistic or otherwise and normal clothing and bed. In a sense, they stand better than ordinary prisoners because they are not serving any term of rigorous imprisonment as such. However, if their gregarious wishes induce them to live in fellowship and work like other prisoners, they should be allowed to do so. To eat together, to sleep together, to work together, to live together, generally speaking, cannot be denied to them except on specific grounds warranting such a course such as homosexual tendencies, diseases, violent proclivities and the like'.

- In the same judgement it was held that the practice of keeping undertrials with convicts in jails offended the test of reasonableness in Article 19 and fairness in Article 21. The undertrials, it was held, are presumably innocent until convicted and if they are kept with criminals in jail it violates the test of fairness of Article 21.
- In the same judgement, it was held that integrity of physical person and mental personality of the prisoner are important rights of a prisoner and must be protected from all kinds of atrocities.
- In Prem Shankar Vs. Delhi Administration the validity of certain clauses of Punjab Police Rules were challenged as violative of Article 14, 19 and 21 of the Constitution. Delivering the majority judgement, Justice Shri Krishna Iyer held that provisions in Paras 26, 22 that every undertrial who was accused of non bailable offence punishable with more than 3 years jail term would be handcuffed were violative of Articles 14, 19 and 21 of the Constitution. Handcuffing should be resorted to only when there is 'clear and present danger' of escape breaking out the police control and for this, there must be clear material, not merely an assumption. In special circumstances, the application of iron is not ruled out. But even where in extreme cases, handcuffing is to be

put on the prisoner, the escorting authority must record simultaneously the reasons for doing so; otherwise, under Article 21, the procedure would be unfair and bad in law. It was observed, 'handcuffing is prima facie inhuman and, therefore, unreasonable, is over harsh and at the first flush arbitrary.'

- The same principle was upheld in Sunil Gupta Vs. State of M.P. and Citizen for Democracy Vs. State of Assam.
- In Hussainara Khatoon (No.1) Vs. Home Secretary, State of Bihar a petition for a writ of habeas corpus was filed by a number of undertrial prisoners who were languishing in jails in the State of Bihar for years awaiting their trial. The apex Court held that 'right to a speedy trial, a fundamental right is implicit in the guarantee of life and personal liberty enshrined in Article 21. Speedy trial is the essence of criminal justice. Speedy trial is one of the constitutionally guaranteed rights under the Sixth amendment. Justice Shri P.N. Bhagwati held that although, unlike the American Constitution speedy trial is not specifically enumerated as a fundamental right, it is implicit in the broad sweep and content of Article 21 as interpreted in Maneka Gandhi's case. No procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just'. For this reason, the Court ordered the Bihar Government to release forthwith the undertrial prisoners on their personal bonds.
- In a significant judgement in Abdul Rehman Antuley Vs. R.S. Nayak the Supreme Court has laid down detailed guidelines for speedy trial of an accused in a criminal case but declined to fix any time limit for trial of offences. The Court held that the right to speedy trial flowing from Article 21 is available to the accused at all stages

namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

10. In State of Maharashtra Vs. Manubhai Pragaji Vashi the apex Court has considerably widened the scope of the right to free legal aid. The Court held that in order to provide 'free legal aid' it is necessary to have well trained lawyers in the country. This is possible if there are adequate number of Law Colleges with necessary infrastructure, good teachers and staff. Since the Government is unable to establish adequate number of Law Colleges it is the duty of Government to permit establishment of duly recognized private law colleges and afford them grants-in-aid on similar lines on which it is given to Government Law Colleges. This would facilitate these Colleges to function effectively and in a meaningful manner and turn out sufficient number of well trained or properly equipped law graduates in all branches year after year. This in turn will enable the State and other authorities to provide 'free legal aid' and ensure that opportunities for securing justice are not denied to any citizen on account of any disability.
- In Suk Das Vs. Arunachal Pradesh, the apex Court has held that failure to provide free legal aid to an accused at the State cost, unless refused by the accused would vitiate the trial. He need not apply for the same. Free Legal aid at State cost is the fundamental right of a person accused of an offence and this right is implicit in the requirement of reasonable, fair and just procedure prescribed by Article 21. This right cannot be denied to him on the ground that he has failed to apply for it. The Magistrate is under an obligation to inform the accused of this right and inquire whether he wishes to be represented at the cost of the State.
10. In R.D. Upadhyay Vs. State of A.P. and others the apex Court held that since a child is not to be treated as an undertrial or convict while in jail with his/her mother, such a child is entitled to food, shelter, medical care,

clothing, education and recreational facilities as a matter of right. Accordingly the Court issued several guidelines regarding pregnancy of women prisoners, child birth in jail, food, clothing, medical care, shelter, education and recreational facilities in respect of such children. The Court also directed that the Jail Manual or other relevant Rules and Regulations be amended within 3 months for complying with the guidelines issued by the Court. The States and UTs were directed to implement the schemes and laws relating to welfare and development of such children in letter and spirit. The State Legal Service Authorities were also directed to undertake periodical inspection of jails and monitor the pace of compliance with the directions.

The visit to the State of Orissa and inspection review of activities of Special Jail, Bhubaneswar, Circle Jail, Cuttack at Choudwar, Sub Jail, Naygarh and Biju Patnaik open Air Ashram, Jamujhari between 27.1.2008 to 31.1.2008 by me took place keeping the above human rights dimensions in view. The concept and the broad outlines of the inspection programme were discussed in detail with the Principal Secretary, Home – Shri T.K. Mishra and Inspector General of Prisons – Shri V. Thiagarajan in the first week of December during one of my earlier visits to the State and the programme finalized in consultation with them. A detailed questionnaire incorporating all the human rights dimensions as above was formulated by me and sent to the Principal Secretary, Home sufficiently in advance with a request to circulate the same and have the responses collected and compiled and kept ready for discussion. The preplanned visits took place as per the following schedule:-

- | | |
|-----------|--|
| 28.1.2008 | 9 AM to 1 PM and 3 PM to 5 PM – visit to Special Jail, Bhubaneswar. |
| 29.1.2008 | 10 AM to 1 PM and 3 PM to 5.30 PM – Visit to Circle Jail, Cuttack at Choudwar. |

- 30.1.2008 10 AM to 12.30 Noon – visit to sub jail, Nayagarh.
- 12.30 Noon to 1.30 PM – Visit to the new Sub Jail complex constructed by Police Housing Corporation.
- 2.30 PM to 4.30 PM – A thorough review of human rights dimension of correctional administration with DM, SP, Addl. District and Sessions Judge, CJM, CDMO, Supdt., Jail at the PWD IB, Nayagarh.
- 31.1.2008 9 AM to 11.30 AM – Visit to Biju Patnaik Open Air Ashram, Jamujhari, Khurda.
- 12 Noon to 2 PM – A thorough review of all administrative, financial and human resource development related issues relating to correctional administration with IG Prisons in his office close to the Secretariat, Bhubaneswar.
- 3.30 PM to 4.30 PM – Wrap up meeting with Chief Secretary to Government of Orissa.

The visits and reviews covered a wide ground such as:-

- adequacy and effectiveness of the physical infrastructure;
- adequacy and effectiveness of the social infrastructure;
- problem of congestion and overcrowding in prisons;
- issues related to right to food, right to water, right to health, personal, hygiene, sanitation, lighting, ventilation, protective clothing, linen, diet, medical care including specialized treatment of respiratory, cardio vascular and terminal ailments etc.;
- vocational skill training programmes;

- after care and rehabilitation of released prisoners;
- special problems of children (0-6 age group) staying with convict mothers;
- terms and conditions of service of custodial staff and measures for their human resource development;
- issues relating to premature release, parole, furlough, interviews with relatives;
- issues relating to trial, bail;
- literacy programmes inside the jail for the inmates;
- avenues of recreation (including games, sports, bhajan, yoga, pranayam) for inmates;
- record keeping.

An unorthodox and unconventional methodology was adopted for having a face to face interpersonal communication/interaction with the inmates (both convicts and UTPs) in a simple, friendly and informal manner. This occasion was utilized to ask them to come out with their individual and collective grievances, if any, and whether grievances have been redressed or have remained unredressed. The reaction of the inmates to the overall ambience of the physical environment, quality of food, quality of water (essential for cooking, bathing as also absorption of food), hygiene and sanitation, quality of medical care, quality of special care and attention to sick inmates, prompt handling of applications for parole, furlough, appeal petitions, bail petitions, legal aid, communication of grounds for refusal of bail, domestic matters, visit of relatives etc. was solicited in a normal and natural manner which will make the inmates feel completely at home and not feel threatened/inhibited in the company of an outsider. The

outcome of the said interaction keeping the human rights dimension in view is stated as under:-

1. **Right to speedy trial:**

It was represented by a number of UTPs both at Bhubaneswar, Choudwar and Nayagarh that there is inordinate delay in disposal of cases in the respective Courts. This was discussed with the Superintendents/Jailors and the following factors could be attributed to delay in disposal of cases of UTPs:-

- inability of the police to provide escort parties to escort UTPs to be produced before the trying Court;
- escort parties deputed for the purpose of escorting UTPs are reluctant to take all the UTPs to be produced in the trying Court on the date fixed on the plea of insufficient number of constables, shortage of vehicles, guarding staff and handcuff;
- the trial cannot take place on account of non production of UTPs in the Court on remand dates; the trial gets prolonged and prolongation of trial will (a) lead to overcrowding and congestion in the jail (b) a sense of frustration and disillusionment which could cripple the UTPs concerned mentally;
- non attendance of investigating officer concerned; (the IO may not be receiving the summons in time and even if the same is received he may not be permitted by his immediate superior for attendance of Court duty due to more compelling reasons of preoccupation with maintenance of law and order, peace and tranquility);
- non attendance of the medical officer concerned; (the MO may have been transferred, he may not be receiving the summons in time and even if the same is received he may not be permitted by his immediate superior i.e. SDMO or CDMO as the case may be)

- due to shortage of MOs and likely dislocation to be caused on account of such deputation;
- other prosecution witnesses may not be turning up due to inexplicable reasons;
 - the trying Magistrate may have gone on leave or the post of magistrate itself may have fallen vacant and no alternative arrangement may have been made;
 - even if all these contingencies have been taken care of, the lawyers may be on strike (as is quite often the case in Orissa) and there may not be any lawyer to take up the case of the UTP;
 - lawyers from out of the panel being engaged to conduct defence cases do not evince adequate interest to take up the cases due to low daily honorarium (Rs. 75/-) being paid to them at present (it is an elementary principle of jurisprudence that no case should go undefended but efficacy of the defence in such a case will be doubtful where the honorarium is so low);
 - the trying Courts may go on giving liberal adjournments with or without adequate justification which results in lingering of the case;
 - most of the pre bargaining cases end up as failures which also contribute to prolongation of the trial.

Suggestions:

- The questions relating to non provision of escort, shortage of escort vehicle, inadequacy of constables, guarding staff, handcuff etc. should be placed before the police magistracy district level coordination committee meetings for a discussion and for finding a positive solution to the

problem. The SP concerned should bring the administrative problems as above the notice of DGP to find out a solution to the problem.

- While the SP of the district may take up the issue of the IO (who has been transferred from his district to another district) to attend the trying Court in time to depose evidence with his counterpart of the district to which the IO has been transferred, the IG of Prisons should after collecting the postal address of IOs concerned also take up the issue of these IOs not responding to summons and not turning up on the dates a case is fixed for hearing.
- Similarly Chief District Medical Officer concerned should keep track of Medical Officers with their full postal addresses while being transferred out and should take up the question of their Court attendance with their counterparts in the district where the MO(s) stands transferred.
- It is felt that appearance and deposition by MOs being only formal witnesses unlike IOs can be dispensed with wherever the defence agrees.
- Striking lawyers, wherever they have gone on strike should be persuaded to return to their normal schedule; civil society will have to play this persuasive role as lawyers have some accountability to the civil society and may see reason and return to work when contacted and persuaded by leaders/selected representatives of the civil society.
- In all the 3 jails at Bhubaneswar, Choudwar and Nayagarh visited there are a large number of UTPs who are languishing between 3 to 5 years and 5 years and beyond. There is the case of one Naba Bhoi in Circle Jail, Choudwar which has gone on for 22 years. All UTPs are, however, not involved in crimes with same or similar severity. It is possible to attempt a classification of all cases of UTPs on the basis of the severity of the crime and maximum period of imprisonment. In such cases where the maximum period of imprisonment is 3 years and under, provision should

be made to construct a Court room within the jail so that the trying magistrate/judge can conduct and dispose of these cases by holding the Court inside the jail in the court room so constructed. This will be one of the ways to deal with the problem of overcrowding in jail by reducing the number of UTPs who are languishing in jail for a long period for no fault of theirs.

- Yet another measure for speedy disposal of cases of UTPs is to go in for video conferencing in jails. This has been feasible after amendment of Section 167 Cr.P.C. During 2007-08, it has been decided to take up a pilot project in which video linkage between Special Jail, Bhubaneswar and the trying Court would be established. The pace of this project has, however, been found to be very slow in as much while barely 2 months of the financial year 2007-08 are left the feasibility and cost of the proposal are still being discussed between Home Department, IG Prisons, NIC Bhubaneswar and Electronics Corporation of India. The pace of implementation of the project needs to be accelerated so that on the strength of its successful execution similar projects can be taken up in other jails where there are similar problems of overcrowding due to long pending cases of UTPs.
- The UTPs are escorted to the Court and kept in the Court hajat till such time the trial of the accused is taken up. If there is no court hazat they have to be kept in the jail van till the trial of the case is taken up. This is a very unsafe and unsatisfactory arrangement. The facility of providing a Court hajat for every Court should, therefore, receive urgent and priority attention. In Nayagarh there is no Court hajat while at Choudwar it is too small. The status of existence, non existence and adequacy of space of the Court hajat in all the Courts of the State should be reviewed at length and necessary provision be made in the budget of the Law Department/High Court for construction of a Court Hajat where there is none and for enlarging the space where it is found to be too small to

accommodate large number of UTPs who are produced in the Court for trial.

II Right to be released on bail:

Reference has been made to a number of judgements of the apex Court in the preceding pages where it has been held that (a) right to bail is an invaluable right available to a person (b) this right should not be denied arbitrarily as such denial contravenes the fundamental right to personal liberty and (c) if the Court is satisfied, after taking into account, on the basis of information placed before it that the accused has roots in the community and is not likely to abscond the Court can release the accused on his personal bond.

On the basis of interaction with UTPs at Bhubaneswar, Chaudwar and Nayagarh jails issues relating to bail may be classified under the following heads:-

1. Bail petitions are pending in the trying Court for disposal.
2. Prayer for bail has been rejected but the advocate concerned has not yet communicated the reasons for rejection of the bail petition.
3. There is alleged discriminatory treatment to different UTPs in disposal of their bail petitions.

To illustrate, at the time of visit to female ward in Nayagarh sub jail it was represented by UTP Ms. Basanti Ghadei (who is facing trial in GR 430/2007 u/s 308/312/315/316/318/201/34 IPC, Section 23 of PNDA Act and Section 5 (3) of MTP Act) that she has been confined in the jail since 18.1.2008. She was a sweeppress in a Nursing Home in Nayagarh town which was involved in a female foeticide case. The offence is bailable. The Doctor in the Nursing Home who is the prime accused in this case has already been released on bail. In case of Ms. Ghadei She is unable to deposit the bail amount of Rs. 8000/- (which she considers to be a very high and beyond her means) and hence continues as a UTP in the sub jail.

4. In yet another case in the same sub jail, Niladri Lamta and Tulasi Mohanty have been facing trial in the Court of Addl. District and Sessions Judge, Nayagarh in TR 3/2006 and u/s 20(b) of NDPS Act and have been lodged in the jail since 9.5.2006. The 2 UTPs belong to Koraput and are involved in a narcotics drugs peddling case. Bail has been granted but they are unable to arrange any surety at Nayagarh (being from Koraput).

Suggestions:

- There is a District Legal Aid Society headed by the District Judge. This body needs to take up all cases of poor, indigent and helpless persons and arrange to (a) plead with the trying Court to reduce the bail amount, (b) arrange to get the accused released on PR bond where on account of locational reasons he/she is unable to arrange local sureties and (c) manage to get the grounds on which prayer for bail has been rejected by the concerned Court and communicate the same to the prisoner – applicant.
- In such cases (Parsuram Rajput ST No. 77/363/04 in Bhubaneswar Special Jail) where case records are untraced on account of which the prisoner is not able to file a bail petition the Superintendent, Jail must help to reconstruct the records so that the bail petition can be filed.
- Both the District Legal Aid Society and Police Magistracy Coordination Committee at the district level should take stock of all cases where applications are pending for grant of bail and must intervene and intercede on behalf of the prisoner in such cases where there has been inordinate delay in disposal of bail petitions.

III Right of Convicts to appeal:

The following convicts specifically represented that their cases are pending on appeal for an inordinately long period:

Circle Jail, Choudwar:

1. M. Maresh Rao – the appeal has been preferred in the High Court of Judicature, Orissa and is pending for 8 years. It has not even come up for first hearing.
2. Mansoor Sa – the appeal has been preferred 4 years back. It has not yet come up for first hearing.

Biju Patnaik Open Air Ashram, Jamujhari:

1. Siromani Lamaya, convict – he has already spent 13 years in jail and his appeal is pending in the High Court (he could not recall how long).

This is only an illustrative list and came out in course of interaction with a few convicts only. There could be many more such cases elsewhere in other jails of the State which need to be unearthed and listed. All such cases may be compiled by the office of IG Prisons and sent to Principal Secretary, Home Department. The latter needs to write to Law Secretary/Legal Remembrancer demi officially forwarding all such cases with a specific request that the matter may be brought to the notice of the Honourable High Court of Judicature, Orissa through the Registrar, High Court for expeditious disposal of these cases.

The situation in all such cases where appeals are pending for a long time has gone from bad to worse as Law Department, Government of Orissa have recently put a ban on the parole leave of convicted prisoners whose appeals are still pending in different appellate courts.

IV Right of convicts for premature release on humanitarian considerations:

It was represented to me that cases of a number of convicts are pending before the State Sentence Review Board which has the following composition:-

Principal Secretary, Home Department	-	Chairman
Secretary, Law Department	-	Member
District & Sessions Judge, Khurda	-	Member
Inspector General (Crime Branch)	-	Member
Inspection General (Prisons)	-	Member
A representative of Health & Family Welfare Department	-	Member

Names of the convicts whose cases for premature release are pending before the Board:-

1. Shyam Singh from Circle Jail, Choudwar
2. Ajay Das, Special Jail, Bhubaneswar.
3. Kailas Ch. Das, Special Jail, Bhubaneswar.
4. Siromani Lamaya, Biju Patnaik Open Air Ashram, Jamujhari, Khurda.
5. Pargan Turty, Biju Patnaik Open Air Ashram, Jamujhari, Khurda.

In all such cases reports on the repercussion of premature release on law and order in the locality to which the convict belongs are called for from the SP concerned and a final view is taken by the State Government on the recommendation of the Board. There are a couple of cases where the prayer for premature release has been rejected on the basis of adverse report of the police and sometimes fresh reports have been called for on fresh representation.

Comments:

- The police in making a discrete enquiry into all such requests for premature release on a reference from the State Sentence Review Board should in particular keep the following aspects in mind:-

1. age of the convict;
2. ailments he may be suffering from;
3. past record of relationship with neighbourhood and community;
4. report from custodial/correctional staff about positive changes in attitude, character, conduct, day to day demeanours etc.

To determine whether the accused has his roots in the community which would deter him from committing further crimes after release, the Court may take into account the following factors concerning the convict :-

- the length of his residence in the community;
 - his employment status, history and his financial condition;
 - his family ties and relationships;
 - his reputation, character and financial condition;
 - his prior criminal record including any record of prior release on recognizance or on bail;
 - the identity of responsible members of the community who would vouch for his credibility;
 - any other factors indicating the ties of the accused to the community.
- If the convict is past 60 years and if he is the victim of a terminal disease (HIV/AIDs, cancer, silicosis etc.) and incapable of inflicting any harm on the neighbourhood and community due to advanced age and failing health the State Board may take a positive view of the case notwithstanding

adverse police report and may submit its recommendation to the State Government accordingly.

- Since Home Secretary and Law Secretary are involved in the process of screening Chief Secretary, in the event of he having a difference of opinion with the recommendation of the Board may invite both the Secretaries for a discussion and may take a decision thereafter.
- In any case all such cases should brook no delay and should be disposed off within 3 months in the maximum from the date of submission of prayer for premature release.
- As against this it was represented by the aggrieved that cases have been pending for a final decision for 6 months and beyond.
- To make this possible, the State Board may explore the possibility of holding sittings inside the jails which are in close proximity of the State Capital (Bhubaneswar, Khurda, Choudwar, Nayagarh etc.). If the experiment succeeds, the sittings may be extended to other places on the basis of number of pending applications and seriousness/genuineness of grounds which warrant premature release of the convict.
- Inordinate delay in communication of final orders of Government granting or refusing prayer for premature release in cases where the State Board has made a specific recommendation was yet another matter of deep concern. This keeps the convict who had a flicker of hope for such release on the tenter hooks which is not called for purely from a humanitarian point of view.

Contact with the outside world:
Right to interviews:

As the Model Prison Manual puts it, 'every prisoner shall be allowed reasonable facilities for seeing or communicating with his/her family members,

relatives, friends and legal advisers for the preparation of an appeal or for procuring bail or for arranging the management of his/her property and family affairs. He/she shall be allowed to have interviews with his/her family members, relatives, friends and legal advisers once in a fortnight'.

Both at Bhubaneswar Special Jail and Nayagarh Circle Jail there is a separate reception centre for regulating admission as also interviews. At the time of visit to Nayagarh Circle jail over 100 people had assembled for interview with the prisoners. The space available in the reception centre for accommodating such large number of persons is rather limited. This leads to overcrowding and noise and it becomes difficult to regulate the interviews in an orderly manner. Within the limited space there is no seating arrangement for people (interviewers) who assemble giving rise to overcrowding and chaos. Except this there was no complaint nor any evidence to come to the conclusion that this fundamental human right has been denied in any case.

Right to ventilate and redress grievances:

There are 3 components through which such a right can be exercised.

These are:-

- I Institutional mechanism for ventilation
- II Time limit for redressal
- III Communication of the decision on the grievance to the aggrieved.

In course of my personal interaction most of the aggrieved (convicts) represented about leave not being granted to them even when the grounds were genuine. It was explained to them that leave under the provisions of Prison Law and model prison manual is not a matter of right but a concession which may be granted to convicts under certain circumstances. This concession is subject to cancellation. The State Government/IG Prisons reserve the right to debar/withdraw any prisoner or category of prisoners from the concession of

leave. The model prison manual has laid down certain checks and safeguards for debarring any prisoner or category of prisoners from the concession of leave such as:-

- prisoners whose presence is considered dangerous or otherwise prejudicial to public peace and ordered by the DM and SP;
- prisoners who are considered dangerous or have been involved in serious prison violence like assault, riot, mutiny or escape or who have been found to be instigating serious violation of prison discipline;
- prisoners convicted for offences such as dacoity, terrorist crimes, kidnapping, smuggling including those convicted under NDPS Act and foreigners;
- prisoners committed for failure to give security for maintaining peace or good behaviour;
- prisoners suffering from mental illness if not certified by the medical officer to have recovered;
- prisoners whose work and conduct have not been good during the preceding 12 months;
- prisoners whose release on leave is likely to have repercussions elsewhere in the country.

A register is required to be maintained in the prescribed form in which all cases of prisoners eligible for leave shall be posted 3 months in advance on the date on which they become eligible for it. The register in the prescribed form has been maintained.

It is important for all officers of correctional administration to perceive and internalize the importance of grant of leave including special leave to a convict subject to exercise of checks and safeguards. Such leave not only saves the prisoner from the trauma of incarceration but enables him to maintain social relations with his family and community. It helps him to channelize his life through an outlet of freedom and spontaneity and instils a sense of self confidence.

Right to medical examination:

The model prison manual has prescribed a format for screening of health of prisoners on admission to prison. It has the following components:-

- I Personal details (name, age, sex, identification marks etc.);
- II Previous history of illness, if any.
- III Physical examination.
- IV System examination.

Sl. No. III and IV have a number of sub components as listed below essential to make the process of examination complete.

Physical examination:

1. Pallor
2. Lymph node enlargement
3. Clubbing
4. Cyanosis
5. Leterus
6. injury, if any.

System examination:

1. Nervous System
2. Cardio vascular system
3. Respiratory system
4. Eye, ENT

5. Gastric Interstitial abdomen System
6. Teeth Gum
7. Urins/conital system
8. Mental and Psychological status.

The registers examined by me at Bhubaneswar, Choudwar and Nayagarh indicated that all these components and sub components of examination are not receiving proper attention. The MO in Sub Jail, Nayagarh was found to be part time while in the open air jail at Jamujhari he was on contractual basis. The examination is not detailed. Most of the sub components of the major components have been left unattended to. It could partly be attributed to constraints of time (in case of part time medical officer in Nayagarh sub jail) or lack of sufficient understanding of the human rights dimension of medical examination of prisoners soon after admission (despite issue of clear guidelines by NHRC on the subject and repeated emphasis put by the Commission from time to time).

Right to living accomrdation:

Proper accommodation is a must for a healthy living. The model prison manual has laid down certain norms of prison architecture which have implications of security, need for segregation of different categories of prisoners and adequacy of space for living with proper lighting and ventilation. According to this norm within the four walls of a prison the per head capacity should range between 83.61 sq.metres to 62.70 sq. metres per prisoner.

What was observed at site falls far below the expected norm as would be evident from the following:-

Special Jail, Bhubaneswar:

Ward No. 6: Towards right of the entrance there is heavy leakage and seepage making the building unsafe.

Ward No. 7,8,9,10& 11:

- there is profuse leakage and seepage in all these wards;
- bars in the grills have been damaged;
- rods have been rusted;
- floors have been damaged at a number of points.

Ward No. 15,17 and 18:

Even though these are new wards, quality of construction is poor and there is profuse leakage and seepage.

Ward No. 22:

There are both vertical and horizontal cracks which pose grave threat to the safety of the structure.

Ward No. 24 and 25:

Even though these are new wards constructed in 2005 there is problem of seepage and leakage.

Circle Jail, Choudwar:**UTP Block:**

Ward No. 1: Even though built in 1991, there is no leakage or seepage and the overall condition appears to be much better in comparison to Bhubaneswar except that floors have been damaged at a number of points.

Ward No. 2: There is profuse leakage and seepage with the only silver lining that there is a fine display of creative talent by way of presentation of mythological pictures on the wall by the inmates.

Ward No. 4 and 5: There is no seepage or leakage.

Ward No. 7: There is profuse seepage and leakage.

Convict Block:

Ward No. 17 and 18: There is profuse leakage and seepage and the roof is badly in need of repair.

Ward No. 19 and 20: Quality of construction is very poor and there is profuse leakage and seepage.

Ward No. 21: The roof is urgently in need of grading plaster falling which it may cave in.

Ward No. 31 and 32: There are both horizontal and vertical cracks in the walls.

Ward No. 43: This is not being occupied on account of profuse leakage and seepage.

Ward No. 44: There is profuse leakage and seepage. Additionally, the roof also needs repair by way of bitumen (tar) felting.

With heaps of garbage lying littered all over within the confines of the perimeter wall the overall physical environment in Choudwar Circle Jail presents an untidy and unhygienic picture with flies buzzing around. Lack of personal hygiene has resulted in scabies and a number of other skin diseases for the inmates.

Kitchen as an integral part of right to food, right to a clean and congenial physical environment and as a part of the mechanism for distribution of food. The model prison manual provides the norms as to how an ideal kitchen should be built. To quote:

'The general kitchen will ordinarily be located at a central place/inside the prison so that the distribution of food among the prisoners may be finished quickly. The kitchen will not be built close to the sleeping barracks. It will be well ventilated and lighted. It must always be kept clean and tidy. The oven will be of the type in which the heat does not escape outside and the smoke is let out

by a suitable chimney regardless of the type of fuel used. The kitchen will be protected by a fly proof wire mesh all around. Sufficient number of exhaust fans will be installed and artificial ventilation may be provided, if necessary. The kitchen must be provided with fly proof automatic closing doors. It will have floors made of impermeable material. Each kitchen shed will be provided with adequate supply of pure water which will be used for both cooking and washing. It is desirable that no single kitchen caters to more than 250 prisoners. Cooking and serving utensils will be made of stainless steel. Prison kitchens will be modernized by introducing LPG and hotplates. Kneading machines, chapatti making machines, mixers and grinders will also be introduced' (page 13, Model Prison Manual).

The kitchen rooms at Bhubaneswar, Choudwar and Nayagarh were observed to suffer from the following deficiencies:-

- they have been built close to the barracks;
- there is just one kitchen as against as many kitchens @ one kitchen for a strength of 250 prisoners;
- they are grossly inadequate in space (as against minimum 150 sq. meters for 100 prisoners the actual space available is much less);
- there is no chimney in any of the kitchens visited;
- there are no exhaust fans either;
- since there is no outlet for smoke; all the 3 kitchens wear a blackish appearance;
- no tiles have been laid on the walls for easy cleaning (the manual speaks of tiles to be laid upto a height of 2 metres);
- prisoners are taking their meals in an open space (there is no covered dining space nor any platform);

- existing wiremesh is ineffective to ward off flies; more effective anti fly measures are needed;
- separate platforms are needed for making chapattis which are currently being made on the floor.

Observations and Suggestions:

PWD is one of the construction wings of the State Government while the other two executing agencies i.e. IDCO and Orissa Police Housing Corporation are State Government owned Corporations. The track record of IDCO is open to question as has been evident from a report of the World Bank on Orissa Health Project (2000-2005) released recently where IDCO was the executing agency for construction of new PHC and hospital buildings. This was abundantly clear from the quality of construction of barracks in Bhubaneswar and Choudwar. The wrongs committed in the past by entrusting civil construction works inside these prisons to PWD and IDCO have been compounded by entrusting the responsibility for repair and maintenance of the buildings to the very same agencies who were responsible for poor quality of execution in the beginning. In sharp contrast, the track record of Orissa Police Housing Corporation is much better as was evident from the good quality of the newly constructed building of the sub jail complex at Nayagarh. Shri P.K. Mishra, IPS, Chairman, Orissa Police Housing Corporation deserves to be complimented for having maintained this quality through job work. However, as a part of the futuristic plan it will be appropriate, if considering the ambitious programme of modernization of existing jail buildings and programme of construction of new jails (21 new jails having 6300 living capacity are under construction of which 15 are reported to have been completed) and staff quarters for the correctional staff as also repair and maintenance of all jail buildings a new Corporation called Orissa Jail Housing Corporation is floated which will be under the administrative control of Home Department.

Pending this exercise urgent priority attention needs to be given to all buildings which have developed cracks (both horizontal and vertical) and where there is profuse leakage and seepage so that through timely and good quality repair work these buildings are rendered safe for the habitation of the inmates. Since the problem of repair and maintenance is huge, it will be appropriate if pending a final decision on the creation of Orissa Jail Housing Corporation, a retired Chief Engineer (Civil) of Government is appointed on contract/consultancy basis in the office of IG Prisons to (a) advise the IG on day to day building and construction problems (both construction as well as repair and maintenance); (b) provide vigilance to the quality of works which are currently under execution (c) maintain a constructive coordination and liaison with the existing execution agencies.

Right to food:

Right to food (or absence of hunger) and nutrition is an integral part of right to life as in Article 21 of the Constitution. As the model prison manual has recognized, 'an average man requires approximately 2000 to 2400 calories a day. A person who does heavy work requires not less than 2800 calories per day. An average woman having a body weight of 45 kg would require about 2400 calories partly because her weight is less and partly because she is expected to do less heavy work than a male labouring prisoner'.

Keeping the above dimensions of right to food in view the model prison manual has prescribed in detail the nutrients required in a person's daily diet, their quantities and the common sources of nutrients as under:-

Model Prison Manual (Page 52):

'Nutrients required':

6.04: The nutrients required in a person's daily diet, their quantities and the common sources of nutrients are indicated in the table below:-

S.No.	Nutrient	Requirement	Sources
1.	Protein	1 gm per kg of body weight.	Pulses, rice, wheat, milk, fish, meat, eggs etc.
2.	Fat	50 gm	Oils, butter, ghee, milk, eggs etc.
3.	Carbohydrates	300 gm	Cereals, sugar, jaggery, milk, root vegetables such as potato etc.
4.	Minerals	065 gm per adult	Milk, milk products, eggs, green vegetables, unhusked cereals and whole gram.
	a) Calcium	1 gm per child	
	b) Iron	12.15 mg	Vegetables, fruits, fish and meat.
5.	Vitamins	3000 to 4000 I.U.	Leafy vegetables, milk, fish, liver oils, yellow vegetables, eggs, carrot and yellow sweet potato.
	a) Vitamin A		
	b) Vitamin C	50 mg	Tamarind, amla, guava, all citrus fruits, eggs, lime, orange etc., sprouted pulses, leafy vegetables etc.
	c) Vitamin D	400 I.U.	Fish, Liver oils, milk
	d) Vitamin group		
	i) Thiamin	1 to 2 mg	Under milled cereals, pulse, parboiled rice, whole wheat.
	ii) Riboflavin	1.8 to 3.0 mg	Leafy vegetables, eggs, fish, milk and milk products.
	iii) Nicotinic acid	10 to 15 mg	Under milled cereals, pulses and parboiled rice.

The manual has further said that the scales of diet for prisoners may be prescribed by the State Government. Once prescribed on the basis of the principles outlined above, they cannot be altered or reduced except under special circumstances and with the prior approval of IG Prisons.

What was observed on the ground?

Redeeming features:

- The daily prison diet allowance has been enhanced from Rs. 18/- to Rs. 34/- for UTPs and from Rs. 19/- to Rs. 35/- for convicts w.e.f. 1.1.2007.
- This includes the cost of vegetables supplied from the garden of the jail.
- Non vegetarian food is being served every Sunday and Wednesday.
- Quantitatively the food is sumptuous and there is no restriction on the quantity being supplied.

Grey areas:

- Food is being carried open and manually from the kitchen to the barracks exposing it to flies.
- There is no arrangement to serve hot food.
- Instead of stainless steel, the utensils are made of aluminium.
- There are no dining tables and food is being served on the floor.
- Winter is the month of palak, methi, other spinach/leaves (kosala) and these are rich in calcium, iron, vitamin C and vitamin A. The Prison Administration has no clue about the nutrient content of leafy vegetables and the food inspected by me did not contain any leafy vegetable item.
- The food grains (rice, wheat) which are being obtained from PDS are not of very good quality and there is scope for improvement.

- A few words have been said about the kitchen in terms of kitchen being a part of physical infrastructure at page 27-28 of this report. Kitchens inspected are too small and being old and antiquated they do not conform to the requirements of the model prison manual. Lighting is inadequate while ventilation is conspicuous by its absence. Floors are damaged and there is no outlet for smoke. It is, therefore, a painful experience for those who are preparing the food in kitchens which are like dark dungeons as also who are carrying the food manually to barracks (there being no paved road and no arrangement for transportation of food by a trolley with a cover).
- There is no separate kitchen for the hospital. The requirement of food for the sick prisoners both in terms of manner of cooking (less oil, less salt, less chillies and less spices) as also in terms of nutrients being quite different from the normal and healthy adult prisoners, we cannot tag their food needs to the general kitchen which caters to the normal prison population.

Suggestions:

- The Office of IG Prisons should write to the Food and Nutrition Board, Ministry of Women and Child Development, Government of India, Jeevan Deep Building (3rd Floor), Parliament Street, New Delhi – 110 001 and get hold of as many copies of the following publications as the number of special and circle jails, district jails, sub jails and have them distributed to the Superintendents/Jailors at the earliest:-
 1. Dietary tips for better health.
 2. Ready Reckoner on fruit and vegetables preservation and nutrition.
 3. Healthy tips for Indian women.

- Regular orientation and refresher training programme should be organized for officers of prison administration with food and nutrition as essential components of the curriculum in addition to other issues relevant to correctional services. The above publications should be used for such orientation programmes.
- The dietary requirements of sick prisoners being different from those of normal and healthy persons (both UTPs and convicts) their food requirements should be met through a separate kitchen.
- Now that 21 new jail buildings are under construction, the plan should provide for a separate kitchen for the jail hospital.
- The plan should also provide for the following which are the irreducible barest minimum requirements for a modern kitchen:-
 - one kitchen for ever 250 prison population;
 - a modern chimney regardless of the type of fuel used;
 - sufficient number of exhaust fans;
 - fly proof wire mesh all around;
 - fly proof automatic closing doors;
 - floors made of an impermeable material;
 - a platform for washing vegetables with potash permanganate;
 - a platform for cutting vegetables;
 - an electric kneader for preparing paste out of atta prior to making chapattis;
 - Chapatti making machines, mixers and grinders;
 - Adequate number of taps inside the kitchen;

- LPG and hotplates;
 - Container made of stainless steel to keep the cooked food hot prior to being served;
 - Cooking and serving utensil to be made of stainless steel.
-
- The services of a nutritionist or a dietician should be requisitioned from SCB Medical College to examine the nutritive value of food being currently supplied to the inmates in Bhubaneswar, Choudwar and Nayagarh, gaps between what is desired and what is served in terms of nutrition and ways and means of bridging the gap. She needs to satisfy herself about quantities of protein, fat, carbohydrate, minerals, vitamins etc. present in the food grains being cooked and served and needs to advise, if there are deficiencies, how to make them good.
 - Independent of this, a thorough study should be undertaken as to what are the foodgrains and vegetables locally grown and easily available, the nutritive value of such foodgrains and vegetables and how a judicious combination can be made of carbohydrate, protein, oil/fat, vitamins and minerals by making use of the food, fruits and vegetables which are locally grown, are easily available and affordable too.
 - Food articles must be weighed and samples of cooked food must be inspected daily.
 - All components of food should be thoroughly looked into by supervisory officers.

Right to water:

The provisions of model prison manual are as under:-

- arrangements should be made to connect the prison by a pipeline with an assured source of water supply;

- if a well or tubewell is the source of water supply it should be well protected from being polluted by percolation of surface water;
 - the mouth of every drinking water well shall be completely closed and water shall be raised by a pump;
 - the surface surrounding the well at its mouth shall be covered with a sloping cement platform with a drain around it to carry split water and well shall be lined to a sufficient depth to render the tube impermeable.
 - every well shall be cleaned out once a year.
 - the department of water in each drinking water well shall be tested once a week and record of the results maintained.
 - drinking water may be filtered as per directions of the IG Prisons and on the advice of medical and municipal authorities.
 - no garbage dump or sanitary waste should lie within 15 metres of any ring well or tubewell.
- The model prison manual has fixed the daily requirement of water of an individual at 135 litres (drinking, cooking, washing, bathing, urinals and toilets flushing). It has said that there should be a firm arrangement for adequate supply of water at this rate in every prison.

What is the situation on the ground?

- In Bhubaneswar Special Jail water is being supplied by the PH Department through pipeline (municipal water supply) for drinking and cooking. Water is also provided through overhead tank after being lifted from tubewell. There are 3 bore tubewells available in this jail. While supply of water in quantitative terms may be adequate there is no arrangement for filtration or purification.

- At the rate of 135 litres per head total quantity of water required in Choudwar Circle Jail is 135X1100 [sanctioned strength of the jail 664+300 new capacity created since 7 months against which actual strength as on 25.1.2008 is 1084 (both UTP 731 + convict 382)] or 1,48,500 litres. As against this the built in capacity is 73000 litres the breakup of which is as under:-
 - 32 syntax tanks @ 2000 litres each tank or 64000 litres;
 - 5 RCC tanks @ 1800 litres per tank or 9000 litres.
- Thus Choudwar jail the quantity of water which is deficit is 1,48,000 – 73,000 = 75000 litres.
- Since loading is being done twice, there is actually no deficit.
- There is no inter mingling of water supply lines and sewerage lines. Besides, sewerage lines (with 411 diameter) have been recently changed and there is no choking.
- In Nayagarh Sub jail, PH Deptt. supplies water for cooking, washing, bathing and drinking twice a day. There is a motorized submersible water pump also from which water is being drawn. Additionally there are 2 number of wells and one handpump available. Thus while water which is being supplied may be prima facie adequate it is difficult to confirm if water is free from bacteriological and chemical impurities and whether the iron, sulphur, magnesium, calcium, sodium and floride content is well within the permissible limits.
- To ensure that water is free from chemical and bacteriological impurities and that iron, sulphur, magnesium, calcium, sodium and floride are well within permissible limits samples of water from each jail should be regularly drawn and sent to approved laboratories for test. The findings of the said test should be minutely documented for corrective action.

Right to Sanitation:

The provisions contained in the model prison manual are as under:-

- each barrack used for sleeping will have sufficient number of WCs, urinals and washing places. The ratio of such WCs will be one unit for every 10 prisoners;
- latrines will be of sanitary type with arrangements for flushing;
- they will be placed on an impermeable basis which will be higher than the surrounding ground and will be so built that the sun's rays can easily enter the latrines and rain water is kept out;
- the partitions separating the latrines will be high enough to provide a reasonable degree of privacy;
- the latrines will be so designed that all excreta and wash materials will get into receptacles without fouling the sites;
- the inside walls of the latrine will be filled with glazed ceramic tiles upto a height of one metre from the floor level as far as possible.

What is the situation on the ground?:

According to the scale prescribed in the model prison manual and purely on a functional plane, Bhubaneswar should have 110 day latrines and 70 cage latrines, Choudwar should have 180 day latrines and 110 cage latrines and Nayagarh should have 28 day latrines and 18 cage latrines. As against this, Bhubaneswar has 92 day latrines and 43 cage latrines. All are Indian commode and not a single one is WC. In Choudwar, there are 95 number of day latrines and 80 number of age latrines and not a single WC. In Nayagarh, there are 18 numbers of general toilets and only 5 number of caged latrines (caged latrines are meant for use at night).

- In Choudwar it was found that the soak pits are not functional and the prison administration has gone in for oxidation of ponds.
- Thus at all the 3 places the number of latrines is grossly inadequate.

Comments and suggestions:

The advantage of WC is that all categories of persons (adults, adolescents and children, able bodied as well as sick persons) can comfortably squat on it while those who are physically and orthopaedically challenged, who are having stiff joints (due to arthritis) or who are obese would find it extremely difficult to use Indian commode. Prisoners are also human beings and are entitled to the same comfort and convenience apart from enjoyment of all residual rights as any other ordinary citizen. This aspect should have been taken into consideration while planning the toilets for the jails of Orissa. It should be done now and for future constructions.

Right to personal hygiene:

The model prison manual provides as under:-

- every prison will provide covered cubicles for bathing @ one for every 10 prisoners with proper arrangement to ensure privacy;
- every prisoner is required to have bath as frequently as necessary for general hygiene according to climatic conditions;
- taking into consideration that the daily requirement of water of an individual is about 135 litres there should be arrangement for adequate supply of water in every prison;
- if feasible, new prisons will have arrangements for rain water harvesting and recycling of water keeping in view its cost effectiveness;

- every prisoner shall be required to wash his clothing atleast once a week, usually on Sunday morning and at any other time as the Superintendent may direct;
- the prisoners may be required to wash specific items of prison clothing and may be authorized the use of necessary washing materials (soap, washing powder, detergent etc.) for the purpose;
- all female prisoners shall be supplied with a bar of washing soap weighing approximately one kg each per month and 50 gms of washing powder per week for washing their clothes.
- all central and district prisons should have their own mechanized laundry to wash items of clothing and bedding at the time of return of these items to the clothing store.

What is the situation on the ground?

Bhubaneswar:

- At Bhubaneswar Special Jail one life busy soap weighing 100 gms each is being supplied to all convict prisoners (male and female) per month.
- One life busy soap weighing 50 gms each is being supplied to all UTPs every fortnight (who have been confined in the jail for more than 15 days).
- 40 gms of detergent powder and 14½ gms of washing soap are supplied to each male and female prisoner for cleaning their clothes once a week.
- 20 gms of detergent powder extra is also issued to each female prisoner once a week in addition to the above.
- 1 packet of 10 number of sanitary napkins is supplied to each female prisoner during her menstrual cycle.

- 5 gms of mustard oil is being issued to all male prisoners per day while 29 gms of coconut oil is issued to all female prisoners per week.

Choudwar:

- 40 gms of detergent power and 14½ gms of washing soap are supplied to each male and female prisoner per week for cleaning their clothes.

Nayagarh:

- 40 gms of washing power and 14½ gms of washing soap (Sunlight) are issued per prisoner every Sunday for washing their clothes.

Comments and Suggestions:

Personal hygiene is partly a matter of oral hygiene and partly a question of keeping the body and clothings (both bed sheet, linen as well as the dress being worn by the prisoners) neat and tidy. Observance of total personal hygiene (including oral hygiene) would depend on the following:-

Oral Hygiene:

- regular tooth brushing and tongue scrapping;
- keeping the tooth brush and tongue scrapper in a separate container after cleaning the teeth;
- washing face, hand and feet before settling down for breakfast, lunch and dinner on the floor (in the absence of dining table).
- having a haircut once every month;
- cutting ones nail once a week in the minimum;
- changing heavily sweated and soiled clothes every day.

Personal Hygiene:

- taking bath twice everyday in summer in the minimum (once in the morning and another in the evening) and once in winter;
- provision of covered cubicles (as against open platforms as is the case now) for thorough cleaning of the body at the time of bath as also to ensure privacy (which is conspicuous by its absence now);
- use of shampoo instead of mustard oil and coconut oil as is the case now (mustard oil has a pungent smell and is hardly the oil to be used on body); it would make the pillows oily and untidy very soon;
- adequate quantity of washing powder for cleaning the clothes atleast every alternate day (though the ideal would be cleaning them every day).

Right to clothing:

- The provision in the model prison manual for convicts as well as UTPs in regard to clothing is as under:-

Convicts:

- every convict under sentence of rigorous imprisonment or of imprisonment for life shall be required to wear prison clothing as prescribed and shall be supplied with prison bedding;
- the dress should suit their physical measurement;
- clothes of convicts shall have no pockets or openings in the lining;

- convicts in custody when sent to a Court, either as witness or as accused shall wear ordinary private clothing; such clothes (brought by them or supplied by friends/relatives) shall be issued to them before they are taken to the Court and shall be taken back on their return from Court attendance;

UTPs:

- clothing and bedding as per requirement shall be supplied if they make an application to the Prison Superintendent for this purpose;
 - such clothing shall be of a colour different from that issued to convicts so that the distinction between convicts and other prisoners is visible;
 - such clothing may be allowed to be retained by the UTPs even after their release;
 - private articles bearing marks or symbols of political affiliation shall not be allowed to be kept or used by UTPs.
- Scale of clothing and bedding for both convicts and UTPs should be fixed by the State after taking into account the climatic conditions as also security and discipline of the prison.

What is the situation on the ground?

- Except the convicts who are the inmates of Biju Patnaik Open Air Ashram (they were found to be neat and tidy in their clothings) the clothings of convicts and UTPs at Bhubaneswar, Choudwar and Nayagarh were not found to be in order. Most of them were soiled; some were torn and some were found to have developed holes. This could be either on account of long stay (the manual is silent on the interval when the clothings are to be changed) when clothings have not been changed or on account of

extreme heat and humidity (when too much sweating takes place) or on account of inadequate quantities of soaps and detergents being issued or inadequate washing of clothes by convicts/UTPs.

Suggestion:

Since all the 3 places visited (Bhubaneswar, Choudwar and Nayagarh) have extreme heat and humidity and people sweat profusely in summer months due to a very high percentage of humidity in the air (going upto 95%), the State Government, according to provisions of the model prison manual (para 6.49, page 59 of the manual), should refix the scale of clothing and bedding as also enhance the scale relating to supply of washing powder/soap/detergents – currently being issued to convicts/UTPs.

Right to health and medical care:

- The provisions in the model prison manual are as under:-
 - the manual gives a vivid description of different types of hospitals on the basis of bed strength, staffing pattern and manner of appointment of CMO and other MOs, daily visits to be undertaken by them, special needs of aged prisoners, clinics, laboratories and equipments needed for prison hospitals, weighing of prisoners, examination of prisoners complaining of illness, hospital diet, treatment of sick prisoners, segregation of infection cases, hospital clothing and bedding, death of patients, audit of death etc. In particular, the manual provides for the following:-
 - hospital accommodation should be provided on the scale of 5% of the daily average of the inmate population in all Central and district jails;

- location of the hospital should be as far away from the barracks as possible;
- floors and walls of the hospital should be of impermeable material;
- there should be an arrangement for continuous supply of potable water;
- hospital diet requiring special preparation shall be cooked in the hospital kitchen;
- special care shall be taken with articles such as milk which can be easily adulterated or stolen;
- prisoners should be allotted specific items of work only on medical opinion;
- hospital clothing and bedding shall be independent of the clothing and bedding supplied to every convict or UTP.

What is the situation obtaining on the ground?

- The number of beds is much less in all the 3 jail hospitals than what is prescribed in the manual – Bhubaneswar has 10 beds against 30 prescribed, Choudwar has 16 beds against 50 prescribed, Nayagarh has no bed while the open air jail at Jamujhari has 6 beds (within the prescribed limit).
- There is one MO and one Pharmacist at Bhubaneswar, 2 MOs but no para medical staff at Choudwar, one part time MO and one Pharmacist at Nayagarh, one MO and one pharmacist at the open air jail at Jamujhari.

- There are 40 mentally ill persons undergoing treatment for a fairly long period at Circle Jail, Choudwar, 10 mentally ill persons at Special Jail, Bhubaneswar and 8 mentally ill persons at Nayagarh subjail of whom 3 are undergoing treatment for Schizophrenia.
- In case of mentally ill persons at Bhubaneswar the Psychiatrist of Circle Jail at Choudwar visits them once a month to screen the condition of the patients. There is no such arrangement for the 8 mentally ill persons at Nayagarh.
- There are 3 patients each suffering from TB and HIV/AIDs in Choudwar Circle Jail, 1 case suffering from TB in Nayagarh sub jail and 5 cases suffering from T.B. at Bhubaneswar Special Jail.
- The average health of all the 60 inmates at the open air jail at Jamujhari was found to be very good.
- All serious/chronic cases of illness from all the jails of the State are being referred to Choudwar. They could be straightaway referred to SCB Medical College and hospital for specialized treatment and need not be routed through Circle Jail at Choudwar. This would save a lot of time, energy and scarce resources of Circle Jail at Choudwar.
- The existing arrangement is also inconvenient on account of the following reasons:-
 - patients whose cases have been referred to SCB Medical College and hospital through Choudwar Circle Jail cannot be sent from the Circle Jail to SCB Medical College without any escort party;
 - there is always the problem of late arrival of the escort party;

- this results in late arrival of the patients at the OPD of SCB Medical College and Hospital;
 - the OPD hours are upto 12 Noon and by the time the patient arrives at SCB Medical College and Hospital OPD the OPD hours are over;
 - the entire exercise, therefore, turns out to be infructuous.
- In 4 cases the Jailor of Nayagarh jail has sought for orders of the Court of CJM, Cuttack for removing the mentally ill persons to Choudwar. No orders have yet been passed. Since Nayagarh is only 100 Kms away from Choudwar the psychiatrist can always come to Nayagarh and examine the mentally ill persons. In that eventuality it may not be necessary to shift the patients from Nayagarh to Choudwar.

Measures which have been taken for treatment of sick prisoners:

- Specialized treatment is being provided to the sick prisoners of the State in different hospitals, medical colleges and referral hospitals.
- The scale for daily purchase of drugs has been raised from Rs. 500/- to Rs. 1000/- in respect of all circle, district and special jails and from Rs. 300/- to Rs. 500/- in respect of sub jails.
- Nutritious diet is being provided to the sick prisoners as per the advice of the treating physician.

Suggestions for bringing about further improvement and qualitative change in the functioning of the three jail hospitals at Bhubaneswar, Choudwar and Nayagarh:

Bhubaneswar Special Jail:

- There is no facility for conducting different types of pathological examination of sick prisoners. There is a room available inside the jail

hospital which can be used as a laboratory to conduct different kinds of pathological tests. This will be possible by purchasing a few equipments and by the posting of a laboratory technician.

Choudwar:

- Since a large number of chronic cases from all other jails of the State are being referred to Choudwar (30 to 40 daily) the Choudwar Circle jail needs the services of additional 12 warders and one Asstt. Jailor exclusively for handling such a large number of referral cases.
- Twenty to twenty five guards at one time are needed to be sent from Choudwar Circle Jail to escort the prisoner patients to SCB Medical College and hospital. One guard room in the Medical College Campus should, therefore, be constructed to exclusively handle these cases.
- There is one Psychiatrist in Choudwar Circle Jail who is currently attached to all jails and sub jails of Cuttack, Puri and Khurda districts numbering 14. He is terribly hard pressed. It is, therefore, suggested that either the post of a second psychiatrist or a Clinical Psychologist could be sanctioned to deal with the heavy workload in these jails keeping in view increase in the incidence of mental illness (In Choudwar Circle Jail itself there are 49 cases of Schizophrenia, bipolar affective disorder, delusional disorder, depression and anxiety syndrome as also drugaddiction).
- Considering the number of inmates, number of patients (including mentally ill persons) and the number of cases which are being referred to Circle Jail, Choudwar from other jails of the State it is proposed that the State Government may consider sanction of the following additional posts for this Circle Jail:-

Medicine Specialist - 1

Assistant Surgeon	-	1
Lady Medical Officer	-	1
ECG machine with a technician	-	1
Pharmacist	-	1
Laboratory Technician	-	1
Staff Nurse	-	1
Ward Attendant	-	2
Dresser	-	1
Cook for the hospital kitchen	-	1

N.B.: It is proposed to sanction one post of lady medical officer as female prisoner – patients do not want to get themselves clinically examined by male doctors.

- Within the existing medical ward a full fledged female medical ward should be created.
- Pending creation of a full fledged medical ward and posting of a lady medical officer the administration of Circle Jail, Choudwar may be permitted to requisition the services of a lady medical officer preferably with qualification and experience in gynaecology and obstetrics.
- There are special needs exclusive to psychiatric patients whose number is fairly large in Choudwar Circle Jail. To meet these needs the State Government may consider sanction of the following posts:-

Medical attendants	-	3 (one for guarding and 2 for nursing)
Pharmacist	-	1 exclusively for psychiatry nursing.

Nayagarh Sub Jail:

- This is the headquarters of new district (from 1993-94) and there is a headquarters hospital but the post of a Senior Orthopaedics surgeon is lying vacant for the last 2 years. There is no ENT specialist nor any

dental surgeon. In the absence of these specialists cases have necessarily to be referred to SCB Medical College and hospital (at a distance of more than 100 km) which is time consuming and expensive.

- The height and weight of prisoners in Nayagarh sub jail are being checked by the pharmacist. This should be attended to by the MO himself.
- The arrangement of having a part time medical officer (drawn from district headquarters hospital) for Nayagarh sub jail does not work. The honorarium amount (Rs. 200/- per month) is quite low. The MO represented that the new sub jail building is coming up at a new location which is 7 to 8 km away from the present one and will entail heavy expenditure on account of travel (particularly in view of the rising cost of fuel). He represented that the honorarium amount should be substantially raised to enable him to do justice to his assignment. There appears to be considerable force in his representation and it deserves favourable consideration of the State Government.

A few additional observations related to health and medical care:

- In Choudwar Circle Jail Leprosy cases have been effectively treated and cured. They have been released from treatment but have been kept in the isolation ward on account of the stigma attached to leprosy.
- There has been one case of refusal of a referral case (viral infection in brain) Parkinson's disease but later the patient was admitted and treated for 3 months. He eventually died.

Right to literacy and education:

- Access to literacy and education is indispensable on account of:-
 - they are vital for overall development of prisoners;

- they are vital for changing outlook, habits and total perspectives of life;
- they reduce the propensity to commit crimes;
- less the crime, less the number of victims, less the number of victims, less the number of prisoners, less expenditure on criminal justice, investigation and law enforcement and eventually more socially productive people.

What is the ground level situation?

Bhubaneswar Special Jail:

Redeeming features:

- A school is running inside the jail to impart literacy for non-literate and non-numerate prisoners by a trained school teacher appointed by the Government of Orissa.
- The books, magazines and textual materials are being supplied by Government as well as donated by several NGOs.
- A prison library is being maintained inside the jail by an NGO called Sanskruti Sikshya Sansthan having 897 number of books for utilization of the inmates.
- Study materials have been provided to the school going children of convicts including examination fees to students appearing in matriculation examination.

Weaknesses:

- No information is available on evaluation of learning outcome, when it was conducted, by whom and by what methodology.

- Similarly no information is available on the levels of proficiency attained by the learners in arithmetic, mother tongue, social sciences and environment studies although it was simply mentioned that 78 illiterate prisoners were made literate during 2007.

Choudwar Circle Jail:

Redeeming features:

- A small school is being run for making non literate and non numerate inmates literate. A full time teacher has been engaged. Instructional lessons upto lower primary class (Oriya) are being imparted. Textual materials have been provided by the district administration.
- A small library containing 226 number of books is available for use of the inmates.

Grey areas:

- Neither the Prison Administration nor the teacher implementing the programme has any clue as to what is functional literacy Vs. alphabetical literacy, what are the levels of literacy and numeracy skills to be achieved, how they are to be retained, reinforced and consolidated and the relevance of these skills in the life of a prisoner.
- Pictorial medium of communication in preference to print medium of communication would have made a lot of qualitative difference in conducting the programme. This is singularly missing. No information is available either about the school or about the teacher or about the instructional materials except that a library with 54 number of books is available for use of the inmates.

Suggestions:

- The programme under implementation is not for alphabetical literacy but for functionality and awareness (including critical consciousness). This realization is extremely important.
- It should enable the inmates to perceive and internalize the gravity of their action culminating in an offence/crime and impart them a positive attitude and behaviour.
- 'I won't take to crime any longer' should be the refrain of a truly literate human being (prisoners included).
- Whatever provisions are contained in the Model Prison Manual and whatever is of interest and relevance to the lives of prisoners should be made known to convicts alike the UTPs (such areas being medical examination, health, hygiene, sanitation, potable water, immunization of children staying with mothers etc.).
- Literacy and numeracy programmes should be launched with adequate planning and preparation in Nayagarh sub jail. Now that a new sub jail building is coming up, a room should be earmarked where the programme can be implemented.
- All prisoners are not non literate or non numerate. A survey should be undertaken in all the jails and sub jails of the State to identify the following:-
 - number of literate and numerate prisoners who also have the urge, inclination and motivation to teach others who are not so literate and numerate like them;
 - number of non literate and non numerate prisoners who have the desire to know and learn;

- attempt a matching and batching between the two in the ratio of 1:10 or 1:5 or even 1:1 (each one teach one) depending on what is available on the ground;
 - literacy and numeracy learning should be a dialogical exercise; the teacher and the learner should learn from each other, through communication with each other in a dialogical mode.
- A scientific evaluation of the content, quality and impact of programme should be undertaken by engaging an Institute of social science and research of repute from the local area or outside the area of the prison depending on availability.
 - Adequate number of journals, periodicals and local newspapers should be made available to all inmates in all the jails of the State as a matter of policy. There should be a reading room cum recreation centre where they can spend their time gainfully by browsing through local newspapers and widen the horizon of their thought.
 - Help of the Directorate of Adult Education both at the Central and State level and that of the State Resource Centre should be enlisted prior to organizing literacy programmes inside the jail.

A few other redeeming features in promoting human resource development of inmates of the prisons of the State:

- Special attention is being paid to the inmates to pursue higher technical education including computer literacy.
- Computer training centres have been started in circle jail, Berhampur, Sambalpur, Balangir and Bhubaneswar by active support of NGOs.
- One type training institute is functioning at district jail, Balangir.

- Distance Education is also being provided under Indira Gandhi National Open University (IGNOU) through special study centres functioning at Circle Jail, Choudwar and Berhampur.

Right to work, acquisition of skills and productive utilization of ones time through human resource development in jails of the State:

- There is not one but a host of reasons as to why right to work and acquisition of skills (life skills, communication skills, survival skills, vocational skills, entrepreneurial, supervisory and managerial schools) are important. They fulfil a number of objectives some of which are listed below:-
 - they impart work culture;
 - they impart discipline;
 - they help to develop right attitude towards work;
 - they help to develop respect for dignity of labour;
 - they promote physical and mental well being of inmates;
 - they promote constructive development of human mind;
 - they promote gregariousness, a spirit of fellowship and a cooperative way of living;
 - they promote group adjustment and solidarity;
 - they promote and develop capacity for sustained hard work;
 - they help to build habits of concentration, steadiness, regularity and precision in work;
 - they impart and improve work skills;
 - they help to awaken the self confidence and self reliance of inmates;

- they train and prepare inmates for achieving lasting social readjustment and rehabilitation;
- they impart an occupational status and thus instil a sense of economic security among inmates;
- they keep inmates gainfully employed in meaningful and productive work;
- they prevent idleness and indiscipline among the inmates.

What obtains on the ground:

- Sixteen varieties of small scale industries are functioning in different jails in order to utilize the services of convicts, make them learn vocational skills and follow the vocation after their release from jail.
- The industries functioning in jails are textiles, tailoring, phenyl manufacturing smithy, oil extraction, wheat grading, blanket making, jute mat making, carpentry, candle making, printing, chalk making, furniture with sabai grass, washing powder manufacturing, woolen carpet making, ready to eat food (RTE) preparation etc.
- Prison inmates who are engaged in small scale industries receive an incentive money of Rs. 10/- per day.

Agriculture, horticulture, cooking and medicinal plant cultivation:

- Agriculture is being taken up in Keonjhar, Balangir and Bhanjanagar. The inmates are learning new type of skills in agricultural farming.
- Vegetable growing and horticulture have been taken up in almost all jails (Bhawanipatna, Choudwar, Bhubaneswar, Puri, Koraput, Balangir, Keonjhar and Biju Patnaik Open Air Ashram at Jaumjhari).

- Medicinal plant cultivation has been taken up in 40 acres of land at the above Ashram. Jatropha has also been planted for production of biodiesel.

Welfare of prisoners:

The model prison manual has in very clear and concise terms laid down the objectives of promoting and securing welfare of prisoners in the following words:-

- develop a relaxed, positive and constructive atmosphere in the institution;
- ensure that a humane warder – inmate relationship is built up based on mutual trust and confidence;
- redress positively all genuine needs and problems of inmates;
- ensure a good system of incentives for self discipline such as remission, leave, transfer to semi open and open institutions;
- provide individual guidance and counselling;
- encourage group activities, group guidance and group work.

The welfare officer attached to a jail is the central figure in promoting a host of welfare activities for physical, emotional and spiritual development of all the inmates. Interaction with both the male and lady welfare officers attached to Circle Jail, Choudwar brought out the following:-

- the welfare officer is regularly meeting and interacting with UTPs and convicts at regular intervals. The pith and substance of grievances heard on the day of my visit (29.1.2008) are:-

- prayers for premature release are pending for months due to the State Sentence Review Board not meeting frequently as also on account of the complicated procedure;
- appeals pending for 8 to 10 years in the High Court;
- bails are being refused but reasons for refusal are not being communicated to the UTPs;
- cases of UTPs are being posted for hearing but do not come up for hearing;
- UTPs cannot be produced in the Court in time as police escort is not readily available;
- cases go on getting adjourned as prosecution fails to ensure appearance of witnesses;
- prisoners who belong to one part of the State but have been apprehended in another part and have been lodged in the prison of the latter are not in a position to arrange surety as the bail amount is disproportionately high and no one is willing to stand surety in an unknown terrain;
- most of the pre bargaining cases are reported as failures;
- lawyers from out of the panel who are being engaged to conduct defence cases do not evince interest to conduct these cases on account of low honorarium (Rs. 75/- per case).

Interaction with lady welfare officer, Circle Jail, Choudwar:

- There are 3 cases of elderly women prisoners which need to be viewed with kindness and compassion. The cases are:-

- case of an old lady of 82 years who is a victim of epilepsy;
 - another elderly lady who is a victim of chronic obstetric pulmonary disease (COPD);
 - a middle aged lady who is a victim of HIV/AIDs positive.
-
- There are applications for premature release in all these cases.
 - It was suggested to the lady welfare officer that she may while processing the applications view them with a humane approach.
 - Such cases are unlikely to pose any threat to any law and order situation as on account of their sheer physical disability they are incapable of causing any harm to anyone. They should be viewed as such.
 - Children upto 6 years staying with convict mothers deserve a humane and affectionate treatment on account of the judgement of the Supreme Court in R.D. Upadhyay's case; their education, health and medical care and nutrition needs to be looked after by the custodial staff on behalf of the State.
 - This regrettably was not the case in female convict ward in Circle Jail, Choudwar where a girl of 6 years was staying with her mother but there was hardly any evidence of the girl receiving due care and attention of the State in the matter of her health, education, nutrition in terms of letter and spirit of the above Supreme Court judgement.

31.1.2008

Visit to Open Air Jail at Jamujhari (Khurda):

Central Philosophy behind Open Air Jail concept:

It is important to understand why crimes occur and recur as a clue to understand the central philosophy behind open air jail concept. Crimes occur and recur on account of the following:-

- the offender faces cold and harsh treatment and rejection from the society;
 - such rejection widens the gulf between the offender and the society;
 - this gap sends the offender back into the old world of crime and from there to custody;
 - this is a vicious cycle in which crimes occur and recur.
- Correctional work aims at bridging this gulf between the offender and the mainstream society. The attributes of such work are:-
 - it should be reformative and not retributive;
 - it should be creative and not repressive;
 - it should foster basic values and virtues of life and humanity such as kindness, compassion and commiseration.
 - All open and semi open institutions are directed to translate to action this central philosophy of reformation, correction, rehabilitation and reintegration of convicted prisoners into the mainstream society so that they may lead an autonomous, self disciplined and civilized life after their release. They provide opportunities and facilitates to work and earn a decent living in the open while being subjected to all the norms of prison discipline.
 - Open Air Jail was conceptualized in Orissa for the first time in 1983-88 by Shri A.B. Tripathi, IPS (Retd.), then IG of Prisons and later DGP and Special Rapporteur, NHRC. The first such jail was established at Jamujhari near Khurda (28 kms away from Bhubaneswar). Fully operational since 2003 it has currently 62 inmates. This number is likely to increase in the near future once the new accommodation facilities are

available for use. The open air jail was named as Biju Patnaik Open Air Ashram and formally inaugurated as such by the present Chief Minister – Shri Navin Patnaik in 2004-2005.

Characteristics which distinguish the Open Air Jail from other custodial institutions of the State:

- The institution is spread over a vast area of 111.199 acres in Village Chatabara and Jamujhari of Bhubaneswar Tahasil.
- It is located in a sylvan surrounding which is a picture of green - open and airy.
- It is a self contained complex with an administrative block, dormitory (2 wards), hospital building with a separate kitchen, kitchen with dining and store, cowshed, vermicompost, workshop, garage for tractor and power tillers, guardroom/store room and staff quarters.
- There is no perimeter wall.
- Only convicts who have shown good behaviour and conduct during their long stay in different jails of the State for 10 years or more are selected to be brought to and lodged in the open air jail.
- The food is prepared and served by selected inmates through Panchayat system by rotation every month.
- Vocational skill training programme (weaving, tailoring, carpet and durry making, phenyl, candle, washing powder, soap making etc.) is fully in conformity with the aptitude, preferences and interests of the inmates of the open air jail.
- Medicinal and aromatic plant cultivation of 33 species has been taken up over a large area of about 40 acres. There is a medicinal plant nursery as well.

- The inmates have kept the wards, the kitchen, the hospital kitchen, the office complex and the surrounding areas including the herbal garden immaculately neat and clean.
- They were found attired with spotlessly clean and white kurta and pajama unlike Bhubaneswar, Choudwar and Nayagarh where a number of inmates were found to be wearing torn and soiled clothes.

Grey areas:

- No functional literacy programme in a non formal mode has yet been taken up.
- There is no library which would have been a valuable aid for post literacy and continuing education programmes.
- Both the Medical Officer and Pharmacist have been appointed on contract basis. These are perennial requirements and its very difficult to have assured service of a high quality as also to have access to emergency service with a contractual arrangement.
- It was observed, as in Bhubaneswar, Choudwar and Nayagarh, that there are serious problems of repair and maintenance even in respect of structures which are barely 3 to 4 years old. The same structural deficiencies were found in Bhubaneswar, Choudwar and Nayagarh (horizontal and vertical cracks, seepage and leakage etc.) were also observed in the office room complex Jamujhari.

Grievances of Prisoners:

- They are generally happy and feel completely at home in the warm, hospitable and sylvan surrounding of the Ashram except that case of a convict was pending in appeal for considerably long period (10 to 12 years).

Suggestions:

- There are literate as well as non literate and non numerate prisoners. A matching and batching in the ratio of 1:10 or 1:5 should be attempted and functional literacy programmes in a non formal mode should be taken up on priority. This is in the larger interest of human resource development of the inmates.
- The IG of Prisons should sanction a library with about 1000 books in the minimum. This should be an integral part of the process of acquisition of knowledge in an age of knowledge and information as also a source of recreation. The books may be selected and purchased on the basis of preferences of the inmates. Similarly, in addition to local newspapers, one Hindi newspaper and a few good journals like jhankar and such other journals which the inmates may prefer in local or any other language may be subscribed and kept in the library for use of inmates.
- Most of the vocational skills which are being imparted are traditional. A few modern trades which are relevant for the current market like electrical motor winding, computerized data entry operation, assembly and repair of radio and television, repair of washing machine and geysers, other items of modern plumbing work (including fixing of wc, tiling the bathroom etc.), a host of carpentry and smithy and such other items as are marketable may be thought of in consultation with the Industries Department as also after ascertaining the preferences of the inmates.
- As the medicinal species (33) in the herbal garden mature over a period of time, we may think of starting a small unit for processing ayurvedic medicines. For this purpose, the Superintendent of the Open Air Jail – Shri G.B. Mohanty who has shown a lot of interest in raising and upkeep of this garden may be deputed to Arya Vaidyashala, Kottakal in Kerala (165 kms from Ernakulam/Cochin) for interaction with the herbal garden

authorities there as to how to make a modest beginning for processing ayurvedic medicines (Aryavaidyashala, Kottakai founded in 1902 has India's largest herbal garden spread over an area of 700 acres and is known all over the world for the quality of ayurvedic medicines manufactured by it). The IG of Prisons may also write to Ayurveda Adviser, Ministry of Health, Government of India soliciting his advice in the matter. Orissa (in particular Southern Orissa) has a rich tradition of preparation of ayurvedic medicines; people of the State have also a preference for these medicines and there is no doubt that once a small unit for processing these medicines is set up it would make head way.

Human Resource Development for officers of Correctional Administration:

- One Orissa Jail Training School has been established at Berhampur in 1984 for imparting training to the prison and correctional staff of the jail department.
- Following courses have been conducted at OJTS, Berhampur during 2006-07:-

S. No.	Name of the Course	Level of Participants	Duration	Scheduled Date
1.	Basic Training Course	Prison Officers	6 months	5.4.06 to 5.10.06
2.	Refresher Training Course	Prison guarding staff	9 months	17.4.06 to 6.5.07
3.	Short term basic training course	-do-	21 days	1.7.06 to 21.7.06
4.	Basic Training Course	-do-	9 months	13.11.06 to 1.8.07

The basic training imparted comprises of the rules of Orissa Jail Manual, Correctional methods, law, accounts, PT, drill and arms. The refresher course for jail officers and guarding personnel are intended to acquaint them with various rules, regulations, guidelines, instructions of NHRC, judgements of various Appellate Courts, Government orders and circular letters of IG Prisons, guest lectures on subjects like dowry, human rights, juvenile justice act, child labour related legislations, amendment to various laws i.e. IPC, Cr.P.C., HIV/AIDS, psychology etc. may help in building up the knowledge base of the jail personnel.

Training is an important input of human resource development. Training imparts knowledge, information and skills. Training removes doubts, misgivings and reservations. Training helps to sensitize the insensitive. The most important contribution of training in human resource development is change of negative and adversarial attitude and approach to a positive and proactive one. Training helps to remove fads, taboos and obscurantist ideas and imparts a rational, secular and scientific temper.

Such a temper is very essential for custodial staff. Since a prison is an amalgam of people drawn from different socio cultural backgrounds such a temper would help the custodial staff to hold the balance between diverse and inchoate groups who are found in the prison population.

Last but not the least training for the custodial staff would help to replace a retributive and vengeful approach by a reformatory one.

Regretfully, however, no evaluation has taken place as yet if training being imparted by OJTS, Berhampur has created the desired impact on correctional behaviour. This aspect was highlighted in the questionnaire circulated by me prior to undertaking the Orissa jail review but I regret to observe that it was not understood correctly. While Choudwar and Nayagarh preferred not to respond to this point Bhubaneswar took it as training related to inmates of the jail. There is,

as a matter of fact, no such training (other than vocational skill training to a very limited extent) has been thought for them.

Keeping the importance of behavioural change, the curriculum, course content and textual materials for training need a thorough review.

Terms and conditions of Service and Employment of Headwarders and Warders:

- Discharge of statutory functions inside the jail for the custodial staff is a round the clock operation;
- There is no weekly off nor any festival holidays.
- The warders get the salary of a Class IV Government employee (Rs. 2650/- basic) even though technically they belong to Class III.
- The head warder gets a basic of Rs. 3000/- barel Rs. 100/- more than the basic salary of a Class IV Government employee.
- The salary and allowances get exhausted in 15 days due to unimaginable spiraling of prices making the cost of living one of the highest in living memory.
- No accommodation has been made available for all warders and head warders.
- At 10% of basic pay as HRA it is impossible to get any living accommodation for less than Rs. 1000/- per month.
- The kit allowance and washing allowance are of the order of Rs. 10/- and Rs. 40/- respectively.
- These are a pittance considering the hot and humid climate which prevails throughout the State causing too much of sweating.

- The warders and headwarder have to travel daily from residence to office by bicycles.
- These sometimes get stolen.
- There is no canteen for tea/coffee and snacks for warders and the headwarder.
- They cannot leave their duty posts during duty hours and go out for a cup of tea/coffee.
- Even though they are responsible for feeding the prisoners they do not have the leisure and freedom to feed themselves.
- The State Administrative Tribunal has already directed the State Government to consider their case sympathetically.
- A.N. Mulla Committee has also made similar recommendations.
- Nothing has practically been done to redress their grievances either by way of revision of their pay and allowances or fringe benefits.

Role of NGOs in Prison reforms:

In course of a wrap up meeting in the office of IG Prisons on 31.1.2008 (12 Noon to 2 PM) it was encouraging to note that as many as 41 NGOs have involved themselves in undertaking a variety of constructive activities inside the prison such as:-

- conducting yoga, religious and spiritual discourses for inmates;
- organizing activities for spreading communal harmony and the message of secularism and national integration;

- organizing competitions (song, drawing, essay, elocution and quiz) to bring out the best of imagination, ingenuity and creativity among the prison inmates;
- donating a number of items for organizing a host of activities (games, sports materials, musical instruments, sewing machines, colour T.V. sets, ceiling fans, air coolers, computers, solar pump, water pump etc.);
- organizing camps for screening of health of inmates and supplying medicines to them;
- assisting rehabilitation of released prisoners and ensuring their reintegration into mainstream society;
- providing boarding, lodging, education etc. to the children of the convicts after they complete 6 years in prison;
- supplying text books to school going children (Class VI to Class X) of poor inmates (1551 text books have been supplied by NGOs alone during the last 5 years).
- opening of a computer training centre at Special Jail, Bhubaneswar;
- providing interest free loan to 5 inmates of open air jail at Jamujhari for construction of dwelling units.

At the end of the discussion with IG Prisons in relation to NGOs the following suggestions were made by me and positively responded to by the IG (Prisons):-

- I A directory of NGOs assisting prison administration in carrying out prison reforms should be brought out by IG Prisons.

II Officers of Prison Administration should maintain a close liaison and coordination with NGOs on a day to day basis. The other decisions general in nature which were taken at the end of the discussion with IG Prisons are:-

- i) cases of elderly women who are physically handicapped or who are having terminal ailments should be got examined by a Medical Board and put up to the Premature Release Board or State Sentence Review Board.
- ii) The IG should make out a case (selectively) where the number of UTPs is very large as also the problem of long stay (due to delayed trial) and resultant overcrowding is acute for the Home Department on the basis of which the latter could write to Registrar, High Court for holding camp Courts inside such jails. Courtroom inside the jail concerned is to be provided by the IG.
- iii) The IG Prisons should make out a similar case (where the number of applications for premature release of convicts is very large) for the State Sentence Review Board to make it convenient to visit the jails concerned and review such cases in the jail itself.

Death audit:

- iv) Regardless of whether death of a prisoner takes place inside the jail or in the hospital where the case has been referred for specialized treatment each case of death needs to be audited.
 - 38 such deaths have taken place in 2005, 49 in 2006 and 43 in 2007 but no confirmation is forthcoming if all these deaths have been audited.

- The MO or treating physician where the patient was referred for specialized treatment and where the patient died must send a comprehensive report to the Jail Medical Officer.
- How the patient responded to the treatment must be clearly mentioned by the MO.
- All complaints about health and medical checkup, screening and investigation should be viewed seriously.

Wrap up meeting with Chief Secretary on 31.1.2008 (3.30 PM to 4.30 PM):

In course of this long meeting where the IG Prisons was also present. I placed the following suggestions for consideration of State Government:-

- I In Chapter XXVIII (page 313) the Model Prison Manual has recommended that there shall be a State Advisory Board to advise the State Government and Prison Administration on matters relating to correctional work in prisons.

There is no State Advisory Board in Orissa so far. A high level Custodial/Correctional Advisory Board for the State should be set up without further delay. The Board may be headed by the Chief Secretary with Secretaries of Home, Health, Education, Industry, Labour, Law, Women and Child Development and Registrar, High Court as members.

- II The existing scheme of delegation of administrative and financial powers of IG Prisons must be thoroughly reviewed and he must be delegated with adequate administrative and financial powers to function as an effective Head of the Department.

- III As in the case of DG Police, 3 Zonal Offices of DIG Prisons – one each for Central Zone at Cuttack, Western Zone at Sambalpur and Southern Zone at Berhampur should be sanctioned by Government with requisite staff and delegation of adequate administrative and financial powers.
- IV A scheme of grant in aid for NGOs to work for furtherance of prison reforms should be formulated. Since prison reform is a multi faceted concept the scheme should permit as much innovation and experimentation as possible.
- V The two proposals of IG Prisons (as a part of the future plan on modernization of prisons) i.e. (a) formation of 'Prisoner's welfare and Rehabilitation Trust' and (b) proposal for setting up of a State Prison and Correctional Services Academy (submitted to Government on 26.10.2007) on scrutiny are found to be sound and sensible and should receive priority attention of Government.
- I further suggested that the following should come within the purview of the Academy:-
 - basic course;
 - refresher course;
 - a combination of human rights dimension with security dimension.
 - There should be a search for talented resource persons who will constitute the regular and guest faculty of the Academy.
 - The IG Prisons may be deputed to Administrative Staff College, Hyderabad to have a discussion with the Principal to discuss about the contours of the Academy and make such changes in the proposal already submitted to Government in the light of the discussion.

VI I specifically drew the attention of the Chief Secretary to the following areas which need urgent priority attention to Government:-

- poor state of buildings (their repair and maintenance brooks no delay and all out efforts should be made to pre-empt a tragedy which may strike any time due to defective structure of most of the buildings);
- unclean, unhygienic and in sanitary conditions prevailing in all the 3 jails visited, need for introduction of garbage waste disposal scheme, fogging for warding off mosquitoes, wire mesh in all structures to ward off flies, municipal authorities to be more agile, alert and sensitive;
- need for expeditious disposal of applications for premature release pending for months;
- need for expeditious disposal of appeals pending in the High Court for several years;
- need for review of all cases of UTPs which are being posted for hearing but not coming up for hearing;
- filling up the vacancies of magistrates which is one of the reasons contributing to delay in disposal.
- need for review of the entire issue of grant of bail with sureties, unaffordable bail amount and practical difficulties in arranging a surety;
- creating a mechanism for communicating the grounds for refusal of bail applications to the applicant (UTP);

- sorting out the problem of lawyers being engaged to conduct defence cases but not evincing interest on account of low honorarium;
- handling the grave crisis with firmness and determination which has arisen due to wild cat strikes of lawyers at a number of points (Berhampur, Sambalpur etc.) due to which the cases of UTPs cannot be taken up.
- making sure that IOs also have been transferred or MOs who have been transferred and who are not appearing despite being summoned to do so.

An executive summary of impressions, conclusions and recommendations:

- I There are in all 4 circle jails, 9 district jails, 2 special jails, 46 sub jails, 6 special sub jails, 1 juvenile jail, 1 female jail and 1 open air jail. Their total number comes to 70 while the total number of prisoners comes to 15037 (10638 UTPs and 4399 convicts). Additionally there are 85 children (0-6 years) staying with mothers and 101 naxalite prisoners.
- II The total sanctioned strength of custodial officers in the field is 133 of which 15 are vacant as on 30.1.2008. Of the posts sanctioned 42 are on contract basis. At the headquarters i.e. office of IG Prisons against 168 sanctioned posts (122 permanent and 46 temporary) 15 posts are vacant as on 30.1.2008. The sanctioned strength of guarding staff is 1383 of which 187 posts are vacant.
- III There are a total number of 55 correctional service institutions (probation offices, welfare offices etc.). The total number of people (officers and non gazetted staff) in these institutions comes to 160 of which 25 positions are vacant.

- IV Considering the number of offices and institutions to be inspected and the fact that there are barely 10 gazetted officers (5 permanent and 5 temporary) we need much larger number of officers for inspection of all custodial and correctional institutions and to do justice to this task.
- V It is, therefore, urgent and imperative that 3 zonal offices should be created i.e. Central, Western and Southern with simultaneous creation of 3 posts of DIG Prisons (in line with the pattern and hierarchy obtaining in the set up of DG Police) for intensive inspection, monitoring, supervision and coordination of all activities in the custodial and correctional institutions. The new set up should have corresponding supportive staff, vehicles and equipments sanctioned at the earliest.
- VI In a permanent office set up like that of IG Prisons all gazetted posts, to start with, should be permanent. The question of according permanent status to all non gazetted posts could be considered soon thereafter. Similarly in the field all staff should be on a regular basis since the nature of work is regular and not casual or intermittent. There should, therefore, be no scope for sanction of any contractual post. All contractual arrangements may, therefore, be terminated in the larger public interest.
- VII The existing scheme of delegation of administrative and financial powers of IG Prisons should be reviewed and necessary action taken to enhance them in terms of functional autonomy and effectiveness of IG Prisons as a major Head of the Department and Controlling Officer.
- VIII Service ethos, morale and motivation are intimately linked with terms and conditions of service and employment (which includes pay and allowances). As would be evident from the analysis at page 66-67 this is quite low in regard to certain custodial officers like the Head warder and warder. These need review and revision at the earliest.

- IX The provisions of model prison manual for the superintendence and management of prisons in India were formulated by the Bureau of Police, Research and Development, Ministry of Home Affairs, Government of India in 2003. Nearly 5 years have passed and these provisions are yet to be adopted and implemented for the 70 prisons of the State. Instead, a Committee comprising of IG Prisons, Addl. IG Prisons, 4 Senior Superintendents of the 4 Circle Jails and Principal, Jail Training School, Berhampur has been constituted. No meeting of the Committee has taken place so far even though copies of the Model Prison Manual have been circulated among the members. The work of the Committee needs to be expedited and a firm time schedule be laid down for commencement and completion of its mandated tasks.
- X A computerized database needs to be built up in the office of IG Prisons at the earliest. The components of the data base will be:-
- man power planning right from IG Prisons down below;
 - physical infrastructure – facilities and amenities;
 - management of prisons – human rights dimension of access to food, water, hygiene, sanitation, clothing, prison work and occupational skills, literacy, health and medical care etc.;
 - terms and conditions of service and employment of all staff – custodial as well as correctional;
 - human resource development through orientation and training, deputation to attend seminars, symposia and workshops and inculcating in both of them reading and writing skills as also creating a climate for full development of imagination, creativity and histrionic talent of both custodial and correctional staff as well as that of inmates;

- disposal of matters pending in Courts;
- premature release, parole, furlough etc.;
- Ventilation and redressal of grievances of inmates.

The data base should have interconnectivity with all administrative divisions in IG Office, Home Department, Law Department, High Court and zonal offices, to start with, and be extended to all jails (70) over a period of time. It should be updated every now and then.

- XI A State Level Custodial/Correctional Advisory Committee may be constituted with Chief Secretary to Government of Orissa as Chairperson and Secretaries to Government in Home, Finance, Law, Education, Health, Industry, Revenue, Women and Child Development and Registrar, High Court as members. The Committee may lay down its own procedure and may meet as often as it is necessary to advise Government on various policy issues relating to management of prisons.
- XII Simultaneously and as recommended by the Model Prison Manual a high powered Prison Development Board may be set up with the Chief Minister as the Chairman, Minister Incharge of Prisons as Vice Chairman and Secretaries to Government in Home, Finance, Revenue, Law, Revenue Departments as Members. The IG Prisons may be Member Secretary of the Board which will be mandated to advise the Board to improve and modernize infrastructural facilities in prisons.
- XIII Chapter XXVI has elaborately laid down the composition, terms of reference and functions of the Board of Visitors. Reviews undertaken in different States have shown that such Boards exist mostly in paper and have not been functionally very effective. The performance of the Board in Orissa should be reviewed and the Board may be reconstituted with such persons (non officials in particular) as have the urge, inclination and commitment to contribute their very best to superintendence, management

and total reforms of all prisons of the State. The records of visit and inspection of every jail/sub jail should be meticulously maintained and computerized.

- XIV As recommended by the Model Prison Manual a Staff Welfare Committee should be constituted for every custodial/correctional institution. Considering the low scale of pay and allowances of the custodial staff constitution of a Staff Welfare Fund with nominal contribution from staff members and substantial contribution from Government will be a sound and sensible step in the right direction.

Simultaneously the idea of a 'Prisoner's Welfare and Rehabilitation Trust' mooted by the IG Prisons is equally sound and sensible and should receive priority attention of Government.

- XV The track record of performance of State PWD and IDCO both in regard to the quality of original works (jail barracks, hospital, kitchen, administrative block) as also in regard to repair and maintenance of various structures has left much to be desired. Instead of being helplessly dependent on these bodies year after year and they being called upon to do some patchwork it will be much better if we go in for a separate Housing Board/Corporation (in the same manner as Police Housing Corporation). This may be under the administrative control of Home Department and may facilitate intensive supervision for better quality of execution of work and better quality of maintenance. Pending this and purely as an adhoc measure, services of a retired Chief Engineer (Civil) may be requisitioned by IG Prisons with approval of Government to undertake a thorough survey jailwise to identify correctly the status of existing buildings and to draw up a plan of action for new construction in future as also repair and maintenance of buildings.

- In regard to new structures, the provisions of the Model Prison Manual may be kept in view and in particular the following provisions:-
 - new institutions will not be constructed near easily flooded and inundated areas, submarginal land areas, sea faces, airports and congested urban localities (many of these provisions have been violated by location of the Bhubaneswar Special Jail, where it is;
 - while selecting the site for new institutions, factors like transport facilities, water supply, electric lighting, connections with high power electric transmission lines, drainage and sewage, communication facilities (posts, telephones, telegraphs and internet), facilities for purchase of institutional supplies have to be taken into consideration;
 - proximity of the prison to institutions like courts, civil hospitals, mental health centres, educational facilities for children of prison personnel will be of advantage;
 - no building, other than the prison, will be constructed within 150 metres of the prison wall of a central prison, within 100 metres of the prison wall of a district prison and within 50 meters of the prison wall of sub prison;
 - the following consideration should govern the architecture of jail as a custodial institution;
 - adequate resources which would be necessary for successful implementation of various correctional programmes;
 - functionality of the institutional design;

- the design of the building should permit proper ventilation and sunlight;
 - the area enclosed within the 4 walls of a prison will not be less than 83.61 square metres per head of total capacity and a minimum of 62.70 metres;
 - no building inside a prison will be nearer than 50 metres to the perimeter wall;
 - undertrials and detenus will be lodged in separate institutions away from convicted prisoners;
 - existing enclosures for women in common prisons will be renovated to ensure that women prisoners do not come in view of male prisoners during their passage to and from these enclosures (a Provision substantially implemented in the jails visited).
- After surveying the space available in the existing barracks steps should be taken to plan construction of new barracks if the extent of existing overcrowding and congestion appears to be such as would be detrimental to the health, safety and welfare of the prisoners.
 - The model prison manual has prescribed a minimum quantity of 135 litres of water per inmate (cooking, bathing, drinking, toilet for use in urinals etc.). The extent of installed capacity in the circle/special/district/sub jails should be assessed according to the requirement and steps taken to augment the capacity by construction of new water work in case of any shortfall in the existing capacity.

- Samples of water should be regularly sent to approved PH Laboratories for test to ensure that water meant for drinking is free from chemical and bacteriological impurities and that the iron, sulphur, magnesium, sodium and fluoride content is within permissible limits.
- The model prison manual has prescribed a norm of prisoner toilet ratio at 1:10 (during night time) and 1:6(during day time). The prescribed model of toilet is attached WC and not Indian Commode. What was observed in course of visit to Bhubaneswar, Choudwar and Nayagarh is that there are only Indian commodes and not a single WC. No care whatsoever has been taken to ascertain the convenience of the user to a particular type of commode while mechanically prescribing Indian commode of a uniform type in all the 4 jails/sub jails. Those prisoners who are physically and orthopaedically handicapped and who have stiff joints due to repeated attack of arthritis cannot squat on an Indian commode; they can only find WC convenient for their use. This aspect has been completely lost sight of while planning the toilets. This should not atleast be the case in planning new structures or in executing approved plans in future.
- Environmental sanitation is conspicuous by its absence in all the 4 jails/sub jails visited.
- Personal hygiene is closely interlinked with environmental sanitation. Personal hygiene is a combination of oral hygiene, clothings supplied, bath, quantity of soap issued for cleaning of clothes, personal habits of keeping oneself neat and tidy.
- The overall impression on both was disappointing. There are no covered cubicles for bathing at the rate of 1:10 with proper arrangement to ensure privacy. Instead, platforms have been provided to prisoners for taking their bath which cannot ensure such privacy.

- The quality of clothings issued leaves much to be desired. Many of them were found to be torn and soiled partly on account of less quantity of soap and partly on account of faulty personal habits and poor upkeep.
- Several UTPs were found to be in bare body (with a gamcha or napkin tied round their neck) shivering in the biting cold of January cold. Most of these UTPs have come from a poor and indigent background and are not aware of the codal provisions that they could make a request for supply of clothings. The prison management should urgently survey cases of all such UTPs and should issue a pair of kurta and pajama wherever the UTPs were found to be in bare body and could not make a request for clothings due to their ignorance and protective winter garments.
- The oil supplied is either mustard or coconut oil which makes the body oily and leaves stains on the clothings. The jail administration may consult a dermatologist of the nearby medical college and hospital and replace such oil by a pouch of shampoo once a week which ensure much better personal hygiene.
- Right to food is a combination of overall management of the kitchen, environment and the manner in which food is prepared, what the food package (for breakfast, lunch and dinner) comprises of, the nutritive value of the package in terms of energy or kilo calorie, where and how the food is served (on the table or on the floor, with a human touch or not etc.).
- What was observed on the ground is a totally grey area on account of the following:-
 - kitchen buildings are in old blocks with damaged floors, without exhaust fans, without chimney and, therefore, the buildings wearing a smoky and blackish appearance;

- there is no platform for cleaning and washing vegetables;
 - there is no platform for cutting vegetables;
 - chapattis are being made on the floor;
 - there is no electric kneader (an inexpensive item costing maximum Rs. 40,000/-) and no chapatti making machine;
 - food package mostly comprises of carbohydrates and oil/fat with little protein, minerals and vitamins;
 - no dietician or nutritionist has ever been invited to visit the jails to study the composition of food, nutrient content and for professional advice on what constitutes balanced diet and how to convert the food package within Rs. 34/- or Rs. 35/- into a balanced diet package with the desired nutrients;
 - food is transported manually or carried by the prisoners from the kitchen in a que and becomes cold by the time it is served and consumed; there is no stainless steel container in the kitchen to keep the food hot after it is cooked and before it is served;
 - utensils which are used both for cooking and eating food are of aluminium and not of stainless steel as prescribed in the model prison manual.
- Health according to WHO is total physical, emotional and spiritual well being of an individual – prisoner or non prisoner alike. Right to health is a combination of preventive and curative measures. What was observed on the ground after visiting the 4 jail/sub jail hospitals, like right to food, was a grey area on account of the following:-
 - number of beds available in the hospital is much less than what is prescribed;

- there is no proper examination room, observation room, no room for minor surgical interventions and no proper injection-cum-dressing room;
- there is no proper arrangement to make the patients seated in OPD prior to their examination by the CMO;
- some of the hospital buildings have developed leakage/seepage and are in urgent need of repair;
- the bed cover, pillow, linen etc. in the hospital beds need to be spotlessly white and clean;
- no kitchen has been tagged to the hospital;
- the same food which is served to other prisoners is also served to the sick ones whose food requirement (both in terms of quantity and quality) is quite different;
- there is no lady medical officer exclusively for female prisoners, no pathological laboratory/laboratory technician and no staff nurse;
- on account of lack of environmental sanitation and personal hygiene a number of patients have got scabies and other skin diseases;
- many of them have got hydrocele and hernia which need surgical intervention;
- a number of female prisoners are in a critical and pathetic condition which need special attention; all such cases warrant examination by a medical board;

- terminal cases (HIV/AIDs positive, cancer) need urgent and specialized attention;
 - prisoner – patients are being referred to Circle Jail, Choudwar for specialized treatment in SCB Medical College and Hospital. There are serious problems in getting escort parties to escort all these cases from Choudwar to Cuttack;
 - if the escort party arrives late, sending the referral cases will be infructuous as the OPD hour (which is upto 12 Noon) will be over;
 - health and nutrition of children (0-6 years) who are required to stay with convict mothers have not received the desired attention (despite clear directions of the apex Court in R.D. Upadhyay's case);
 - a proper liaison and coordination with medical college and hospitals at Cuttack, Berhampur and Burla need to be built up in regard to cases which need specialized treatment and which are being referred to them by the jail authorities. Required number of warders and Headquarters to provide escort to these prisoners should be sanctioned so that they can be safely transported to the medical college hospitals in time.
- All deaths regardless of whether they take place in the jail or in the medical college hospital where a case is being referred for specialized treatment need to be audited and proper documentation for each and every death be meticulously kept. There should be no occasion when a death takes place due to any culpable negligence of anyone. There should be incontrovertible evidence that best possible efforts have been made to save the life.

Conclusion:

- There are a few silver linings and a number of grey areas obtaining on the ground in the jails visited and inspected. Alike in the lives of institutions as in the lives of individuals there is always scope for correction and improvement. Such improvement and qualitative change is possible partly through a positive and proactive attitude and approach and partly through planned, coordinated and concerted efforts. In the present IG Prisons – Shri V. Thiagarajan there is evidence of such positive and proactive attitude and approach, a sincere and earnest desire to patiently listen to, accept and implement what he considers to be necessary and desirable in the larger interest of custodial justice and reforms. At the helm of affairs and in both the Chief Secretary and Home Secretary, we have officers of impeccable integrity and character, administrative acumen, credibility and sensitivity who are willing to listen and positively respond. All these constitute a happy augury and herald a good future for around reforms and qualitative change in correctional administration of the State.
