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**Report on the visit of Sri Damodar Sarangi, Special Rapporteur [East Zone-1] NHRC to Presidency Correctional Home Kolkata, from 19.3.2008 to 22.3.2008.**

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I visited Presidency Correctional Home, Kolkata on 19.3.2008, 20.3.2008 and 22.3.08 to study the living conditions of the inmates, and to verify if the rights of the prisoners are being properly respected and protected by the jail and other authorities. Shri B.D Sharma IG Correctional Services remained present in the initial stage of the visit on 19.3.2008. Shri S.R. Hussain, DIG South(1), Sri Khairul Anam, superintendent of the correctional home and Shri Subhadip Mukherjee, welfare officer, remained present all through my visit and assisted me in meeting the prisoners and ascertaining their living conditions, the level of rights enjoyed by them and their grievances.

**2. Brief History of Presidency Jail.**

It was the British East India company that established the first organized prison at Kolkata which at that time was known as Haribari Jail. It was situated on the land on which the Victoria Memorial Hall now stands. Later it was shifted to its present location at Alipore in 1885. It is one of the oldest prisons in West Bengal and has been witness to many important historical events, including those relating to the freedom movement. Shri Aurobindo Ghose and Netaji Subhas Chandra Bose are among the many illustrious leaders of the freedom movement, who were lodged in this jail. Kahnai Lal Dutta, Satyendra Nath Bose, Charu Charan Bose, Birendra Nath Dutta Gupta and Gopi Mohan Saha are among the martyrs who were executed by the colonial Govt in this prison. The cells where these revered leaders were lodged are maintained in proper esteem by the Jail authorities.

In view of its location and heritage this Jail has frequently been visited by various dignitaries including Hon'ble Judges of the High Court and the Supreme Court. Besides, from time to time, many prominent persons including leaders of various political parties and movements have been lodged here. Consequently, the living conditions of prisoners in this Jail have been better than many other prisons of the state. Even so, there are a few short comings, which I will discuss in the course of this report.

**3. STAFF**

There are large scale vacancies both in the ranks of officers and other staff. The posts of 1 Dy superintendent, 2 Discipline officers, and 3 Controllers/Asst controllers are lying vacant at the executive level.

1 post of chief head warder, 8 head warders and 39 warders are lying vacant. Against the vacancies in the ranks of warders 24 female warders (super numerary posts) and 2 female warders (Extra temporary) have been created. While posting of female warders is justified on the ground that a large number of women prisoners are admitted in this correctional home, this should not be at the cost of the sanctioned strength of male warders, particularly in view of the presence of a number of high security prisoners in this correctional home. It may be desirable to fill up these vacancies early. 15 of the 30 sanctioned posts of sweepers are lying vacant. Of particular concern is the level of vacancies in the manufacturing department. Almost 50% of the posts sanctioned for this department are lying vacant as would appear from the following table.

SL.NO	NAME OF THE POST	SANCTIONED STRENGTH	EXISTING STRENGTH
1	Work shop Fore Man	01	Nil
2	Fore Man (Umbrella)	01	01
3	Sr. Accountant	01	01
4	Jr. Accountant	01	Nil
5	Factory Overseer	01	01
6	Estimator Cum Draftsman	01	01
7	Oil Mill Mistry	01	Nil
8	Addl. Oil Mill Mistry	01	Nil
9	Asst. Oil Mill Mistry	01	01
10	Task Taker	03	01
11	Instructor cum Task Taker(Umbrella)	02	02
12	Carpenter	01	Nil
13	Mistry	01	01
14	Mill Mechanic	01	Nil
15	Scrapper	02	Nil
16	Messenger	03	03
17	Store clerk (Umbrella)	01	01

Every effort should be made to fill up these vacancies so that the productivity of the jail industries, to which the incomes of the prisoners are linked does not suffer.

#### **4. Human resource development-**

The warders of the prison are given six months induction level training at WTI Midnapore. They are given instructions in law, criminology, human rights as also in physical exercise and parade. Officers at the executive level are given three months induction training at the PTC. They are given lessons in criminology, human rights, probation and paroles, the criminal justice system, criminal psychology etc. They are also given 12 days' in- service training to familiarizes them with the provisions of West Bengal Correctional Services Act, legal concept of protection of human rights, rights of women and children in prison, criminology, stress management, handling of prisoners etc. It should be useful to organize in- service trainings for the warders as well. The NHRC supports and sponsors trainings of various functionaries of the criminal justice system. IG correctional services may submit a proposal for such training for his officers and men in human rights, to the commission.

#### **5. Accommodation-**

The prison is spread over 20 acres of land of which the built up area is 12 acres. There are in all 31 wards in this prison. Separate wards have been provided to convicts and the UTPs, women prisoners and the mentally challenged. 3 wards are ea.marked for hospitals for males and 1 ward as hospital for females. There are three blocks of cells for male prisoners. 2 cells are for female prisoners. Besides residential quarters and barracks are also available for officers and other staff of the correctional home.

The Public Works Department of the state govt is responsible for the repairs and maintenance of the buildings. The prison buildings, being very old, require frequent repairs. Some of the buildings have been declared condemned. During my rounds of different wards I found some of them like convict ward no 1 and 4 leaking through the walls and ceilings. Trees have grown on the outer walls of the '25 degree' ward. Such buildings require thorough repairs. If the buildings are considered to be beyond economic repairs these should be condemned. It may not be very safe or hygienic to keep prisoners in such buildings.

#### 6. Sanitation and Hygiene.

There are 42 bath rooms (17 in side the ward and 25 outside), 290 latrines (175 in side the wards and 115 out side) and 50 urinals (25 inside and 25 outside) in the prison. The toilet prisoner ratio is approximately 1:10. It is desirable to construct around 40 more toilets to improve this ratio to 1:8. The latrines in side the wards are covered with half walls which provide reasonable degree of privacy. In some wards garbage is being dumped into open bins. It is desirable that these are replaced by sintex type covered bins. Prisoners are sleeping on the floors. There is no provision for raised platforms or cots in the wards. There are no cup boards to keep their personal belongings, which are halphazardly hung from improvised pegs in bags of various shape and size from the walls and pillars. Their beds, pillows, bed sheets were not found to be quite clean. They were found in all sorts of dresses not all of which were found to be clean. The prison authorities have not been able to enforce wearing of uniforms by the convicts. Mosquito nets have not been provided except in some cells. Open drains are being progressively covered. Against a sanctioned strength of 30 only 15 sweepers are posted at present. Drinking water is supplied by Kolkata Corporation through tap lines.

The West Bengal Correctional Services Act 1992 prescribes that Division 1 prisoners and prisoners in hospitals shall be supplied with mosquito nets. This provision is clearly discriminatory. Alipore is a Malaria endemic area. It is desirable that all prisoners are provided with mosquito nets and parallel wires for hanging the nets are drawn inside the wards.

#### 7. Health and Hospital

There is a 141 bedded Hospital in the prison. 111 beds are meant for male prisoners and 30 for female prisoners. The Hospital has a sanctioned strength of 1 CMO, 5 MOs, 3 pharmacists, 1 senior matron and 1 matron. Against these sanctioned posts, 5 doctors have been engaged on contract basis. 1 MO is on deputation. The posts of CMO, 1 pharmacist, one senior matron and 1 matron are lying vacant. It would be desirable to fill up the posts of MOs through regular appointment. The posts of pharmacist and matrons should be filled up early. In an average 120 male and 50 female prisoners report at the OPD everyday. There are 17 TB patients (14 male+3female) and 8 HIV/AIDS patients (3males and 5female). There is a VCCT centre for detection and treatment of aids. One ambulance is attached to the hospital. Five specialists (surgery, skin, ENT, Eye and dentist ) visit the correctional home periodically to check the patients. One drug de addiction and counseling service is held every month.

### Mentally Challenged Prisoners

There are in all 40 mentally challenged prisoners (29 male and 11 females). They are referred to the Institute of Psychiatry and Pavlov Hospital for psychiatric management. They are periodically visited by the IGCS as required u/s 39(1) of the Mental Health Act 87.

Of particular concern is the case of UTP Sabitri Harijan .She was arrested in Andal PS case no 36 dt 23.02 78 u/s 302 IPC and has been in custody for the last 29 years ostensibly for observation till the time she becomes fit to face trial. Her case has been brought to the notice of the learned Sessions Judge Alipore as well as the Learned CJM Alipore by the jail authorities. The detention of an accused in custody for long 29 years without trial on the above ground appears prima-facie to be a case of gross violation of human rights. The commission may consider issuing suitable directions/advice in this regard.

I visited various wards and talked to the MO and the patients regarding their problems and the adequacy of the treatment provided to them. The linens issued to the patients were not quite clean. For diagnostic tests, patients are being referred to Alipore Central Jail and other hospitals in the city. This at time takes considerable time. The non availability of escorts also adds to the delay. The problem is best illustrated by the treatment history of Md Hussain and Asagar Ali, both admitted in the surgical ward. Both of them sustained fractures in their legs and arms allegedly due to police assault. It took more than three weeks for the jail authorities to get their fractures plastered. It may be desirable to install an x-ray machine and other equipments for conducting simple pathological tests for timely detection of such common illness like malaria, jaundice, typhoid, etc. so that treatment could start early. The prison authorities may also consider organizing a minor OT for conducting minor surgical operations.

### 8. Death in Jail custody

During the last three years i.e. between 1.1.2005 and 31.12.07 as many as 26 prisoners died in custody. A list of these cases is given below. In twenty two of these cases Magisterial Enquiry was held but reports have not been received. In four cases magisterial enquiry is yet to be held. The Jail authorities claim that all these deaths are natural and there has been no foul play. But in the absence of magisterial enquiry reports it is difficult to accept these claims at face value. Records of old custodial deaths are not maintained systematically. It is desirable that a running register is maintained where progress of enquiry of all such cases is properly recorded and monitored till these cases are formally closed by the NHRC or the WBSHRC. Law Division of the Commission may verify if intimation of all these cases have been received in the commission. Many of the dead were very young. Most of them were under trial prisoners and died in a few days of their admission. The dates of admission and death of some of these prisoners are listed below to illustrate the point.

Name	Status	Age	D.A	Date of death
Maya Mandal	UTP	45	4.2.2005	3.3.2005
Ram Krishna Karojia	UTP	35	7.5.2005	11.5.2005
Kamal Jamadar	UTP	18	30.5.2005	10.6.2005
Md Akhtar	UTP	35	25.6.2005	4.7.2005
Md Manjur Ali	UTP	30	15.11.2005	17.11.2005

Govinda Mishra	UTP	45	6.12.2005	13.1.2006
Babu Sarkar	UTP	28	22.3.2006	31.3.2006
Dillip Mallick	UTP	36	9.4.2006	12.4.2006
Monu Adhikary	UTP	30	21.4.2006	15.5.2006
K. Kannan	UTP	39	10.11.2006	22.11.2006
Rabi Ruhai	UTP	20	7.9.2007	2.11.2007

These facts and figures create serious doubts regarding the claims of the jail authority that all these deaths are natural. It is therefore imperative that the Magisterial Enquiry Reports are immediately collected. The law division of the commission may consider verifying the progress of analysis of such of these cases of which the commission had taken cognizance for issuing appropriate directions to the state government for early submission of the Inquest, PM and ME reports.

#### 9. Medical Examination of prisoners at the time of admission-

The superintendent of the correctional Home conceded that due to paucity of staff they are unable to hold medical examination of the prisoners at the time of their admission, which happens usually during evening hours. The prisoners are however subjected to medical examination the very next day of their admission. The West Bengal Correctional Services Act also permits such examinations within 24 hours of admission. It is however advisable to hold such examination at the time of admission itself to avoid future disputes regarding the cause of injuries found on the body of the prisoners i.e. whether the injuries were sustained prior to the admission or after. During my visit to the surgical ward of the prison hospital I found two UTPs with plastered arms and legs. Details of their cases have been discussed at Para 7 above. They were both tortured by the police in custody and sustained fractures on their arms and legs. Delayed medical examination in such cases could provide the defaulting police officers with pleas in their defence that the subjects could have been tortured inside the prison.

#### 10. JAIL INDUSTRY

Training and employment is provided to the convicts in different prison industries like the Oil Mill, Umbrella, Phenyle, Wheat Grinding, G.I., Candle, Tailoring, Welding, Carpentry sections etc. 11 UTPs have also volunteered to be trained in a few trades. In an average 24 convicts are working as semi skilled workers and 23 as skilled workers daily in the above industries. Skilled workers are paid @Rs 25/- per day. Semi skilled and trainee workers are paid @Rs 21/- and Rs 18/- respectively. Their wages have been paid up to December 2007.

I visited the workshops and talked to the convict workers. Some of them did not appear to know how much of the wages they have earned working in these industries, is lying as balance in their accounts. DIG prison was requested to ensure that this information is furnished to them periodically. Eight convicts are attached to the mustard oil mill which is closed for the last four months. The essential commodities supplies corporation has not been able to supply oil seeds. The wheat grinding section is also non functional. This is not a happy situation. The prison Directorate may take up the matter with the state government for alternative source of supply of raw materials for jail industries. I enquired of the DIG why are prisoners paid for a day's hard work as skilled workers, a paltry sum of Rs 25/- only

which is much less than the minimum wage. I was told that the expenses incurred for the boarding and clothing of the prisoners is set off against the wage they should have otherwise earned. As would appear from the following paragraph, the average expenditure on food per day is only Rs24.19. The daily expenditure on clothing should not be more than Rs10/ at the most, judging from the scale and life of the clothing items issued to the prisoners. Even after taking these expenditure to account the wages fixed for the prisoners working in the jail industries appear to be low. There is a case for increase of this wage.

The work shop floor of the welding section requires urgent repairs.

### 11. Food

The scales of diet/ration for inmate above 6 years and for below 6 years are reproduced below.

#### SCALE OF RATION FOR ABOVE 6 YEARS

SL NO	NAME OF THE ARTICLES	PER DAY/WEEK	QUANTITY/H EAD
1	Tea	Day	5gms
2	Milk	Day	25gms
3	Sugar	Day	15gms
4	Early morning meal(chira/muri/bread/chhatu/roasted/gram flour)	Day	100gms
5	Rice	Day	250gms
6	Atta	Day	250gms
7	Dal	Day	100gms
8	Vegetables	Day	300gms
9	Meat	Week	75gms
10	Egg	Week	1pc
11	Soyabean	Week	25gms
12	Chutney	week	25gms
13	Fish	week	75gms

#### CHUTNEY

Chutney provided to the prisoners is made of either Tomato/Green Mango /Green Olive /Hog-plum according to the availability in the season and the additional quantity of following articles are used, normally chutney is served to the prisoners on the day when no animal protein is served.

- i) Mustard oil -25 gms, ii) Turmeric-1 gm, iii) Ginger-1 gm, iv) Green chilly-2 gms, v) Mustard Seed-2 gms, vi) Velly Goor-15 gms

SL. NO	NAME OFF THE ARTICLES	PER DAY/WEEK	QUANTITY/H EAD
14	Mustard Oil (This does not include the additional qty. Of Mustard Oil @3gms /head issued on the days of cooking fish/meat/egg/soyabean)	Day	25 gms
15	Velly Goor(This also does not include the qty. Of 15 gms issued /head /week for chutney)	day	25 gms

## SCALE OF DIET FOR CHILDREN BELOW 6 YEARS

Up to 6 months	Food Groups	Food item	6-12 months	1 - 3 Yrs	4-6 Yrs
Exclusive Breast Feeding	Cereals	Rice, Atta, Chira, Muri, Suji, Dalia, Bread etc	45 gms	120 gms	210 gms
	Pulses	Musar Dal, Moog Dal, Chhatu Dal etc	15 gms	30 gms	45 gms
	Milk	Milk	Breast milk & other milk 200ml/500ml respectively	500 gms	500 ml
	Roots and Tubes	Potato, Carrot, Onion	50 gms	50 gms	100 gms
	Green Leafy Vegetables	Notay Sag, Palan Sag etc	25 gms	50 gms	50 gms
	Other Vegetables	Bean, Papaya, Red pumpkin	25 gms	50 gms	50 gms
	Flesh Foods	Fish, Meat, Egg		25 gms fish in place of 15 gms pulses 2 days/week, 1 1/2 egg in place of 30 gms pulses 1 day/week	50 gms fish in place of 30 gms pulses 2 days/week, 1 1/2 egg in place of 30 gms pulses 1 day/week
	Fruit	Banana/Orange	100 gms	100 gms	100 gms
	Sugar	Velly/Goor/Sugar	25 gms	25 gms	30 gms
	Fat Oil	Oil, Butter etc	10 gms	20 gms	25 gms

**CONDIMENTS**

Sl.No	PARTICULARS	QUANTITY/ Day/ Prisoner
1	Jeera & coriander	1 gm
2	Turmeric	2 gms
3	Onion	10 gms and additional of 5 gms given on days of fish /egg/Meat/Soyabean
4	Garlic	1 gm on days of fish/egg/Meat/Soyabean
5	Ginger	1 gm days on fish/egg/Meat/Soya bean& chutney
6	Green Chilly	5 gms and additional 3 gms on days of fish/Meat/Egg/Soyabean

The Jail authorities claim that this food gives 2961.43 calorie in take per day and the protein content is 94.43 gm per day. The daily expenditure on food of each prisoner is Rs 24.19. During my interaction with the prisoners, no one, except one Richard Chrislon lodged in cell no.4 complained about the quality of food .

.The jail authorities may consider increasing the scale at which egg, fish, meat ,and milk are provided to the prisoners at present, which is undisputably very low .I visited the kitchen and the dining hall and found the same reasonably clean.

**12. Clothing and Bedding**

The scale of clothing and bedding prescribed for issue to the convict prisoners and the items actually supplied are listed in the following table

PROVISIONS FOR MALE CONVICT VS ACTUAL SUPPLY				PROVISIONS FOR MALE CONVICT VS ACTUAL SUPPLY			
SL.NO	PROVISIONS		ACTUAL SUPPLY IN QTY	SL.N O	PROVISIONS		ACTUAL SUPPLY IN QTY
	PARTICULARS				PARTICULARS	QTY	
1	Cotton Kurtas	Qty.	2pcs	1	Cotton Semis or Kurtas	2pcs	Out of stock
2	Cotton Trouser	2pcs	2pcs	2	Sarees	2pcs	2pcs
3	Cotton inner Wear (Jangia)	2pcs	Out of stock	3	Cotton gumcha (Towel)	2pcs	2pcs
4	Cotton gumcha (Towel)	2pcs	2pcs	4	Cotton Bed Sheet	1pc	1pc
5	Cotton Bed Sheet	1pc	1pc	5	Blanket hot (Weather)	2pcs	2pcs
6	Blanket hot (Weather)	2pcs	2pcs		Blanket cold (Weather)	3pcs	3pcs
	Blanket cold (Weather)	3pcs	3pcs				



During my visits to the wards I found the convict prisoners in all short of attires. The qualities of the blankets could improve. Arrangement for periodic kit inspection by senior officers is recommended. Many under trial prisoners were found wearing worn out and dirty clothes. The jail superintendent informed that under trial prisoners are entitled to get beddings only which is being supplied to them as per the prescribed scale. Section 34(3) of the West Bengal Correctional Services Act provides for supply of clothings from the Govt stock to UTPs who are unable to provide themselves. IG correctional services may consider issuing such clothings to indigent under- trial prisoners He should also ensure that the convict prisoners put on the uniforms issued to them.

### 13. Prison population

The registered capacity of this prison is 2386(2140 male and 0246 females). At present 3086 prisoners (2264 males including 163 children and 822 females including 133 children) are lodged here. 243 of these prisoners have completed their prison terms but could not be released so long. Most of these prisoners (loosely referred to as 'Jankhalas') are Bangladeshi nationals who could not be repatriated to their home country at the expiry of their sentence due to procedural delays and the general reluctance of the govt of Bangladesh to receive them back. These phenomena will be discussed in some detail in the following paragraph. In all 296 children are lodged in this prison. They are not wanted in any crime but were brought in along with their parents and have continued to live here though many of them have long passed the permissible age of 6years. Most of them are again Bangladeshi nationals waiting to return home with their parents. As would be discussed in course of this report, the jail authorities have organized schools for them inside the prison with the assistance of the state govt and NGOs, not withstanding that detention of children above the age of 6 inside prisons meant for adults irrespective of whether they are wanted in crimes or not is against the law of the land.

The break up of this prison population as it stood on 19.3.2008 is as follows.

CLASIFFICATION	MALE	FEMALE
CONDEMNED	0005	0000
CIVIL	0000	0000
COFEPOSA	0001	0000
REMAND	0966	0405
SESSIONS	0351	0030
S.I.	0066	0015
R.I.	0614	0094
POLITICAL PRISONERS	0000	000
TOTAL	2003	544
GRAND TOTAL	2547	

Particulars	Male	female	Total
Children	163	133	296
Released Prisoners	98	145	243
Life Convicts		248	290

Daily average strength of prisons for the month of February 2008 was 2357.27.

#### 14. Released prisoners—

Two hundred and forty three prisoners (98 males and 145 females) are detained in this prison even after completion of their sentence. Most of the released prisoners are Bangladeshi nationals who were arrested under the Foreigners Act. The govt of Bangladesh are usually reluctant to accept them as their citizens. Successive Bangladeshi Governments have been disputing the fact that thousands of Bangladeshis have been illegally migrating to India. right from the time Bangladesh was created in 1971 and the number of such Bangladeshis who have illegally settled in India runs to a few millions. Despite the construction of the border fence and increased surveillance, Bangladeshi nationals, driven by abject poverty, keep trickling into India. Some of them are 'pushed back' by the BSF without formal prosecution. The West Bengal Govt have even issued an order to the effect that those intercepted within 8 kms of the border are to be pushed back without prosecution. 'Pushing back' is however becoming more and more difficult due to the border fence and resistance from the Bangladesh Rifles. Besides, pushing back of foreign nationals without prosecution is not strictly in conformity with the law of the land. Some of the Bangladeshis do get prosecuted. Most plead guilty and are usually handed out prison terms much shorter than the maximum punishment prescribed in the Foreigners act. Even so, jails of West Bengal are heavily populated by Bangladeshi nationals. It may be of interest to note that of the 19,991 prisoners held in West Bengal jails as many as 1496 are Bangladeshi nationals alone. They include 191 females and 352 children.

The plight of these released prisoners should trouble every sensitive heart. Driven by poverty they streak into India. Quite often they are separated from their family members while crossing the border. There are cases when some members of the family get arrested by the BSF while the rest manage to escape. They lack the resources and the support of relatives and friends to fight their cases. Even after serving the full sentence they continue to wait indefinitely for their release due to the reluctance of their own govt to receive them back. The problem does not offer any immediate solution. India has already been burdened by the influx of an estimated 15 million such illegal immigrants. As long as poverty and frequent natural calamities like floods and cyclones continue to haunt Bangladesh, this influx is likely to continue. Various proposals, like the opening of detention centers, giving access to international media to such centers to convince Bangladesh govt regarding the nationality of the migrants, issue of identity cards to the bordering population etc have been mooted in the past but have not been successfully worked out. This is a serious human right issue having international implications and requires to be seriously taken up at the appropriate level. The commission may consider issuing suitable directions to the MHA and the MEA for addressing the issue.

Even when the Bangladeshi authorities agree to accept them, their repatriation gets delayed due to non availability of escorts, disputes over who will

bear their meal charges during transit etc. Of late the BSF authorities have been demanding Rs30/ per head towards their meals which the BSF have to provide to them before they are made over to the BDR. This has created a deadlock and repatriation has been held up. All expenditure on the detection, prosecution and, repatriation of foreigners is reimbursed by govt of India under the head Agency Function. There is no dearth of funds under this head. Failure to keep proper account and delay in placing claims are largely responsible for non availability of funds with the field functionaries. Better coordination between the state govt and the MHA should help solve this problem.

**15. Children-** 163 male and 133 female children are lodged in this prison at present. Out of them as many as 108 are above 6 years of age and are not entitled to live with their parents inside the prison. At the time of visit of Hon'ble member Shri R.S. Kalha to this prison in Nov 2003, there were only 59 children in the prison staying with their mothers of whom only 12 were above 6 years of age. It would thus appear that the number of children staying in this prison is steadily rising. Many of these children are Bangladeshi nationals and have not been repatriated due to a variety of reasons explained in Para-14 above. The lodging of children above six years in this prison is entirely illegal. The jail authorities are running schools for these children with assistance from the state govt and NGOs which on the face of it may appear commendable. These boys and girls should be sent to appropriate children homes immediately. Keeping them with adult offenders is highly undesirable.

#### **16. Education—**

The jail authorities have taken a few initiatives for the education of children living with their parents and have introduced the following schemes for them.

- i) ICDS- Social workers under govt of West Bengal have taken responsibility of 25 children under this scheme.
- ii) Carmel (Christian Missionary and Convent ) are imparting education to 50 children (class i,ii,&iii)
- iii) Shristi (NGO) has taken responsibility of 26 children. They also run a crèche for small children of this correctional home.
- iv) Udayani, Social Action Forum has provided two teachers for imparting education to the children.
- v) The jail authorities are themselves running a school for 73 Bangladeshi boys as has been mentioned at Para 15 above.

It also goes to the credit of the jail authorities that four life convicts have appeared in University/Board examination from inside the prison and cleared the same. Like wise, two under trials have also cleared such examinations. A programme to fight illiteracy has also been launched in the Correctional Home. This programme is attended by prisoners of all age groups. The prisoners are taught to read and write. 142 prisoners are attending this programme now.

#### **17. Parole and release**

Two types of parole are granted to the inmates. Short leave parole is granted for six hours or less, whereas long parole/temporary release is granted to the extent of one month. Short leave parole is granted with the permission of the court to allow UTPs to attend marriage ceremonies, funerals etc in the family. Before such permission is

granted a report is sought from the local police. After receipt of orders from the court escorts are requisitioned. The prisoner is then handed over to the escort party for taking him to the family and back.

In case of convicts parole can be granted by the Superintendent in anticipation of sanction by the IG correctional services. The procedures prescribed for the UTPs is apparently cumbersome and may not always serve the purpose particularly when the prisoner seeks permission to attend a funeral which can not be delayed for the arrival of the prisoner after completion of the above formalities. Long parole is granted to convicts by the IG correctional services only after obtaining a favorable report from the police. Many prisoners requested for their premature release on ground of old age, sickness etc. From my discussions with the IG it appeared that the district and police authorities are generally reluctant to recommend such release for a variety of reason. The State Govt has constituted a State Sentence Review Board to review the cases of life convicts who have undergone 14 yrs or more of actual imprisonment, whose release has not been recommended by the local authorities. As per the guidelines issued by the NHRC, the period of incarceration inclusive of remission even in the gravest of offences should not exceed 25 years which comes to around 20 years of actual imprisonment. As reported by the IG more than 60 life convicts who have already completed 20 years of actual imprisonment are still languishing in West Bengal jails. Likewise, there are around 200 convict prisoners in the jails of this state who have served more than 14 years of actual imprisonment. This, according to the IG, is due to delays in the disposal of their cases by the State Sentence Review Board. The IG has already brought this matter to the notice of the state govt. \*

#### 18. Legal aid

The District Legal Services Authority Alipore and the District Legal Services authority Calcutta visit the prison on Wednesday and Saturday respectively. They interact with the prisoners and help them in getting services of lawyers. Many of the UTPs complained that the lawyers provided to them by the government are often demanding money from them. With effect from 19<sup>th</sup> November 2006 one of the Metropolitan Magistrates is holding court once a week on each Friday to hear petty cases. On 9<sup>th</sup> November 2007 the Home observed the National Legal Literacy Day. An awareness campaign regarding plea bargaining was organized by the State Legal Services Committee and the prison department for the benefits of the inmates particularly the under trial prisoners. Shri Subhadip Mukherjee, welfare officer of the prison was found to be quite sensitive to the problems of the prisoners Their appeal petitions and other grievances have been promptly forwarded to the court. But even so, due to various reasons beyond the control of the jail authorities a number of cases are pending trial beyond reasonable delay. The complaints of the prisoners regarding illegal demand of money by lawyers provided to poor prisoners at state cost may be brought to the notice of the chairman of the state legal services authority for remedy. \*

#### 19. Interview

Every inmate is allowed to have one interview with his family members, relatives or friends once a week. Male UTPs are allowed such interviews either on Monday, Tuesday or Friday. Convict male prisoners can choose between Thursday and Saturday for such interview. Female prisoners, irrespective of convict or UTP are

allowed interview on Wednesday only. Such interviews are held between 1230 and 1530hrs. No interview is held on Sundays. On an average 90 to 100 interviews are conducted in a day. I had a look of the place earmarked for these interviews. Two parallel and vertical netted partitioned walls stretching from floor to the ceiling, spaced two feet apart from each other have been erected, across which the prisoners and the interviewers are lined up for such interviews. The eyes of these netted walls are so small that they do not permit a distinct view of the relatives to the prisoners and vice versa. Besides, the place does not permit any privacy to their interactions. Interviews with lawyers are however more liberal. They are permitted to interview their clients anytime with prior permission of the superintendent. The interview takes place in the office premises in presence of an executive officer to ensure that no prohibited article is smuggled in. The prison authorities may consider organizing a more congenial atmosphere for the interview of the prisoners with their family members. One additional day in the week should be fixed for interview of female prisoners whose number is substantial.

Section 51(4) of the West Bengal Correctional Services Act 1992 expressly provides that 'there shall be erected a suitable interview shed inside the correctional home equipped with sitting arrangements both for the interviewers and the prisoners.' The present arrangement, which requires the prisoners to stand on one side of the netted barricades and the interviewers on the other, does not meet the statutory requirement.

#### 20. Visits and inspection-

Formal inspections by supervisory officers like DIG s & IG have been few and far between. Shri S.R Hussain, DIG, who attended my visit, explained that due to abnormal increase in routine workload in the office and vacancies in supervisory ranks formal inspections are rarely held. This is not a happy position. The learned Chief Metropolitan Magistrate visits the correctional home every Friday. The chief Judicial Magistrate Alipore, learned sessions judge city civil court have also paid periodical visits. As provided for in section 29 of the West Bengal correctional services Act 1992, the state govt is required to constitute a District Advisory Board for correctional services with both official and non-official members who will have the right to visit prisons to advise the District Magistrate on various issues relating to prevention and treatment of delinquency, eradication of vice and corruption, sexual depravity and ill treatment of prisoners etc. No such Board of visitors has been in existence for the last two years. Like wise, in section 30 of the Act, it has been stipulated that a panel of visitors shall be prepared which will have official and non-official members (including at least one woman), for visiting the correctional home to monitor if the home is being run in accordance with the rules and procedures and to bring irregularities observed during such visits, to the notice of the Inspector General. No such panel is presently functional.

#### 21. Involvement of NGOs & Social Activities-

It is gratifying to note that a number of NGOs have taken keen interest in providing various services to the prison in the field of education (including vocational education) healthcare, counseling, stress management, providing of a crèche etc

**22. Recreational facilities-**

There is a library in the prison which has about 4000 books. Convict prisons are allowed to borrow books from the library. UTPs are not permitted to borrow books but are allowed to read in the library. Televisions are provided to each ward. Carom boards, chess boards, playing cards have also been provided. The prison authorities organize annual sports and ward wise foot ball and cricket tournaments. Renowned artists are also invited to perform for the benefit of the prisoners.

**23. Under Trial Prisoners**

The status of trial of UTPs as on 10.3.08 is given in the following table.

SL.NO	DETENTION PERIOD	MALE	FEMALE	TOTAL
1	Up to 03 months	134	41	175
2	3-6 months	103	64	167
3	6-12 months	114	43	157
4	1-2 years	289	76	365
5	2-3 years	429	107	536
6	3-5 years	212	123	335
7	Above 5 years	30	1	31
<b>TOTAL</b>		<b>1311</b>	<b>455</b>	<b>1766</b>

As would appear from the above table, of the 1766 UTPs lodged in the prison on 10.3.08, the trial of 31 is pending for more than five years. 602 of them are facing trial for more than 2 years. As transpired during my interactions with the prisoners, the trial of some of the UTPs is pending for more then 8 to 10 years. 82 of them have been granted bail but have not been able to provide surety. The situation is quite dismal, to say the least. Efforts should be made with the assistance of the state legal aid authority to find surety for these 82 persons for their early release. ||

**24. Interactions with prisoners**

Convict no 635 SK Jamal is in jail since 1994. In the year 2001 he sustained a fracture on his right shoulder, which has become frozen and immobile. He was treated in National Medical College and subsequently at the Bangur Institute, but his condition has not improved. He had submitted a number of petitions to the West Bengal State Human Rights Commission as also to the Government, but has not received any response from them. He requests for proper treatment.

ii) convict 2636 Eklaq @ Bablu

He has been convicted u/s 392/411IPC to 10 years RI. on 21.11.2005. In the year 1996 both his fore arms were severely damaged by burning due to the bursting of a burning stove. He was first treated in Kolkata Hospital and latter shifted to SSKM Hospital for further treatment. At SSKM Hospital the superintendent had issued him a certificate in 1998 to the effect that he had suffered 85% burn injury in the said accident. He pleaded that with this state of his arms he could not have committed a robbery which took place much after the accident. The certificate issued by the superintendent of SSKM hospital could have helped him in his defence. But the Officer-in-charge of Uluberia Ps, Sri Srimanta

Banarjee, who had seized the above certificate had maliciously destroyed the same. He requires a copy of the above certificate to fight his case in appeal in the High court. He had applied for the same through the welfare officer on 27.1.2004 without any result. I saw his arms. His left palm has been totally mutilated. The right palm has been partially damaged. Both the fore arms were extensively damaged. Though handicapped persons have been known to commit crime, the convict has the right to use the above document in his defence. Since evidence of the existence of the document is reportedly with the govt. the same should be made available to him. The convict further claimed that SI Srimanta Banarjee, who destroyed the certificate is a notorious officer and is presently in jail for murdering one Netai Das.

iii) UTP Jahar Dey submitted that he was shot at and then arrested by SI Rabin Banarjee of Kolkata police in the year 1999. On getting bail he went to Chennai for treatment in the year 2000. Mean while his 'Muhuri' became mad. Between 2000 and 2004 he was repeatedly arrested by Kolkata police on the eve of Elections, Durga pujas etc. Without his knowledge, Kolkata police in collusion with his lawyer engineered a bail petition in his favour in Kolkata High court and got the same rejected. He is presently being tried in Alipore fast track court for an offence punishable w/s 307/353 IPC. He has left behind his wife and two daughters. Since 2005 he is in jail. Requests for bail, or speedy trial. He has already represented his case to the Hon'ble CJ of Kolkata High court.

iv) Convict Uttam Ruidas is suffering from TB. Both his lungs have been damaged. He is periodically vomiting blood. He is not responding to DOT treatment. Requests for better treatment. IG prisons may make suitable arrangement for further treatment of the prisoner.

v) Convict no 8667 Soren was sentenced for life on 10.2.2005. His son, his nephew and his 'Samudis' were also convicted with him. He is 86 years old, hard of hearing and is unable to walk properly. His appeal petition is pending in the High court. Requests for release in view of his advanced age and sickness.

vi) UTP Noori Begum w/o Kabir Biswas, Tunna PS-Dumuria, Dist-Khulna, Bangladesh

She is here for the last two months with her daughter Sabina (15years) who is in advanced stage of pregnancy. Her son-in-law and husband managed to escape while she and her daughter were arrested by the BSF. She was badly beaten up by the BSF and is not keeping well. Requests for early release along with her daughter. I was shocked to find that in the warrant for the Intermediate Custody of Noori Begum issued by the learned ACJM Basirhat, Sabina has been shown to be of 5 years of age sent to prison along with her mother apparently for safe custody. It is difficult to comprehend how a girl of 15 that too in advanced stage of pregnancy could have passed off as a child of 5. It is also not known if the matter has been brought to the notice of the court and with what result. A thorough enquiry into the circumstances of the arrest prosecution and detention of Noorie Begum and her daughter is called for

vii) UTP Umesh Mishra s/o L.R.B Mishra, village Badka Gaon Ps Simri Dist Buxar.

He was arrested by the NCB from Burdwan but shown arrested from Kolkata on 6.1.2000. Hearings in his case have been completed. Arguments are pending. He requests for expeditious completion of trial. He has petitioned the Hon'ble Kolkata High court. But since the concerned Magistrate's post in the fast

track court is lying vacant, the disposal of the case is being delayed.

viii) Convict no.2424 Guru Saran Singh @ Bunty Singh

He was arrested in ST case no 573 /2005 u/s 302IPC.He was acquitted in this case on 28.11.2007. But in another case registered and tried (ST 456/2004) over the self same facts he has been convicted showing him as Bunty Singh.

ix) UTP Intekhab Khan, S/O Pir Sayeed Khan of village Akkhabu Tehasil Pratap Garh., District Pratap Garh, Rajsthan

He is in custody since 2004 July. He along with six persons from Gujarat and 3 persons from UP were shown arrested from Kolkata maidan, though they were picked up from various locations. He was arrested from Howrah station and the co- accused from Gujarat were arrested from a Howrah hotel. He pleads that the case in which he is being tried was fabricated. Since there is no Magistrate in the special NDPS court, trial has stopped for the last seven months. Their prayer for bail has been rejected. Requests for speedy trial.

x) UTP Sameer Biswas S/o Late Kali Mohan Biswas. He is a rickshaw puller. He was arrested on warrant. He has been granted bail 2 1/2 years back but still rotting in jail. Even the govt lawyer under the legal Aid Scheme demands Rs5000/- from him to stand surely. His case may be looked into by the state legal aid authority.

xi) UTP Sayed Abu Nasir

He is in judicial custody for the last 10 years (since 1998) without trial. Way back on 14.5.99 learned CMM Kolkata had granted him bail on an application u/s 167(a) IPC, but as he was in custody in Delhi he could not furnish bail in terms of the said order. After four long years the I.O submitted charge sheet against him u/s 14 Foreigners act. On the self same allegations charges were framed against him in New Delhi PS case no 4/99 He has been acquitted by the trial judge in the said case .He pleads that he is being tried for the same offence of which he has already been acquitted.

xii) UTP Lal chand Shaw. He was arrested in a dacoity case and is in judicial custody since 2000.Of the 40 witnesses, 14 have been examined so far. Though he has already served 8 years in prison he is not being bailed out on the ground that the offence also provides for life imprisonment. He pleads that it is only very rarely that life imprisonment has been given in a case u/s395/397IPC.Requests for early completion of trial. He is even prepared to plead guilty.

xiii) MD. Sikdar.Ali

S/o Allauddin Sikdar

He is a Bangladeshi national. He entered into India with valid passport & Visa in September 2006.He was picked up by O/C Fulbagan police station, who took away his passport and \$150.Later he was forced to plead guilty and was sentenced to 7 months imprisonment. He completed his sentence a year back but has not been released so far. He requests for his passport back.

xiv) Lalit Haldar

He was convicted on 15th June 1993 to 10 year's imprisonment in an NDPS case. On 28.10.1993 while admitted in central Jail Kolkata he was made to climb a coconut tree to pluck coconuts by three constables .He fell down and injured his arm which had to be amputated. No compensation has been granted to him .His jail term will be over in June this year. Requests for compensation and a handicap certificate. Back home he has his wife and two daughters to support. If the allegations are true he should be entitled to compensation as the accident took place in custody due to negligencce/exploitation on the part of the custodians. A



detail enquiry by a senior prison officer is called for.

xv) UTP Seo Ojha & Guruji

Earlier he was convicted for murder and served long 20 years in prison. He was released in 1988. In 2004 he was arrested in a fabricated case by planting drugs. There has been no progress in trial of this case.

xvi) Convict Duranta Mandal is 90 years old, is hard of hearing and has very poor vision. He has been sentenced to life imprisonment and has already served 8 years in prison. Requests for early release.

xvii) MD Sonu S/o Salim

He was arrested on 28.2.08 by Kolkata police for unknown crime. He is only 16 years old, but his age has been falsely recorded by the police as 20 years. He does not have the means to engage a lawyer. Requests for legal assistance.

xviii) UTP Sarfraj Rehman

He is in Presidency Jail for 19 months. Requests transfer to central Jail as he fears attacks from his rivals lodged in the prison. His case requires examination by the prison directorate.

xx) UTP Imam Ali

S/O- Maniruddin Biswas.

He claims that he is an Indian citizen but has been wrongly charged under 14 Foreigners Act. He has already served three years in prison. Wants to be released.

xix) Md Hussain. (Surgical ward)

I found him with a plastered left forearm. He was arrested on 19.2.2008 by Kolkata police in GR case no. 1413/06 u/s 120B, 395/397/307 IPC. The police took him on remand during which he was mercilessly beaten up at Lalbazar leading to the fracture of his left arm. At the time of admission on 29.2.2008 the jail doctors suspected as much. But he was first X rayed only on 8.3.08 and his arm was plastered only on 18.3.2008 i.e. after more than three weeks of the fracture being sustained. He was not physically produced before the Magistrate and had no opportunity to represent against torture in police custody. A thorough enquiry into the circumstances in which the injuries were sustained /inflicted is called for.

xxi) Asgar Ali (Surgical ward)

He was arrested on 10.2.2008. He was badly beaten up by the police at Ekbalpur P.S and sustained injury on his left arm and left leg. He was taken to the court on 12.2.08 but was not physically produced before the Magistrate and was remanded to jail custody the same day. He was X rayed only on 15.2.08. He was plastered only on 8.3.08. i.e. almost after a month. A proper enquiry into the allegations is called for.

xxii) Tapan Dhali (Surgical ward)

He was detected to be suffering from TB on 5.3.08. He has lost his teeth and can not chew normal meals. Requests for bread and milk. It should be possible for the jail authorities to provide him special diet.

xxiii) Convict Asraf Ali.

He has already served 14 years in prison. He was convicted in a dacoity case. Requests for early release. The matter has already been discussed and remedies suggested.

xxiv) Gautam Das.

He was convicted in case no. 855/95 u/s 395 IPC to 10 years R1. The punishment has been confirmed by the High Court. Requests for a certified copy for appeal to the Supreme Court. An application to this effect has already been forwarded to the

Asst Registrar on 13.3.08.

xxv) Aravinda Mukharjee.

He was convicted for life. His appeal failed in the High court. He has appealed to the Supreme court on 27.3.2006 through a government lawyer who is allegedly not pursuing his case (SC 5631 of 2006).

xxvi) Laxmikanta Avasthy S/O- L./ Siyaram Avasthy of Jalone UP.

He has married a Bangladeshi national. On 19.8.2007 he along with his wife and three children was returning from Bangladesh when he was arrested at Bangaon border. He has no lawyer. He being an Indian citizen could at best be charged for an offence under the passport Act which is bailable. He has petitioned to SDJM Bangaon for bail without any result.

xxvii) Saddam Hussain.

S/O- SK Moin Cassipore.

He was arrested on 1.3.2008 in a theft case by Chitpur police. Claims he is only 15 years old which could be verified from the ration card available at his residence at 22/2/H/25 Cossipore Road. His claim is verifiable.

xxviii) Bisnudeo Kewar.

S/O Devraj Kewar

He has been chargesheeted in a dacoity case of 1992 (SPPS case no 368/92 u/s 395 IPC) and is in jail since 3.7.2006. He has applied for a lawyer under the legal aid scheme six times in the past without result. Every time he is sent to the court the 'Lock up babu' demands money from him.

xxix) Nazrul Islam

S/O-Teher Islam of Beck bagan Kolkata.

He was handed over a mobile telephone by one of his friends. He received the same reluctantly. As soon as he received a call from the real owner of the telephone he rushed to return it to her. But he was arrested by police wrongfully.

xxx) Balia rana.

S/O- Srikrishna Rana. He was convicted to 11 years RI and has already served 4 1/2 years. His appeal to the High court is not being heard.

xxxi) Condemned prisoners Adil Hassan, Hasrat Alam, Nusawat Hussain, Rehan and Sabir Akhtar are lodged in cells. They were convicted on 27.4.2005 and appealed against the order in May 2005 (Appeal no 427/05). Requested for expeditious hearing.

xxxii) Moidul Hussain in cell no 35. He has some eye problems. He claims that he is not getting proper medicine and treatment. His grievances may be looked into by IG correctional services.

xxxiii) Enamul Haque is lodged in cell 39. He requires an operation on his fore arm which is pending for non availability of escorts. The prison authorities should not find it difficult to arrange for such escorts with the help of the local police.

xxxiv) Farad Mohammad complained that he has been implicated by Kolkata police in an Arms Act case for his refusal to become an approver and identify the photographs of suspects. Trial of his case is pending for 5 years. Requests for speedy trial.

xxxv) Richard Chris Lon is lodged in cell no 4.

He is in prison for last five years. He was booked under the Foreigners Act. He had lost his passport but produced a Xerox copy but the police were not convinced. The quality of food supplied to the prisoners is bad.

xxxvi) Tarak Pudaail ward no 5.

He was arrested by GRP Dumdum while returning from CPM rally. His parents do not know about his whereabouts. The Superintendent may make arrangements to inform his parents.

xxxvii) Iman Ali of ward no 5 is lodged in the prison for the last 3 years. He claims to be an Indian citizen wrong fully prosecuted under the foreigners Act, showing him as a BD national. His nationality has reportedly been verified. Requests for early release.

xxxviii) 80 Bangladeshi UTPS are lodged in ward 5. They complained that they are taken to the court on production date but never produced before the Magistrate. There are 9 prisoners in this ward who could not pay the fine for committing petty offences as imposed on them by the court. A number of prisoners booked for offences particularly under the Railway Act are lodged in the correctional home for non-payment of fine imposed on them. These are also cases in which prisoners having served the substantive part of the sentence are still in side the prison for defaulting to pay fine imposed on them along with the substantive sentence. As reported by the IG a number of social organizations /non govt organizations are willing to help such prisoners. But as per the existing system such fines have to be deposited in the court. After the fine is deposited the warrant is amended and the prisoner is released. This is a time taking process. The courts remain closed on 2<sup>nd</sup> & 4<sup>th</sup> Saturday and on Sunday. On these days no fines can be deposited. Taking advantage of the system the muhuris (lawyer clerks) exploit the prisoners. The IG Correctional Services has submitted a proposal to the state govt for authorising the superintendents of the correctional home to accept the fine and release such prisoners. The proposal is worth serious consideration.

xxxix) Dillip Kumar Das. He has already served 17 years imprisonment. Requests for early release.

Many of the grievances presented by the prisoners during their interactions with me relate to delay in trial and hearing of appeals and the continued detention of the prisoners pending such trial/hearing. The matter falls largely in the jurisdiction of the judiciary and it is beyond the scope of this report to suggest remedies. Earlier the commission had brought this matter to the notice of the Hon'ble Chief Justices of the High Courts. The commission may consider reviewing the situation afresh.

## **25. General**

The living conditions of the prisoners are by and large satisfactory. The jail authorities may however address the following issues which concern the human rights of the prisoners, for improvement of the conditions obtaining in the prison.

- i) Proper medical examination of the prisoners must be held at the time of admission and not deferred to the following day. IG correctional services may move the government for providing required number of doctors and other staff required for the purpose.
- ii) Facilities for simple pathological and diagnostic tests should be made available in the prison hospital. In particular an X-ray machine may be installed to avoid delay in treatment of patients suffering fractures.
- iii) The construction of raised platform in side the barracks and the issue of cup boards to the prisoners should be considered in the interest of the hygiene and reasonable privacy of the prisoners.
- iv) Convicts should be made to wear the prescribed uniforms. Indigent UTPs should

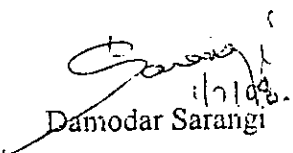
be provided to them as has been permitted in the West Bengal correctional Act 1992.

v) It was complained by several prisoners that immediately on release from the prison they are being re arrested at the jail gate by the police and being booked in false cases. It appears the jail authorities are aware of this. This is a pernicious practice. IG correctional services may consider taking up the matter with the commissioner of police and DGP West Bengal to ensure that such practices stop forth with.

vi) Children above six years now lodged in this prison should be shifted to appropriate children home/ observation home /special home.

vii) Number of custodial deaths in the prison has been considerably high. The death of under trial prisoners in a few days of their admission is a matter of serious concern. Proper medical checks at the time of admission and timely treatment of sick prisoners will help minimizing the number of such deaths.

viii) The most serious grievance however relates to the continued detention of UTPs without trial and the delay in the hearing of appeals of convicts in the higher courts. The matter concerns the judiciary and the over all health of the criminal justice system. The Supreme court in a memorable judgement in Common Cause (a registered society) vs Union of India, 1996 had issued certain directions regarding the release of UTPs in cases where their trial continue pending beyond reasonable periods. These directions were conveyed by the commission to all the IGs of prisons with a request that they meet the Registrars of the High courts, the State Legal Aid Authorities and take measures for the release of UTPs to lesson congestion in jails. Implementation of these directions may help in mitigating the grievances of a large section of UTPs.

  
1/7/98.  
Damodar Sarangi