

11

Report of S. Jalaja, Special Rapporteur, NHRC on her visit to Model Central Jail, Kanda, Shimla (HP), on 30-4-2013

I visited Shimla, the capital of the State of Himachal Pradesh on 30-4-2013. I took this opportunity to visit the Model Central Jail, Kanda. I was accompanied by Shri Arvind Kumar, AIG on visit to the jail.

Jail Profile and History A Sub jail was set up in Kaithu, Shimla during British era. Subsequently, construction of a Central Jail was initiated in 1989 and it came into existence in 1999. Now it is a Model Central Jail having 90% of the prisoners as convicts, with facilities for their orientation, education and entertainment.

Land and infrastructure The jail has a total area of approximately 35 *bhigas*. About 50% of the area is occupied by buildings. Due to the undulating nature of land in the hilly terrain the buildings are not at the same level.

The buildings include thirty four barracks with a total capacity of 358, including 20 female prisoners. Seven of those barracks are occupied by women prisoners; seven cells with a total capacity of 7 (one per cell) have a total number of 14 prisoners. The buildings, including the kitchen, are spacious, with airy rooms.

Jail capacity and occupancy

Sanctioned capacity of the jail is 398 (378 males; 20 female) against which there are 404 (383 male; 21 female) prisoners at present. Only one child (below 2 years) is living inside the jail.

Category-wise details of prisoners

There are altogether 101 life convicts of which seven are females. Out of 171 short term convicts only one is a female. As stated, 21 women are lodged in the jail. Segregated data is not available for SC/ST prisoners. I was informed that there are four mentally ill prisoners in the jail. One foreigner-a Nigerian-is lodged in the jail. There are no civilian prisoners in the jail. 23 prisoners (19 male; 3 female) are reported to be on parole. It was stated that no prisoner is undergoing treatment in hospital outside the jail.

Manpower

Shri Prem Singh Verma is presently the Superintendent of the jail. The total sanctioned staff strength of the jail is 131; with only 76 posts filled up. 55 posts are vacant. Important posts which include posts of Deputy Superintendent(1), Welfare Officer cum Assistant Superintendent (1), Head Warder(2), Male Warder(40), Female warder(1) Senior and Junior Assistants (1each),Dispenser(1) and Drivers (2) are vacant. Posts of Medical officer and Lady Medical officers have not been sanctioned. A Medical Officer is available on deputation basis. Services of a Lady Medical Officer are not available to women prisoners.

Under-trial Prisoners

Under trial prisoners number 108, of which 94 are male 8 are female prisoners. Majority of the under trials have been booked under the NDPS Act or under section 302 of IPC. Some of them are allegedly involved in theft cases. 37 under trial prisoners have been in the jail for 6 months; 29 to for 6 months to one year; 37 for 1-2 years; 05 for 2-5 years and none above 5 years. Procedure delays were cited as the main reason for the presence of a large number of under trials. Petty cases ought to be placed before the CJM on his visit to the jail for quick disposal.

Naxalite prisoners

There were no naxalite prisoners in the jail.

Condition of prisoners

Most of the prisoners appeared to be in good health, though some of them complained about health problems. None of them complained about the living conditions within the jail. The jail has been kept very clean and free from pollution. The areas surrounding the buildings have also been maintained well. Narendra Bhandari 16 s/o Sitaram from Nepal is allegedly involved in a murder case. He stated that no parole has been granted to him so far. Asharam s/o Basant Ram is 86 years old. He is reportedly involved in a case u/s 376 and has been in jail for 8-9 years. He pleaded that on consideration of old age and illness he be released from jail. When, later on, I discussed his case with the IG prisons HP, he stated that the prisoner was convicted in a case of brutal rape of his own daughter, and, therefore, does not merit any sympathy. Joseph Layyer 28 is a Nigerian allegedly involved in a case u/s 420 B Crpc and is fighting the case against himself with the help of a private lawyer.

Women Prisoners

Attention of the Jail superintendent was drawn to the comprehensive directions given by the Apex Court in Upadhay Vs the State of Andhra Pradesh regarding care of women prisoners and their children in jails. Since there were altogether only 21 female prisoners and that only one child was residing with them, it should be no problem for the jail authorities in providing them necessary care mandated by the Apex Court. Although they appeared to be in good physical condition,

nothing appears to have been done by way of their education, nor were their services being utilised in the performance of various tasks.

I interviewed many of the female prisoners present. Kiran Himra, 34 is in jail for 3 ½ years in connection with a case filed under section 302 IPC. Saritha 28 and Sunita 29 are also allegedly involved in murder cases and are in jail for 2 ½ years. Both have two children each living outside the jail. Rina Sharma 36 has also been booked under section 302 IPC in connection with the murder of her husband and father-in-law. She has four children living with her family. Parveen Sabbarwal 33 has also been in jail for 9 ½ - 10 years in connection with a murder case. Her husband also is in jail. Although both were acquitted by the High court, but on remand of their case by the Supreme Court they have returned to jail. Darshana 40 has been booked u/s 302 of IPC and has spent 13 years in jail. She also has two children being brought up by her family. Savaty 56 is in jail for 8 months and has been convicted in a case involving illegal trafficking of drugs and narcotics. Shanti devi 56 is also booked u/s 302 IPC and has spent 11 years in jail. Sarlata and Sushma Tawang 30 and Santoking 27 under trials have spent 9 months each in jail in a case u/s 376 IPC. Kiran Kumari 21 is a new arrival, having spent only 6-7 days in jail in connexion with a case under NDPS Act. Laxmi 36, Birma 28, sushma 26 and Bhima Devi are under trials are in jail for allegedly involving themselves in cases u/s 302 IPC. They have spent 1-4 years in jail in connection with the murder of close family members. None of them admitted to having committed the crimes and stated that they have been booked in cases where in their husbands or other male family members were the main accused. Some of them had children growing up at home. They pleaded that the State Sentence Review

Board may be requested to review their cases and commute their life term to 10 years.

Mentally ill prisoners

It was reported that there were only four mentally ill prisoners in the jail. Prisoners often suffer from a variety of mental conditions including depression, anxiety, schizophrenia etc and regular screening for mental illnesses is necessary. It was mentioned that psychiatrists from the near-by Medical Institutions visit the jail and screening is done regularly. These can at best be viewed only as visits. Screening for mental illness of prisoners ought to be done regularly with the help of reputed mental health institutions with which the state Government could have suitable tie-ups.

Custodial Deaths

No custodial death cases have been reported in the past three years, although one death in hospital was reported in February, 2013.

Escape of prisoners

No such incident has been reported so far from the jail.

Basic amenities

Water supply and Sanitation

The Irrigation and Water Supply Department of the State Government is providing water supply to the jail which is considered to be adequate and satisfactory. The quality of water supply is also ensured by the Authorities. The toilet to man ratio was mentioned as 1:6. The condition of toilets was satisfactory. Facilities are available for bathing.

Power Supply

Power supply was stated to be regular and uninterrupted most of the time.

Food Supply

Food supplied to the prisoners is as prescribed under in the Jail Manual. On inspection it was seen that rice and *dal* is supplied in the morning and *roti* and *dal* for dinner. It was not clear how the calorie requirement of prisoners could be met only by serving rice and *dal* without any vegetable for lunch. The State Government may examine the adequacy of nutritional quality of the food supplied.

I was told that the State Civil Supplies Corporation is providing the grains and *dal* to the prison. Food is cooked by the prisoners themselves in LPG stoves. Kitchen was airy, well-lighted and clean. The food prepared was clean and fresh.

Education

Education is stated to be imparted to the prisoners with the help of IGNOU and the National Open School. Volunteers from amongst the prisoners also are involved in teaching basic skills to fellow prisoners. 53 students have completed plus 2 and one is doing higher studies. All prisoners are stated to be literate. However, I did not witness any classes being held at the time of my visit. The State Government ought to take a pro-active role in teaching basic reading and writing skills to prisoners, especially female prisoners. Jails like Raipur in Chhattisgarh district have involved reputed NGOs in teaching and training the prisoners, including women prisoners.

Jail Hospital

Keeping in view the limited number of prisoners in jail, no full-fledged hospital is set up within the jail premises; instead minimum hospital facility with 6 beds is available. Three beds were occupied at the time of my visit. A part-time Medical Officer with the help of a Pharmacist and a female Multi-purpose worker (MPW) is taking care of the health of the inmates. Prisoners also are taken to the local government hospital, if needed. It may, however, be pointed out that as this jail is located at a far away location it would indeed be difficult to take the prisoners out. Special arrangements and vehicles need to be arranged for that purpose.

It was also noted that regular visit by a lady doctor is very much needed to take care of the health of female prisoners. Although a lady doctor is said to be visiting the jail the periodicity should be at least once a week. It would be advisable to depute a lady doctor from the nearest government facility on fixed days and time to the jail to overcome this difficulty.

It was stated that no prisoner is suffering from TB or HIV/AIDS. However, regular screening not only for these but chronic diseases like Diabetes, Hypertension, and Cancer ought to be undertaken.

Video-conferencing

It was stated that action has been taken for setting up video-conference facility in the jail premises. As the Judicial Complex is being shifted to a new location it is taking time to make the facility operational.

Legal Aid

Last year 30 persons have been granted legal aid. It appears that more efforts would be necessary to provide legal aid to all needy and deserving prisoners. While providing legal Aid, female prisoners should be given priority.

Lok Adalats

It was mentioned that no *Lokadalat* is being organized in the jail. Since prisoners lodged in jail for petty crimes could get much relief, ~~Lokadalats~~ should be organized regularly in the jail.

Bail/surety

It was confirmed that no prisoner is languishing in the jail for want of surety after getting bail

Overstay by Prisoners

No case of over stay by prisoners was brought to my notice

Parole

Parole is being allowed as per prescribed norms. As mentioned, 23 prisoners were on parole. It was mentioned that 2-3 prisoners do not return from parole. However, return of the prisoners after completion of their parole needs to be closely monitored, especially, keeping in view the recent observations on the subject made by the Supreme Court.

Library

A library is functional within the jail for the benefit of prisoners.

Cultural programs

It was mentioned that cultural programs are organized once a year. As regular organization of cultural program can contribute to the mental health of prisoners, such programs should be organized formally and informally on periodic basis.

Sports

Facilities for playing volley ball and other outdoor and indoor games have been provided. It was not clear whether female prisoners are specially taken care of in this regard.

Religious activities

A temple is available within the jail for worship by prisoners. Others belonging to other faiths also freely practise their respective religion.

Yoga

Yoga is practised on voluntary basis. It was stated that Yoga training is given to prisoners with the help of Art of living foundation as well as Patanjali Yoga.

TV/ News papers

A DTH television is provided in each of the barracks. It was stated that news papers are supplied to the prisoners on a daily basis.

Vocational Training

I was taken to the blanket/durri-making units. Although bundles of finished products were stacked in the work area no work is going on at present. The finished goods need to be sold off. But for two new sewing machines and a few workers, the tailoring unit also was not active. It appears that no regular vocational training is organized in the jail, but

for the Services of seven convicts utilised for cooking food for the prisoners. I did not find a single woman prisoner being involved in productive work. Like in other model jails in the country prisoners need to be trained in a variety of skills, including making of office stationery, furniture making, handicrafts, stitching school uniforms etc so that ready market is available for the goods produced. Apart from providing the prisoners an outlet for channelizing their energy and providing them with a means of earning money, vocational training also could contribute to the mental health of prisoners. It is laudable that the Government of Himachal has fixed the highest rate of remuneration for prisoners in the country, the very fact that vocational trainings are not being taken up at a satisfactory level nullifies the effect. This being a Model jail there is a need to upscale educational, vocational and recreational activities for prisoners.

Drug De-addiction program

No such program is conducted in the jail.

Inspections

It was stated that the District and Sessions Judge, Shimla visits the jail once in two months. It was not clear whether the CJM is visiting the jail regularly. DM/SP of the district ought to visit the jail periodically.

Security

Security of the jail is ensured with the help of full time Warders and Home Guards. Although a watch Tower has been constructed, it is not in use at present. CCTVs have also been put to use.

Alternate energy use

It was heartening to note that a beginning has been made to introduce both solar lighting as well as solar water heating in the jail. It should be extended to solar cooking and heating as well.

Suggestions/Recommendations

1. Although the Central Jail Shimla is upgraded as a Model Jail it is not functioning as one. Although basic facilities are available to prisoners, there is scope for improvement in the quality of their lives by improving educational and vocational activities in the jail.
2. Segregation of under trials and convicts is mandatory.
3. Persistent efforts are needed to reduce the under trial population in the jail. Regular production of prisoners before courts and regular monitoring of cases ought to be taken up. Regular visit by the CJM and providing legal aid to the needy prisoners can help in securing the freedom of those involved in petty cases.
4. Video-conferencing facility should be made operational without any further delay.
5. Supreme courts directions/observations regarding the care of women prisoners and their children need to be implemented in the jail without any delay.
6. Most of the female prisoners have been booked under provisions of NDPS Act or u/s 302 under IPC. It is not known what precise role these women had in committing the crimes as often men are mostly involved in violence. The names of their family members, including mothers, wives or sisters of the accused are also included to strengthen the cases. As already pointed out, these women prisoners leave their children behind and remain in jails under trials or as convicts for years together. The same problem is

observed in the cases of female prisoners in jail who have been booked under the provisions of the NDPS Act. It would, therefore, be necessary to review the role of women in all such cases by the State Sentence Review Board.

7. A full-fledged jail hospital with diagnostic facilities need to be set up in the jail, commensurate with its status as a model central Jail. This could also be utilised for treating prisoners from other jails too by suitably transferring them to this jail. Diagnostic facilities could be set up on PPP basis.
8. Computerisation needs to be taken up in the jail without any delay. It can help in monitoring the health and education of individual prisoners, cases of under trials, progression of cases, budgetary expenditure and sanction of legal aid.
9. Young prisoners should be trained in computer skills. once outside the prison they will be able to earn their livelihoods
10. Periodic training of the Jail staff on issues pertaining to human rights and those relating to their own work should be introduced without any delay.
11. It would be necessary to provide the Superintendent of the jail with an untied fund which could be utilised for taking up small works and purchases of urgent nature. A committee comprising of the District Magistrate and Superintendent of Police, with the Jail Superintendent as Member Secretary could administer it. The meeting of the committee ought to be held in the jail premises.
12. It was pointed out that the members of the Jail staff, like the police personnel, are also subject to severe stress. Therefore, there is need to treat the services of jail staff on par with that of the police personnel. They therefore represented that benefits

like extra remuneration, 13th month's salary and promotions under Assured Career Progression Scheme could be extended to them as well. The State Government may like to examine the request.

13. The shortage of vehicles in the jail administration was also pointed out. The State Government may like to examine this request too.
14. Other welfare measures like construction of staff quarters, extension of canteen facility could also be considered by the State Government.
15. Before being promoted as jail superintendents, senior officers should be sent for secondment to jails like Tihar or Raipur Central jail. Some of the senior officials of prison administration like IG (Prisons), DIG/AIG could be trained abroad in countries like Uk.
16. Bihar has recently brought out new Jail Manual incorporating new ideas about management of jails. The HP Government may also like to have a relook at the Jail Manual of the State and bring in appropriate changes in tune with the demand of time.
