

2022

# INSIDE PUNJAB PRISONS

A study on prison conditions

**PART - A**



**CHRI**

Commonwealth Human Rights Initiative  
working for the practical realisation of human rights in  
the countries of the Commonwealth



## Commonwealth Human Rights Initiative

The Commonwealth Human Rights Initiative (CHRI) is an independent, non-government, non-profit organisation with offices in New Delhi, India, London, United Kingdom, and Accra, Ghana.

Although the Commonwealth is an association of 56 countries with shared traditions, institutions and experiences, there was little specific focus on human rights issues when founded. So, in 1987, several Commonwealth professional associations set up CHRI to promote adherence to the Universal Declaration of Human Rights, the Commonwealth Harare Principles and other internationally recognised human rights instruments, as well as domestic instruments supporting human rights.

CHRI has worked for the practical realisation of human rights through periodic investigations, comparative research, strategic advocacy, and engagement as well as mobilisation around these issues in Commonwealth countries.

CHRI's specialisation in the areas of Access to Justice (ATJ) and Access to Information (ATI) is widely known. The ATJ programme has focussed on Police and Prison Reforms, to reduce arbitrariness in law enforcement and ensure transparency while holding duty bearers to account. The ATI programme focuses on Right to Information (RTI) and Freedom of Information laws across geographies, provides specialised advice, sheds light on challenging issues and process and develops capacity for the effective implementation and widespread use of transparency laws. CHRI reviews pressures on freedom of expression and media rights while a focus on Small States seeks to bring civil society voices to bear on the UN Human Rights Council and the Commonwealth Secretariat. A growing area of work is SDG 8.7 where advocacy, research and mobilisation is built on tackling contemporary forms of slavery and human trafficking through the Commonwealth 8.7 Network.

CHRI has special consultative status with the UN Economic and Social Council and is accredited to the Commonwealth Secretariat. Recognised for its expertise by governments, oversight bodies and civil society, it is registered as a society in India, a trust in Ghana, and a public charity in the United Kingdom.

**International Advisory Board:** Alison Duxbury, Chairperson. Members: Wajahat Habibullah, James Robbins and Sam Okudzeto.

**Executive Committee (India):** Wajahat Habibullah, Chairperson. Members: B. K. Chandrashekar, Kishore Bhargava, Maja Daruwala, Nitin Desai, Ashok K. Ganju, Kamal Kumar, Poonam Muttreja, A P Shah and Venkatesh Nayak (ex-officio Secretary & Director).

**Executive Committee (Ghana):** Sam Okudzeto, Chairperson. Members: Akoto Ampaw, Kofi Quashigah, Emile Short, Juliette Tuakli and Mina Mensah (ex-officio Secretary and Director).

**Executive Committee (UK):** James Robbins, Chairperson. Members: Pralab Barua, Joanna Ewart-James, Owen Tudor, Cherisse Francis, Emma Kerr, Hannah Ratcliffe, Salil Tripathi, Michael Weaver, Kim West and Sneh Aurora (ex-officio Secretary and Director).

© Commonwealth Human Rights Initiative, 2022. Material from this report may be used, duly acknowledging the source.

<b>CHRI Headquarters, New Delhi</b> 55A, Third Floor Siddharth Chambers-1 Kalu Sarai, New Delhi 110 016 India Tel: +91 11 4318 0200 Fax: +91 11 4318 0217 E-mail: <a href="mailto:info@humanrightsinitiative.org">info@humanrightsinitiative.org</a>	<b>CHRI London</b> Room No. 219 School of Advanced Study South Block, Senate House Malet Street, London WC1E 7HU United Kingdom E-mail: <a href="mailto:london@humanrightsinitiative.org">london@humanrightsinitiative.org</a>	<b>CHRI Africa, Accra</b> Dr. Stanley Marbell Plaza H/No. 158/2 Asylum Down Tel/Fax: +233 302 971170 Email: <a href="mailto:chriafrika@humanrightsinitiative.org">chriafrika@humanrightsinitiative.org</a>
--	---	---

# About Punjab SLSA

As per the mandate of Article 39-A of the Constitution of India, to secure that the operation of legal system promotes justice, on the basis of equal opportunity, and in particular to provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunity for securing justice are not denied to any citizen by reason of economic or other disability, the sapling of Legal Services in the State of Punjab was sown through Notification dated 20.3.1991 in the name of Punjab State Legal Services Board.

The board comprised of Hon'ble Governor of Punjab, as Chairman, Hon'ble Judge of Punjab & Haryana High Court as Executive Chairman and Director, Legal Services Punjab to be the Member Secretary. The Director, Legal Services, Punjab, was made Member Secretary of the Board. The basic work carried out by the said board was to provide Free Legal Aid and holding of Lok Adalats.

This sapling further grew up with the establishment of the Directorate of Legal Services in the State, Vide Notification dated 17.6.1991, and on 04.10.1996 with the establishment of Legal Services Authority for the State of Punjab. Similarly, the District Legal Services Authorities were constituted for every District in the State of Punjab, with District and Sessions Judge as its Chairman. Similarly, the Sub-Divisional Legal Services Committees were constituted for every Sub-Division in the State of Punjab, with Senior Civil Judge operating in the Sub-Division as its Ex-Officio Chairman. Vide Notification dated 15.07.1998, all assets and liabilities of the Directorate, Legal Services, Punjab, were transferred to the Legal Services Authority for the State of Punjab.

In the Sixth All India Meet of State Legal Services Authorities held at Kochi, Kerala on 17.02.2007 and 18.02.2007, it was resolved to appoint Full Time Secretary in all the District Legal Services Authorities in the State of Punjab. Consequent thereupon, the Punjab Council of Ministers Vide its Meeting dated 07.06.2012 sanctioned the independent posts of Secretaries, District Legal Services Authorities in the rank of Civil Judge (Senior Division) to look after the work of legal services in each District.

In the year 2012, the State Authority had the privilege to launch its Toll-Free Helpline No. 1968 for the general public available 24x7 for providing the Legal Services. Similarly, an official website [www.pulsa.punjab.gov.in](http://www.pulsa.punjab.gov.in) is also functional.

The Permanent Lok Adalats (Public Utility Services) were established, Vide Notification dated 15.12.2005 in all the Districts of Punjab for the redressal of Public Utility Services matters, as notified from time to time.

Since the year 2013, independent Alternative Disputes Resolution (ADR) Centers are functional in all the Districts of Punjab. Since 22.7.2013, the work of Mediation, earlier looked after by the Mediation and Conciliation Project Committee, Punjab and Haryana High Court, is also being looked after by the State Legal Services Authority, with the establishment of Mediation Centers in each district. On 09.07.2017, another feather was added in the cap of Punjab State Legal Services Authority through setting up of Legal Assistance Establishment-SAARTHI.

Each prisoner is entitled to the free legal aid under section 12 of Legal Services Authorities Act, 1987. The Secretaries of DLSAs visit the jails regularly in their respective jurisdiction. Medical Camps and other activities are also held in jails for the rehabilitation of the inmates.

The Punjab State Legal Services Authority is also nodal agency to grant the compensation to the victims of the crime. The State Authority is having its Head Office at Site No. 126, Opposite GMADA Community Center, Sector 69, SAS Nagar (Mohali).





# **INSIDE PUNJAB PRISONS**

**A study on prison conditions**

## **PART - A**



*Conceptualisation, Research & Written by:*  
**Arijeet Ghosh & Sabika Abbas**

*Edited by:*  
**Madhurima Dhanuka**

*Cover Photos by:*  
**Sabika Abbas - Front Cover (Amritsar Central Jail)**  
**Back Cover (Ludhiana Jail compound)**

*Design & Layout:*  
**Chenthil Kumar**

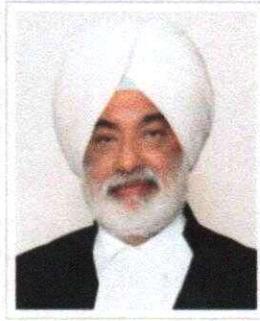
---

# **TABLE OF CONTENTS**

---

<b>Foreword by Hon'ble Justice Tejinder Singh Dhindsa Punjab and Haryana High Court</b>	i
<b>Acknowledgement</b>	iii
<b>One day validation workshop on 'Inside Punjab Prisons' report</b>	1
<b>Introduction &amp; Research Methodology</b>	2
<b>Executive Summary</b>	7
<b>Section A: Prison Conditions &amp; Facilities</b>	21
<b>1. About Prisons: Population and         Infrastructure</b>	22
<b>2. Prison Administration: Organisational         Structure, Vacancy, Budget and         Experiences</b>	29
<b>3. Prison Oversight Mechanisms</b>	46
<b>4. Admission to Prison and         Classification of Prisoners</b>	54
<b>5. Basic Facilities</b>	67
<b>6. Medical Infrastructure, Facilities and         Access to Healthcare</b>	83
<b>7. Prison Labour and Wages</b>	96
<b>8. About Vulnerable Categories</b>	106
<b>9. Impact of Narcotics, Drugs and         Psychotropic Substance Act, 1985         (NDPS Act) in Jails across Punjab</b>	120
<b>10. Issues of Concern</b>	131
<b>11. Legal Aid Framework and         Access to Justice</b>	145
<b>Section B: Annexures</b>	165

*Justice Tejinder Singh Dhindsa  
Punjab & Haryana High Court  
Chandigarh*



*Executive Chairman  
Punjab State Legal Services  
Authority, SAS Nagar, Punjab*

## **MESSAGE**

### **WHERE THE MIND IS WITHOUT FEAR**

Where the mind is without fear and the head is held high,  
Where knowledge is free,  
Where the world has not been broken up into fragments,  
By narrow domestic walls,  
Where words come out from the depth of truth,  
Where tireless striving stretches its arms towards perfection,  
Where the clear stream of reason has not lost its way,  
Into the dreary desert sand of dead habit,  
Where the mind is led forward by thee,  
Into ever-widening thought and action,  
Into that heaven of freedom, my Father, let my country awake.

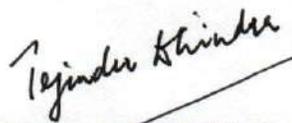
***-Rabindranath Tagore***

Experience and experiment have always proved to be good teachers. In order to experiment, each institution needs in depth study of various aspects within its domain. In addition to providing free legal aid and advice, compensation to victims of crime, existence of the institution of Permanent Lok Adalat (Public Utility Services), etc. each State Legal Services Authority is also expected to help the prisoners in protection of their rights inside the jail.

In order to give a stimulus and to contribute meaningfully in the emerging prison jurisprudence, the endeavor by the Punjab State Legal Services Authority through Commonwealth Human Rights Initiative (CHRI)- an NGO, to analyze the existing infrastructure, administration, basic facilities and the availability of legal aid framework in the prisons in Punjab and other related aspects was the need of the hour.

The culmination of the study in the form of this detailed report can certainly go a long way in ensuring due adherence and protection of the rights of the prisoners. The recommendations after due deliberation with different stakeholders, have given a food for thought for all and may take some time before they can be implemented in letter and spirit.

I wish that this study is taken to its logical ends by all the stakeholders through their joint efforts.

  
(Tejinder Singh Dhindsa)

# ACKNOWLEDGMENTS

We extend our gratitude to the Punjab State Legal Services Authority (SLSA), in particular Hon'ble Mr. Justice T.P.S. Mann, former Executive Chairman, Punjab SLSA and Ms. Harpreet Kaur Jeewan, former Member Secretary, for assigning this in-depth study of prisons in Punjab to us. We would like to extend our gratitude to Hon'ble Justice Tejinder Singh Dhindsa, Executive Chairman, Punjab SLSA for guiding the process of report completion.

The report would not have seen the light of the day without the guidance and efforts of Mr. Arun Gupta, Member Secretary, Punjab SLSA and Mr. Mandeep Mittal, Additional Member Secretary, Punjab SLSA. Constructive feedback and suggestions received from Mr. Gupta and Mr. Mittal helped shape the report in its current form. We are also grateful to secretaries of all the District Legal Services Authorities, community and convict para-legal volunteers in Punjab for their cooperation during the visits and providing relevant information for the study.

We are indebted to the Punjab prison department, especially Mr. Praveen Kumar Sinha, ADGP Prisons, Punjab and Mr. Roop Kumar Arora, IG, Punjab prisons, for granting us permission to visit all 24 prisons in the state. We are highly grateful to all the prison superintendents, deputy superintendents, warders and all other personnel who made our field visit and data collection a smooth exercise and answered all our questions with patience.

We owe our report to the inmates of Punjab prisons who poured their hearts out to us and trusted us by sharing their experiences of prison life.

CHRI is grateful for the commitment and rigour shown by the lead researchers, Mr. Arijeet Ghosh and Ms. Sabika Abbas, in conducting the study and preparing the report. We thank Ms. Madhurima Dhanuka for guiding the process throughout and also for editing the report. We are also thankful to Mr. Deepan Sarkar, Mr. Sanjoy Hazarika, Ms. Devika Prasad and Ms. Manira who provided their invaluable editorial inputs. We also thank Ms. Kritika Swani and Ms. Palak Chaudhari for helping with the field visits. We would also like to thank Ms. Anju Anna John for assisting in the advocacy process and Ms. Kakoli Roy for overseeing the overall logistics. Lastly, we would like to thank all the team members of the Prisons Reforms Programme of CHRI for being a constant support system.

# ONE DAY VALIDATION WORKSHOP ON 'INSIDE PUNJAB PRISONS' REPORT

The first drafts of Part A and Part B of the 'Inside Punjab Prisons' report were shared with Ms. Rupinderjit Chahal, former Member Secretary, Punjab State Legal Services Authority (PULSA) on 4th March 2020. However, the pandemic swooped in, and resultant lockdowns and restrictions resulted in delays in the validation of the report. It was only in August 2020, that deliberations towards finalisation of the report again picked pace. A series of detailed discussions on the report were held with Mr. Arun Gupta, Member Secretary, PULSA and Mr. Mandeep Mittal, former Joint Member Secretary, PULSA. Following this, final drafts of the report were prepared and shared with the PULSA on 17th September 2021.

Thereafter, PULSA shared the report for review and feedback with the Punjab Prisons Department and all the DLSAs. Chapter wise comments were received, which included inputs on the current status, actions taken by authorities, and additional recommendations to include in the report.

After receiving these responses from the stakeholders, a day-long validation workshop, to discuss the findings of the report with superintendents of all prisons and secretaries of all district legal services authorities was organised on 16th March, 2022. The workshop was organised by PULSA, and was presided over by Mr. Arun Gupta, Member Secretary, PULSA and Dr. Praveen Kumar Sinha, former ADGP Prisons, Punjab. The purpose of the workshop was to validate the content of the report, review the recommendations and document any reforms that may have been undertaken in between 2019 to 2022.

Validating the findings of the report, prison officials highlighted the continued prevalence of issues like prison overcrowding, old prison infrastructure, staff vacancy, dearth of medical staff, lack of proper medical infrastructure inside jails, non-existence of the board of visitors and budgetary issues hampering proper functioning of jails. The workshop affirmed that in the interim period 2019 i.e. when the data collection was done and March 2022, nothing much had changed in prisons across Punjab. On the contrary, the pandemic had brought in further challenges to the management of prisons.

This is the final version of the report which has been duly validated by both the legal services functionaries and prison officers in the State of Punjab.

# INTRODUCTION & RESEARCH METHODOLOGY

Prison Reforms in India have been a part of the public discourse over the past four decades. Beginning from the judicial pronouncement in *Sunil Batra v. Delhi Administration & Ors.*<sup>1</sup> recognizing that “fundamental rights do not flee the person as they enter prison”, to the Government of India constituting the *All India Committee on Jail Reforms* (more famously known as the Mulla Committee<sup>2</sup> in 1980), multiple attempts have been made to suggest improvements in prison conditions and prison administration in general.

However, despite these early attempts, the implementation of the suggestions and the practical changes at the ground level remain inadequate. This can be evidenced by the continuing judicial interventions highlighting the urgent need of addressing issues faced by prisons and rights violations of prisoners. Post the recommendations made by the Mulla Committee and the Justice Krishna Iyer Committee, in 1996, the Supreme Court in *Rama Murthy v State of Karnataka*<sup>3</sup>, highlighted nine major problems that continued to afflict the system viz, (1) overcrowding; 2) delay in trial ; (3) torture and ill- treatment; (4) neglect of health and hygiene; (5) insubstantial food and inadequate clothing; (6) prison vices; (7) deficiency in communication; (8) streamlining of jail visits; and (9) management of open air prisons.<sup>4</sup>

Unfortunately, seventeen years subsequent to the Supreme Court judgment in *Rama Murthy*, a former Chief Justice of India, Justice R.C. Lahoti through a letter dated 13<sup>th</sup> June, 2013 again had to bring to the court’s notice, the dismal state of affairs in Indian prisons. It is this letter which pushed the Supreme Court, again, to take the matter of prison reforms in its own hands. By registering the letter as a writ petition in the nature of a Public Interest Litigation, the Supreme Court, since 2013 has passed and continues to pass several directions in *In Re: Inhuman Conditions in 1382 Prisons*,<sup>5</sup> encompassing various aspects of prison reforms.<sup>6</sup>

As is evident, India’s track record in bringing forward prison reforms has been limited. Further, the recently released India Justice Report 2019 analysing the four pillars of Indian Criminal Justice System, i.e. police, prisons, legal aid and judiciary,<sup>7</sup> highlights that Indian prisons continue to face the challenges of overcrowding and vacancies in prison staff positions. These aspects have been highlighted continuously since the beginning of prison reforms initiatives in India.

<sup>1</sup> (1978) 4 SCC 494

<sup>2</sup> Available at: <https://mha.gov.in/MHA1/PrisonReforms/report.html> (last accessed on 14th November 2019)

<sup>3</sup> (1997) 2 SCC 642

<sup>4</sup> Ibid. at Para 14.

<sup>5</sup> Writ Petition (Civil) No. 406/2013

<sup>6</sup> Several orders have been passed with respect to the constitution of under-trial review committees, addressing issues of overcrowding and deaths in prisons, appointment of boards of visitors, staff vacancies and trainings of Prison officers, to name a few. A full compilation of orders passed by the Supreme Court is available at: <https://hrln.org/wp-content/uploads/2019/07/compilations-of-directives-given-by-sc-1.pdf> (last accessed on 14<sup>th</sup> November 2019)

<sup>7</sup> Available at: <https://www.tatatrusts.org/insights/survey-reports/India-justice-report> (last accessed on 15th November 2019)

The Prison Statistics 2019,<sup>8</sup> shows an increase in the number of prisoners across prisons in India, which make it imperative that the issue of prison reforms ought to be taken seriously.

This present report is an attempt to highlight the multitude of problems present in the Indian prison system, and in particular in Punjab prisons. Following the introduction and research methodology, a comprehensive executive summary is provided which is followed up by a list of recommendations which has been developed in close consultation with the Punjab SLSA.

The report is divided into two parts: Part A deals with the overall analysis of prison conditions and facilities across all the prisons in Punjab. It is further divided into 11 chapters and discusses in details various themes such as: overcrowding, infrastructure across prisons, the experiences and issues faced by prison officials, prison facilities such as access to health care, availability of food and water, prison labour, educational facilities and vocational training to name a few. The report also evaluates the status of legal aid infrastructure and facilities across all the prisons and also sheds light on some of the major issues of concern such as custodial violence and rampant corruption.

Part B deals with the individual jail reports which analyses issues prevalent in each particular jail and intends to provide the relevant stakeholders pointed systemic issues that may need to be remedied.

## **PUNJAB PRISONS STUDY: CONTEXT AND BACKGROUND**

The Supreme Court in *In Re: Inhuman Conditions in 1382 Prisons* on 15<sup>th</sup> September 2017, while dealing with the issue of deaths in prisons, highlighted the importance of conducting studies in respect of overall conditions inside prisons. Accordingly, the Court directed the State Legal Services Authorities (SLSAs) across India to urgently conduct a study on the overall conditions and the facilities that are available in the prisons in the particular State.<sup>9</sup> The Court further directed the SLSAs to assess the effect and impact of various schemes formulated by the National Legal Services Authority (NALSA) relating to prisoners.<sup>10</sup>

In pursuance of this order, the Punjab State Legal Services Authority (PULSA), in association with the Prisons Department, Government of Punjab and the Commonwealth Human rights Initiative (CHRI) conducted a study inside all the functional prisons in the State of Punjab. The study brings forward the perspectives of all the relevant stakeholders, i.e. prisoners, legal aid service providers as well as prison administrators to suggest effective and implementable reforms required across the prisons in the State. The fieldwork for the study was conducted over a period of nine months, i.e. between September 2018 and June 2019, and was aimed at investigating, but not limited to, nine essential aspects<sup>11</sup>:

---

<sup>8</sup> Prison Statistics 2019, National Crime Records Bureau, Ministry of Home Affairs, Government of India. <https://ncrb.gov.in/en/prison-statistics-india-2019>.

<sup>9</sup> WP (Civil) No 406/2013, Order dated 15<sup>th</sup> September 2017, at para 7.

<sup>10</sup> *ibid.*

<sup>11</sup> Attach MoU

1. **Prison Administration and Infrastructure**
2. **Prison Regime**
3. **Medical Facilities and health**
4. **Visitation Rights and facilities**
5. **Access to Information**
6. **Access to Legal Aid in Prisons**
7. **Vocational Training and Prison Labour**
8. **Prison Oversight**
9. **Provisions for Vulnerable Categories (Women Prisoners, Alleged Juveniles, Mentally Ill Prisoners and Foreign National Prisoners)**

**However**, based on the visits by the CHRI team, and the interaction of the team with the inmates and prison officials, two more aspects were added to the study. These are:

1. **Custodial Violence in police<sup>12</sup> and judicial custody.**
2. **Impact of Narcotic Drugs and Psychotropic Substances Act, 1985 on the jails across the State.**

## **RESEARCH METHODOLOGY**

The study used a mixed methodological approach wherein data was collected from both primary and secondary sources. The method of data collection involved direct observation, a semi-structured interview method and secondary data review. Below is a detailed elaboration on the research methodologies used during the entire duration of the study:

### **a) Direct Observation:**

As a research methodology, direct observation is used to gather relevant qualitative data of the natural surroundings of the respondent/subject. For this purpose, a team comprising representatives of CHRI visited 24 functional prisons in the State of Punjab between September 2018 and June 2019. The study was divided over five phases which are as follows:

**Phase I:** Central Jail, Amritsar, Central Jail, Gurdaspur, Sub-Jail, Patti and Sub-Jail, Pathankot.

**Phase II:** Central Jail, Ferozepur, Central Jail, Faridkot, Central Jail, Bathinda, District Jail, Barnala, District Jail, Muktsar and Sub-Jail, Fazilka.

**Phase III:** District Jail, Roopnagar, District Jail, Mansa, District Jail, Sangrur, New District Jail, Nabha, Sub-Jail, Moga and Sub-Jail, Malerkotla.

**Phase IV:** Central Jail, Ludhiana, Central Jail, Patiala, Women's Jail, Ludhiana, Borstal Jail, Ludhiana, Maximum Security Jail, Nabha and Open-Air Jail, Nabha.

**Phase V:** Central Jail, Hoshiarpur and Central Jail, Kapurthala.

---

<sup>12</sup> Although not a mandate for this study, the visiting teams in their detailed interaction with inmates, came across multiple cases with alleged instances of custodial violence, also amounting to torture in certain instances. Due to a large number of inmates alleging the same, it was felt that the issue required special emphasis.

The team comprised 2-3 members per visit, with an average of one day spent in sub-jails, 2-3 days in district jails and 3-5 days in central jails. The study team made every possible effort to visit all the parts of the prison including the administrative building, kitchen/*langars*, hospital/medical wing (including isolation wards if available), factory unit (if available), barracks (including bathrooms and toilets), High Security section (if permitted), Jail legal Aid Clinic, room for Video-Conferencing, De-addiction center inside prison, and Women's section (if available).

## **b) Semi-structured Interview Method:**

As a research methodology, semi-structured interview method is a tool used in qualitative research methodology wherein the interviewer uses an interview guide, which includes a list of questions, themes or topics that need to be covered during the course of the interview. Across the 24 functional jails in the State of Punjab, the team was able to interview a total of **660 inmates** based on a questionnaire which had been developed and drawn up by CHRI prior to the commencement of jail visits. Interviews were also conducted with Prison Officials belonging to different cadres, starting from the Superintendent of Jail and right up to Warders/Matrons. Additionally, interviews were also conducted with the Medical officer and Pharmacist inside the jail. However, certain aspects of the interviews need to be highlighted which are as follows:

- **The questionnaire being used for interviews with prisoners had to be amended after Phase I of the visit. Such alteration included removal of certain questions which, in the experience of the team, were irrelevant for the purpose of study and addition of certain questions which the team considered to be relevant for the study going forward. The revised questionnaire is attached as Annexure: II. Additionally, based on the experience of Phase I, the team considered it important to include a chapter of NDPS Act, 1985 on the jails across the State. The NDPS questionnaire is attached as Annexure: III.**
- **To shortlist inmates for interviews, the team while visiting barracks, asked a basic set of questions such as: persons without legal representation, persons having legal aid lawyers, persons who are not in touch with their families, persons who are not being produced before the court, persons charged under NDPS Act, 1985, persons suffering from any kind of health condition, persons who do not belong to State of Punjab, persons having a child below the age of six years (for women inmates) and persons who are pregnant or have a child inside prison (for women inmates).**
- **On an average, the team interviewed 5-10 inmates per sub-jail, 20-30 inmates per district jail and 30-50 inmates per central jail.**
- **The team, while interacting with inmates, made every possible effort to ensure that the interviews were conducted in isolation and in the absence of any prison staff, so as to maintain complete anonymity and privacy of the inmate. This was also done to ensure that inmates are able voice their concerns, without fear of reprisal, to the CHRI team.**
- **The team, while interacting with prison officials, tried their best to ensure that interviews of prison staff from junior cadres was not conducted in the presence**

of the Prison Staff from senior cadres. This was done to ensure that all the prison staff interviewed could ventilate their grievances on the condition of anonymity and without the possibility of any vindictive actions by prison staff from senior cadres.

- During the visit, the CHRI team was always accompanied by a Community Para-Legal Volunteer appointed by the respective District Legal Services Authority. This was done to overcome language barriers and take aid of translations as and when required.

### c) Secondary Data Review:

Considered as a process of data collection from different sources, CHRI utilised this methodology in order to substantiate the findings and evaluate the situation from the data collected through Direct Observations and Semi-Structured Interviews. For this, CHRI circulated formats to the prison departments/prisons as well as the legal services authorities for procurement of data relevant to the subject matter of the study. A sample of the formats are attached as Annexure: IV. The time period for which the data was procured was for the period between September 2017 and August 2018.

The current report is based on the cumulative data gathered from the above-mentioned sources.

## LIMITATIONS OF THE STUDY

1. At the outset, it is important to point out that the visits conducted by the CHRI team over the period of nine months, is in no way, a definitive way to evaluate prison conditions. The observations provided in this report, are at best, indicative of the systemic issues that might be prevalent inside the prisons in the State of Punjab.
2. It is important to note that during the visits made to the jails by the CHRI team, at times due to unforeseen circumstances such as high number of barracks, paucity of time and lack of permission, the team was not able to visit all barracks inside a prison. This issue was specifically present during the visits to the larger central jails such as Central Jail, Amritsar, Central Jail, Bathinda, Central Jail, Faridkot, Central Jail, Ferozepur, Central Jail, Kapurthala, Central Jail, Ludhiana and Central Jail, Patiala.

During the visit to the jails, the CHRI team also tried to address issues which could have been resolved on an urgent basis. This involved identifying inmates who did not have lawyers, who wanted legal aid lawyers, wanted to file appeals, wanted information regarding their legal aid lawyers, wanted the custody of their children inside jail (for women inmates), who claimed to be juveniles, who wanted to get in contact with their Embassies (for Foreign National Prisoners) to name a few. For this, at the end of every jail visit, the CHRI team would send **Immediate Action Letters** addressed to the concerned prison head and the Secretary, DLSA. A few letters were also sent to the Member Secretary, PULSA in cases where their attention was required to be drawn.

## EXECUTIVE SUMMARY

*Over 1,800 phones seized from Punjab jails this year;<sup>1</sup> Mobiles, drugs, all you want! No bar behind bars as nexus thrives in Punjab jails;<sup>2</sup> Clashes in Ludhiana Central Jail injure four guards, six prisoners;<sup>3</sup> Punjab jails neglected for 10 years, working with 50% sanctioned staff;<sup>4</sup> Punjab jails fare badly in NCRB report- Highest rights abuse complaints pending, among top three in custodial suicides & unnatural deaths;<sup>5</sup> Punjab has the highest prison suicide rate, second only to Karnataka.<sup>6</sup>*

Much has been written about jails in Punjab in both the print and virtual media in recent times. A cursory glance over these news reports draws attention to the “mess” that continues to exist in the prisons. This information has not just been limited to the media, but has also been brought up before the Punjab & Haryana High Court. A former medical officer posted in Central Jail, Ludhiana was so horrified by his experience in the jails of Punjab, that he was forced to file a public interest litigation praying for the issuance of an appropriate writ, order or direction – ordering an independent probe into the functioning of jails in the State of Punjab.<sup>7</sup>

In light of these developments, and the directions passed by the Supreme Court in the ‘re-inhuman conditions in 1382 prisons’<sup>8</sup> case, the Punjab State Legal Services Authority (PULSA), in association with the Prisons Department, Government of Punjab and the Commonwealth Human rights Initiative (CHRI) conducted a study inside all 24 functional prisons in Punjab over a nine-month period in 2018-19. The study highlights the perspectives of all relevant

<sup>1</sup> Anirudh Gupta, “Over 1,800 phones seized from Punjab jails this year”, The Tribune, 28<sup>th</sup> December, 2019, available at: <https://www.tribuneindia.com/news/punjab/over-1-800-phones-seized-from-jails-this-year-18053> (last accessed on 29th September, 2020)

<sup>2</sup> Ravinder Vasudeva, “Mobiles, drugs, all you want! No bar behind bars as nexus thrives in Punjab jails”, Hindustan Times, 3<sup>rd</sup> June, 2018, available at: <https://www.hindustantimes.com/punjab/state-of-punjab-jails-no-bar-behind-bars-as-nexus-thrives-in-jails/story-uBJGGvsNAZaxRllyv eZCUP.html> (last accessed on 29th September, 2020)

<sup>3</sup> DNA Web Team, “Clashes in Ludhiana Central Jail injure four guards, six prisoners”, DNA, 27<sup>th</sup> June, 2019, available at: <https://www.dnaindia.com/india/report-clashes-in-ludhiana-central-jail-injure-4-guards-6-prisoners-2765603> (last accessed on 29th September, 2020)

<sup>4</sup> Navneet Sharma, “Punjab jails neglected for 10 years, working with 50% sanctioned staff”, Hindustan Times, 28<sup>th</sup> March, 2017, available at: <https://www.hindustantimes.com/punjab/punjab-jails-neglected-for-10-yrs-working-with-50-sanctioned-staff-adgp-jails-rohit-choudhary/story-ipnmjfwY5tPt66ZSrDCO.html> (last accessed on 29th September, 2020)

<sup>5</sup> Tribune News Service, “Punjab jails fare badly in NCRB report”, The Tribune, 2<sup>nd</sup> September, 2020, available at: <https://www.tribuneindia.com/news/punjab/punjab-jails-fare-badly-in-ncrb-report-135018> (last accessed on 29th September, 2020)

<sup>6</sup> Maja Daruwala & Mrinal Sharma, “A Life of Death in Punjab’s Jails Everyday”, The Tribune, 2<sup>nd</sup> July, 2016, available at: <https://www.tribuneindia.com/news/archive/comment/a-life-of-death-in-punjab-s-jails-every-day-259808> (last accessed on 29th September, 2020)

<sup>7</sup> *Dr. Swarnadeep Singh v. State of Punjab & Ors.*, CWP No. 24167 of 2017. As per the latest information, the matter still remains pending in the Punjab & Haryana High Court.

<sup>8</sup> WP (Civil) No 406/2013, Order dated 15<sup>th</sup> September 2017, at para 7

stakeholders, i.e. prisoners, legal aid service providers as well as prison administrators to suggest effective and implementable reforms required across the prisons in the State.

In total, **field researchers from CHRI surveyed 24 functional prisons in the State of Punjab** over a **period of nine months** between 2018 and 2019. The study employed research methodologies such as direct observation by field researchers, semi-structured interviews as well as secondary data review. A summary of major findings across various themes are given below:

### 1) **Overcrowding**

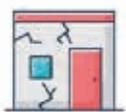
Among the 24 functional jails in Punjab, as on 31<sup>st</sup> August 2018, cumulatively, there existed an overcrowding of only 0.3%, which is much less than the national average of 15.1% during the same time frame. However, the overall figure shadows overcrowding issues at the individual jail level, where **10 out of 24 jails** were found to be overcrowded.



Jails with Overcrowding: District Jail, Roopnagar; Central Jail, Amritsar; District Jail, Sangrur; District Jail, Mansa; Sub Jail, Patti; Central Jail, Hoshiarpur; Sub Jail, Moga; Sub Jail, Fazilka, Central Jail, Ferozepur; Central Jail, Patiala.

### 2) **Prison Infrastructure (Physical Structure):**

When it came to the physical infrastructure of the jails, i.e. the structure and construction, it was found that Punjab had a mix of both old and new jails. While some jails were constructed before the 1900s, several new jails after the year 2000 were also constructed. It was observed that the old jails were in urgent need of renovation, and in some cases, the need for a completely new jail became imminent.



**Jails with urgent need of renovation/construction of new jail:** Central Jail, Ferozepur; Central Jail, Hoshiarpur; Sub Jail, Moga; District Jail, Sangrur; Sub Jail, Malerkotla; Central Jail, Ludhiana; Borstal Jail, Ludhiana; Women's Jail, Ludhiana, District Jail, Roopnagar; Sub Jail, Fazilka.

It is also important to note that even in the new jails that have been constructed after 2000, security issues arising due to the **physical infrastructure conditions, specifically with respect to two storied buildings and lack of re-evaluation of sanctioned strength** continues to persist.<sup>9</sup>

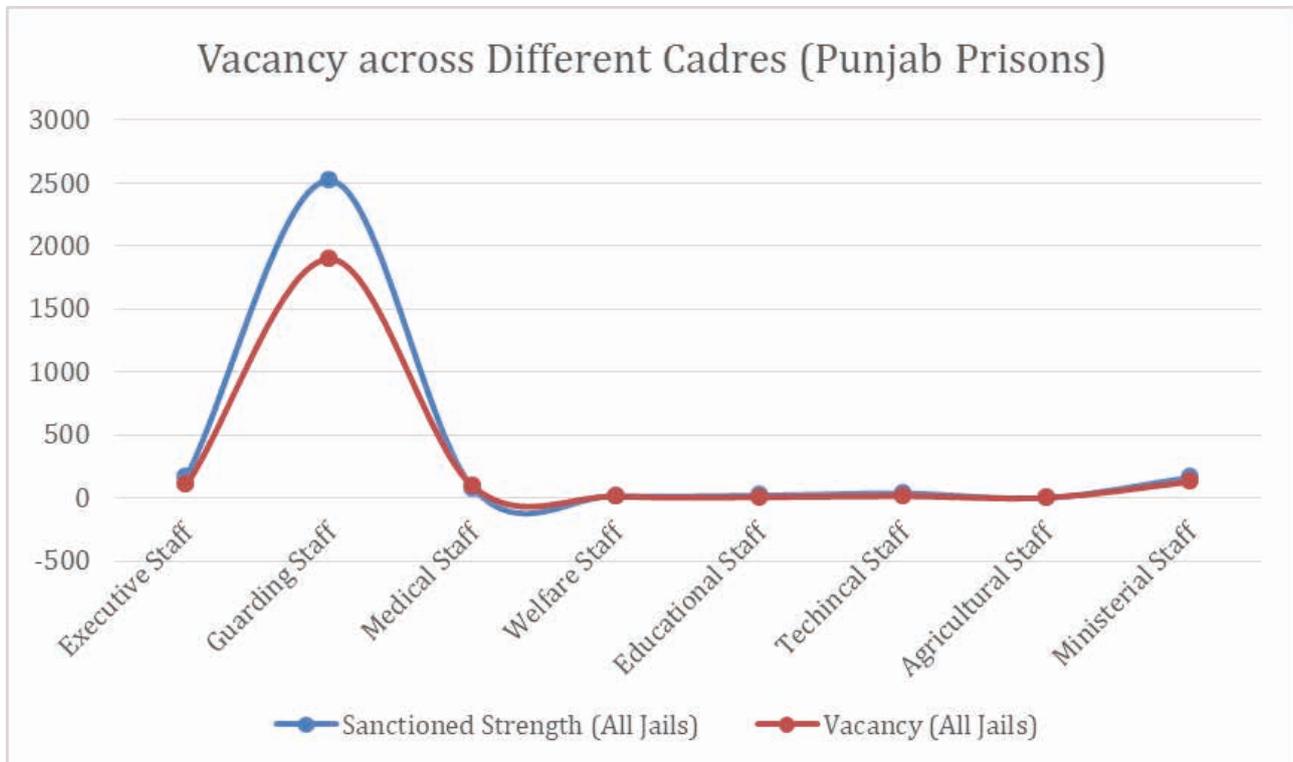
### 3) **Staff Vacancies and Promotion**

The state of staff vacancy continues to be poor across all the different cadres,<sup>10</sup> starting from Executive Staff (Superintendents, Additional Superintendents, Deputy Superintendents and Assistant Superintendents), Guarding Staff (Chief Head Warders, Head Warders and

<sup>9</sup> More details can be found in Chapter 1 (1.3.3): Issues with Construction of New Jails

<sup>10</sup> More details about different cadres existing in Punjab Prison Services can be found in Chapter 2 (2.4): Sanctioned Staff Strength and Vacancies

Warders), Medical Personnel (Medical Officers, Psychiatrists, Nursing Staff, Pharmacist) and right up to Ministerial Staff (Administrative Officer, Office Superintendent, Accountant, Storekeeper, Cashier, Office Assistants, Stenographers, Typist/Computer Operators, Miscellaneous Staff).



It was observed that low rate of recruitment has been a long-standing causative behind the issue of vacancy. Guarding staff has the highest vacancy, wherein low rate of recruitment was corroborated by the fact that after the recruitment of guarding staff in 1992, the next recruitment took place as recently as 2017, **thereby effectuating a gap of 25 years between the recruitment cycles.**

Additionally, **the problem with promotions, specifically with regard to the guarding staff was unanimously highlighted by all the officials** who informed that in their 20-30 years of service, they had just been promoted to the post of head warden, or had not been promoted at all.

#### 4) **Sanctioned Strength for Welfare and Educational Staff**

The Indian criminal justice system is one which believes in the reformative theory of punishment. For this system to be effective and efficient staff related to welfare and education are essential. The jails in Punjab face severe problems when it comes to these two departments.



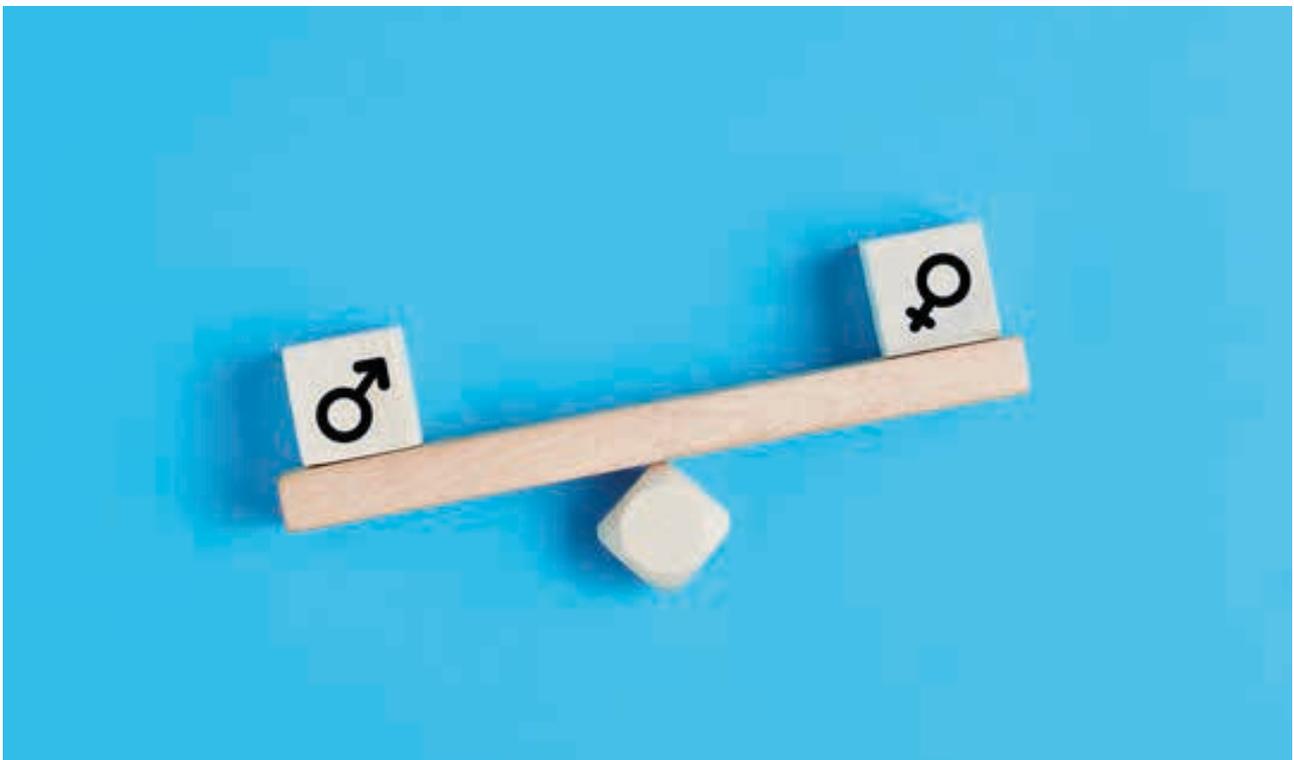
**Jails without sanctioned strength for Educational Staff:** Central Jail, Amritsar; Central Jail, Bathinda; Central Jail, Hoshiarpur; Central Jail, Kapurthala; Central Jail, Ludhiana; Central Jail, Patiala; District Jail, Barnala; District Jail, Mansa; District Jail, Muktsar Saheb; District Jail, Roopnagar; New District Jail, Nabha; Sub Jail, Fazilka; Sub Jail, Malerkotla, Sub Jail, Moga; Sub Jail, Pathankot and Sub Jail, Patti.



**Jails without sanctioned strength for Welfare Staff:** Central Jail, Amritsar; Central Jail, Ferozepur; Central Jail, Gurdaspur; Central Jail, Patiala; Borstal Jail, Ludhiana; District Jail, Barnala; District Jail, Mansa; District Jail, Muktsar Saheb; District Jail, Sangrur; Maximum Security Jail, Nabha; Open Air Jail, Nabha; Women's Jail, Ludhiana; Sub Jail, Fazilka; Sub Jail, Malerkotla, Sub Jail, Moga; Sub Jail, Pathankot and Sub Jail, Patti.

#### 5) **Lack of Recruitment of Women Prison Officers at Senior Positions**

A major disparity was observed with regard to the number of women officers at Senior Positions such as Superintendent, Deputy Superintendent (Grade I), Deputy Superintendent (Grade II), and Assistant Superintendent levels. Out of the total 103 officers posted at the abovementioned levels, only three women officers were deputed at the level of Assistant Superintendent and above.<sup>11</sup>



<sup>11</sup> It is important to note that this number does not involve the number of Head Matrons who might be working at on pay scale level of Assistant Superintendent.

## 6) **Prison Oversight: Board of Visitors and Under Trial Review Committees**



### a) **Board of Visitors (BOV)**

The Punjab Jail Manual, 1996 necessitates the appointment and visits by Board of Visitors, which consists of both official and non-official visitors (NOVs). However, for the period between September 2017 and August 2018, **only one jail (Central Jail Hoshiarpur) confirmed that Board of Visitors had been constituted.** However, despite the non-constitution of Board of Visitors in 23 out of 24 functional jails in Punjab, visits are being made by official visitors to select jails. Only in 10 out of the 24 jails (42%), official visitors made visits between September 2017 and August 2018.

### b) **Under-trial Review Committees (UTRC)**

Along with Board of Visitors, UTRCs play a crucial role in prison oversight, wherein they are entrusted with resolving the issue of 0.635 high number of under-trial prisoners inside prisons. **In this regard, it was found that UTRCs were functional in all the 24 functional jails in Punjab.** Additionally, while 71%, i.e. 17 jails were in compliance with holding quarterly meetings of UTRCs, the rest of the jails (**Central Jail, Amritsar; District Jail, Mansa; Central Jail, Bathinda; Sub-Jail, Moga; Central Jail, Gurdaspur; Sub-Jail, Fazilka and Sub-Jail, Pathankot**) were not in compliance with this requirement<sup>12</sup>.



### 7) **Medical Examination at Admission to Prison**

Medical examination at admission helps in the identification of contagious diseases and hence becomes important to contain spread of infections inside the jail. It also helps in the documentation of violence that might have been inflicted on the inmate during police custody prior to admission in prison.

### a) **Lack of awareness amongst Medical Officers regarding Rule 396 (a) of Punjab Jail Manual, 1996**



As per Rule 396 (a) of Punjab Jail Manual, 1996, a prisoner when admitted to prison from Police custody, needs to be immediately examined. If the examination reveals unexplained injuries not already recorded in the medico-legal report accompanying the prisoner, then it makes the medical officer duty-bound to report the same to the District Magistrate and the Superintendent of Police. However, across all the jails in Punjab, it was found that medical officers were not aware of this requirement to immediately report unexplained injuries to the District Magistrate and the Superintendent of Police, even though they were aware of instances of custodial violence meted out by Punjab Police and the importance of documentary evidence.

<sup>12</sup> The Supreme Court in its order, dated 24 April 2015 [Writ Petition (Civil) 406/2013], directed NALSA along with the Ministry of Home Affairs (MHA) and the SLSAs to ensure that the UTRC is formed in every district of the country and that they meet every quarter

b) **Lack of Medical Examination in Sub-Jails of Punjab**

In all the five sub-jails, i.e. Sub-Jail, Fazilka, Sub-Jail, Malerkotla, Sub-Jail, Moga, Sub-Jail, Pathankot and Sub-Jail, Patti, it was observed that no medical examination was being conducted. There were no medical officer permanently deputed to these jails. It was informed by the officials that the medico-legal form filled at the civil hospital was being inspected by the pharmacist posted at the jails at times, or at other times, was checked by jails officials during the admission of an inmate. The same practice was also witnessed by the team at District Jail, Barnala.

8) **Classification of Prisoners: Alleged Juveniles and Transgender Inmates**

a) **Alleged Juveniles**

Apart from the Borstal Jail in Ludhiana, all the other jails in Punjab are meant to be adult only jails (for inmates above 18 years of age) and the classification of inmates is primarily done on the basis of male or female gender (wherever a female ward is available). However, during the course of the study, **a total of 22 inmates across 11 jails, claimed to be juveniles.** Not only does this reveal that these alleged juvenile inmates are residing with adult inmates, but it equally highlights the lack of proper inspection by jail authorities during admission.

**Jails with alleged Juveniles:** Central Jail, Amritsar, Central Jail, Bathinda, Central Jail, Faridkot, Central Jail, Gurdaspur, Central Jail Patiala, Borstal Jail, Ludhiana, District Jail, Muktsar Sahib, District Jail, Rupnagar, District Jail, Sangrur, Sub-Jail, Fazilka and Sub-Jail, Pathankot

b) **Transgender Inmates**

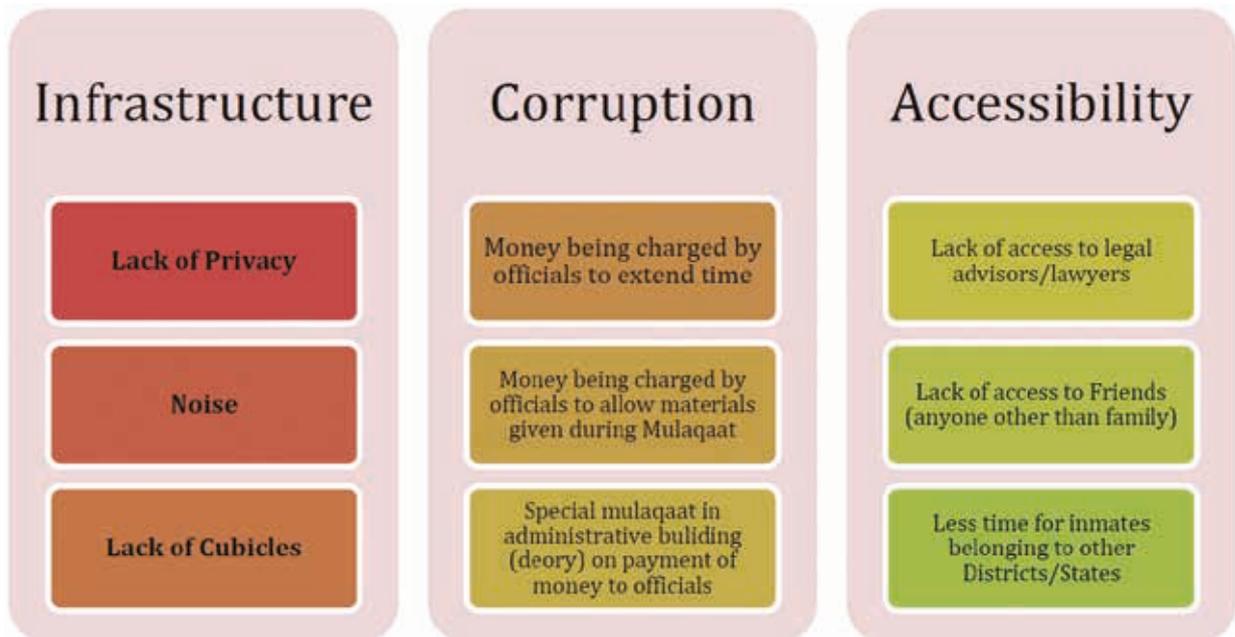


The study also found issues regarding search procedures as well as allocation of inmates who identified as kinnar/transgender persons. The team came across four such inmates: two were confined in separate cells in the women's section, one was confined in the women's section, and one was confined in an all-male section. In the absence of adequate rules in the Manual regarding the search procedure of transgender persons, there were incidents shared with the team wherein male officials conducted body search on transgender women.

**Jails with Transgender Inmates:** Central Jail, Patiala; New District Jail, Nabha; and Borstal Jail, Ludhiana.

9) **Contact with Outside World: Mulaqaat (Visitation) & Prison Inmate Calling System**

a) **Mulaqaat:** As a general observation, it appeared that mulaqaat facilities were available across all the 24 functional jails in Punjab. However, certain inadequacies with mulaqaat was observed across the following parameters:



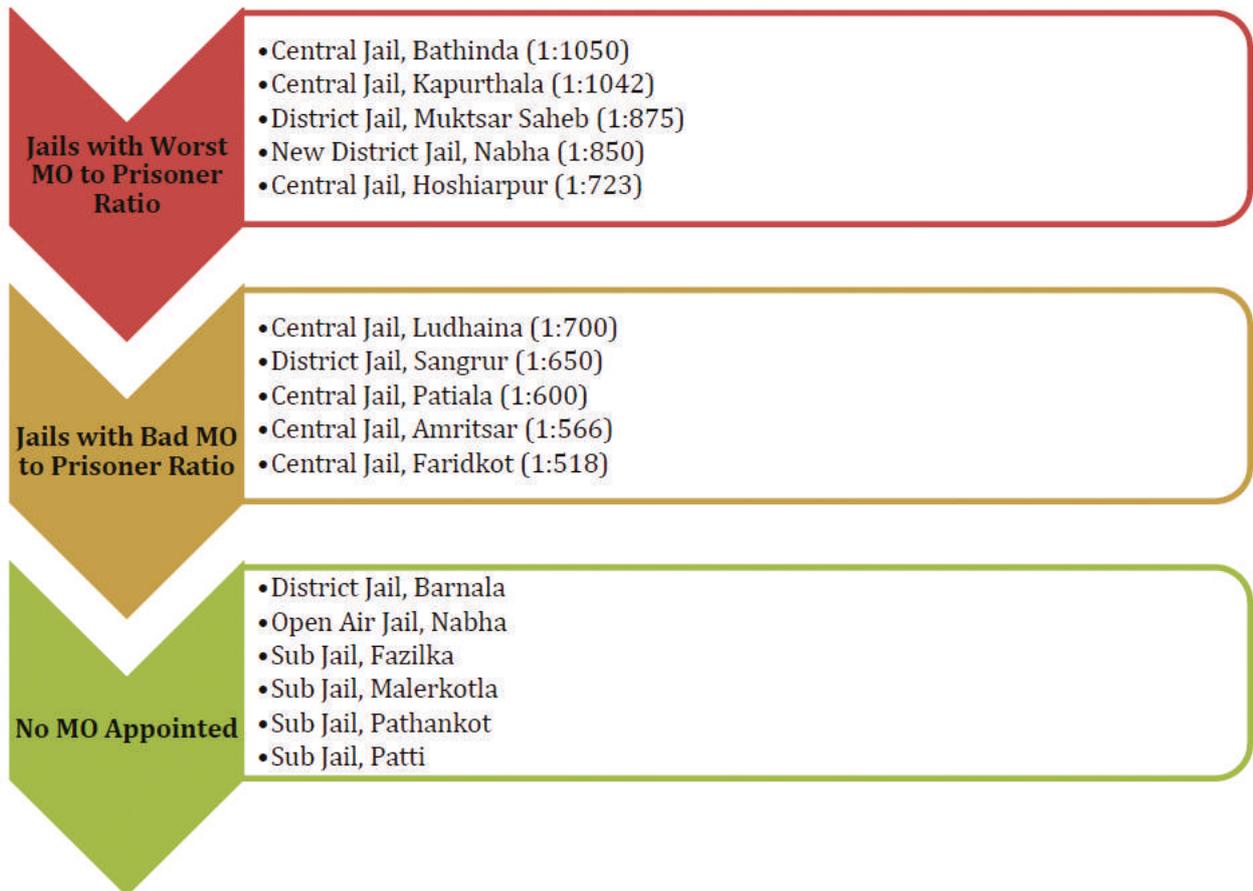
b) **Prison Inmate Calling System (PICS)**

During the study, it was observed that the Punjab Prisons Department had developed PICS which allowed inmates to be in touch with outside world through telephones. However, certain issues were observed in regard to PICS across the following parameters:



10) **Medical Infrastructure: Medical Officers (Inadequate numbers or complete Absence)**

The necessity of a Medical Officer inside a prison cannot be less emphasised. As per the Punjab Jail Manual, 1996, a full-time medical officer must be appointed to a jail with a population up to 500 inmates. For every additional 500 inmates, one more medical officer must be appointed. The study found that in jails where medical officers were available, they were not in proportion to the number of inmates, and in other cases, there were no full-time medical officers appointed. In the jails where no medical officer was appointed, a pharmacist was taking care of the responsibilities.



It is exactly this problem that led to the prison officials as well as the medical officers appointed to the Punjab prisons suggesting **that there was an urgent need for Punjab Prisons to have its own Medical Cadre**, rather than medical officers being appointed on deputation from State Health Department. In addition to lack of medical officers, it was also observed that the prisons across the state also **suffered from lack of medical escorts**, who were essential in cases where inmates needed to be referred to civil hospitals outside the jail. **Inadequate supply of medicines** and **low budget assigned to the medical department** inside jails also contributed to the poor medical infrastructure in Punjab jails.

### 11) **Deaths in Prisons**

Between a one-year period of September 2017 to August 2018, a total of **169 inmates died in Punjab prisons**. As per information shared, maximum inmates (137) died of natural causes and 27 died by suicide. Apart from that, a total of five inmates also died due to assault by outside elements or being killed by inmates inside the jail. On an average, **14 deaths occurred in Punjab prisons per month (including an average of two suicides per month) during this time period**.



**Jails with Deaths (Top five):** Central Jail, Kapurthala (35); Central Jail, Ludhiana (33); Central Jail, Amritsar (27); Central Jail, Bathinda (15); and Central Jail, Faridkot (12).

## 12) **Prison Labour: Non-Payment of Wages**

The Punjab Jail Manual, 1996, recognises the right of the inmates to be entitled for wages and states that no prisoner can be forced to perform labour without wages. However, **out of the 24 functional jails in Punjab, only in two jails (Women’s Jail, Ludhiana and Sub-Jail, Malerkotla) were no issues documented in regard to payment of wages and opening of bank accounts.** In the remaining 22 jails, consistent issues regarding payment of wages and opening of bank accounts was found. **In particular, Deputy Superintendents from jails such as Central Jail, Ludhiana and Central Jail, Patiala, confessed that payments had not been made since 2017 due to lack of budget for payment of wages.**

## 13) **Functioning of Factories/Manufacturing Units**

The Deputy Superintendents (Factory) highlighted that **shortage of budget for factory/manufacturing unit was a prevalent issue across jails.** The budget constraints existed for procurement of raw materials, purchase of new machinery, payment of salaries of technical employees and payment of wages for factory work. Vacancy in technical posts was another consistent grievance across jails.

The officials stated that if the current system continues to exist, then factories/manufacturing units will wither away inside Punjab Prisons. They suggested two particular ways to rejuvenate the current system which are as follows:



## 14) **Vulnerable Category of Prisoners: Women, their Children and Foreign Nationals**

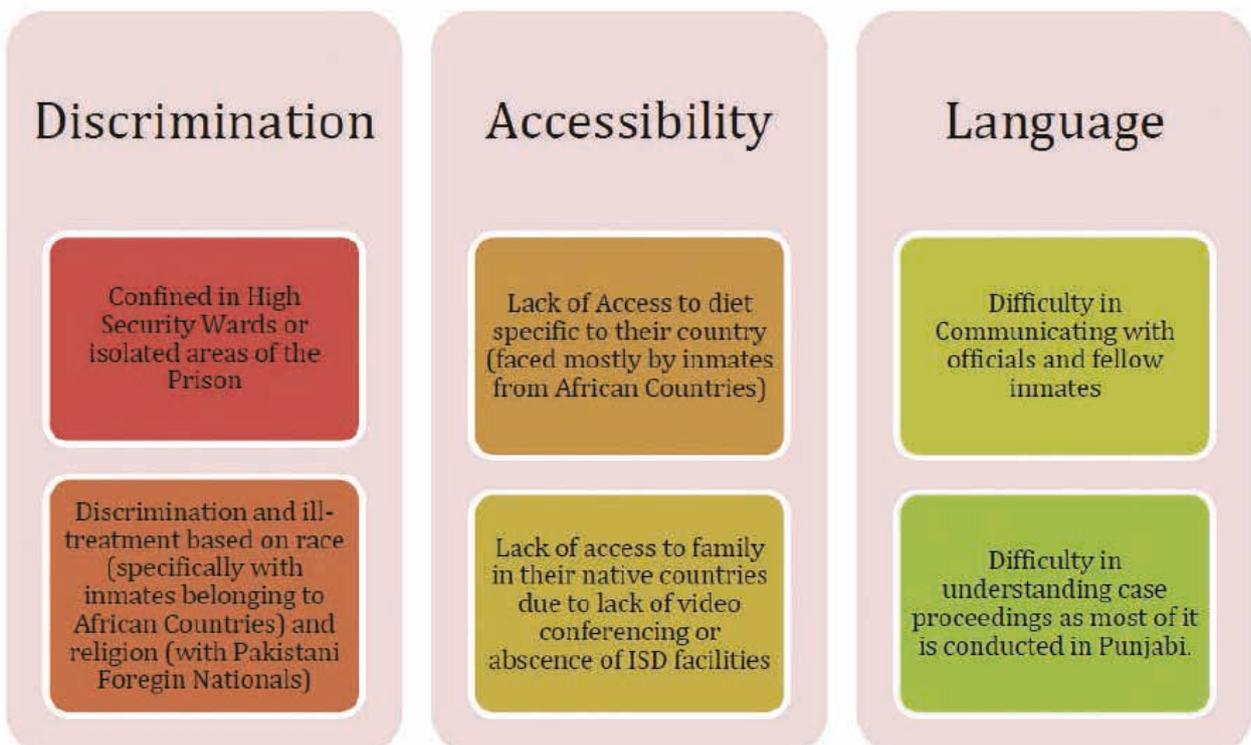
### a) **Women Inmates and their Children**

As on 31<sup>st</sup> August 2018, Punjab prisons housed 1,209 women inmates constituting 5.1% of the total prison population. Additionally, there were a total of 61 children staying with their mothers. While there exists only one Women’s Jail in the State (in Ludhiana), there were separate female enclosures created for women in other jails. In total, there were 13 other jails where women were housed. During the study, the following issues were encountered with regard to specific needs of women across the different jails:

Infrastructure	Accessibility	Healthcare	Discrimination
<ul style="list-style-type: none"> <li>• Inadequate vocational training for women</li> <li>• No hospital/medical dispensary in women's section</li> <li>• No legal aid clinic</li> <li>• No creche/balwadi for children of inmates (Central Jail, Bathinda; Central Jail, Hoshiarpur; District Jail, Mansa; District Jail, Rupnagar, New District Jail, Nabha and District Jail, Barnala)</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of access to libraries</li> <li>• Lack of access to places of worship</li> <li>• Lack of access to spaces of recreational activities</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of Female Medical Officers</li> <li>• Lack of access to Gynecologists</li> <li>• Lack of access to sanitary napkins</li> </ul>	<ul style="list-style-type: none"> <li>• Discrimination on the basis of caste for cleaning purposes inside barracks (Central Jail, Kapurthala)</li> </ul>

b) **Foreign Nationals**

As on 31st August 2018, there were a total of 172 FNPs, including both men and women, in Punjab prisons. These prisoners were from Pakistan, Bangladesh, Nepal, Myanmar, Canada, United States of America, Nigeria, Uganda, Ghana, Ivory Coast, Central Africa and Dar-Es-Salaam. Among them, citizens of the USA and Canada were actually native Punjabis. During the study, the following issues were encountered with respect to foreign national prisoners across the different jails:

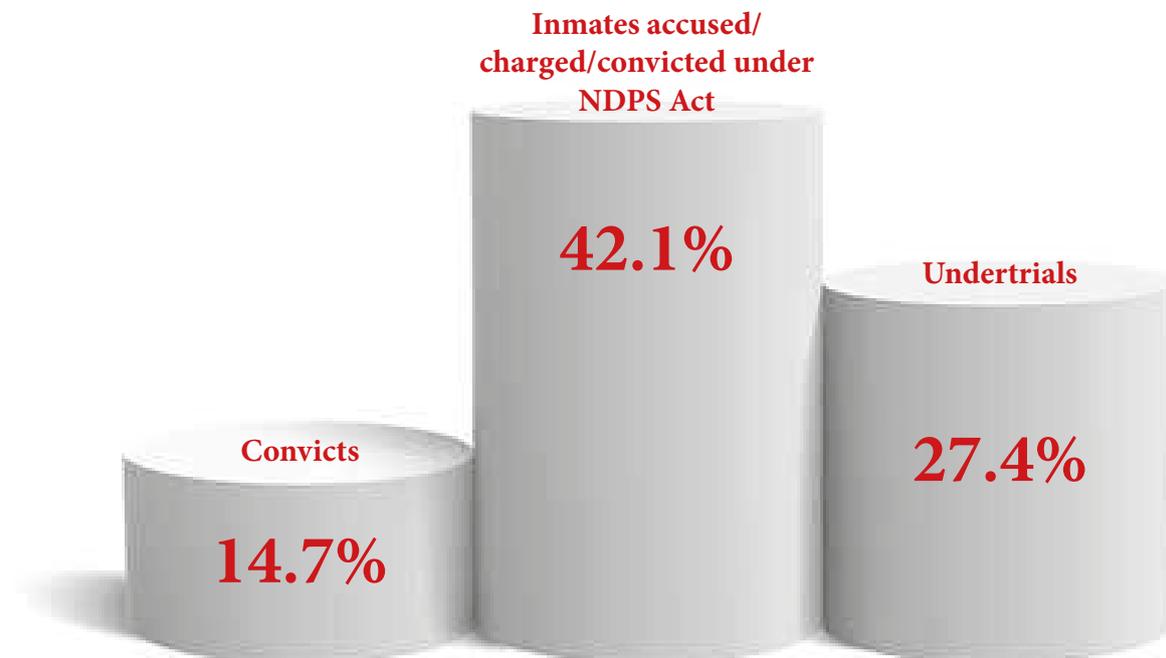


15) **“War on Drugs”: Impact of Narcotics, Drugs Psychotropic Substance Act, 1985 in Jails Across Punjab**

The drug menace plaguing Punjab is well known and has been extensively documented<sup>13</sup> in both research and popular culture. Its impact has not only been on the society but can also be felt in jails across Punjab. The multiple ways in which the “war on drugs” aim of the government has impacted jails can be understood in the following ways:

a) **Impact on Prison Population**

Between September 2017 and August 2018, inmates accused/charged/convicted under the NDPS Act constituted 42.1 % of the prison population – with undertrials constituting 27.4% and convicts 14.7%.



b) **Drug Smuggling and Consumption Inside Jails**

The issue of drug smuggling and consumption was **observed in 15 out of the 24 functional jails**. It is plausible that one of the contributing factors to rampant drug smuggling and consumption is the existence of high number of inmates charged/accused/convicted under the NDPS Act, 1985.

<sup>13</sup> BBC, ‘Punjab’s Drug Menace: I wanted my son to die’, 23<sup>rd</sup> November 2018, available at: <https://www.bbc.com/news/world-asia-india-46218646> (Last accessed on 22nd October 2020)

The Hindu, ‘Punjab’s New Addicts: on the rise of female drug addicts’, 8<sup>th</sup> September 2018, available at: <https://www.thehindu.com/news/national/other-states/punjab-new-addicts/article24896836.ece> (last accessed on 22nd October 2020)

Journal of Family Medicine and Primary Care, ‘Drug Abuse: Uncovering the burden in rural Punjab’ 2017, by B. Sharma, A. Arora, K. Singh, H. Singh, P. Kaur; Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5787955/> (last accessed on 21nd October 2020)

c) **Lack of Security Equipment**

In all the 24 jails visited, the team did not observe a single jail where body scanners were available. On the other hand, the prison officials, including medical officers unanimously across the jails stated that the jails were in urgent need of body scanners to tackle the issue of drug smuggling, as inmates would often smuggle drugs inside their body cavities.



d) **Transfer to Central Jails**

For the effective treatment of inmates who are also consumers/addicts, de-addiction centres/ Outpatient Opioid Assisted Treatment (OOAT) Centres become important. However, it was observed that a de-addiction centres/OOAT Centres were only established in nine of the 24 jails, out of which most were Central Jails and one was District Jail. As a result, the officials informed the team that in case addicts were admitted to their jails, they would immediately transfer them to the central jails, **thereby causing overcrowding** in the central jails.



### 16) Issues of Concern: Custodial Violence, Corruption & Drug Smuggling

In the interaction with inmates, along with allegation of custodial violence in Police Custody, custodial violence in the form of disciplinary measure by the prison staff was also brought forth. Apart from this, allegations of corruption and smuggling and use of contraband articles inside prisons were made. **About 12% inmates alleged, (80 of the 660 interviewed) incidents of violence (inflicted by prison authorities) inside the jails.**

Narratives of extensive corruption and smuggling of prohibited/contraband articles were also shared during the course of the study. **Out of the total 24 jails, interviewed inmates spoke of incidents of smuggling from 15 jails.** In addition, **prisoners in 12 jails talked about incidents of corruption.**

Smuggling	Corruption	Custodial Violence
<ul style="list-style-type: none"><li>• Mobile Phones</li><li>• Contraband substances such as <i>chitta, ganja, charas, Tramadol Tablets, Addnock Tablets, syringes, ciggerettes, bidis.</i></li></ul>	<ul style="list-style-type: none"><li>• Bribery</li><li>• VIP Barracks</li><li>• <i>Mulaqaat/Visitation</i> in administration Block (<i>deory</i>)</li><li>• Missappropriation of Food Stocks</li><li>• Allocation of Convicts to Factory Unit instead of <i>Langar</i></li></ul>	<ul style="list-style-type: none"><li>• Solitary confinement in <i>Chakkis</i> as a disciplinary measure</li><li>• Arbitrary beatings</li><li>• Beatings as a form of punishment</li></ul>

### 17) Legal Aid Framework and Access to Justice

Jail legal aid clinics were present in all the jails except Open Air Jail, Nabha. The majority of these clinics were furnished with basic and essential furniture such as tables and chairs while some of the clinics also had computers with Internet connection. Of the total 660 inmates interviewed, 213 inmates claimed to have been availing the services of legal aid lawyers. **They were largely dissatisfied with the services being provided to them and cited** multiple reasons:

### Systemic Issues

- Delay in appointment of legal aid lawyers, (more prevalent at High Court & Supreme Court levels)
- Lack of awareness of details of legal aid lawyers appointed
- Lack of contact between legal aid lawyers and inmates
- Corruption- Accusation of money being charged by legal aid lawyers
- Lack of grievance redressal mechanism against Legal Aid Lawyers

### Perception of Legal Aid Lawyers

- Working for free, hence not efficient
- Lack of trust
- Not efficient in getting bail for inmates
- Chances of conviction are high

SECTION A:

# PRISON CONDITIONS AND FACILITIES

**CHAPTER 1**

## **ABOUT PUNJAB PRISONS: POPULATION AND INFRASTRUCTURE**

Prisons in the State of Punjab are governed under the Prisons Act, 1894 and administered as per the Punjab Jail Manual, 1996.<sup>13</sup> In total, there are 26 jails in Punjab, out of which, only 24 during the time-period of the study. Starting from the establishment of the jails to managing and administering all the affairs related to it, the effective functioning of jails in the State of Punjab falls under the responsibility of the Department of Home Affairs and Jails.<sup>14</sup>

### **1.1 TYPES OF JAILS IN PUNJAB**

As per the Punjab Jail Manual, 1996, rule 5 deals with the classification of jails, which includes 1) Central jails; 2) Maximum Security Jails; 3) Medium Security Jails (District Jails); 4) Minimum Security Jail (Open Jail); 5) Special Jails; and 6) Sub Jails. As per Rule 7 of the Manual, all jails apart from Central jails, Special Jails, Open Air Jails and Sub Jails are deemed to be District Jails. The following table depicts the jails in the different districts of the State of Punjab:

Central Jails	Medium Security Jail (District Jails)	Sub Jails <sup>15</sup>	Maximum Security Jail	Minimum Security Jail
<b>Amritsar</b>	Barnala	Fazilka	Maximum Security Jail, Nabha	Open Air Jail, Nabha
<b>Bathinda</b>	Mansa	Malerkotla		
<b>Faridkot</b>	Muktsar Sahib	Moga		
<b>Ferozepur</b>	New District Jail, Nabha	Pathankot		
<b>Gurdaspur</b>	Roopnagar	Patti		
<b>Hoshiarpur</b>	Sangrur			
<b>Kapurthala</b>	Borstal Jail, Ludhiana			
<b>Ludhiana</b>	Women's Jail, Ludhiana			
<b>Patiala</b>				

**Table 1: Types of Jails**

<sup>13</sup> Punjab Jail Manual, 1996, available on: [http://chdmodeljail.gov.in/uploads/acts/\\_1529317899Punjab\\_Jail\\_Manual\\_1996.pdf](http://chdmodeljail.gov.in/uploads/acts/_1529317899Punjab_Jail_Manual_1996.pdf) (last accessed on 18<sup>th</sup> November 2019)

<sup>14</sup> Please see: <http://punjab.gov.in/home-affairs-and-jails> (last accessed on 18th November 2019)

<sup>15</sup> Two Sub-Jails were non-functional during the period of the Study: Sub-Jail, Dasuya and Sub-Jail, Phagwara

## 1.2 PRISON POPULATION AND OVERCROWDING<sup>16</sup>

*Erection of tents and grass huts to deal with overcrowding seems to be an outdated solution. The jail manual must be updated to include provisions that are appropriate with the present times.*

Chapter II of the Punjab Jail Manual, 1996 deals with the Punjab State Policy on Prisons and lays down 28 aims and objectives for the effective functioning of jails in Punjab. Objective 5 states that “*living conditions in every prison and allied institutions meant for the custody, care, treatment and rehabilitation of Offender shall be compatible with human dignity in all aspects such as accommodation, hygiene, sanitation, food, clothing and medical facilities*”. Further, the manual mandates that the precautions need to be taken when the jail population is reaching maximum capacity and includes precautions such as tents or grass huts to be erected inside jail premises, temporary shelters outside jail premises or transfer to other prisons in the State.<sup>17</sup>

As on 31<sup>st</sup> August 2018, there were 23,603 prisoners against an authorised capacity of 23,528 inmates. This indicated that prisons were overcrowded by **0.3%, which is far better than the national average overcrowding rate of 15.1%**<sup>18</sup> as per the **Prison Statistics 2017**.

Authorized Capacity		Total Population	
Male	Female	Male	Female
21,763	1,765	22,394	1,209
Total: <b>23,528</b>		Total: <b>23,603</b>	

**Table 2: Jail Population**

*Identify prisons which are overcrowded/ have overcrowded wards and undertake appropriate steps to decongest them.*

However, the overall figures for the State invisibilise the overcrowding issues that some of the jails face in Punjab. Based on the data received for population figures as on 31<sup>st</sup> August 2018, **10 out of the 24 functional jails faced overcrowding issues in varying degrees, with the District Jail, Roopnagar indicating a 60% overcrowding rate, followed by Central Jail, Amritsar at 58.6%**. The 10 most overcrowded prisons are provided below (*Table 3*) in the descending order of rate of overcrowding:

<sup>16</sup> For the purposes of this data and uniformity, data received from ADGP, Punjab has been referred to. Additionally, it may be noted that there are discrepancies in the data (between the data received from ADGP, Punjab and data received from Jails) regarding the sanctioned capacity of Jails in Punjab. The Jails for which discrepancies were observed are as follows: Central Jails: Bathinda, Kapurthala, Ludhiana; District Jails: Barnala, Muktsar Saheb and Roopnagar.

<sup>17</sup> Please see: Rules 898, 900, 902 & 903 of Punjab Jail Manual, 1996

<sup>18</sup> Executive Summary, Prison Statistics India, 2017, available at: <http://ncrb.gov.in/StatPublications/PSI/Prison2017/Executive%20Summary-2017.pdf> (last accessed on 18<sup>th</sup> November 2019)

Name of the Jail	Overcrowding %
District Jail, Roopnagar	60%
Central Jail, Amritsar	58.6%
District Jail, Sangrur	43%
District Jail, Mansa	34%
Sub Jail, Patti	29%
Central Jail, Hoshiarpur	21%
Sub Jail, Moga	20%
Sub Jail, Fazilka	18%
Central Jail, Ferozepur	13%
Central Jail, Patiala	12%

**Table 3: Overcrowding- Individual Jails**

In the 10 jails abovenamed, where overcrowding was observed, the officials informed the teams that transfer of inmates was being resorted to deal with the overcrowding, and yet **the visiting teams neither found any temporary tents/grass huts erected inside the jail nor did they find any kind of temporary shelter being set up outside the jail, to deal with the issue of overcrowding.** This raises serious questions as to the preparedness of the jail administration in dealing with overcrowding in accordance with the Punjab Jail Manual, 1996.

### 1.3 PRISON INFRASTRUCTURE

The State of Punjab has a mix of old and new jails. The oldest jail in the State was established in the year 1857 (Sub-Jail, Patti) whilst other jails, such as the Central Jail, Amritsar and District Jail, Muktsar Saheb were established as recently as in the year 2016. A detailed description of jails in the chronological order of establishment is given below:

Name of the Jail	Year of Establishment	Total Area
Central Jail, Ferozepur	1854	39 Acres 4 Kanal 2 Marla
Sub Jail, Patti	1857	18 Kanal 10 Marla
Central Jail, Hoshiarpur	1886	12.2 Acres
Central Jail, Patiala	1904	83 Acres
Maximum Security Jail, Nabha	1927	35 Acres
Sub Jail, Moga	1950	3 Kanal & 19 Marla
District Jail, Sangrur	1954	32 Acres 1 Marla
Sub Jail, Malerkotla	1954	34 Kanal 19 Marla
Open Air Jail, Nabha	1976	100 Acres

*To address the issue of overcrowding, jails may arrange temporary shelters outside the prison complex as per the Punjab jail manual rules.*

Name of the Jail	Year of Establishment	Total Area
Central Jail, Ludhiana	1978	98 Acres
Borstal Jail, Ludhiana	1978	7 Acres
Women's Jail, Ludhiana	1989	2 Acres
District Jail, Barnala	1998	13 Acres 2 Kanal 14 Marla
District Jail, Roopnagar	2008	18 Acres
Central Jail, Faridkot	2011	72 Acres
Central Jail, Kapurthala	2011	70 Acres
District Jail, Mansa	2011	12 Acres
New District Jail, Nabha	2011	28 Acres
Sub Jail, Pathankot	2011	13 Kanal 10 Marla
Central Jail, Gurdaspur	2012	21 Acres, 3 Kanal, 7 Marla
Central Jail, Bathinda	2014	41.6 Acres
Central Jail, Amritsar	2016	67.54 Acres
District Jail, Muktsar Saheb	2016	23 Acres 4 Kanal 19 Marla
Sub Jail, Fazilka	Not Provided	2 Acres

**Table 4: Jail-Wise Information**

As is evident, most of the jails in Punjab were built before the year 2000 (13 out of the 24 jails) and continue to work with the same infrastructure. Jails such as **Central Jails: Ferozpeur and Hoshiarpur, and Sub Jail, Patti, were established before the 1900s**. However, post the year 2000, some new jails were constructed such as **Central Jails Amritsar, Bathinda, Faridkot and District Jails Mansa, Muktsar Saheb and New District Jail, Nabha** which consist of new infrastructure in terms of buildings and other amenities. Several issues were recorded by the CHRI teams, who got an opportunity to visit all the above mentioned 24 Jails. A detailed description of the issues is provided as under:

### **1.3.1 Issues with upgradation<sup>19</sup> of Certain Jails**

During the team's visit to **Central Jail, Hoshiarpur and District Jail, Muktsar Saheb**, a peculiar issue regarding upgradation of jail status was highlighted. Based on the interaction of the team with the Superintendent of the jails, it was informed that Central Jail Hoshiarpur was upgraded from the status of District Jail in the year

<sup>19</sup> Upgradation in the context of jails means the change in the status of jails from any of the types of jails mentioned under Section 5 of the Punjab Jail Manual, 1996.

2016. In the same year, the jail in Muktsar Saheb which was operating as a sub jail was also upgraded to the status of District Jail.

**However, the Superintendents of both the jails highlighted that despite the upgradation in prison status, there was no upgradation in the required infrastructure and staff strength in both the jails.** This, in their opinion, was severely detrimental to the effective functioning of the jails. Both the Superintendents also highlighted that individual requests for elevating the sanctioned strength of both the jails has been made to Director General of Prisons, Punjab, which remains pending up till date.

### 1.3.2 Infrastructural Issues with Certain Old Jails

As is evident from *Table 4*, **13 of the 24 jails in Punjab have been built prior to the year 2000.** Hence, the infrastructure in these jails are older in comparison to the **11 jails that have been built after the year 2000, and more precisely after the year 2010.** The team in their visit, could observe visible differences in the infrastructure of the old jails in comparison to the new jails. In particular, two issues with the old jails were highlighted by the jail officials:

#### a) Location of the Old Jails

All the 13 jails that have been built before the year 2000 (with the exception of Open-Air Jail and Maximum-Security Jail, Nabha) are located within the city premises. In the interaction of the team with the officials in these jails, they unanimously voiced the security concerns linked to the prison being situated within the city premises, surrounded by residential buildings. **The primary cause of concern was the frequent throwing of contraband substances inside the jail premises.**

#### b) Poor Infrastructure of Old Jails

In all the 13 old jails visited by the team, there was a need felt in regard to urgent renovation of the buildings inside the jails. The team observed that in most of these jails, there was requirement of not just regular maintenance, but the need for them to be rebuilt. **However,**

*Upgrade the infrastructure and staff strength of Central Jail Hoshiarpur and District Jail, Muktsar Saheb, on an immediate basis.*

*Install CCTV cameras to monitor movement outside the prison in order to tackle issues of throwing.*

*Prepare and implement renovation plan for jails that are in highly dilapidated condition.*

*Urgent focus is needed towards the accommodation of officials especially the ones in Ludhiana prison compound. A survey maybe conducted to assess the conditions in accommodation of prison staff, and where required measures to improve the conditions including renovations maybe undertaken.*

*Although there is an urgent need to relocate the Central prisons of Ferozepur and Hoshiarpur, however, due to fund crunch this might not be the most feasible option. The prison department should treat the renovation of these prisons as a priority area.*

*As a security measure an outer perimeter wall in Sub Jail Fazilka should be built.*

**in particular, the extreme dilapidated state of buildings in the following jails needs to be highlighted, i.e. Central Jail Ferozepur, Central Jail Ludhiana, Central Jail Hoshiarpur, Borstal Jail Ludhiana, Women's Jail Ludhiana, and Sub-Jail, Fazilka and warrants immediate attention.**

The three jails in Ludhiana: Central Jail, Borstal Jail and Women's Jail are all located within the same premises and have been established around the same time (with only the women's jail coming up 11 years later). In the observation of the team, the infrastructural condition of all the buildings (including prison officials offices, barracks, hospital etc.) was extremely poor and uninhabitable. The officials also informed that this infrastructural issue was not limited to the jail, but also extended to the accommodation for the officials, which as per them was also uninhabitable.<sup>20</sup> This observation was made by the officials of all three jails, who stated that there was an urgent need to relocate the jails.

Additionally, the team observed similar conditions pertaining to inadequate infrastructure in Central Jails Ferozepur and Hoshiarpur, wherein there was felt an urgent need to relocate them entirely. In Sub-Jail, Fazilka, the team observed that the lack of a perimeter/boundary wall on the jail premises, while being adjacent to a major roadway, created a huge cause of concern in regard to jail-break issues. **Of the remaining jails, although the team observed better levels of maintenance and upkeep of the buildings, it can be very well assumed that the old buildings in these jails would also degrade over time, thereby necessitating the need to relocate or rebuild these jails.**

### **1.3.3 Issues with Construction of New Jails**

Post the year 2000, 11 new jails have been established in the State of Punjab with modern infrastructure and buildings. The team observed similar conditions in these 11 jails amongst which, some of the commonalities were location – with each being located outside the city premises, and new barrack design – with barracks being two storied buildings (except District Jail, Roopnagar). Yet, even with new buildings, officials highlighted two particular issues:

<sup>20</sup> Further details can be found out in the individual jail reports of the three jails.

### a) Lack of Re-evaluation in sanctioned strength of Jail officials

In the new jails, particularly the ones built after the year 2010, such as **Central Jail, Faridkot, Bathinda, Amritsar and Kapurthala**, the officials voiced that there was an urgent need to re-evaluate the sanctioned strength required to maintain these new jails. In their opinion, all these new jails were built with a capacity ranging between 2000+ inmates to 3000+ inmates and were spread over larger areas ranging from 40 acres to 72 acres. **However, despite such increase in the authorised capacity as well as area, which also meant a larger area to cover for security purposes; officials alleged that no re-evaluation of sanctioned strength for officials had been conducted in respect of these new jails.**

### b) Security Issues with respect to Two-Storied Building Structures for Barracks

In the 11 new jails constructed after the year 2000, the team observed that prisoner's barracks were designed as two storied buildings, with the same number of barracks on the ground floor and first floor. **This infrastructural design was unanimously rejected by all the prison officials who interacted with the teams.** In their opinion, such a design created administrative and security issues. Barracks on the first floor were not manageable by the guarding staff. Additionally, in case of any incident in these barracks on the first floor, the response time was also severely affected due to lack of visibility. **The officials said that such infrastructural design should immediately be discarded.**

Additionally, it was alleged by certain senior officials (holding a rank of Superintendent and Deputy Superintendent) **that no jail official (whether serving or retired) was consulted while finalizing the new infrastructural design for new jails in Punjab.** They claimed that these decisions were taken by bureaucrats at the Governmental level without adequate or effective communication with jail officials. They further asserted that if the Government would have consulted any Punjab Prison Official (whether serving or retired), then such two-storied infrastructural design for barracks would never have been approved or suggested.

*A study to evaluate the staff strength for each prison must be undertaken, based on which the sanctioned strength can be increased as per requirements and standards as applicable.*

*Jails with higher inmate capacity (2000+), which are also spread over huge areas of land (like CJ Kapurthala, CJ Amritsar, CJ Bathinda and CJ Faridkot) need urgent re-evaluation of staff strength.*

*A study maybe conducted on infrastructural designs of prison buildings which can include an assessment of single-storied and double/multiple-storied buildings and security considerations. The study-team should also include senior prison officials in addition to other members.*

*For prisons where double storied structures exist, an assessment should be made on the security concerns after receiving feedback from prison personnel and procedure is devised to address them.*

## CHAPTER 2

# PRISON ADMINISTRATION: ORGANISATIONAL STRUCTURE, VACANCY, BUDGET AND EXPERIENCES

Chapter IV of the Punjab Jail Manual, 1996 provides for the organisational structure for prisons in Punjab. Rule 9 of the Manual elaborates on the Department of “Prisons and Correctional Services” which is to be headed by the Inspector General of Prisons who is appointed as per Section 5 of the Prisons Act, 1894. Based on the information received from the Additional Director General of Police, Prisons, Punjab,<sup>21</sup> *Figure 1* depicts the proposed organisational structure of the Punjab Prisons Department.

## 2.1 ORGANISATIONAL STRUCTURE

Under the current organisational structure, the Inspector General of Prisons, Punjab oversees three wings *viz*, the Deputy Inspector General (DIG) (Headquarters) wing, the DIG Circle (overlooking the administration of Jails in three zones namely Patiala, Ferozepur and Amritsar) and the DIG (Jail Training School). The pictorial depiction given in *Figure 1* only elaborates on the DIG Circle wing which overlooks the administration of all the jails in Punjab. The other wings such as DIG Headquarters further devolve into the establishment sections, section for law officers and section for Probation Officers while the DIG Jail Training School devolves into Vice Principal Jail Training School, Deputy Director (Indoor) and other Drill Instructors. However, during the course of interactions between the team and the Prison officials across all the functional 24 jails, two specific problems regarding the organisational structure was highlighted. These were:

## 2.2 ABOLISHMENT OF CERTAIN POSTS IN PUNJAB PRISONS

During conversations between the team and senior officials from some of the jails, it came to light that the Punjab Government had abolished certain posts from the Punjab Prison Department

<sup>21</sup> Attached as Annexure V

under the DIG Circle wing. **These were that of Senior Assistant Superintendent, Jail and Sub-Assistant Superintendent, Jail. The officials stated that the office of Senior Assistant Superintendent was a 3-Star post while that of the Sub-Assistant Superintendent was a 1-Star post.** While no substantive reasons for the abolishment of these posts could be known, officials unanimously explained the need to re-introduce them. According to them, these posts not only had a direct impact on the effective management of prisons, it also furthered prospects of promotions for the lower cadres of prison staff. They also stated that the Punjab Police Department continues to have analogous 3-star and 1-star ranks leading to inequality between the police and prison departments in Punjab.

## 2.3 NEED OF MEDICAL CADRE FOR PUNJAB PRISONS DEPARTMENT

A bare look at the organisational chart indicates the lack of any cadre for medical personnel under Punjab Prisons. the prison officials and medical officers working inside the jails, informed, in the course of discussions, that currently, Medical Officers and Pharmacists are deputed from Punjab Civil Medical Services (PCMS), Department of Health and Family Welfare, Government of Punjab. **Medical Officers were purportedly deputed for six months<sup>22</sup> while Pharmacists on a monthly basis.** This is in compliance with the Punjab Jail Manual, 1996, wherein Rule 142 states that the medical officer will be appointed by the Health Department and shall be on deputation.<sup>23</sup> However, prison officials, medical officials and pharmacists emphasised that medical officers and pharmacists should be permanently posted inside jails for effective medical healthcare. **It was suggested that the Punjab Prisons Department should consider having its own Medical Cadre so as to cater to all the jails in Punjab.**

<sup>22</sup> In some cases, the deputation could be extended to up to 1-2 years as well.

<sup>23</sup>Section 171 of the Jail Manual elaborates on the Appointment of Pharmacists by the Director Health Services. However, the provision does not mention whether they shall be appointed on permanent or deputation basis.

*The prison department may consider retaining the posts of Senior Assistant Superintendent, Jail and Sub-Assistant Superintendent, Jail.*

*The prison department may consider having a medical unit directly under it wherein medical officers and pharmacists can be recruited and appointed on a permanent basis for a longer period of time.*

*If the establishment of such a cadre is not possible then the Punjab Health Department Should increase the existing strength of doctors and para-medics in Punjab prisons.*

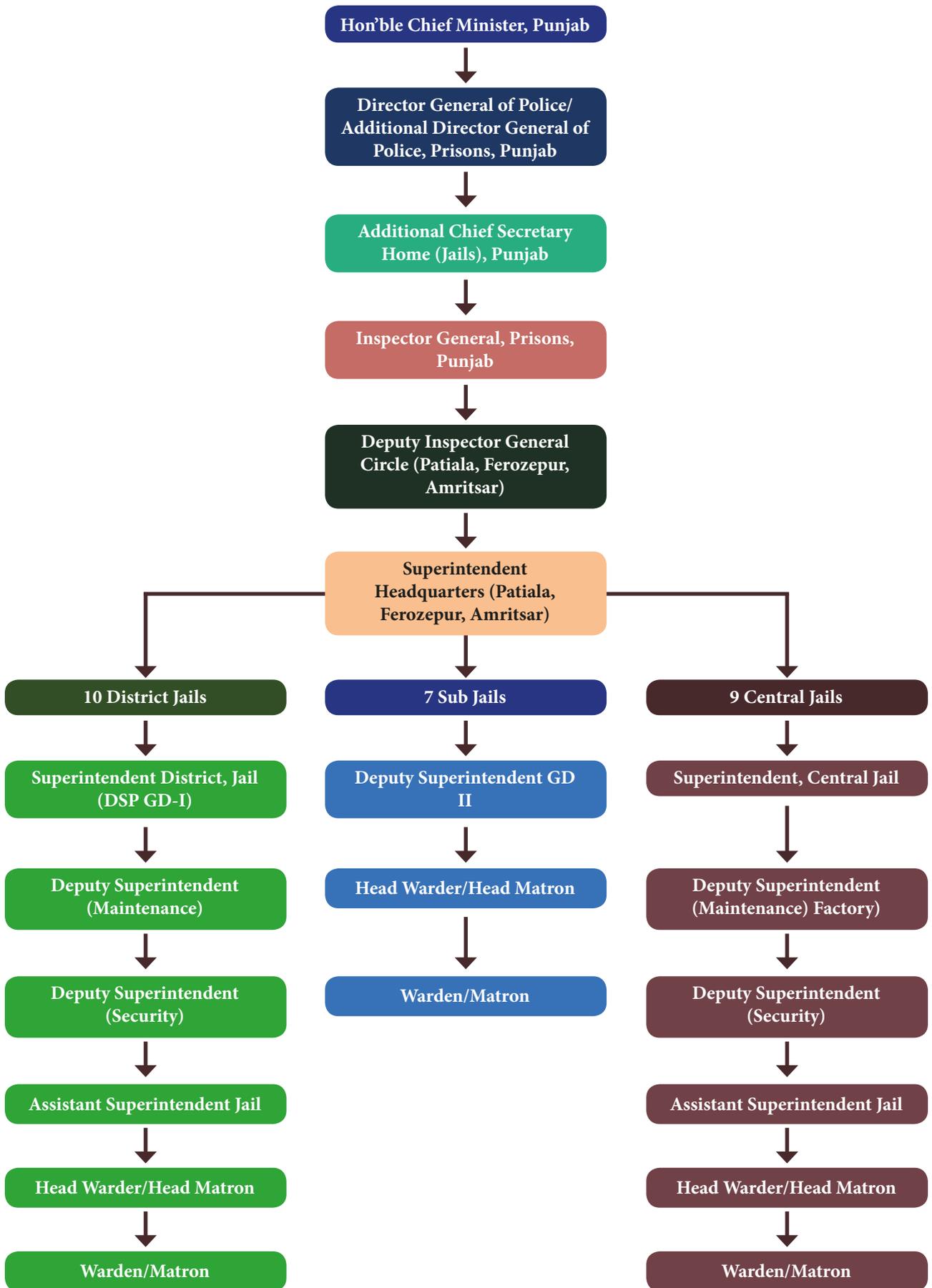


Figure 1- Punjab Prisons Organisational Structure

## 2.4 SANCTIONED STAFF STRENGTH AND VACANCIES

Chapter VII of the Punjab Jail Manual, 1996 provides in detail the duties and responsibilities of the officers who are involved in the administration of a jail. Starting from the Superintendent, the chapter lays out the duties of the Deputy Superintendent, Deputy Superintendent Factory, the Senior and the Sub-Assistant Superintendents,<sup>24</sup> the Medical and the Additional Medical officer, pharmacist as well as the Head Warders and Warders (including both male and female). However, the Modern Prison Manual, 2016 in Chapter IV (Rule 4.03) categorises institutional personnel into the following categories:

1. **Executive (Superintendents, Additional Superintendents, Deputy Superintendents and Assistant Superintendents)**
2. **Guarding Staff (Chief Head Warders, Head Warders and Warders)**
3. **Medical Personnel (Medical Officers, Psychiatrists, Nursing Staff, Pharmacist)**
4. **Welfare Units (Assistant Director, Correctional Services, Welfare Officer, Law Officer, Counsellor, Probation Officer, Psychologist)**
5. **Educational Personnel (Teacher, Physical Training Instructor)**
6. **Technical Personnel (Instructors, Foremen, Electricians, Plumbers, Mason, Drivers, Motor Mechanic)**
7. **Agricultural (Supervisors, Agricultural Assistants)**
8. **Ministerial (Administrative Officer, Office Superintendent, Accountant, Storekeeper, Cashier, Office Assistants, Stenographers, Typist/Computer Operators, Miscellaneous Staff)**

For the purposes of this section, the above-mentioned categorisation under Model Prison Manual, 2016<sup>25</sup> has been used to evaluate the total sanctioned strength of prison officials across the functional 24

<sup>24</sup> As has been described in the previous sections, these posts have been abolished.

<sup>25</sup> In In Re Inhuman Conditions in 1382 Prisons, WP 406/2013 Order dated 5<sup>th</sup> February, 2016, the Supreme Court has emphasized that the Model Prison Manual, 2016 needs to be implemented by all States.

jails in Punjab. The data pertaining to the sanctioned strength and actual across all the jails is provided below:

Name of the Jail	Executive		Guarding Staff		Medical Personnel		Welfare Units		Educational Personnel		Technical Personnel		Agricultural		Ministerial	
	S	A	S	A	S	A	S	A	S	A	S	A	S	A	S	A
Central Jail, Amritsar	14	9	205	175	10	7	Nil	Nil	Nil	Nil	3	2	Nil	Nil	43	36
Central Jail, Bathinda	11	9	126	106	5	5	2	2	Nil	Nil	1	Nil	Nil	Nil	3	1
Central Jail, Faridkot	13	6	206	142	5	19	9	3	3	Nil	2	Nil	Nil	Nil	7	5
Central Jail, Ferozepur	12	4	176	129	7	7	Nil	Nil	1	Nil	3	Nil	Nil	Nil	7	7
Central Jail, Gurdaspur	9	7	21	20	4	9	Nil	1	2	2	1	Nil	Nil	Nil	4	3
Central Jail, Hoshiarpur	6	4	106	68	2	2	1	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Central Jail, Kapurthala	18	8	313	194	8	5	1	1	Nil	Nil	1	Nil	Nil	Nil	11	6
Central Jail, Ludhiana	12	8	197	141	8	8	1	1	Nil	Nil	1	1	Nil	Nil	16	16
Central Jail, Patiala	14	9	218	140	8	5	Nil	Nil	Nil	Nil	5	3	Nil	Nil	5	4
<b>District Jails</b>																
Borstal Jail, Ludhiana	8	3	82	57	5	2	Nil	Nil	9	2	11	6	Nil	Nil	8	5
District Jail, Barnala	1	1	38	38	2	2	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	1	1
District Jail, Mansa	6	5	71	67	2	4	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	17	9
District Jail, Muktsar	1	1	24	23	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
District Jail, Roopnagar	6	5	107	84	2	2	1	1	Nil	Nil	Nil	Nil	Nil	Nil	14	12
District Jail, Sangrur	7	4	135	81	1	1	Nil	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Maximum Security Jail, Nabha	11	7	197	194	2	2	Nil	Nil	1	Nil	1	Nil	Nil	Nil	6	3
New District Jail, Nabha	6	5	85	64	2	2	1	1	Nil	Nil	Nil	Nil	Nil	Nil	2	2
Open Air Jail, Nabha	3	1	33	14	1	1	Nil	Nil	1	Nil	6	2	Nil	Nil	2	2
Women's Jail, Ludhiana	4	2	46	33	2	2	Nil	Nil	1	1	1	1	1	1	8	7
<b>Sub-Jails</b>																
Sub-Jail, Fazilka	1	1	22	22	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	3	3
Sub-Jail, Malerkotla	1	1	21	21	Nil	3	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Sub-Jail, Moga	1	1	31	27	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	1	1
Sub-Jail, Pathankot	1	1	34	31	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Sub-Jail, Patti	1	1	26	25	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	4	4
<b>Total:</b>	<b>167</b>	<b>103</b>	<b>2,520</b>	<b>1,896</b>	<b>77</b>	<b>90</b>	<b>16</b>	<b>12</b>	<b>19</b>	<b>5</b>	<b>36</b>	<b>15</b>	<b>1</b>	<b>1</b>	<b>162</b>	<b>128</b>

**Table 1: Sanctioned Staff Strength and Actual Strength- All Jails**

## 2.4.1 Issues with Sanctioned Strength

Table 1 indicates that the sanctioned strength for the executive staff ranges between 11-18 personnel (Central Jails), 4-11 personnel (District Jails) and 1 person (Sub-Jails). For the guarding staff, the sanctioned strength ranges between 100-300 personnel (Central Jails), 70-200 personnel (District Jails) and 20-35 personnel (Sub-Jails).

**It is clear from Table 1 that when it comes to Central jails, the sanctioned strength (Executive and Guarding Staff) for Central Jail, Hoshiarpur and Central Jail, Gurdaspur do not match the sanctioned strength of the other Central jails.** Whilst one reason behind the same could be the fact that both these jails cater to a sanctioned inmate population strength of 900+ inmates (wherein the other Central jails cater to an inmate population strength between 1500+ to 3000+ inmates), in particular, officials from Central Jail, Hoshiarpur complained about the lack of increase in staff strength after being elevated from District Jail to a Central Jail in 2016.<sup>26</sup> **Although Officials from Central Jail, Gurdaspur did not raise a similar issue, the abysmally low numbers of sanctioned staff strength for Guarding Staff (a total of just 21 posts) needs to be further investigated.**

**Additionally, with respect to the district jails in the State, the sanctioned strength (Executive and Guarding Staff) for District Jail, Muktsar Saheb and District Jail, Barnala continues to be that of the level of a Sub-Jail.** While this issue was highlighted by the officials to the team in District Jail, Muktsar Saheb,<sup>27</sup> no similar query was raised by officials in District Jail, Barnala. However, **the data does indicate that there is a need to investigate the reasons behind the lack of increase in staff strength for the above-mentioned district jails.**

**The lack of personnel commensurate to the sanctioned strength with respect to welfare units and educational personnel also needs to be highlighted.** Although the Punjab Jail Manual, 1996

*There is a need to increase the guarding staff in Gurdaspur District prison.*

*The sanctioned strength (Executive and Guarding Staff) for District Jail, Muktsar Saheb and District Jail, Barnala needs to be upgraded to the level of a district jail.*

<sup>26</sup> This issue has been also brought forward in Chapter 1: About Punjab Prisons: Population and Infrastructure

<sup>27</sup> This issue has also been dealt with in Chapter 1: About Punjab Prisons: Population and Infrastructure

*The department should sanction staff in the educational and welfare units for all 24 jails.*

*The department should sanction, permanent or contractual staff for the technical unit in all jails.*

does not explicitly provide for the constitution of welfare units such as welfare officers, in Chapter II, Rule 4 (ix), the Manual states that programmes need to be developed to provide offenders with diversified education. Additionally, the Model Prison Manual, 2016 emphasises on the need of welfare unit (Chapter 4, Rule 4.08, IV) and educational personnel (Chapter 4, Rule 4.08, V) so as to achieve its objective of effective reformation and rehabilitation of prisoners. **Despite this, as is evident from Table 1, out of the nine central Jails, four of them do not have sanctioned strength for welfare unit and six of them do not have a sanctioned strength for educational personnel. Similarly, out of the 10 district jails in the state, eight of them do not have a sanctioned strength for welfare unit while five of them do not have a sanctioned strength for educational personnel. All the functional sub-jails (five) in the State do not have any sanctioned strength for welfare unit or educational personnel.**

**In relation to technical personnel, it is also evident from Table 1, that although the central jails do have sanctioned strength, six out of the 10 district jails, and none of the functional sub-jails have a sanctioned strength for the same. This remains a cause for concern** as technical persons such instructors, foremen, electricians, plumbers, masons, drivers, motor mechanics etc. contribute significantly to the effective functioning of the jails.

## **2.4.2 Issues with Vacancy**

**Table 1 indicates the issue of vacancy across all the different cadres, starting from the executive staff and right up to the ministerial staff (apart from medical personnel).**<sup>28</sup> However, apart from 60+ posts lying vacant in the Executive Staff across all the jails, it is extremely worrying to see the high vacancy in guarding staff. For the time period between 1<sup>st</sup> September 2017 to 31<sup>st</sup> August 2018, for the total population of 23,603<sup>29</sup> inmates across different prisons, there was a total sanctioned staff of 2,520 guarding staff, of which only 1,896 posts were filled. **This indicates that a total of 624 posts**

<sup>28</sup> It is important to note that out of the five Sub-Jails, only one has a sanctioned staff for medical personnel. This issue and other issues regarding sanctioned staff of Medical Personnel will be dealt with in the Chapter 6: Medical Infrastructure, Facilities and Access to Healthcare

<sup>29</sup> Population statement as on 31<sup>st</sup> August 2018

for guarding staff was lying vacant in the above-mentioned time period.<sup>30</sup>

As per the Model Prison Manual, 2016 the optimum ratio of jail guard to prisoner is 1:6.<sup>31</sup> It further suggests that this ratio should be followed in all shifts of the guards.<sup>32</sup> However, with regard to the State of Punjab, the sanctioned strength as well as the actual strength is wanting compared to the optimum ratio. **In regard to the sanctioned strength of guarding staff (2,520) an estimation with the total population (23,603) pegs the jail guard to prisoner ratio at 1:9 (approx.), which is higher than the optimum limit. Taking into consideration the vacancy, which puts the actual strength at 1,896, the estimated ratio with the total population (23,603) pegs the ratio at 1:12 (approx.), which is twice the optimum ratio.** While the Model Prison Manual also mandates the optimum ratio to be maintained in the shifts, in the interaction of the team with the guarding staff across the jail, a very worrying trend emerged. **The guarding staff specifically informed that during a particular shift, two guards would be in-charge of a particular ward during the day and one guard would be in-charge during the night.** Each Ward would contain anywhere between 3-12 barracks and would have a population of inmates ranging anywhere between 120 inmates to 800+ inmates (depending upon the capacity of each individual barrack inside a ward). **Hence, in practice, during shifts, the jail guard to prisoner ratio would effectively range between 1:60 to 1:400.**

A specific fall out of vacancy was also documented by the team during their visits. It was as follows:

### **2.4.3 Lack of Accountability for non-Punjab prisons personnel**

During the visits, the team observed that different kind of forces would be working inside Punjab prisons, apart from officials belonging to Punjab Prison Services. These are: the Punjab Police, the Punjab Armed Police (P.A.P), the Indian Reserve Battalions (I.R.B), Punjab

<sup>30</sup> Issues regarding vacancy jail-wise can be referred to in Part B of the Report.

<sup>31</sup> Rule 4.08, (II), Chapter IV, Model Prison Manual, 2016.

<sup>32</sup> Ibid.

*The state government/prison department should immediately address the high level of staff vacancy in the executive unit and the guarding unit across all jails.*

*It is important to fill in staff vacancies to reduce reliance on the services of external forces in prison administration.*

Ex-Servicemen Corporation (PESCO) employees and Home Guard. Officials across all the jails highlighted the fact that the assistance of these forces were being taken due to the vacancy and cheaper cost of employing the personnel from the above-mentioned forces on a contractual basis. **Unanimous opinion emerged during the interaction of the team with officials, that Punjab Jails should only be administered by Punjab Prison Services Officials, and not by officials from any other force.** Reasons behind the same included lack of accountability, lack of technical know-how of working inside the prisons as well corrupt activities involving smuggling of mobile phones and drugs inside the jails by Non-Punjab prisons personnel.

## 2.5 PRISON BUDGET AND EXPENDITURE

Chapter V of the Punjab Jail Manual, 1996 lays down the provisions for General Supervision of jails across Punjab. In particular, it also lays down the role and responsibilities of the Inspector General of Prisons, which also includes provision of funds, expenditure and accounts (Rule 21). The entire control and expenditure of the jail department is vested in the Inspector General, which is subject to the arrangements for securing due budget provision and the allotment of funds made under the order of the State Government. The prison wise budget allocation and expenditure of the 24 functional jails in Punjab are provided as under:

Name of the Jail	2014-15 (in Rs.) (A)		2015-16 (in Rs.) (B)		2016-17 (in Rs.) (C)		Net Balance <sup>33</sup> (in Rs.)
	Allocated	Expenditure	Allocated	Expenditure	Allocated	Expenditure	
Central Jail, Amritsar	200,94,78,000	20,85,97,926	24,46,24,000	20,43,18,488	20,67,30,000	20,06,74,663	<b>184,72,40,923</b>
Central Jail, Bathinda	4,44,52,000	4,24,47,791	4,10,79,000	2,98,86,815	4,99,83,000	3,86,28,469	<b>2,45,50,925</b>
Central Jail, Faridkot	13,28,29,116	12,68,48,907	13,10,07,000	11,38,55,108	14,97,10,000	13,12,38,623	<b>4,16,03,478</b>
Central Jail, Ferozepur	12,96,60,000	12,86,66,729	13,81,23,000	12,84,84,471	14,74,24,000	13,80,30,149	<b>2,00,25,651</b>
Central Jail, Gurdaspur	3,68,30,000	3,47,51,279	4,16,69,000	3,03,70,407	5,77,07,000	3,53,36,273	<b>3,57,48,041</b>
Central Jail, Hoshiarpur	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	<b>Not Provided</b>
Central Jail, Kapurthala	18,42,31,000	18,24,55,883	20,60,93,000	18,64,64,528	21,30,65,278	20,46,18,069	<b>2,98,50,798</b>
Central Jail, Ludhiana	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	Not Provided	<b>Not Provided</b>
Central Jail, Patiala	17,29,96,000	17,13,35,468	18,13,94,000	16,66,90,577	19,46,20,000	16,28,39,246	<b>4,81,44,709</b>

<sup>33</sup> The Net Balance is Total Allocation (A+B+C) – Total Expenditure (A+B+C).

Name of the jail	2014-15 (in Rs.) (A)		2015-16 (in Rs.) (B)		2016-17 (in Rs.) (C)		Net Balance <sup>34</sup> (in Rs.)
	Allocated	Expenditure	Allocated	Expenditure	Allocated	Expenditure	
Borstal Jail, Ludhiana	6,24,72,369	5,98,38,734	6,01,35,000	5,76,92,025	6,19,38,000	5,79,10,071	9,10,45,369
District Jail, Barnala	1,13,000	54,403	3,80,140	2,70,951	60,000	2000	2,25,786
District Jail, Mansa	5,23,00,000	4,85,14,292	5,31,19,000	4,74,46,922	5,52,07,000	5,07,22,776	1,39,42,010
District Jail, Muktsar	1,53,20,000	1,30,80,010	1,83,50,000	1,75,07,814	2,74,46,000	2,35,09,337	70,18,839
District Jail, Roopnagar	6,02,94,000	5,09,50,108	6,34,86,000	5,73,57,780	9,08,15,000	6,02,75,612	4,60,11,500
District Jail, Sangrur	9,39,13,000	9,37,76,132	11,49,60,000 <sup>35</sup>	9,52,89,988	12,26,13,000	10,71,35,332	3,52,84,548
Maximum Security Jail, Nabha <sup>36</sup>	7,20,91,000	7,05,88,752	8,60,87,000	6,82,58,655	7,78,75,000	7,00,07,754	2,71,97,839
New District Jail, Nabha	5,53,28,000	5,30,53,539	18,00,72,000	17,15,34,717	7,12,84,000	6,31,19,496	1,89,76,248
Open Air Jail, Nabha <sup>37</sup>	3,20,000	3,15,008	13,37,000	10,88,506	15,14,000	5,15,576	12,51,904
Women's Jail, Ludhiana	2,43,78,000	2,39,53,761	2,57,92,000	2,44,46,020	2,79,34,680	2,53,09,033	4,43,95,866
Sub-Jail, Fazilka	1,66,60,000	1,38,90,222	53,88,000	1,38,68,283	1,76,96,000	1,58,02,982	(-)38,17,487
Sub-Jail, Malerkotla	1,47,82,000	1,13,34,732	1,17,94,000	1,08,70,477	1,41,65,000	87,85,912	97,49,879
Sub-Jail, Moga	2,58,000	2,52,000	2,95,000	2,78,000	3,22,000	3,02,000	43,000
Sub-Jail, Pathankot	1,92,83,000	1,37,80,107	2,03,63,000	1,55,07,043	2,66,87,000	1,37,13,465	2,33,32,385
Sub-Jail, Patti	1,61,55,000	1,38,85,000	1,52,78,000	1,30,07,000	2,21,65,000	1,45,23,000	45,41,000

**Table 2: Budget Allocation and Expenditure (2014-17)**

From the figures in *Table 2*, it is apparent that the allotment of budget in regard to Central Jails, District Jails and Sub-Jails are mostly similar (with the exception of Central Jail Amritsar<sup>38</sup>). However, anomalies exist. **The Central Jail, Bathinda and Central Jail, Gurdaspur have consistently received less allotment of budget in comparison to the other Central jails. Similar observations can be made with respect to District Jail, Muktsar and District Jail, Barnala (for whom the allotment is abysmally low). Among the five functional Sub-Jails, budgetary allocation for Sub-Jail, Mogawas meagre in comparison with the others.**

*There is an urgent need to examine the discrepancy between budgetary data indicating under-utilization of the allocated budget and recurring complaints of lack of funds.*

<sup>34</sup> The Net Balance is Total Allocation (A+B+C) - Total Expenditure (A+B+C).

<sup>35</sup> Discrepancy in Data Provided by the Jail.

<sup>36</sup> Discrepancy in Data provided by the Jail

<sup>37</sup> Discrepancy in the data provided by the Jail

<sup>38</sup> The reason behind the high allotment of budget for Central Jail, Amritsar in 2014-15 might be the fact that the jail was established in 2014-15.

*Consider increasing the cap for the provision of Permanent Advance, that is capped at Rs.100, which would help in dealing with budgetary issues faced by jails.*

*There is an urgent requirement from the State Home Department to look into issues being faced by prisons and work towards improving conditions of Punjab prisons.*

**Additionally, it can also be observed that apart from Sub-Jail, Fazilka, and the cumulative net balance of all the jails for the period of 2014-17 has been in the positive, indicating the lack of expenditure and under-utilization of the allocated budget.** However, this indication is contrary to the information provided by the jail officials during the visit of the team to the jails. A consistent trend was observed wherein officials complained of the **lack of adequate budget** provided to jails for its effective functioning. The officials stated that there was always lack of budget for medical and health facilities (also observed in the interaction of the team with the medical officers) for which instead, the budget of the welfare fund was being used. Also, officials from jails such as Central Jail, Ludhiana and Central Jail, Patiala, informed that due to lack of adequate budgetary allocation for prison labour and wages, no payment was being made to convicts since 2017. Officials further informed that although there exists sanctioned budget, due to bureaucracy, disbursement of the funds in a timely manner was also an issue. A suggestion was also made in regard to the increase in the cap for the provision of Permanent Advance,<sup>39</sup> which would help in dealing with budgetary issues faced by jails.

**This discrepancy between the trend indicated from the budget net balance (between 2014-17) and the complaints of the officials needs to be further investigated.**

## **2.6 EXPERIENCES AND ISSUES OF PRISON OFFICIALS**

The team during their visits to the jails, got an opportunity to interact in detail with multiple officers across different cadre. Starting from the Superintendents, Deputy Superintendents, Deputy Superintendents (Factory) to Head Warders/Matrons and Warders/Matrons, specific issues faced by them from the organisational level to person levels were discussed. The team also was able to interact with Special units such as the Dog Squad unit that was functioning in multiple jails of Punjab. Below is a summary of the issues that were faced and warrant attention:

<sup>39</sup> As per the Financial Rules, the Permanent Advance is capped at Rs. 100.

### **i) Lack of Prioritisation for Prisons and its Issues**

One unanimous opinion of the officials across the jails was about the lack of prioritisation and consequent neglect of the Punjab Prison Department by the State Government. It was informed that prisons are given the least priority amongst the State departments, which not only was a cause of de-motivation amongst the department, but also had a direct impact on the effective functioning of the prisons across the State. Some officials stated that working in prisons was amongst the toughest jobs, and still it didn't get the credit that it required. They suggested that for the improvement of functioning of prisons across the State, it was pertinent that the department gets the prioritisation and the attention it urgently requires.

### **ii) Lack of Corrective/Rehabilitative Measures**

During the course of interaction with one of the senior officials, the team was informed that Punjab Prisons works on the motto of 3C's i.e. Custody, Care and Correction. **However, in reality, focus was only on custody, and no attention was given to care or correction.** Other senior officials also voiced the same opinion, wherein suggestions were made regarding the urgent need of a "Rehabilitation Department", which would be entrusted with the responsibility of ensuring proper rehabilitation of inmates, once they are released. However, **there was a consistent opinion amongst officials for the need of substantive work on corrective and rehabilitative measures**, which at present, was not happening in the jails of Punjab.

### **iii) Lack of Opportunity/Difference in Treatment of Women Prison officers**

The Punjab Prisons Department is pre-dominantly a male department. This was observed by the team during their visits to all the functional 24 jails in Punjab. Although there were a good number of women officers at the post of Head Matron and Matron, **severe disparity in regard to women officers at Senior Positions (Deputy Superintendent Grade II and above) was observed.** The Punjab Prisons set up also had just one women officer at the Superintendent level and two women officers at the Deputy Superintendent level. The

*Conscious efforts should be made to appoint women in all units of the cadre and they should be given equal opportunity to serve in all jails and not just women's jail.*

*The prison department must take up the issue of lack of police escorts with the Police department. The same should be communicated to the courts that escort allocation is a prerogative of the police department and not prisons.*

*Increased utilization of the Probation of Offenders Act should be considered by the judiciary.*

Superintendent and one of the Deputy Superintendent were posted at the Women's Jail in Ludhiana, while the other Deputy Superintendent was in-charge of the Women's Section in Central Jail, Patiala.

The team further observed a **tendency on the part of the department to not post women officers in jails apart from the Women's jail.** The team was further informed that even after requesting for the same, the tendency was to ask the women officers to just be in-charge of a women's jail, or at best, of a women's section inside the jail. **All the officials unanimously opined and felt that there was glass ceiling for women officers and stated that women officers were always under the undue burden of putting in additional effort in comparison to similarly ranked male officers.** The resulting lack of opportunity and exposure of working across the other jails in Punjab was indicative of the prevalent gender-based discrimination in the Punjab Prisons Department.

#### **iv) Issue of Court Production-Undue Blame on Prisons Department**

Another trend that was brought out to the team by the officials across the jails **was the lack of adequate number of police escorts for the production of prisoners to the court.** In relation to this problem, senior officials alleged that for missed production hearings of inmates, the courts were holding the Superintendent of the jail responsible. Attention of the team was brought to Rules 11 and 12 of *The Prisoners (Attendance in Courts) Rules, 1969*, where under it was the duty of the Police to provide escorts for prisoners and that the escort of prisoners under *The Prisoners (Attendance in Courts) Act, 1955* was to be undertaken and arranged for by the Police. Despite the existing mandate of the law, officials alleged that holding the Superintendent of the Jail responsible and penalizing them for missing of court productions was unfair and betrayed a lack effort on the part of the local courts to enforce *The Prisoners (Attendance in Courts) Rules, 1969*.

#### **v) Limited Usage of Probation of Offenders Act, 1958**

In the conversation of the team with certain officials across the jails, attention of the team was drawn towards the under-utilisation/

limited utilization of the provisions of the *Probation of Offenders Act, 1958*. Whilst officials stated that under-utilisation of the said Act is one of the reasons behind the over-crowding in certain jails, they also further suggested that the team carry out a study evaluating the usage of the *Probation of Offenders Act, 1958* in the State.

#### **vi) Issue of Vacancy- Low Rate of Recruitment and Multiplicity of Roles**

Section 2.2 of this chapter has already brought out the issues regarding the severe vacancy faced across all cadres in the Punjab Prisons. A causation of vacancy as shared by officials was the extreme low rate of recruitment, which required rectification by the State Government. It was brought to the notice of the team that in regard to the recruitment of guarding staff, the gap between the two cycles was very large. It was noted that after the recruitment of guarding staff in 1992, the next recruitment took place as recently as 2017, thereby effectuating a gap of 25 years between the recruitment cycles. As a result of such vacancy and low rate of recruitment, several officials complained that often one officer was assigned multiple responsibilities, thereby severely affecting their output and efficiency.

#### **vii) Problem with Promotions (Guarding Staff)**

**The problem with promotions, specifically in regard to the guarding staff was unanimously highlighted by all the officials who interacted with the team.** The team got an opportunity to interact with warders who, in their 20-30 years of service, had just been promoted to the post of head warder, or had not been promoted at all. This was despite the fact that all of them claimed that they had an impeccable and clean record.

During conversations with the head warders, some of them informed that while some of them did get officially promoted to the post of Assistant Superintendent, others (majority) amongst them were working in the on-pay scale (OPS) of Assistant Superintendent but had not been promoted. In the opinion of the officials, this was a cause for serious concern as lack of promotions was considered to be extremely demoralising in nature. This **seriously jeopardizes**

*Recruitments should be a regular process, especially in the guarding unit.*

*In Punjab prisons, recruitment of personnel can be a yearly practise.*

*Procedures for providing promotions should be streamlined for all staff cadres, especially the guarding unit personnel.*

*The state government should address the existing pay parity between Punjab police service and prison service.*

**the effective implementation of Punjab Jails Department Service Rules (Class III-Executive) Rules<sup>40</sup> and the functioning of the Promotion Board for warders as established under the Punjab Jail Manual, 1996.<sup>41</sup>**

**viii) Lack of Pay-Parity with Punjab Police**

In the conversation of the team with the Senior Officials, allegations were made in regard to the lack of pay parity with Punjab Police Services. While they stated that some of the positions were at par with the Punjab Police, there were others that were not equitable, and hence was a cause behind demotivation of Punjab Prison Officials. **In their opinion, such lack of pay-parity ought to be rectified and urgently resolved.**

**ix) Discrimination against Guarding Staff belonging to Punjab Jail Guard Association**

In some of the jails visited by the team, they got the opportunity to specifically interact with head warders and warders, who were a part of a trade union called the Punjab Jail Guard Association. The members of the association stated that a point of time, there was a huge membership of the association and by virtue of the resulting bargaining power, the Punjab Jail Guard Association was allowed to directly represent their issues in front of the District Collector/Deputy Commissioner of the district. However, they alleged that as a result of this, indirect and direct discrimination was meted out against the members of the Punjab Jail Guard Association by the Senior Punjab Prison Officials across the State to dissuade other Head Warders/Warders from joining the association. This, in the opinion of the members who interacted with the team, was the reason behind the huge decrease in the numbers of Head Warders/Warders joining the association, to the extent that the association is in the verge of collapse. Hence, an urgent need was highlighted to take measures which would prevent and help protect the jail guards from discriminatory treatment by senior officials.

<sup>40</sup> Asper Rule 223 of Punjab Jail Manual, 1996, the recruitment, posting, transfer, seniority, promotion and punishment of warders is governed by the Punjab Jails Department Service Rules (Class III-Executive) Rules

<sup>41</sup> Rule 225 of Punjab Jail Manual, 1996

### **x) Lack of Rest, Severe Work Pressure and Need for Counseling/Psychiatric Help**

Lack of rest and severe work pressure was also complained of, by the officials, in particular officials like the Guarding Staff and the Deputy Superintendent (Maintenance). It was highlighted that due to high number of vacancy and lack of recruitment, the guarding staff was severely overworked and lacked adequate rest. They also alleged that the work pressure resulted in them not being able to avail their officially entitled leaves as requests for the same usually get rejected.

During conversations with multiple Deputy Superintendents (Maintenance) across the jails, it was highlighted that this post had severe work pressure as the jail was primarily administered and managed by personnel on this post. They also claimed that Deputy Superintendent (Maintenance) also lacked the provision for a weekly rest, which persons employed in all other cadre and posts were entitled to. Additionally, officials across the junior and the senior cadre complained about the severe stress which was part of their job profile and stated that there was a need of counselling/psychiatric help for the officials, so as to ensure their mental and emotional well-being.

### **xi) Security threats, need for Government Vehicles and Upgraded Arms**

In the conversation of the team with jail officials across the jail, it was highlighted that senior jail officials received constant threats from gangsters as well as inmates inside the jail. They also emphasised that this threat was not just limited to them personally, but also extended to their families. It was highlighted by the officials that to enhance security, government vehicles, armed gunmen with enhanced trainings and upgraded arms were urgently required.

### **xii) Issues with respect to the Sniffer Dog Unit**

One of the special units working inside the jails of Punjab is the Sniffer Dog Unit. Although the sniffer dog unit is not posted across all the jails, the team did come across the units in **Central Jail, Ferozepur, Central Jail, Hoshiarpur, Central Jail, Kapurthala and District Jail,**

*Regular counseling sessions should be arranged for prison staff to ensure their mental well-being.*

*Provision should be included in service rules to permit weekly off for personnel of all ranks.*

*There is a need to review the security requirements of prison staff; enhance their security and provide them government vehicles, armed gunmen with enhanced trainings and upgraded arms.*

*Sniffer dogs should be there in all jails.*

*The government/prison department may revise the Punjab jail manual to include the functioning of Dog Squad Units that continue to function despite formal documentation of the same.*

*This concern must be adequately enquired into and issue of parity addressed.*

**Roopnagar.** The team got an opportunity to have a detailed interaction with the dog handlers, both at the Assistant Superintendent level and the Warder level, who at the outset highlighted that the standard operating procedure for the Sniffer Dog Unit was not being followed. These included the dogs being posted permanently in the jail from 9:00AM to 7:00PM and the usage of dog handlers for other duties inside the jail.

Apart from that, the officials urged that it is essential that the Dog Squad unit was added to the Punjab Jail Manual, 1996, of which, at present there is no mention. Addition of the Dog Squad unit would entitle the officials associated with them to be able to take benefit of all the provisions of the Jail Manual, which currently they were not. Another issue regarding lack of parity with dog squads of Punjab Police was also highlighted. It was alleged that a police constable who under-went dog training, at the completion of the same, was immediately promoted to the position of Head Constable. However, this was not the case for warders of Punjab Prisons, who even after undergoing the training, would stay at the post of Warder at the completion of the same.

### CHAPTER 3

## PRISON OVERSIGHT MECHANISMS

For the effective administration and functioning of prisons, oversight mechanisms play a crucial part. Not only do oversight mechanisms help keep in check the irregularities or issues inside a prison (if any), inspection by oversight authorities of issues such as prison conditions, prolonged detention, medical facilities, food and water requirements and any other violation of prisoner's rights, is essential. **For this, the Punjab Jail Manual, 1996 recognizes that prisons are a 'closed world' and necessitates visits by selected eminent public men to give independent reports on the functioning of prisons.**<sup>42</sup>

As a result of this objective, Chapter VI of the Manual provides for detailed provisions for the establishment of Board of Visitors (BOVs)<sup>43</sup> comprising both Official and Non-Official visitors (NOVs)<sup>44</sup>. The Board is mandated to meet once in every quarter, whereas the official and non-officials visitors are mandated to visit jails on a periodic basis<sup>45</sup> and are duty bound to examine various aspects of jails and make representations or petitions in front of the respective State Government for improvements, if required.<sup>46</sup> The Model Jail Manual, 2016 also provides detailed provisions for the appointment and duties of Board of Visitors, including detailed lists of the dignitaries who can be appointed as Officials and Non-Official visitors.<sup>47</sup> The establishment of Board of Visitors and visits by official and non-officials visitors, hence, is the central cog in the oversight of prisons in the State of Punjab.

Additionally, in order to deal with the issue of overcrowding, the Ministry of Home Affairs (MHA), Government of India through its advisory of 17<sup>th</sup> January 2013, developed another prison oversight mechanism recognizing that disproportionate amount of prison space and resources for prison maintenance was being spent on undertrial inmates which was not sustainable.<sup>48</sup> Hence, the MHA advised the

<sup>42</sup> Chapter II, Aims and Objectives, Rule 4 (xxi)

<sup>43</sup> Rule 47 of Punjab Jail Manual, 1996

<sup>44</sup> Rule 41 of Punjab Jail Manual, 1996

<sup>45</sup> Rule 42- Visits by Official Visitors- Commissioners and Sessions Judges are required to visit the jails at their headquarters once in three months and once a month respectively. District and Sub-Divisional Magistrates or Magistrates are mandated to visit once a month; Rule 46- Visits by Non-official visitors- are expected to visit the jail once a month and oftener as possible. Non-Official visitors are not required to give intimation of their intended visit.

<sup>46</sup> Rule 47 of Punjab Jail Manual, 1996

<sup>47</sup> Chapter XXIX, Model Jail Manual, 1996

<sup>48</sup> Available at: [https://mha.gov.in/sites/default/files/AdvSec436APrisons-060213\\_0\\_0.pdf](https://mha.gov.in/sites/default/files/AdvSec436APrisons-060213_0_0.pdf) (last accessed on 25th November 2019)

State Governments/UTs to set up Undertrial Review Committees (UTRCs), which were mandated to periodically review cases of prisoners and act as a check on unnecessary and prolonged detention of prisoners. **The importance of UTRCs was also recognized by the Supreme Court of India in *In Re: Inhuman Conditions in 1382 Prisons*,<sup>49</sup> which not only directed National Legal Services Authority (NALSA) along with Ministry of Home Affairs and State Legal Services Authorities (SLSAs) to ensure that a UTRC was set up in every district**, but later, also increased the scope of UTRC to include 14 categories of inmates for consideration of their early release.<sup>50</sup> Therefore, combined with the BOVs, UTRCs also play an important role in the oversight of prisons in a particular State.

### 3.1 BOARD OF VISITORS

#### a) Constitution of Board of Visitors

As per the information provided by the 24 functional jails, for the period between September 2017 and August 2018, **only one jail (Central Jail Hoshiarpur) confirmed that Board of Visitors had been constituted.**<sup>51</sup> This is in direct contravention of Rule 47 of Punjab Jail Manual, 1996, which mandates that the District Magistrate to constitute a Board of Visitors, of which the District Magistrate is the *ex-officio* Chairman. It is mandated that this Board will comprise no less than two official visitors and one non-official visitor and are supposed to meet once in every quarter and visit the jail of which they are visitors. **It is abundantly clear that the mandate of constituting Board of Visitors for every jail in a district is not being followed by 99% of District Magistrates in Punjab.**<sup>52</sup>

#### b) Appointment and Visits by Non-Official Visitors

As per Rule 44 of the Punjab Jail Manual, 1996, Non-Official Visitors (NOVs) are persons who are interested in social work and have a background in the same and for appointment, should be considered from amongst M.L.As, Ex-M.L.As or other social workers of repute from

<sup>49</sup> WP No. 406/2013, Order Dated: 24<sup>th</sup> April 2016

<sup>50</sup> WP. No 406/2013, order dated 6<sup>th</sup> May 2016

<sup>51</sup> The information provided mentions that four reports were submitted by the Visitors during their visit, and action was taken on the four reports submitted. Further the information Actions taken, was also submitted by the Jail department to the State Government.

<sup>52</sup> Central Jail, Amritsar in its response mentioned that the information on the constitution of Board of Visitors is not available with the Jail and is available with the office of the District Magistrate. Rest of the 22 Jails provided information such as Nil or Not Applicable or (--).

*State government/prison department must constitute the Board of Visitors as mandated under Rule 47 of Punjab Jail Manual, 1996, with the District Magistrate as the ex-officio member.*

*Once the board is constituted, they are mandated to visit prisons and conduct meetings of the Board in every quarter.*

*Information regarding BOVs including official and non-official visitors must be displayed at strategic locations inside the jail.*

a particular district. Despite the observation that no Board of Visitors has been established in most of the jails in Punjab, the information provided by the jails for the period of September 2017 to August 2018 does mention that Non-Official Visitors have been appointed in some of the jails. The same information mentioned that **only two jails** (District Jail, Barnala and District Jail, Roopnagar) **had appointed NOV**s. However, they further mentioned that the NOVs did not make any visits to the jail during the same time period. Peculiarly, while the information from Central Jail, Ludhiana mentioned that no NOVs were appointed, at the same time, it was mentioned that 18 visits were made by the NOVs and a further nine training/orientation programmes were also organised for NOVs during the above-mentioned time period. This peculiarity of Central Jail, Ludhiana requires investigation.

### c) Visits made by Official Visitors

As per the Punjab Jail Manual, 1996, Rule 41 (2) provides the list of officers considered as official visitors. These are: 1) Commissioners of Divisions; 2) District and Sessions Judges; 3) District Magistrates; 4) Sub-Divisional Magistrates; 5) Deputy Inspector-General of Police; 6) Superintendents of Police; 7) Reclamation Officer, Punjab; 8) Director of Industries, Punjab; 9) Civil Surgeon of the District; and 10) Director, Social Welfare, Punjab. Despite the fact that Board of Visitors have not been appointed in most of the districts in Punjab, the information provided by the 24 functional jails indicate that visits from Officials visitors have been made between September 2017 and August 2018. These include visits by District and Sessions Judges and the DLSA Secretaries.

*The state government should immediately appoint non-official visitors (NOVs) for all jails as mandated under Rule 44 of Punjab Jail Manual, 1996.*

*There should be periodic visits by official visitors to all the jails as mandated under Rule 42 of the Punjab Jail Manual.*

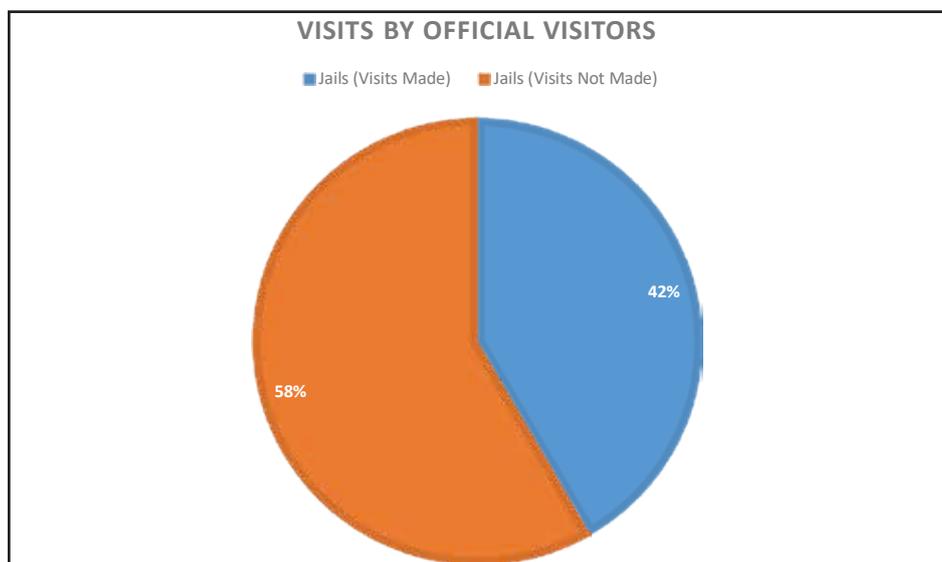


Figure 1: Visits by Official Visitors

*Official and Non-official visitors must document the summary of query/ observation/ complaint from the jail visit and recommend plausible solution and action on part of the stakeholders in the visitors book.*

*Observations of BOVs can be shared with the District and Sessions Judge and the Punjab SLSA.*

As is evident from *Figure 1*, out of the 24 functional jails in Punjab, visits by official visitors were made **only in 10 out of the 24 jails**. **This indicates that the mandate of Punjab Jail Manual, 1996 under Rule 42, which necessitates the periodic visits by officials (between 1-3 months), is not being followed by 58% of the jails in Punjab.** Additionally, from amongst 10 jails (where visits are being made by official visitors), only four jails (**District Jail, Roopnagar, Central Jail, Hoshiarpur, Central Jail, Ludhiana, and Central Jail, Amritsar**), indicated that some sort of format/template had been developed for visitors to record their observations.<sup>53</sup>

**Hence, based on the observations made above, it can be fairly concluded that oversight mechanism relating to BOVs is arguably dysfunctional across the jails of Punjab.**

## **3.2 UNDERTRIAL REVIEW COMMITTEES (UTRCS)**

As per the MHA Advisory,<sup>54</sup> a UTRC is a district level committee, which consists of the District Judge as Chairman and the District Magistrate (generally Secretary, District Legal Services Authority) and Superintendent (Jail) as its other two members. The Supreme Court in its order, dated 24 April 2015,<sup>55</sup> directed the National Legal Services Authority (NALSA) along with the Ministry of Home Affairs (MHA) and the State Legal Services Authorities (SLSAs) to ensure that the UTRC is formed in every district of the country and that they meet every quarter. The court relied on the MHA advisory issued on 17 January 2013 for the purpose of implementation of section 436A of the Code of Criminal Procedure, 1973. Additionally, the court mandated these committees to review the cases of undertrials who are unable to furnish surety after being granted bail by the court and of those accused of compoundable offences.

On 06.05.2016, the domain of UTRC was enhanced by inclusion of total 14 categories of inmates for consideration of their early release.

<sup>53</sup> An anomaly to this observation is Sub-Jail, Fazilka, where although no visits by official visitors have taken place between September 2017 and August 2018, the jail stated that a template/format had been developed for visitors to record their observations.

<sup>54</sup> Please see Annexure VI

<sup>55</sup> Writ Petition (Civil) 406/2013.

These are:

1. **UTPs falling within the ambit of Section 436A Code of Criminal Procedure, 1973.**
2. **UTPs released on bail by the court but who have not been able to furnish sureties.**
3. **UTPs accused of compoundable offences.**
4. **UTPs eligible under Section 436 of Code of Criminal Procedure, 1973.**
5. **UTPs who may be covered under Section 3 of the Probation of Offenders Act, 1958 namely, accused of an offence(s) under Sections 379, 380, 381, 404, 420 Indian Penal Code, 1860 or alleged to have committed an offence entailing not more than 2 years' imprisonment.**
6. **Convicts who have undergone their sentence or are eligible for release because of remission granted to them.**
7. **UTPs who have become eligible to be released on bail u/s 167(2)(a)(i) & (ii) of the Code of Criminal Procedure, 1973 read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons have been accused under Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days.**
8. **UTPs who are imprisoned for being accused of committing offences which carry a maximum punishment of 2 years.**
9. **UTPs who are detained under Chapter VIII of the Code of Criminal Procedure, 1973 i.e. u/s 107, 108, 109 and 151 of the Code of Criminal Procedure, 1973**
10. **UTPs who are sick or infirm and require specialized medical treatment.**
11. **UTPs being women offenders**
12. **UTPs who are first time offenders between the ages 19 and 21 years and in custody for an offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible.**
13. **UTPs who are of unsound mind and must be dealt with Chapter XXV Code of Criminal Procedure, 1973.**
14. **UTPs eligible for release under Section 437(6) Code of Criminal Procedure, 1973, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.**

### 3.1.1 Functioning of UTRCs (September 2017-August 2018)

As per the information provided by the DLSAs, the UTRCs were functional in all districts which had a jail established under its jurisdiction. However, it is important to note there were certain DLSAs that were catering to multiple jails and certain jails which were catering to multiple DLSAs. These were as follows:

- 1) **Persons from district Kapurthala and Jalandhar are housed in CJ Kapurthala which is why two DLSAs have jurisdiction**
- 2) **Central Jail Patiala houses persons from Patiala and Mohali**
- 3) **DLSA, Sangrur catering to District Jail, Sangrur and Sub-Jail, Malerkotla**

A further analysis of the functioning of UTRCs in the State of Punjab is provided below:

#### a) **Number of Meetings Held**

As per its mandate, a UTRC in a particular district is supposed to meet quarterly i.e. once in three months, to identify and evaluate UTPs, who would satisfy the above-mentioned 14 criteria and be eligible for early release, as directed by the Supreme Court of India.

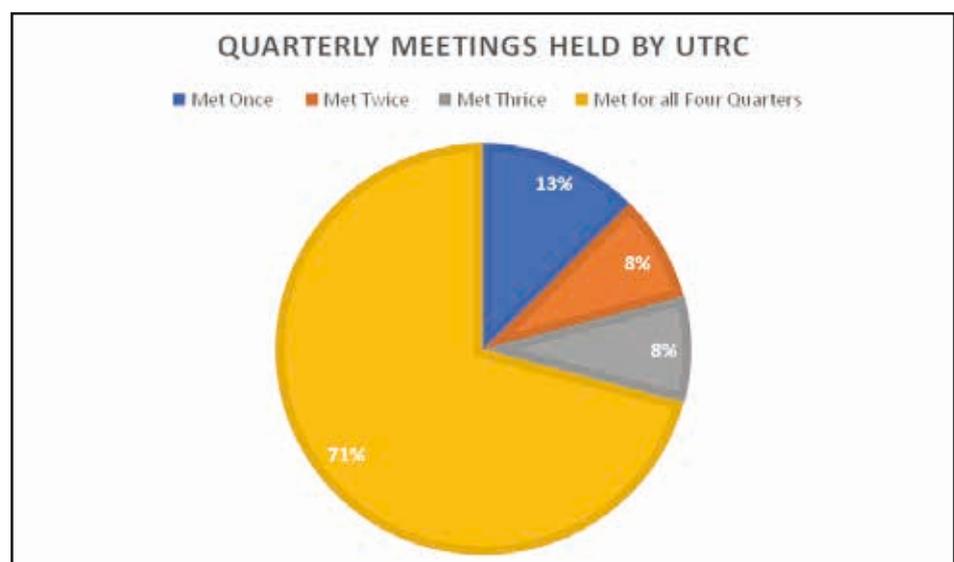


Figure 2: Quarterly Meetings by UTRCs (All Jails)

As is evident from *Figure 2*, 72% of the jails, i.e. 17 jails<sup>56</sup> in the State were in compliance of the direction for UTRCs to meet quarterly. **Only two UTRCs met thrice (for Central Jail, Amritsar and District Jail, Mansa), two UTRCs met twice (for Central Jail, Bathinda and Sub-Jail, Moga) and three UTRCs just met once (for Central Jail, Gurdaspur, Sub-Jail, Fazilka and Sub-Jail, Pathankot).** However, the UTRCs who failed to meet as per the mandated quarterly requirement, did not provide any explanation for missing the meetings, which needs to be further investigated.

### **b) Categories of Cases Reviewed by UTRCs in different Districts**

Based on the information provided, out of the 14 criteria laid out by the Supreme Court, the UTRCs across different districts in Punjab identified and reviewed cases of UTPs on eight of the 14 criteria. These were:

- 1) **UTPs eligible under Section 436 of Code of Criminal Procedure, 1973.**
- 2) **UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 Indian Penal Code, 1860 or alleged to be an offence not more than 2 years imprisonment.**
- 3) **UTPs accused of compoundable offences.**
- 4) **UTPs released on bail by the court but have not been able to furnish sureties.**
- 5) **UTPs who are detained under Chapter VIII of the Code of Criminal Procedure, 1973 i.e. u/s 107, 108, 109 and 151 of the Code of Criminal Procedure, 1973**
- 6) **UTPs eligible for release under Section 437(6) Code of Criminal Procedure, 1973, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.**
- 7) **UTPs who are sick or infirm and require specialized medical treatment.**
- 8) **UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.**

<sup>56</sup> For Central Jail, Kapurthala, both the UTRCs i.e. for DLSA, Kapurthala and DLSA, Jalandhar, met four times as per the mandated requirement

*UTRCs must meet once in every quarter as per the required mandate.*

*Cases for recommendation and release by the UTRCs is not clear from the data received, this needs to be examined further.*

*If a person is not released even after the recommendation of the UTRC, then the reasons for that should be shared with the UTRC in the next meeting.*

### c) **Number of Cases Recommended and Actually Released**

In total, across the 24 functional jails, 319 UTPs were recommended by the UTRC for release on bail across the above-mentioned eight categories. **However, it is important to note here that these recommendations for release only covered 3 out of the 24 jails (Central Jail, Bathinda, Central Jail, Gurdaspur and Central Jail, Kapurthala<sup>57</sup>).** Further, out of the 319 UTPs recommended, 193 UTPs were actually released. However, a peculiar observation was made wherein out of the 193 UTPs actually released, 108 of them were released from Central Jail, Patiala, wherein the UTRC did not make any recommendation for the release of UTPs. Further, similar observation was made in regard to the UTRC established by DLSA Jalandhar (for Central Jail, Kapurthala), wherein 23 inmates were released, despite the UTRC not making any recommendation for the same. **This peculiarity in regard to Central Jail, Patiala and Central Jail, Kapurthala (in regard to DLSA, Jalandhar) might be because of improper documentation of the UTRCs recommended for release and those that have been actually released, and hence needs to be further investigated. Additionally, the reasons behind the release of just 60% of the recommended UTPs overall across the jails, needs to be further investigated as no explanation has been provided for the same.**

<sup>57</sup> This figure does not include the information from District Jail, Barnala, wherein information has been provided for UTPs who were recommended to release under the criteria (UTPs who are granted bail, but unable to furnish security), has been provided as "Annexure-A" - which has not been attached with the information.

## CHAPTER 4

# ADMISSION TO PRISONS & CLASSIFICATION OF PRISONERS

Life inside prison is strictly regulated, wherein there exists a regime governing the daily routine of an inmate. Starting from admission procedures, the regime generally includes lock-in/lock-out timings, production of inmates to their respective courts (either physically or through video conferencing), meal timings, timings for using phone facilities, timings for interviews (otherwise colloquially known as *mulaqaat*), as well as work timings (for convicted inmates). In this regard, **analysing admission procedures becomes essential as procedural safeguards such as medical examination, information regarding free legal aid services, detection of contagious diseases such as tuberculosis, HIV+ and HCV and subsequent segregation, providing of basic amenities etc. are essential in ensuring that rights of prisoners are protected.**

This chapter analyses the issues associated with the admission process across the 24 functional jails in Punjab.

## 4.1 ADMISSION PROCEDURES (MULHAIZA)

The Punjab Jail Manual, 1996 contains detailed chapters in regard to admission of inmates and the processes that follow it. Starting from a chapter on admission (Chapter XI) which provides for establishment of reception ward, examination, management and custody of warrant, examination during admission and search of prisoners, the other procedures include preparation and maintenance of history tickets (Chapter XIII), and classification and separation of prisoners (Chapter XVI). While these are the provisions in relation to admission contained in the manual, the following figure illustrates the general admission procedure for inmates based on the observation of the team during their visits and interactions with the inmates.



*Figure 1: Admission Procedures (All Jails)*

*Figure 1* represents the basic procedures that are adopted/utilized in prisons across Punjab. However, it is important to note two things: 1) the chronology or particular order of the procedures pictorially represented was not enquired into by the team during their interviews; and 2) all the procedures above-mentioned might not be present across all the jails in Punjab.<sup>58</sup> A summary analysis of the above mentioned procedures across the 24 jails is provided below:

#### **4.1.1 Confinement in Reception Centre**

As one of the first requirements during admission, the Punjab Jail Manual, 1996 mentions the earmarking of a reception center in each jail, which ought to consist of two barracks, five cells, an open working

<sup>58</sup> To identify the procedures followed by the different, please see Section B: Individual Jail Reports of this Report.

shed and an office, and shall be used to receive newly admitted prisoners where they shall be kept for a fortnight.<sup>59</sup> The importance of reception centers is further recognised in the subsequent provisions which state that prisoners suffering from contagious diseases should be studied during their confinement in reception centers,<sup>60</sup> and also use the reception centers to conduct orientation talks which would include information on rules and regulations of jails, conduct and treatment, health, sanitation, standard of behavior, discipline, prisoners' rights and duties, education, industrial trades and facilities/ opportunities for self-improvement.<sup>61</sup>

However, **it was found that reception centers were only earmarked in nine<sup>62</sup> of the 24 functional jails in Punjab<sup>63</sup>.** In particular, the officials from **Sub-Jail, Pathankot** specifically informed the visiting team that the jail required a reception center, so as to provide inmates with proper orientation during admission.

Additionally, in the jails where the team were informed that there was a reception center, it was observed that in practice, **the jails would designate one particular barrack as “new admission barrack” wherein all the new inmates would be confined** for a stipulated period of 10-15 days. The team did not **observe the presence of basic infrastructure for reception centers, as provided for by Punjab Jail Manual** in these jails such as separate barracks for convict and under-trials, open working shed and the space for an office. In particular, the **unlivable conditions of the “new admission barrack” in Central Jail, Kapurthala** needs to be specifically highlighted wherein allegations were made of cells having capacity of 3-4 persons being used to confine 9-10 inmates who had been newly admitted.<sup>64</sup>

**While the importance of reception centers cannot be emphasized on enough, the reason behind 63%, i.e. 15 jails not having reception centers requires further investigation.**

<sup>59</sup> Rule 369 (1), Punjab Jail Manual, 1996

<sup>60</sup> Rule 369 (ii), Punjab Jail Manual, 1996

<sup>61</sup> Rule 369 (iv), Punjab Jail Manual, 1996

<sup>62</sup> These jails were: Central Jail, Gurdaspur, Central Jail, Hoshiarpur, Central Jail, Kapurthala, Central Jail, Ludhiana, District Jail, Barnala, District Jail, Mansa, District Jail, Roopnagar, Sub-Jail, Malerkotla and Sub-Jail, Moga.

<sup>63</sup> No information was provided by either inmates or officials in regard to reception centres in these jails. It is also important to note that the team could not enquire about admission procedures in Maximum Security Jail, Nabha and Open-Air Jail, Nabha due to no interaction with inmates.

<sup>64</sup> For Details, please see: Section B: Individual Jail Reports, Central Jail, Kapurthala

*Construct/ designate an area/ barrack as the reception center for newly admitted inmates, in all jails as per the requirements specified in the Punjab jail manual.*

*Measures should be taken to ensure that the existing reception centers conform to the specifications mentioned in the Punjab Jail Manual.*

*The overcrowding situation at the reception center of Kapurthala central prison needs to be addressed. As a temporary measure more barracks can be designated as new admission wards in the prison.*

*NHRC Proforma for Health Screening of Prisoners on Admission to Jail' must be followed in all jails.*

*Increase the number of doctors at mulaiza to conduct first medical examination.*

### 4.1.2 Medical Examination during Admission

As has been described above, medical examination at admission helps in the identification of contagious diseases and hence becomes important to contain spread of infections inside the jail. Additionally, it also helps in the documentation of violence that might have been inflicted on the inmate during police custody prior to admission in prison. The Punjab Jail Manual, 1996 specifically mandates that when a **prisoner with injuries on his body is admitted to prison from police custody, they shall be examined immediately by medical officer.**<sup>65</sup> In case, the examination reveals unexplained injuries not already recorded in the medico-legal report accompanying the prisoner, then it makes the medical officer duty-bound to report the same to the District Magistrate and the Superintendent of Police.<sup>66</sup> For this purpose, the National Human Rights Commission (NHRC), has developed a proforma<sup>67</sup> to document any instance of injury that might have been caused due to custodial violence. Such recording helps act as an important piece of evidence, if and when, the NHRC is investigating into any alleged complaint against police official regarding use of torture or any other cruel or degrading treatment.

Based on the interaction with the medical officers and the inmates, the procedure for medical examination during admission across the jails in Punjab can be understood through the following figure:



*Figure 2: Medical examination (Before and After admission to Prison)*

<sup>65</sup> Rule 396 (a), Punjab Jail Manual, 1996

<sup>66</sup> Ibid.

<sup>67</sup> NHRC Proforma for Health Screening of Prisoners on Admission to Jail (Annexure VII)

As has been depicted in *Figure 2*, medical examination of inmates involves two phases. The first phase is to be conducted at the Civil Hospital of a particular district, wherein the Punjab Police ought to take the inmate for a medico-legal examination. This shall be conducted immediately before the inmate is sent to the prison. The second phase of the medical examination is to be conducted at the prison and during admission, by the medical officer in-charge inside the prison.

In the interaction with inmates, although there existed some inmates who alleged that **they were not medically examined on admission** to prison, in general, majority of the inmates across the jails stated that they **were medically examined within 24-48 hours of being admitted inside the prison**. However, **certain serious issues in regard to medical examination, particularly in regard to documentation of custodial violence were observed** which are mentioned below:

a) **Lack of awareness amongst Medical Officers regarding Rule 396 (a) of Punjab Jail Manual, 1996**

In detailed interactions of the study team with the medical officers inside the jail, a worrying trend emerged in **regard to lack of awareness regarding Rule 396 (a) of the Jail Manual**, which mandates that the medical officer to report issues of custodial violence by Police identified during admission of inmates, to the District Magistrate and Superintendent of Police. **While the medical officers were aware of instances of custodial violence meted out by Punjab Police and the importance of documentary evidence, it appeared that they were not aware of the requirement of immediately reporting the same to the District Magistrate and the Superintendent of Police.**

Further, it was observed by the team that if a medical officer was able to identify unexplained injury marks, **the action they would take was to send the inmate back to Civil Hospital with the Punjab Police officials, for the unexplained marks to be identified and noted in the medico-legal form filled by the medical officer at the civil hospital**. Other than that, no action was being taken by them on identification of evidence regarding custodial violence. The **fact that**

*Training of medical officers organized jointly by the SLSA and prison department, should be conducted on regular basis. The training should emphasise the importance of reporting cases of injury marks on newly admitted inmates, as mandated under the Punjab jail manual.*

*Through awareness camps conducted in prisons, prisoners can be made aware of their rights and remedies in regard to custodial violence in police custody, including complaints against conduct of medico-legal examination in the presence of Punjab police officials.*

*To ensure that medical examination is conducted upon admission to prison, the prison department must ensure the appointment of Medical Officer for each prison.*

*As per the Punjab Jail Manual, “in case, the examination reveals unexplained injuries not already recorded in the medico-legal report accompanying the prisoner, then it makes the medical officer duty-bound to report the same to the District Magistrate and the Superintendent of Police”.*

**the medical officers were completely oblivious to the need of reporting to District Magistrate and Superintendent of Police, is a serious cause of concern.**

#### **b) Issues with Medico-Legal examination at Civil Hospital**

An extremely worrying trend emerged in regard to medico-legal examination being conducted at the Civil Hospitals of the district, which is conducted just before the inmate is admitted to the prison. It was alleged by multiple inmates across the jails in Punjab that during the medico-legal examination, **officials of Punjab Police would not present them in front of the medical officer at the civil hospital, and get the form filled in their absence.** Further, if an inmate was presented in front of the medical officer, it was also alleged that the **presence of the Punjab Police officials** during the medico-legal examination at the civil hospital, would overwhelmingly **deter the inmates from revealing instances of custodial violence due to threats, explicit or implicit, from the officials.**

If these allegations are authentic, then it raises serious questions about the efficacy of medico-legal examinations at civil hospitals as a safeguard against custodial violence.

#### **c) Special Case of Sub-Jails in Punjab**

The team observed that a **specific conundrum emerged in regard to first medical examination in regard to all the sub-jails and one district jail in the State.** In all the five sub-jails, i.e. Sub-Jail, Fazilka, Sub-Jail, Malerkotla, Sub-Jail, Moga, Sub-Jail, Pathankot and Sub-Jail, Patti and **District Jail, Barnala**, it was observed that no medical examination was being conducted, as there existed no medical officer permanently deputed to these jails. It was informed by the officials that the medico-legal **form filled at the civil hospital was being inspected by the pharmacist posted at the jails at times, or at other times, was checked by jails officials during the admission of an inmate.**

**Combined with the issue highlighted regarding medico-legal examination at civil hospitals, the lack of medical officers in**

**these above-mentioned jails raise serious concerns in regard to proper documentation of custodial violence on inmates by Punjab Police when being admitted to prison.**

**d) Issues with documentation and action taken inside Prisons**

In extensive interactions with 660 inmates across the 24 jails, **substantive allegations were made in regard to custodial violence on the part of Punjab Police, amounting to torture in one form or another.**<sup>68</sup> With such allegations of custodial violence in police custody, documentation of the same becomes all the more necessary at the time of admission to a prison.

However, the inmates alleged that during admission, **the medical officers would mostly not enquire regarding custodial violence**, as a result of which, **they would not reveal if custodial violence** was meted on them by Punjab Police officials. Further, in certain situations where the medical officers would enquire, **the inmates alleged that they would not document the same in their medical examination.** Additionally, in certain cases **where the medical officer would document unexplained injuries, apart from giving them medical treatment, no further legal action would be taken by the medical officers in this regard.**

**Combined with the observation that medical officers were oblivious to the requirement of Rule 396 (a) of Punjab Jail Manual, 1996, the lack of alleged documentation and action taken through reporting,** raises serious concerns in regard to procedural safeguards against custodial violence.

**e) Need for training to identify psychological forms of custodial violence and torture**

In the detailed interaction of the team with medical officers, a particular observation was made **in regard to identifying instances of custodial violence.** It appeared that the medical officers **primarily focussed on custodial violence which was identifiable in the**

---

<sup>68</sup> For detailed information, please see: Chapter 10: Issues of Concern

**form of physical injuries.** This understanding was corroborated in a particular interaction with the medical officer at **Central Jail, Kapurthala**, wherein he stated that the medical officers were not trained to identify **psychological and other** forms of torture, which did not leave any visible impressions on the body of a person. He urged that as a part of training of doctors, who are specially deputed to jails, **it was important that they are trained in identifying psychological forms** of custodial violence.

### 4.1.3 Search Procedures

The Punjab Jail Manual, 1996 emphasises on thorough search procedures during admission as it recognises that prisoners, not infrequently, conceal articles, in their hair and other parts of their body, to smuggle them into the jail.<sup>69</sup> Further, while recognizing the dignity of male and females separately, it mandates that female prisoners be searched by a female warder.<sup>70</sup>

As observed by the team, and further informed by the inmates during interaction, **thorough search of inmates was being carried out at the deory (main administrative building).** Not only was search being conducted during the admission of inmates, but it was also being conducted every time inmates would leave for their production, come back from same or enter the main jail premises. A thorough check was also being conducted on any official (limited to warders and not applicable to senior jail officials) who would enter the deory from outside or enter the main jail premises. This was observed by the team across all the jails in Punjab.

However, few issues were highlighted in regard to search procedures, which has an impact on the dignity of an inmate. It was informed by inmates across the jails that **strip searches were also being conducted.** Strip searches would include **removing pants up to knee level, or complete strip search as well, and was applicable to both male and female inmates.** It was also informed that while strip searches would take place in a separate room, at times, it was also being conducted openly. Also, some inmates revealed that they **were being asked to defecate as well at times in front of the officials,** as

<sup>69</sup> Rule 400, Punjab Jail Manual, 1996

<sup>70</sup> Rule 400 (6), Punjab Jail Manual, 1996

*The National Human Rights Commission should urge the Punjab state medical board to train medical officers in identifying and documenting the psychological forms of custodial torture on inmates.*

*A standard operating procedure should be adopted to ensure that search procedures uphold the dignity of an individual.*

*Although body cavity search should be avoided however, if it is absolutely required then it must be in a dignified manner where the dignity of the person being searched should be upheld.*

*Body cavity search must be conducted by a trained medical professional.*

*Strip search, if at all permitted, should always be conducted in a separate room.*

a part of the search procedure. In regard to women inmates, although the women inmates across the jails informed that they were being searched by female warders, in particular, inmates from **Women's Jail, Ludhiana** highlighted that strip searches would also include methods, **where female warders would put their fingers inside their vagina as a part of the search process.**

Despite these allegations, the inmates also highlighted that strip searches would specifically be carried out by officials **on basis of suspicion** as there **existed rampant issues of smuggling of contraband substances inside their body cavities by inmates.**<sup>71</sup> Additionally, officials highlighted a specific conundrum in regard search of **'turbans'** worn by inmates, wherein they claimed that inmates would smuggle substances inside their turbans as well. However, the officials **could not search the same, as that would amount to hurting the religious sentiments of the inmates,** and therefore would go unchecked. **This particular conundrum needed to be resolved in their opinion.**

Further, a peculiar issue also needs to be highlighted, which pertains to search procedures for inmates identifying as transgenders. **In a particular incident from Borstal Jail, Ludhiana,** the team interacted with an inmate identifying as *kinnar*, where she highlighted that **during her admission, due to absence of female staff in the Borstal jail, she was searched by the male prison officials, which she found to be violative of her dignity.** While the Punjab Jail Manual, 1996 specifically mandates that female inmates be searched by female warders, **it does not provide for search procedures in regard to inmates identifying as transgender persons.** This issue needs to be taken under consideration and be deliberated upon at a policy level, for search procedures to inclusive of all gender identities.

#### 4.1.4 Preparation of History Tickets

Rule 422 of the Punjab Jail Manual, 1996 specifically states that every prisoner shall be, **immediately on his reception to the jail, provided with a history-ticket.** It further provides extensive details on what entries need to be made in a history ticket and also states

<sup>71</sup> For details, please see Chapter 10: Issues of Concern; also see Chapter 9: Impact of Narcotics, Drugs and Psychotropic Substance Act, 1985 (NDPS Act) in Jails across Punjab [Section 8.2.2 (c)]

*The prison officials must document the whole process of body and material search and a record of the same should be maintained.*

*Punjab jail manual should be updated with specification on search procedure on inmates. It should also include transgender as a category while laying down the specifications.*

*Persons identifying themselves, as transwomen should only be searched by female warders*

*Copy of the History Ticket should be given to all inmates.*

*The jail authorities and the legal service authorities should take measures to make inmates aware about the details of their cases including status of case, details of charges, date of next hearing etc.*

*Basic essentials should be provided to all inmates. Periodicity of providing these items should be uniform across prisons*

specific entries that need to be made by jail officials as well as by a medical officer.<sup>72</sup>

While the team did not specifically inspect the history tickets being maintained across the jails, it was informed by the inmates across the jails that **history tickets were being made during mulhaiza (admission process)**. However, it was also observed by the team across the jails, that inmates were, **at times, uninformed about the charges and other particulars of their case details**, which forms part of the history ticket. Additionally, it was also observed that there were **complaints from convicts across the jails regarding copy of their judgment orders not being received by them**, which also is a part of history tickets. This raises **serious doubts regarding the fact whether inmates are being provided with the history ticket (along with the periodic updates in the same) as mandated by the manual and needs to be further investigated.**

#### 4.1.5 Providing Basic Essentials

After admission to prisons, the Punjab Jail Manual, 1996 mandates the supply of clothing and bedding to inmates who have been convicted.<sup>73</sup> It also states that under-trial prisoners who are unable to provide themselves with sufficient clothing and bedding, shall also be supplied the same by the Superintendent of the jail.<sup>74</sup> However, apart from clothing and bedding, the Jail Manual does not mention any other basic essentials that needs to be provided by the jail department to the inmates inside their jails.

During their visits to the jails, the study teams in their detailed interview with inmates, tried to enquire into the materials that were being provided to the inmates after admission. In this regard, the team **received responses that were not uniform across the jails**. First, in regard to the essentials being provided, there emerged a narrative that **along with bedding, clothes and quilt (for winters) being provided, other materials such as toothpaste, toothbrush, soap and hair oil and biscuits was also being provided to the inmates**. However, the **supply of these materials was not uniform across**

<sup>72</sup> Chapter XIII, History Tickets, Punjab Jail Manual, 1996.

<sup>73</sup> Rule 854, Punjab Jail Manual, 1996

<sup>74</sup> Rule 715, Punjab Jail Manual, 1996

the jails, as inmates in some jails claimed that no essentials were being provided to them, where as others stated that they were provided with these essentials during admission. It was also informed from certain jails that while no essentials were being provided at admission, after three-four months of staying inside the jails, they would be provided with these essentials.

Second, it was also observed that there existed non-uniformity in regard to periodic nature of providing these items. In particular, for items like soaps, toothpaste, toothbrush, hair oil and biscuits, it was observed that as per some inmates, these items were being provided on a monthly basis and not just at admission, while for others, such items were being provided as and when they were available, which was sporadic in nature.

**This non-uniformity in regard to providing inmates with essential items requires further investigation.**

#### **4.1.6 Information on Free Legal Aid Services**

Although not considered to be the part of the admission process according to the Punjab Jail Manual, the visiting teams to the jails found that information on free legal aid services was also being provided to the inmates during *mulhaiza*. Though it was not possible for the study team to physically observe the same, the information provided by the convict para-legal volunteers (PLVs)<sup>75</sup> and the registers maintained (in particular, Admission Registers)<sup>76</sup> by them, indicated that convict PLVs would be present during *mulhaiza*, to inform new inmates about their rights regarding free legal aid services. Additionally, the convict PLVs also informed that in case they were not present during *mulhaiza* for any reason, they would accompany the Superintendent of the Jail during their weekly parade, or in general, go to different barracks weekly to spread awareness and information regarding legal aid services.

<sup>75</sup> For more details on the job of a Convict PLV, please see Chapter 11: Legal Aid Framework and Access to Justice.

<sup>76</sup> For details on the types of registers being maintained in Jail Legal Aid Clinics, please see Chapter 11: Legal Aid Framework and Access to Justice.

*The jail manual should be updated with details of providing essential items like soap, oil, toothpaste, tooth brush, sanitary napkins (to women) etc.*

*Prisoners should be apprised of their right to obtain a copy of their judgment free of cost. They should be made aware of the process to procure the same through applying for assistance through the prison legal aid clinic.*

## 4.2 CLASSIFICATION OF PRISONERS

Chapter XVI of the Punjab Jail Manual, 1996 provides for classification of prisoners for the purposes of separation.<sup>77</sup> For separation purposes, it classifies prisoners into 14 categories which include separation based on the account of sex (men and women to be kept separately), age (adult prisoners to be kept separately from adolescents), conviction (convicted prisoners to be kept separately from undertrial prisoners) to name a few.<sup>78</sup>

In the visits of the team to all the functional jails, it was observed that separation between convicted inmates and under-trial inmates was being maintained in the central jails of the State, wherein different blocks were assigned for the same. In regard to the district jails, it was observed that the prison administration was trying to maintain separation to the extent possible. However, in regard to the sub-jails in the State, due to a relatively smaller population, separation was always not possible, and hence was not being strictly maintained. Additionally, in regard to separation between male and female inmates, the same was strictly being observed in the 14 jails<sup>79</sup> which had a population of women inmates. However, some issues were observed in regard to classification and separation of prisoners, which are as follows:

### a) **No separation between alleged juveniles/adolescents and adult inmates**

During the course of the study, the team interacted with a total of 22 inmates across 11 jails<sup>80</sup>, who alleged being juveniles at the time of their arrest. While Rule 498 (2) of the Punjab Jail Manual, 1996 states that a prison where male inmates under the age of twenty-one were confined, it was the responsibility of the officials to separate them altogether from other adult prisoners. **However, in these 11 jails, the team observed that the 22 inmates were residing with the adult inmates as opposed to in a separate enclosure.** This remains

<sup>77</sup> Rule, 495, Punjab Jail Manual, 1996.

<sup>78</sup> Rule 498, Punjab Jail Manual, 1996.

<sup>79</sup> For further details: Please see Chapter 8: Vulnerable Categories

<sup>80</sup> Central Jail, Amritsar, Central Jail, Bathinda, Central Jail, Faridkot, Central Jail, Gurdaspur, Central Jail Patiala, Borstal Jail, Ludhiana, District Jail, Muktsar Sahib, District Jail, Rupnagar, District Jail, Sangrur, Sub-Jail, Fazilka and Sub-Jail, Pathankot

*Inmates below the age of 21 years need to be confined in a separate barrack as per the mandate of the Punjab jail manual.*

a cause of concern which requires urgent attention being in violation of the provisions of the Jail Manual itself.

## b) **Classification and Separation of Transgender Inmates**

During the course of the study, the team came across four inmates who identified themselves as *kinnars*/transgender persons.<sup>81</sup> While two of them were confined in separate cells in the women's section in Central Jail, Patiala, one of them was confined in the women's section in New District Jail, Nabha, and one was confined in an all male Borstal Jail, Ludhiana. In the interaction of the team with the inmates, **the team gathered that their classification was being done on the basis of their genitalia (wherein if they had a penis, they would be confined in male section, and if they had a vagina, they would be confined in the female section).** This procedure for classification being utilised for transgender inmates was also confirmed in the conversation with the medical officers across the jails. It needs to be pointed out that such a procedure for classification goes against the direction of the Supreme Court of India in *National Legal Services Authority (NALSA) v. Union of India*<sup>82</sup> which has guaranteed the right of self-identification of transgender persons, which necessitates that a transgender person be identified by their self-perceived identity, and not on the basis of their genitalia.

Additionally, **the non-uniformity in regard to the confinement of transgender persons**, wherein one was confined in an all male jail, and the others were confined in women's section (within cells in the women's section) also raises a cause for concern. **While the most recently enacted Delhi Prison Rules, 2018**<sup>83</sup> recognises transgender inmates as one with special needs<sup>84</sup> and mandates that there needs to be separate prisons/enclosures/annexes<sup>85</sup> for them, **the same can be considered by the Punjab Prisons department to be updated in the Punjab Prison Manual, 1996.**

<sup>81</sup> The inmates were found in Central Jail, Patiala, New-District Jail, Nabha, and Borstal Jail, Ludhiana.

<sup>82</sup> AIR 2014 SC 1863

<sup>83</sup> Available at: <http://forest.delhigovt.nic.in/wps/wcm/connect/ad693e00479000078773c72dd8755fce/Jail+manual+2018.pdf?MOD=AJPERES&lmod=-820682994&CACHEID=ad693e00479000078773c72dd8755fce> (last accessed on 23<sup>rd</sup> December 2019)

<sup>84</sup> Chapter 1, Rule 2 (41), Delhi Prison Rules, 2018

<sup>85</sup> Chapter 2, Rule 4 (iii) & Rule 5, Delhi Prison Rules, 2018

*Confinement of transgender persons must be based on choice.*

## CHAPTER 5

# BASIC FACILITIES

Once an inmate is admitted to the prison, it is essential that prison provides certain basic minimum facilities such as **adequate food, clean drinking water and clothing**, means to maintain **contact with the outside world** (through *mulaqaat* and phone facilities), provide **opportunities for education, facilities for recreational activities and skill development through vocational trainings**. These basic facilities are required so as to ensure that an inmate after release is reformed and is capable of being rehabilitated back into the society. All these aspects have been duly recognised by the Model Prison Manual, 2016, which provides detailed provisions for admission procedures (Chapter V - Custodial Management), food, water, clothing, sanitation and hygiene (Chapter VI - Maintenance of Prisoners), contact with outside world (Chapter VIII), education (Chapter XIV), and vocational training and skill development programmes (Chapter XV) for prisoners.

This chapter tries to assess the availability of these basic facilities and the issues therein for the functional 24 jails in Punjab.

### 5.1 FOOD AND WATER

The Punjab Jail Manual, 1996 includes detailed provisions with regard to food for prisoners,<sup>86</sup> which includes provisions relating to diet<sup>87</sup>, extra articles of diet for the sick,<sup>88</sup> nursing mothers<sup>89</sup> and children. It also mandates the food to be varied,<sup>90</sup> and makes the Superintendent of the Jail and medical officer duty-bound to inspect and examine the food.<sup>91</sup> The manual also contains provisions in regard to water supply, both in relation to drinking water and water for other purposes.<sup>92</sup> **However, in the observation of the study team and during interaction with inmates, it appeared that the quality of food and drinking water were unsatisfactory.** The issues pertaining to the same are detailed below:

<sup>86</sup> Chapter XXXII, Punjab Jail Manual, 1996

<sup>87</sup> Rule 810, Punjab Jail Manual, 1996

<sup>88</sup> Rule 819, Punjab Jail Manual, 1996

<sup>89</sup> Rule 820, Punjab Jail Manual, 1996

<sup>90</sup> Rule 826, Punjab Jail Manual, 1996

<sup>91</sup> Rules 831 and 832, Punjab Jail Manual, 1996

<sup>92</sup> Rules 910-915, Chapter XXXV, Punjab Jail Manual, 1996

## 5.1.1 Food

In respect of preparation of food for inmates, it was observed that all the functional jails (**except Sub-Jail, Fazilka<sup>93</sup>**) had a designated kitchen area inside the jails, colloquially known as *langars*. In jails which had both male and female sections, it was observed that at times there existed an exclusive *langar* in the female section,<sup>94</sup> or else, they were being provided food from the *langars* in the male section.

With respect to the schedule for meals, it was observed **that tea with biscuits were being provided twice a day** [once in the morning (between 7:00-8:00AM) and once in the afternoon (between 3:00-4:00PM)] and **meals such as lunch and dinner were being served twice a day as well** (between 9:30-10:30AM and between 5:00-6:00PM respectively). The staple diet being given was ***dal with five rotis, and vegetables or soya chunks being served occasionally***. Although the inmates from **nine jails, i.e. District Jail, Mansa, District Jail, Muktsar, District Jail, Roopnagar, District Jail, Sangrur, New District Jail, Nabha, Open Air Jail, Nabha, Women's Jail, Ludhiana, Sub-Jail, Malerkotla, and Sub-Jail, Patti** stated that they were satisfied with the quality of food being provided, **inmates from the remaining 15 jails, and in particular the central jails, highlighted several issues in regard to food being served**. While the issues pertaining to the individual jails can be found in Section B of this report, in general, the issues concerning food were as follows:

- a) **A particular trend was observed wherein inmates alleged that vegetables were being provided to them only in winters, and in summers, they were forced to consume *dal* and *rotis* for both lunch and dinner. Further, it was alleged that in summer, food would go stale very often, and the same would be served to inmates.**
- b) **While soy chunks also form a part of diet of inmates across the jails, many inmates complained about the quality of soyachunks and alleged that they were often infested and thus not fit for consumption.**

<sup>93</sup> There was no designated area for the kitchen, and cooking was being undertaken in the open. For details, please see Section B: Individual Jail Reports

<sup>94</sup> In Central Jail, Amritsar, Central Jail, Faridkot and Central Jail, Kapurthala, the CHRI teams observed the presence of *langar* in female sections as well.

*Jail kitchens should have advanced facilities like roti making machines, chimney and coolers to ease the labour of inmates.*

*Revisions to existing diet should be considered in accordance to MPM 2016 and Punjab Jail Manual. It should include vegetables, cereal, pulses and dairy items.*

*Food serving timings may be modified in order to avoid incidents of food becoming cold/ stale.*

*In evenings food should be served at 7pm.*

*Inspections must be made regularly to ensure that the quality of raw materials used for preparing food are of applicable standards.*

*An inspection committee should be in place to ensure the quality and quantity of food/raw materials for day-to-day use. The committee should document the quantity of items being received and whether the same is as per the prescribed dietary provisions. This would also act to check pilferage, if any.*

*Put the recommendation after cross checking the diet as mentioned in the jail manual*

*Additional diet of fruits, eggs, milk, rice etc should be provided to children staying with their mothers inside the prisons, as per the provisions of the jail manual and the order of the Supreme Court under R.D. Upadhyay vs. State of AP & Ors.*

*If possible, include rice in the diet of inmates who are from states where rice is a staple instead of wheat.*

*Work in the langar/ kitchen is one of the hardest especially in extreme heat. A good practice adopted in Sangrur district prison namely provision of protective gear like goggles and a cap to cover the heads of inmates working in the kitchen can be replicated in other prisons as well.*

*Inmates working in the kitchen may also be provided with lemon water to keep them hydrated in the intense heat.*

- c) **Inmates alleged that in general the food was inedible, and they had to add *tadka* to make it edible.**
- d) **Allegations were made regarding adulteration in food, due to misappropriation of food stocks by senior jail officials, which resulted in the lack of adequate stock to cater to the quantitative requirements of inmates.**
- e) **Some inmates who were sick or infirm or were suffering from severe diseases such as HIV or HCV alleged that they were not being provided the extra diet as prescribed to them by the Jail Manual.**
- f) **In some of the jails with section for women and their children, it was alleged that adequate diet was not being provided to the children.<sup>95</sup>**
- g) **In some jails comprising inmates from West Bengal, it was alleged that they were not being provided rice.<sup>96</sup>**
- h) **The convicted inmates who were working in *langars*, were working without any protective gears.<sup>97</sup>**

### 5.1.2 Canteen Facilities

For all the jails across Punjab, the study teams observed, that in general, there were two canteens available inside the jail premises. **While one canteen would be inside the jail enclosure, there would be one canteen present outside the *deory*, which was being used by visitors of the inmates to buy essential materials and pass it to the inmates during *mulaqaat*.** The canteens were primarily being run by the welfare department of the prison administration. In the detailed interaction with inmates, the following issues in regard to canteen facilities were observed:

- a) **In jails such as Central Jail, Ludhiana, District Jail, Barnala and Sub-Jail, Fazilka, inmates alleged that the canteens were inadequate as they lacked stock for basic essential materials. The same allegation was also corroborated by the study team during their visit to these jails.**
- b) **Inmates across the jails in Punjab alleged inflated prices**

<sup>95</sup> For details, please see: Chapter 8: About Vulnerable Categories

<sup>96</sup> Note 7, Rule 815, Punjab Jail Manual, 1996 states that half or full meal of rice may be issued to prisoners belonging to State of West Bengal.

<sup>97</sup> It is important to highlight that from amongst all the 24 jails in Punjab, the CHRI team observed that officials from District Jail, Sangrur had provided inmates working in *langars* with protective gears such as goggles.

of materials inside the canteens. In this regard, they stated that while materials such as milk packets, biscuits etc. which had maximum retail price (MRP) printed on it, were being sold on MRP, other materials such as coal, sugar, vegetables etc. which did not have an MRP, were being sold at exorbitant and unaffordable prices.

- c) **Inmates complained that as only materials bought from the canteens were being allowed to be given to the inmate during *mulaqaat*, the inflated prices would also affect the visitors of the inmates, who would be forced to shell out more money than required to buy and pass on items to the inmates.**

**These allegations, if true, a matter of concern, and requires further investigation.**

### **5.1.3 Drinking and Bathing Water**

The Punjab Jail Manual, 1996 states that for drinking purposes, the purest supply of water shall be obtained, wherein adequate qualitative analysis needs to be done by chemical examiner before deciding upon the source of water for the jails.<sup>98</sup> The manual mandates periodic cleaning of the tube well, as well as the containers for drinking water.<sup>99</sup>

However, despite such mandates, multiple issues were observed in regard to both drinking and bathing water supply inside the jails of Punjab. While the jail specific issues can be found in Section B of this report, in general, the issues surrounding drinking and bathing water were as follows:

- a) **Although the jail officials informed that R/O filters were installed in most of the jails, issues regarding its functionality were raised by both officials and inmates. While the officials stated that keeping the R/O systems functional was a huge task due to the existence of hard ground water which damaged the R/O systems frequently, inmates stated that R/O filter were dysfunctional most of the year.**

<sup>98</sup> Rule 910, Punjab Jail Manual, 1996; Rule 915 of Punjab Jail Manual, 1996 states that water for drinking or culinary purposes needs to be analysed by chemical examiner on or about the 5<sup>th</sup> of January each year.

<sup>99</sup> Rules 912 & 913, Punjab Jail Manual, 1996

*Prison canteens should be well stocked so that inmates have access to a range of essential goods and food items that they may wish to purchase.*

*Products with maximum retail pricing should not be sold beyond its MRP. While other goods like vegetables and fruits should also be sold as per or within the market value.*

*Prices of items without MRP can be displayed outside the canteen on a chart or a black board for the inmates' reference.*

*Alternate system of water purification maybe considered for installation inside each jail as the existing RO water purifying system is cost intensive and leads to excessive water wastage.*

*Water purifiers should be regularly cleaned for effective results.*

*Water filters for drinking can also be installed in barracks so that inmates can access the same even during lock-in period.*

*Water filters must be installed in all prisons so that inmates have access to clean drinking water.*

*Rain water harvesting must be adopted in all prisons.*

*Lack of proper sewage system on the prison compound of Ludhiana, that houses three prisons along with residential quarters of the staff, has been creating sanitation and health crisis. This should be addressed on an immediate basis.*

- b) **Inmates also brought the issue regarding accessibility of R/O filters. It was observed by the study team that the R/O filters would be generally available in the central area of the jail or inside the *langars* or inside the *gurudwaras*. While inmates would fill their campers and bottles during the lockout time, during lock in, they would have to generally resort to consuming tap water, which was not fit for consumption.**
- c) **Most of the inmates across the jails alleged generally, that they would use the same water for drinking, washing and bathing purposes.**
- d) **Allegations were made regarding water borne diseases and skin infections being caused due to both drinking water as well as bathing water.**

## **5.2 SANITATION AND HYGIENE**

The Punjab Jail Manual, 1996 provides in detail the steps that are required to be taken to maintain desired levels of sanitation and hygiene inside jails.<sup>100</sup> Not only does it mandate that the jail premises and the buildings need to be kept clean, it also states that cesspools inside jail precincts are mandatorily prohibited and that no rubbish or manure pits should be allowed within or near the jail walls.<sup>101</sup> Further, it mandates that each enclosure or each barrack shall have sufficient number of flush types of latrines, which should be connected to Municipal sewerage systems or have proper septic tanks.<sup>102</sup> This indicates that the manual pays important emphasis on cleanliness as a part of maintaining sanitation and hygiene inside the jails.

However, during the visits to the jails, some particular issues regarding sanitation and hygiene were observed. At the outset, the **lack of a proper sewage system in the three jails in Ludhiana, i.e. Central Jail, Ludhiana, Borstal Jail, Ludhiana, and Women's Jail, Ludhiana** where cesspools were observed by the team within the jail premises was cause of extreme worry and needed urgent attention. **Additionally, the visiting teams observed that there was lack of proper hygiene and cleanliness in the 10 jails of Punjab,<sup>103</sup> which were facing issues of over-crowding.**

<sup>100</sup> Chapter XXXV, Punjab Jail Manual, 1996.

<sup>101</sup> Rules 904 and 906, Punjab Jail Manual, 1996

<sup>102</sup> Rule 907, Punjab Jail Manual, 1996

<sup>103</sup> For details, please see: Chapter 1: About Punjab Prisons: Population and Infrastructure

Further, a peculiar observation was made, in that there was a **general lack of cleanliness and hygiene in those wards/blocks/barracks which were exclusively meant for undertrials**. The team during their visits observed that the toilets, flushes, basins, urinals and taps were generally broken in the sections meant for undertrial inmates which resulted in the poor hygienic conditions in the washrooms and bathrooms. Both the officials and inmates complained that in comparison to convicted inmates, **it was generally the undertrial inmates (who also formed the majority of the population inside the jails), who would indulge in destruction of the jail property and were primarily responsible for the despicable hygienic conditions inside their own barracks**. The officials stated that there was only up till an extent that they were able to force the undertrial inmates to maintain hygienic conditions, and after a point, it was not under their control.

However, the team also observed that there were certain jails in the State such as **District Jail, Mansa, District Jail, Muktsar Saheb and Sub-Jail, Malerkotla where the inmates stated that the strict discipline maintained by the respective Superintendents during their daily parades, ensured that the barracks were kept impeccably clean and hygienic**. Additionally, it was also observed that the sanitary and hygienic conditions **were also directly proportional to the size of the jails, where in general, all the sub-jails of the State had better hygienic and sanitary conditions inside their enclosures**. These observations indicate that the proper maintenance of hygienic conditions inside the jails was **directly dependent on the population of the jails as well as the discipline that is instilled by the senior prison officials of the particular jails**.

### **5.3 MULAQAAT (INTERVIEW)**

The Punjab Jail Manual, 1996 recognises visits by family and friends as a solace, and that only a dehumanized system would deprive prison inmates of such a facility and basic human gesture.<sup>104</sup> The Manual provides a definition of the term “friend or relative” as one who can submit proof of a personal and intimate acquaintance or of near relationship and in regard to relatives, it states that the nature of the relationship needs to be ascertained. Additionally, it states that

<sup>104</sup> Rule 480, Punjab Jail Manual, 1996

*Sanitation conditions of all prisons should be inspected on a regular basis. Sanitation committees consisting of convicts can be made to assist in the upkeep of sanitation and hygiene levels inside prisons.*

*Other jails should follow measures being taken up by prisons like DJ Mansa, DJ Muktsar Saheb and SJ Malerkotla, in maintaining cleanliness inside barracks.*

*With the precedent of Mansa jail, efforts should be made in all other jails to ensure amore effective mulaqaat process with less disturbance and noise, and ensure more privacy for the inmates.*

both these words need to be literally and strictly interpreted.<sup>105</sup> The manual also gives power to the Superintendent to fix the days and hours at which interviews shall be allowed and suggests that the interviews shall take place in a special part of the jail, appointed for the purposes, and if possible, at or near the main gate.<sup>106</sup>

In the visits by the team to all the functional jails, **it was informed that *mulaqaat* was the colloquial word which was being used for interview and the provision for the same was available to both undertrial and convicted inmates across all the jails.** The team observed that the *mulaqaat* rooms **were located near the administrative building/deoryand had an infrastructure wherein a mesh iron fencing and iron rods worked as the divider between the visitors and the inmates.**

Across the jails, while *mulaqaat* was being allowed on **all six days** (except Sundays), the timings for the same varied wherein some jails would allow *mulaqaat* in **two shifts** (from 9:00AM to 12:00PM in the morning and 3:00PM to 5:00PM in the evening) and some would allow **one shift** (from 9:00AM to 2:00PM in the afternoon). Additionally, out of the six days for *mulaqaat*, **four days were allotted to undertrials and two days were allotted to convicts.** Out of these allotted days, **a particular under-trial was allowed to meet twice a week while a convict was allowed to meet once a week.** As informed by the jail officials, the underlying principle behind this distribution was based on the prison population where the **ratio between undertrials and convicts was generally 2:1**, and this was being followed by all the jails across Punjab. Further, it was informed to the team by the inmates that in general, an inmate would be allowed to have *mulaqaat* **for a time period ranging between 15-30 minutes**, which was again being followed by all the jails. Additionally, in certain jails, which had both male and female enclosures, it was informed by the jails officials and inmates **that co-accused were allowed to meet each other on a specific day for a specific period of time**, in a general area near the main administrative building.<sup>107</sup>

<sup>105</sup> Rule 489, Punjab Jail Manual, 1996

<sup>106</sup> Rules 475 & 476, Punjab Jail Manual, 1996

<sup>107</sup> A particular request was made from inmates in Women's Jail, Ludhiana, who stated that although the jails were in the same campus, i.e. Central Jail, Borstal Jail, and Women's Jail, they were not being allowed to meet their co-accused in these other jails. Hence the requested they be allowed to do the same.

Although the general feedback regarding *mulaqaat* was positive, in the observation of the team and detailed interactions with the inmates, certain issues were raised, which are as follows:

#### a) **Issues with Infrastructure**

In the general observation of the team, it was felt that *mulaqaat* rooms would be quite noisy and chaotic during *mulaqaat*, due to the fact that there were no glass boxes or telephones to talk. This observation was corroborated by inmates from jails, specifically the larger central jails, wherein they stated that there would be no privacy and a lot of noise during *mulaqaat* and the same was a reason for dissatisfaction.

However, in contradistinction to the 23 jails, in **District Jail, Mansa**, the team observed that were small cubicles present inside the *mulaqaat* room, which was used by one inmate alone during their *mulaqaat*. It was informed by the officials that the cubicles did give more privacy, and contributed to a more smooth *mulaqaat* process. With such a precedent already existing in one jail, efforts should be made to ensure a **more effective *mulaqaat* process with less disturbance and noise, and ensure more privacy for the inmates.**

#### b) **Corruption**

In the interaction with the inmates, it was alleged that *mulaqaat* was also a source of corruption inside the jails, wherein the various forms were:

- **Demanding money to extend *mulaqaat* time from the prescribed time-limit.**
- **Demanding money to allow materials given by family or friends inside the jail.**
- **Demanding money to allow *mulaqaat* in deory, i.e. outside the *mulaqaat* room, where the inmate has an opportunity to physically interact with their visitors without any iron mesh fencing or iron rods.**

**If these allegations hold true, then they remain a cause for concern, and need urgent attention.**

*Allegations of corruption during the *mulaqaat* should be probed/ looked into by the Punjab prison department. If found true, strict measures should be taken to stop existing practices and preventive measures should be put in place to avoid such incidents in future.*

*With legal representation being a constitutional and statutory mandate, there is an urgent need to examine the reasons behind the allegations of lawyers/legal advisors not being able to meet the inmates.*

### c) **Lack of *Mulaqaat* with Lawyers/Legal Advisors and Friends.**

Although the Jail Manual states that only 'friends or relatives' should be allowed for *mulaqaat*, in certain jails, **the inmates alleged the *mulaqaat* was being restricted to only blood relatives, and no friends were being allowed to meet them.**<sup>108</sup>

Further, while the manual allows for *mulaqaat* between an undertrial prisoner and their legal advisors/lawyers after an application made in writing by the prisoner's legal advisor/lawyer, **it was alleged by inmates across the jails that they were not being allowed to meet with the legal advisors/lawyers during *mulaqaat*.**<sup>109</sup> With legal representation being an essential first step towards access to justice for an inmate, there is an urgent need to examine the reasons behind the allegations of lawyers/legal advisors not meeting the inmates. In the observation of the team, two plausible reasons might exist: 1) **If the jail officials do not allow *mulaqaat* between inmates and lawyers as a matter of practice, then the same will be in contravention of the Jail Manual, and hence needs to be urgently addressed;** 2) **There also exists a possibility that the lawyers (both legal aid lawyers and private lawyers) do not meet the inmates on their volition. In such a situation, urgent attention needs to be paid by the State Legal Services Authority, to make it mandatory for legal aid lawyers (at the very least) to visit the inmates on a periodic basis.**

### d) **Issues with *mulaqaat* for out of State/District Inmates**

During the detailed interaction of the study team with the inmates, a specific grievance regarding *mulaqaat* was voiced out by inmates who belonged to outside districts<sup>110</sup> or who belonged to other States in India. **They specifically highlighted that while their relatives or friends would not be able to do frequent *mulaqaats*, and would travel for days to come meet them, the restrictive time period of *mulaqaat* (15-30 minutes) was not cognizant of the same and hence unfair.** However, they also stated that while some jails officials would be empathetic and allow them to meet for a longer period of time, at times, they would also have to bribe the officials

<sup>108</sup> or details, please see: Section B: Individual Prison Reports

<sup>109</sup> Suggestions were also made by Convict PLVs to allow inmates to meet lawyers during *mulaqaat*. For details, please see: Chapter 11: Legal Aid Framework and Access to Justice.

<sup>110</sup> For example, an inmate who belongs to District, Patiala, but is confined in Central Jail, Amritsar

to extend their *mulaqaat* period. Hence, **they pleaded that special concessions be made as a matter of policy for inmates who belong to other districts of Punjab or other States in regard to allowed time-limits for *mulaqaat*.**

## **5.4 PRISON INMATE CALLING SYSTEM (PICS)**

Although the Punjab Jail Manual, 1996 does not contain any express provisions in regard to telephonic and electronic communication,<sup>111</sup> the team observed that the jail department had developed the Prison Inmate Calling System (PICS), which allowed inmates to be in touch with the outside world through phones.

**In regard to the operationality of the PICS machines, it would coincide with the lock-in/lock-out timings of the jails. The PICS system would enable inmates to feed in up to three numbers, which generally the team observed would be for two family members and one lawyer. It was further observed by the team that inmates would generally top up their PICS account with Rs.100 a month wherein Rs. 1 would be charged for one minute of call.**

However, certain issues were observed in regard to the PICS facility inside the jails. They are as follows:

### **a) Lack of adequate time per Inmate**

During Phase I and II of the visits by the study team, a general discontent was raised by the inmates, wherein they highlighted that the daily entitlement of five minutes per day to use the PICS machine was not adequate. However, in the subsequent visits of the team to other jails in Punjab, **the team were informed that the Punjab Government had increased the call duration of Prison Call System from five minutes to eight minutes in the month of November, 2018.<sup>112</sup> Subsequently, during the later phases, it was further informed that this time limit has been increased to a period of 10 minutes in the month of March, 2019.<sup>113</sup>** In the visit of the team in the later

<sup>111</sup> However, the Model Prison Manual, 2016 in chapter VIII (Rule 8.38) provides for telephonic and electronic forms of communication.

<sup>112</sup> Additional Director General of Police (Prisons), Memo No. 1/276/2015-3J (4J)/ 1357922/1, dated: 21/11/2018.

<sup>113</sup> Additional Director General of Police (Prisons), Memo No. 1/276/1439474/1, dated: 14/03/2019

*If possible, the plea/request by inmates from other districts and jails for an extension in *mulaqaat* time should be considered by the Prison Department.*

*Number of PICS machines should be increased in CJ Bathinda, CJ Faridkot, CJ Kapurthala and CJ Patiala.*

phases, it was observed that the inmates were satisfied with daily entitlement of 10 minutes per day.

**b) Lack of adequate number of PICS machines in comparison to Jail Population**

A specific issue observed by the team during their visit was **in regard to lack of adequate number of PICS machines to cater to the specific jail population.** This was brought out in several interaction with officials and inmates, wherein it was highlighted **that inmates would not be able to avail the PICS facilities due to long queues.** At times, in certain jails, officials and inmates informed that fights would also take place to avail these facilities. Such situations, hence, would deter inmates from using the PICS facilities, even if they were available.

The jails where the number of PICS machines were disproportionate to the jail population were: **Central Jail, Bathinda (Population: 2,375: PICS machines: three); Central Jail, Faridkot (Pop: 2,072, PICS Machines: two); Central Jail, Kapurthala (Pop: 2,990, PICS Machines: four); and Central Jail, Patiala (Pop: 1,801, PICS Machines: six).** However, in these jails, the officials informed that requests for increasing the number of PICS machines had already been sent to the government.

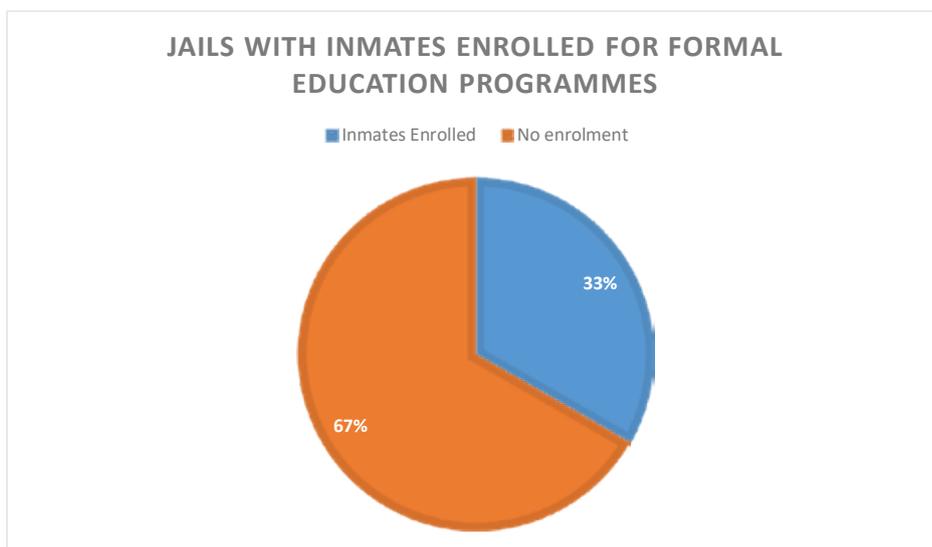
**c) Higher charges for usage of Telephones**

In the observation of the team, in certain jails such as **Central Jail, Bathinda, District Jail, Mansa and District Jail, Roopnagar,** instead of PICS machines, the jails had telephone sets which were being used by the inmates for communication with their family members and lawyers. **However, in contradistinction to the charges for PICS machines, which have been fixed at Rs. 1 per minute, in regard to the usage charges for the telephones, the inmates alleged that they were being charged between Rs. 2-2.5. This allegation, if it holds true, needs to be further investigated.**

*Even if landline telephones are being used as an alternative to PICS machines (during lack of PICS machines), the cost of phone calls should be the same as that of what is charged under PICS.*

## 5.5 EDUCATION

Although the Punjab Jail Manual, 1996 does not contain detailed provisions in regard to imparting education inside the jails in Punjab, it does recognise the need to provide inmates with opportunities of diversified education as a means to modify their behavior and for the implementation of social and moral values.<sup>114</sup> However, based on the information provided by the jails, the state of imparting education inside the jails posits a worrying trend. This is represented in the figure below.



*Figure 1: Status of Education (All Jails)*

As is indicative from *Figure 1*, 67%, i.e. **16 of the 24 jails in Punjab did not have a single inmate enrolled in any kind of educational programme**. Further, it was observed that amongst 33% of the jails, i.e. **eight jails**, where inmates had enrolled in formal education programmes through Indira Gandhi National Open University (IGNOU), National Institute of Open Schooling (NIOS) or through collaborations with local polytechnic colleges, **they were primarily the central jails of the Statesuch as Central Jail, Bathinda, Central Jail, Ferozepur, Central Jail, Hoshiarpur, Central Jail, Ludhiana, Central Jail, Kapurthala and Central Jail, Patiala.**

<sup>114</sup> Rule 4 (ix), Chapter II, Aims and Objectives, Punjab Jail Manual, 1996

*Along with education, skill development programmes that would help in rehabilitation should also be introduced for both under-trial and convicts in all the jails. .*

Apart from District Jail, Barnala,<sup>115</sup> **none of the district or sub-jails in the State had any inmate enrolled in formal education programmes.** This indicates that even though the Punjab Jail Manual recognises providing education as one of its main objectives, in recognition of the reformatory role to be played by the system, the awareness or infrastructure for the same has not been effectively developed in a majority of the jails in the State.

Additionally, it is also important to highlight the perception of the officials in regard to education for inmates. **Some officials across the jails, highlighted that the inmates in general were not interested in undertaking educational courses, and those who wanted to, were given the opportunity to pursue the same.** This lack of interest, in particular, was also **highlighted by the teachers at Borstal Jail, Ludhiana,** who in their experience stated that more than education, the inmates across the jails were **more in need of skill development programmes,** as that would immediately render them capable of pursuing employment opportunities once they are released from the jail and facilitate, perhaps a substantial rehabilitation.<sup>116</sup>

## 5.6 RECREATIONAL ACTIVITIES

With jails following a strict regime which regulates the daily activities of inmates, recreational activities assume much importance for inmates in order to keep their minds occupied, and to ensure productive interactions between inmates. During the visit of the team to the functional jails in the State, the following kinds of recreational activities were seen in general:

- **Television sets in the barracks**
- **Indoor sports such as carrom, chess etc.**
- **Grounds for outdoor sports such as basketball, football, volleyball, cricket, badminton, tug of war and running tracks**
- **Tournaments for outdoor sports**
- **Yoga Camps**
- **Places of worship**
- **Library**
- **Computer Centre**

<sup>115</sup> The information provided by jail mentions that 15 inmates were enrolled in formal educational programmes between September 2017 and August 2018.

<sup>116</sup> For more details, please see: Section B: Individual Jail Reports

*Focus should be laid on developing recreational activities, like sports, for inmates in smaller jails as well so that inmates can be kept busy.*

- **Music Rooms**
- **Multipurpose Halls and Amphitheaters for sermons from imminent individuals and senior jail officials.**
- **Gymnasium**

However, amongst these activities, **a trend was observed that activities like computer center, music rooms, libraries, gym were generally present in the Central Jails to the exclusion of other jails.** Additionally, open spaces **such as playgrounds for outdoor sports were again concentrated in the central jails and the district jails, which had a larger area to accommodate such activities.** The only recurring recreational activities across all the functional jails were in regard to television sets available in barracks and places of religious worship being accessible.

It is also important to highlight the specific grievance of officials from Sub-Jails in regard to recreational activities, wherein they complained that **due to the small area allocated for jails**, there was not much scope of recreational activities apart from indoor games. **Combined with the fact that the sub-jails did not have any factory/manufacturing available,**<sup>117</sup> they said it presented a hard task for the officials in the sub-jails to keep the inmates busy and occupied on a daily basis.

## 5.7 VOCATIONAL TRAINING

The Punjab Jail Manual, 1996 recognises the responsibility of the State to develop and impart vocational training to inmates, so as to equip them with better skills and work habits which would enable their rehabilitation.<sup>118</sup> However, based on the information provided by the jails, observation by the study team, and detailed interaction with inmates, it appears that there is much to improve in jails in Punjab to ensure adequate infrastructure and facilities to impart vocational training to inmates.

<sup>117</sup> For details, please see: Chapter 7: Prison Labour and Wages

<sup>118</sup> Rule 4 (x), Chapter II, Aims and Objectives, Punjab Jail Manual, 1996

*DLSAs should initiate recreational activities for the children of inmates.*

### JAILS WITH INMATES HAVING UNDERGONE VOCATIONAL TRAINING

■ Inmates with vocational training ■ No vocational training

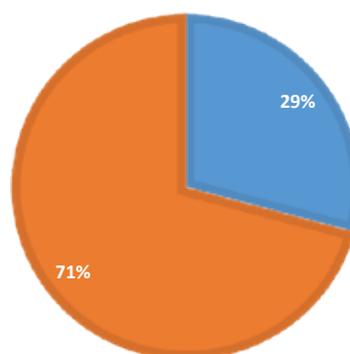


Figure 2: Status of Vocational Training (All Jails)

*Jails can partner with Industrial Training Institutes (ITIs), rotary clubs, or even local NGOs for introducing vocational programmes.*

*The Skill Development Board of Punjab can impart training to inmates on a needs based model.*

As is indicated in Figure 2, 71%, i.e. **17 out of the 24 jails in Punjab did not impart any kind of vocational training to its inmates between September 2017 and August 2018.** In a similar trend indicated in regard to education in jails across Punjab, inmates who were provided with vocational training were primarily in the Central Jails of the State such as **Central Jail, Amritsar, Central Jail, Bathinda, Central Jail, Ferozepur, Central Jail, Gurdaspur, Central Jail, Hoshiarpur and Central Jail, Patiala.** This indicated that apart from Women's Jail, Ludhiana (where some kind of vocational training was being imparted), **in majority of the district jails and sub-jails in the State, no vocational training was being imparted to the inmates.**

In the seven jails where some kind of vocational training was being imparted, **the training included beauty parlour courses (for women inmates), soft toy making, plumbing courses, carpentry courses and electrician courses in general.** Additionally, **even though the information provided by Central Jail, Kapurthala** mentioned that no vocational training was being provided, during the visit by the CHRI team, the Superintendent of the jail informed that vocational training for making LED Bulbs was being provided in the jail.<sup>119</sup>

However, in the overall understanding regarding vocational training, **it remains worrying that majority of the inmates across the jails were not being provided with any form of vocational**

<sup>119</sup> For details, please see: Section B: Individual Jail Reports.

**training or at least the option of taking such training.** Although, there remains a possibility that there might be a lack of interest and demand amongst inmates to undergo vocational training, the same needs to be investigated. **But the fact remains that the lack of enough opportunities for vocational training, severely impairs the inmates' prospects of rehabilitation and also remains in violation of the aims and objectives of the Punjab Prison Manual, 1996.**

*Vocational training courses must be made available to all prisons in all the 24 jails.*

## CHAPTER 6

# MEDICAL INFRASTRUCTURE, FACILITIES AND ACCESS TO HEALTHCARE

The Model Prison Manual, 2016, recognizes medical administration as one of the most important concerns of prison management<sup>120</sup>. Prisons, wherein large number of people are confined together in a restricted space, are bound to be faced with constant medical issues and recurring healthcare requirements. In many cases, these requirements are difficult to meet due to existing financial and other resource limitations, such as dearth of manpower. The case is no different for prisons in Punjab as well.

Access to adequate healthcare is a basic and fundamental right which should not be denied to a person despite his/her confinement inside a prison. As observed by the Institute of Criminal Policy Research (ICPR) in its report titled 'Towards a Health Informed Approach to Penal Reform?', "*a sentence of imprisonment is a sentence of deprivation of liberty, not of damage to health*"<sup>121</sup>. Thus, healthcare and medical infrastructure should form a crucial part of all national and international prison standards.

Recognising the State's responsibility in providing for healthcare facilities for prisoners, the United Nations Standard Minimum Rules for the Treatment of Prisoners 2015 (Nelson Mandela Rules) observes that, "prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status"<sup>122</sup>.

The Punjab Jail Manual lays down detailed rules for medical administration, duties of different officers, including the jail medical officer (MO) and pharmacist, along with procedures for record keeping and documentation of health details of individual inmates.

---

<sup>120</sup> Chapter VII, Rule 7.01, p. 79, Model Prison Manual, 2016

<sup>121</sup> Institute of Criminal Policy Research, Birkbeck, University of London, '*Towards a Health-Informed Approach to Penal Reforms?: Evidence from Ten Countries*', C. Heard, June 2019, Pp. V

<sup>122</sup> Rule 24, p. 12, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 2015

As per the Jail Manual, the MO is in-charge of sanitation and medical administration inside the jail, and is required to conduct daily inspections.<sup>123</sup> The Jail Manual further requires that a specific space is allocated for the jail hospital or a similar setup inside every jail in the State<sup>124</sup>. The jail administration is responsible for the updation of medical records of inmates from the time of their admission in the jail. The Jail Manual also stipulates that the history ticket<sup>125</sup> of each inmate is updated with his/her medical records on a day-to-day basis<sup>126</sup>.

*History tickets should be updated regularly.*

## 6.1 AVAILABILITY OF DOCTORS:

As per the Punjab Jail Manual, one full time MO is to be appointed to a jail with population of up to 500 inmates, for more than 500, it stipulates that an additional medical officer should be appointed<sup>127</sup>. The Jail Manual further provides that doctors in jail shall be appointed on deputation from the Health Department.<sup>128</sup> While the Jail Manual does not specify the duration of their tenure in the jail, in practice the team found that doctors were being appointed on six months' deputation.

Doctor to Prisoners Ratio				
Prison	Authorised Capacity	Inmate Population	Number of Doctors	Doctor to Inmate Ratio <sup>129</sup> (MO:Inmate)
CJ Amritsar	2266	3596	4	1:566
CJ Bathinda	2100	1527	2	1:1050
CJ Faridkot	2072	1740	4	1:518
CJ Ferozepur	1236	1399	3	1:412
CJ Gurdaspur	950	944	3	1:316
CJ Hoshiarpur	723	827	1	1:723
CJ Kapurthala	3126	3032	3	1:1042
CJ Ludhiana	2800	2826	4	1:700

<sup>123</sup> Chapter VII, Rule 141, p. 40, Punjab Jail Manual, 1996

<sup>124</sup> Chapter XXXVI, Rule 934, p. 287, Punjab Jail Manual, 1996

<sup>125</sup> Section 422, p.110, of the Punjab Jail Manual, describes History ticket as a document containing all relevant information of an individual inmate from the time of his/her reception in the jail till his/her release. An inmate is to be provided with History-Ticket as soon as their entry in the jail. Information contained in the document include: name of the prisoner, prison number, every order passed and directions relating to any punishment inflicted on the prisoner; records of any occurrence affecting the prisoner during his/her confinement. For convicts the History tickets should be updated on information relating to the offence and provisions of law applicable on the same, during and nature of the sentence along with records of any other occurrence directly related to the convicted inmate.

<sup>126</sup> Chapter VII, Rule 114, p. 34, Punjab Jail Manual, 1996

<sup>127</sup> Chapter VII, Rule 142, p. 40, Punjab Jail Manual, 1996

<sup>128</sup> Chapter VII, Rule 142, p.40, Punjab Jail Manual, 1996

<sup>129</sup> Ratio calculated based on the number of doctors appointed against the authorised capacity of inmates.

Doctor to Prisoners Ratio				
Prison	Authorised Capacity	Inmate Population	Number of Doctors	Doctor to Inmate Ratio <sup>130</sup> (MO: Inmate)
CJ Patiala	1801	1780	3	1:600
BJ Ludhiana	500	248	2	1:250
DJ Barnala	450	372	0	No Doctor Appointed
DJ Mansa	433	582	3	1:144
DJ Muktsar	875	494	1	1:875
DJ Roopnagar	363	760	1	1:363
DJ Sangrur	650	932	1	1:650
Maximum Security Jail, Nabha	462	202	1	1:462
New DJ, Nabha	850	853	1	1:850
Open Air Jail	75	63	0	No Doctor Appointed
Women's Jail	350	195	1	1:350
SJ Fazilka	48	57	0	No Doctor Appointed
SJ Malerkotla	170	146	0	No Doctor Appointed
SJ Moga	75	85	1	1:75
SJ Pathankot	280	222	0	No Doctor Appointed
SJ Patti	204	264	0	No Doctor Appointed

Table 1. Doctor to Prisoners Ratio (based on the authorized capacity)

*Appoint medical officers in accordance with the Punjab jail manual i.e. one doctor per 500 inmates or one doctor per 300 inmates as per the model prison manual 2016.*

*Medical examination is mandated to be conducted within the first 24 hours of an inmate's admission to the jail.*

In accordance with the Jail Manual, out of the 24 prisons in Punjab, **only eight prisons<sup>131</sup> had a medical officer appointed for a population of 500 or less** (refer to Table 1). As can be seen in the table above, **CJ Bathinda and CJ Kapurthala, had one doctor for more than 1000 inmates.** The doctor-to-inmate ratio has been analysed on the basis of the authorised inmate capacity of each prison and not the prison population at the time when the data was sought. An overcrowded jail will affect the ratio further, leading to additional burden on the

<sup>130</sup> Ratio calculated based on the number of doctors appointed against the authorised capacity of inmates  
<sup>131</sup> CJ Ferozepur, CJ Gurdaspur, BJ Ludhiana, DJ Mansa, DJ Roopnagar, Maximum Security Jail, Women's jail and SJ Moga

doctors (refer to the Amritsar jail sheet on page 15).

## 6.2 MEDICAL EXAMINATION ON ADMISSION OF AN INMATE:

The Supreme Court of India, in its landmark judgment on rights of the arrested person, stipulates a medical examination for all accused persons within 48 hours of the arrest, which in practice usually takes place at the civil hospital<sup>132</sup>. The Punjab Jail Manual further instructs a medical examination, be to be conducted by the jail Medical Officer, at the admission of any new inmate in the prison<sup>133</sup>. In this context, the Jail Manual lays down specifics for conducting the medical examination upon admission. It also provides that the jail admission register and the history ticket of inmates must also have information on the inmate's health status, his/her age and weight, (if sentenced to rigorous imprisonment) the class of labour he/she is fit for and any other information that the medical examination discloses.<sup>134</sup>

It is important to highlight the importance of medical examination inside the prison during admission. Medical examination, when being sent to judicial custody, helps in the documentation of history of illnesses which are communicable in nature (such as HIV/AIDS, TB etc), which helps the prison administration to segregate inmates and contain the spread of diseases. Additionally, it also helps in the documentation of violence that might have been inflicted on the inmate during police custody (including remand). The National Human Rights Commission (NHRC), in 1999, developed an exclusive proforma<sup>135</sup> to document these two factors. Such recording helps act as an important piece of evidence, if and when, the NHRC is investigating into any alleged complaint against police or prison officials regarding use of torture or any other cruel or degrading treatment.

Interaction with inmates and prison officials revealed that the first medical examination of inmates was taking place during the admission process or 'mulaiza' (as it is commonly referred to as in Punjab prisons) by the jail medical officer. While the majority of the inmates stated that their first medical examination was held within the first 48 hours of entry into the jail but there were also those who claimed that their first medical examination took place after many days, in

*NHRC's proforma for 'Health Screening of Prisoners on Admission to Jail' should be adopted.*

<sup>132</sup> *DK Basu V. State of West Bengal (AIR 1997 SC 610)*

<sup>133</sup> Rule 147 (1)(i), p. 41, Punjab Jail Manual, 1996

<sup>134</sup> Rule 147, p. 41, Punjab Jail Manual, 1996

<sup>135</sup> NHRC Proforma for Health Screening of Prisoners on Admission to Jail (Annexure VII)

some cases even after 20 days<sup>136</sup>. There were also those who claimed that no medical examination was conducted at all, especially in jails<sup>137</sup> that lacked basic medical infrastructure. It was also observed by the CHRI team that the NHRC proforma was not being used extensively in Punjab prisons, and only CJ Hoshiarpur seemed to be following it<sup>138</sup>.

During the data collection for this study, all 660 inmates who were interviewed in the 22 jails<sup>139</sup>, were asked questions on police remand and custodial violence. First, medical examination inside prisons assumes importance for it helps document any kind of custodial violence and torture that might have been inflicted on the accused person. The UN Resolution on Principles of Medical Ethics, articulates the important role played by medical personnel in identification and prevention of custodial violence and torture. Principle 2 of the Resolution specifies that, “it is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, **to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment**”<sup>140</sup>.

### 6.3 DRUG ADDICTION AND ITS TREATMENT INSIDE:

The Punjab Jail Manual observes that, “those addicted to opium/drugs should be placed under medical treatment with a view to their being purged of the habit.”<sup>141</sup> Specialised treatment of Outpatient Opioid Assisted Treatment (OOATS) was being used in Punjab to tackle opioid dependency. Department of Health and Family Welfare, Government of Punjab had formulated a Standard Operating Procedure (SOP) for the infrastructural requirements and process of treatment under OOATS.

However, the OOATS infrastructure was not uniform across prisons in the state. Although this treatment was extended to the prisons of the

*DLSAs should organise medical camps to provide psychological counselling to persons on substance abuse.*

<sup>136</sup> Refer to Amritsar Jail Report p. 13

<sup>137</sup> SJ Patti, SJ Pathankot, SJ Malerkotla, SJ Fazilka and DJ Barnala

<sup>138</sup> From the team’s observations, the Proforma was specifically being followed in CJ Hoshiarpur

<sup>139</sup> CHRI’s team was not allowed to conduct interviews in Maximum Security Jail, Nabha and due to lack of inmates the team did not interview any convict in the open air jail.

<sup>140</sup> Principle 2, UN General Assembly Resolution 37/194 of 18 December 1982, ‘the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment’ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/MedicalEthics.aspx> Last Accessed on 6th December, 2019

<sup>141</sup> Rule. 923, p. 285, Punjab Prison Manual, 1996

State as well, however, of the total 24 prisons, **only nine prisons**<sup>142</sup> had the facility of OOATS and de-addiction centers<sup>143</sup> inside. As per the discussion with medical officers, new inmates who were also addicts were being confined in the de-addiction centers inside these jails. These inmates were kept under observation for a period of 10-15 days to analyse the level of addiction and withdrawal that followed before starting their OOATS treatment. Another specific difference between these two mechanisms was evident in Central jail Gurdaspur, where the MO informed that more serious addiction cases like heroin addiction were being treated in OOATS clinics while relatively milder addictions were being treated in the de-addiction centers.

As there was no separate female enclosure in Central jail, Bathinda, the de-addiction center was being used to confine women prisoners<sup>144</sup>. The OOATS clinic in DJ Muktsar Sahib was not functional due to the lack of sanctioned staff. Substance abuse cases received in smaller jails were sent to these jails with OOATS facility for treatment. OOATS clinic staff was different from the regular hospital staff. It included one medical officer, one pharmacist, one counsellor and one male staff nurse. It was only in Central Jail, Bathinda that the team found a separate section of staff devoted only for the OOATS clinic. In Central Jail Gurdaspur, for de-addiction measures, the jail administration was undertaking collaborations in the form of medical camps and counselling sessions by counsellors.

Doctors attached to OOATS clinic in Punjab prisons shared that there was a severe shortage of dope test kits. A crucial aspect of the OOATS treatment, as per the SOP, is providing addicts/patients with proper psychological counselling. One of the key persons during the course of the treatment is the psychiatrist, he is made responsible for the overall running of the programme and functioning of the center<sup>145</sup>. Among the jails with OOATS facility, only CJ Faridkot and CJ Kapurthala had a psychiatrist attached to the clinic. In CJ Patiala, patients were being given OOATS tablets in a crushed form by a para-medic from outside. The medicine was being provided in the legal aid room and not in separate clinic.

<sup>142</sup> CJ Amritsar, CJ Bathinda, CJ Faridkot, CJ Ferozepur, CJ Gurdaspur, CJ Kapurthala, CJ Ludhiana, CJ Patiala, DJ Muktsar Sahib

<sup>143</sup>The OOATS clinic in DJ Muktsar Sahib was not functional due to the lack of sanctioned staff.

<sup>144</sup> Refer to Central Jail, Bathinda, p. 25

<sup>145</sup> Section 2(b), Standard Operating Procedure for Outpatient Opioid Assisted Treatment (OOATS) with Buprenorphine-Naloxone, Department of Health and Family Welfare, Government of Punjab

*Sanctioned staff should be made available in District Prison, Muktsar Sahib so that the OOATS clinic can be made functional.*

*OOATS staff should be made available in all existing OOATS clinic inside prisons.*

*OOATS medicine should be administered to inmates by the doctors and not the pharmacists. This process should be documented in detail including the time, date, signature etc.*

*Adequate number of dope kits must be provided to the doctors working in the OOATS clinics.*

*Psychologists must be attached to all OOATS clinics and de-addiction centers.*

*A separate room should be allocated to medics and para-medics undertaking tasks related to OOATS treatment. They must provide inmates the OOATS medicine in these separate rooms/spaces.*

*Prison authorities must investigate allegations of drug smuggling and consumption inside prisons and take appropriate steps on an urgent basis to stop such practices.*

*Use of technology like body scanners should be considered by the State home department in order to make the process of search effective and also as a preventive step for the smuggling of contraband articles inside.*

*There is a need to establish a hospital in all the prisons. Medical clinics can be set up in prisons that have space crunch.*

*Hospitals/clinics should be accessible to all inmates, including women inmates. If, due to security purposes they cannot be taken to the hospital in the male section, then a separate arrangement in the form of a clinic must be established in all female enclosures.*

*Ambulance in working condition must be provided to all the jails so that inmates can be transported to hospitals in a timely manner, whenever required.*

*Prison department should provide proper hospital beds for Borstal School, Ludhiana.*

Conversation with medical officers also revealed that drug supply and consumption was going on inside the jails. The team also witnessed a drug overdose case during their visit to Central jail, Amritsar where an inmate was brought to the *deori* (admin block) in an unconscious state from inside the prison as he had overdosed on drugs. Medical officers shared that inmates who indulged in such practices often carried drugs in body cavities which was difficult to detect during frisking. They suggested the need to have more advanced technology like body scanners to tackle the issue of drug smuggling inside prisons.

## 6.4 ISSUES CONCERNING HEALTHCARE DELIVERY INSIDE PUNJAB PRISONS:

### a) Inadequate Access and Availability of Medical Infrastructure:

Despite a clear mandate in the Punjab Jail Manual for the establishment of a hospital inside each jail, five jails<sup>146</sup>, did not have a hospital or any similar setup/space within the Jail premises. **In other jails where hospitals existed, barring the women's prison, hospitals were always found to be situated in the male section of the prison, making it out of bounds for female inmates.**

Further, basic infrastructure attached to healthcare like availability of an ambulance and proper infrastructure of hospitals was found to be lacking in some jails. Among the 24 jails in the State, six jails<sup>147</sup> did not have an ambulance to transport inmates to civil hospitals. Often, jail officials and doctors had to use their private vehicles to take medical emergency cases to hospitals outside the jails.

Officials from DJ Mansa shared that although there was an ambulance available but it was not in proper condition to cater to the needs of the jail administration. Further, officials in Borstal School, Ludhiana shared that although there were beds available in the hospital, their condition was not up to mark. Additionally, the lack of proper sewage system was contributing to health issues inside the jail. One of the few jails to have an operation theater inside was, Model jail Faridkot, however, the same was not being used due to the non-availability of a surgeon. Similarly, a dental chair was there in CJ Bathinda but same was not being used as there was no dentist visiting the jail.

<sup>146</sup> DJ Barnala, SJ Fazilka, SJ Malerkotla, SJ Patti and SJ Pathankot

<sup>147</sup> DJ Barnala, Women's Jail, SJ Fazilka, SJ Malerkotla, SJ Patti and SJ Pathankot

b) **Lack of Medical Officers:**

With regard to the presence of a doctor, six prisons<sup>148</sup> did not have a single MO appointed inside. Except for Sub-Jail Moga, none of the other sub-jails had a duly appointed medical officer. In prisons where the MO was not appointed, either the full time pharmacists were given the responsibility of overseeing medical administration and general medical check-up of inmates or a doctor was specially being called in for a couple of hours during the day for medical check of inmates. **As per the information received from Sub-Jail, Patti a doctor visit the jail just 18 times for a period of one year** (between 1<sup>st</sup> September 2017 and 31<sup>st</sup> August 2018). Not a single OPD was conducted in this jail during this time. However, these arrangements were temporary in nature. For instance, for the check-up of inmates a pharmacist was visiting Sub-Jail Fazilka but only twice a week. During emergency situations, inmates were referred directly to the civil hospital.

District jail, Barnala, was among the jails with no medical officer appointed inside, even though it has an authorised capacity to confine 450 inmates. The team was informed by officials that DJ Barnala has not seen deputation of a doctor for the past 10years. In such a scenario, a temporary arrangement was made from the civil hospital's side to conduct medical check-up of inmates. Despite the provisions stated in the Jail Manual for the appointment of doctor in every jail, but as on 31<sup>st</sup> August, 2018, eight jails<sup>149</sup> did not have a sanctioned post for a medical officer. District jails of Muktsar Sahib, Rupnagar and Sangrur<sup>150</sup> and Sub Jail Moga, did not have a sanctioned post for a doctor but despite of that each of these jails had a doctor appointed inside.

During interaction with the team, jail doctors highlighted that there was a need to increase the sanctioned strength of doctors and claimed that the shortage of doctors in jails is directly linked to shortage of doctors being posted from Punjab Public Services Commission. Policy measures are necessary to fill in this gap at both levels. One of the suggestions from the jail officials and the doctors was that prisons should have their own medical department from where doctors can be recruited directly.

<sup>148</sup> DJ Barnala, Open Air Jail, SJ Fazilka, SJ Malerkotla, SJ Pathankot and SJ Patti

<sup>149</sup> DJ Barnala, DJ Maktsar Sahib, DJ Sangrur, DJ Roopnagar, SJ Fazilka, SJ Patti, SJ Malerkotla and SJ Moga

<sup>150</sup> There was a sanctioned post for a psychiatrist and not a Medical Officer which seems to be a discrepancy in data as the table detailing visits by specialist doctors state that no psychiatrist was appointed in DJ Sangrur.

*Similarly, a dentist should be deputed for Central Jail, Bathinda.*

*DLSAs and the prisons can collaborate on contacting notable NGOs or private hospitals in providing ambulances, conducting medical camps, arranging visits by specialised doctors etc.*

*Female nursing staff should be deputed in the female enclosures.*

*The prison department must sanction posts for medical staff, including a jail medical officer, for all the 24 jails.*

Doctors suggested that instead of the existing 1:500 doctor inmate ratio, there should be one doctor for not more than 300 inmates to deal with the existing healthcare related issues inside the jails.

**c) Lack of Paramedic Personnel and Need for training of Doctors and Paramedics:**

During discussion with jail MOs, it was pointed out that they lack specialised training, to work in a complex set up like a prison. Doctors highlighted that there was a need to provide medical officers and pharmacists with requisite training to cope with the prison environment. They also shared that jails across Punjab did not have sufficient nurses to provide for effective care of prisoners treated in the prison hospitals. Faridkot was the only prison, with 11 nursing staff on deputation, which was higher than the sanctioned medical staff.

It was a general practice to assign convicts to help the MO. Some doctors shared that since most of these inmates were not trained, they were unaware of medical protocols of nursing which often resulted in insufficient care of inmates. Additionally, MOs also complained that appointing convicts to work in jail hospitals increased the risk of syringes and medicines being stolen from the hospitals. MOs further highlighted that there was an urgent need for the medical team to have its own staff.

Doctors further shared the dilemma of the job where they felt that a six-month deputation was insufficient to provide effective healthcare, yet frequent security threats often prevented them from wanting to continue. MOs said that mostly, inmates were not satisfied with any kind of treatment, and would insist on being referred to the civil hospital. There were also those prisoners who would consume week long dose of medicines in just a couple of days. Naturally, in such a scenario it was difficult for the jail doctors to manage such inmates.

Doctors also felt that they needed training to identify cases of physical (particularly where no visible injury marks were present) and psychological torture. In their opinion they also lacked knowledge on the procedures of conducting medico-legal examination that needs to be conducted in cases of alleged torture.

*Medical officers must be given adequate training/ orientation at the time of induction on prison functioning, their roles and responsibilities. This would enable them to perform their duties effectively.*

*Para medic and nursing staff can be provided to all the jails.*

*It is advisable to have qualified medical team to work in the hospital, and taking help of convicts should only be used as the last resort.*

*The serving term for jail medical officers could be increased from 6 months to one year or more.*

*Jail medical officers should receive proper training on conducting medico-legal examination along with the training on identification of custodial violence on inmates and the importance of it's documentation and reporting.*

d) **Visits by Specialised Doctors:**

Some prisons were being visited by specialized doctors like dentists, dermatologists (skin specialist), Ophthalmologist (eye specialist), ENT specialist, Psychiatrists and Gynecologists. Frequency of these visits was not the same in all prisons. It usually ranged between one visit per week to one visit per month. In some prisons<sup>151</sup> the roster for the visit of specialised doctors existed, but they were not visiting. In other jails like CJ Bathinda, the visits were fixed for every second and fourth Saturday of the month. Gynecologists were only visiting CJ Amritsar, CJ Gurdaspur, CJ Kapurthala, New DJ Nabha, while a full time Psychiatrist was deputed in Model Jail Faridkot. Apart from that, CJ Amritsar, CJ Ferozepur, CJ Ludhiana and Women's jail had a visiting Psychiatrist. Apart from the Women's jail, a Psychologist was also visiting these jails. Jail doctors as well as female inmates shared that there was a need for Gynecologists to visit the prison to address specific health concerns of women inmates.

e) **Referral to Hospitals outside:**

For specialised medical treatment or medical emergencies, inmates were mostly referred to the civil hospital as visits by specialised doctors were not systematic or regular, as discussed in the preceding section. For continued treatment, they had to be referred to hospitals outside of the jail. However, there were issues with regard to referral of inmates to civil hospitals. These were related to lack of medical escorts to take inmates to hospitals outside the jail (discussed in detail in later sections); lack of coordination between the inmate's time of visit and the OPD timings at the civil hospitals wherein many a times OPD timings were already over by the time inmates reached the civil hospitals. Further, the team was informed that in SJ Fazilka, the medical staff at the civil hospital were also inept in responding to medical emergencies. As a result, most the prisoners were being sent to Medical College, Faridkot for treatment, which is located at a distance of more than 130 kms from the sub-jail. Since smaller jails lack basic healthcare facilities like the jail hospital, inmates with serious illnesses were being transferred to Central jails as there were more facilities in place.

<sup>151</sup> Model Jail Faridkot,

*Gynecologists must be appointed for all female enclosures.*

*The state health department must make arrangements for weekly visits of specialized doctors to all the prisons.*

*Every Central Jail must have a psychologist and a psychiatrist visiting regularly.*

*Police escorts must be provided to all the jails by the Police department so that inmates can be transported to civil hospitals in a timely manner, whenever required.*

*It should be ensured that inmates being referred to the civil hospital are taken during the OPD timings.*

*Technical staff must be recruited for prison hospitals.*

f) **Lack of Technical Staff:**

As mentioned above, jails like Model jail Faridkot, New DJ Nabha, CJ Bathinda, CJ Amritsar, CJ Kapurthala, DJ Mansa and Women's jail had technical units like an operation theater, dental chair, laboratory etc., however due to lack of technical staff these units remained unused. There was also a dearth of nursing staff inside the jail. Doctors shared that there was an urgent need for male and female nursing staff inside the jail.

g) **Lack of Medical Escorts:**

Findings of the study reveal that majority of the jails were faced with the issue of lack of medical escorts for medical emergencies and outside referral of sick inmates. Except for CJ Hoshiarpur, CJ Kapurthala, BJ Ludhiana and New DJ Nabha jails, none of the other jails had appointed permanent medical escorts. Almost all jails officials and medical officers who were interviewed pointed this out as a constant issue. Prison officials at times had to use their personal vehicles to escort medical emergency cases to the civil hospital.

h) **Deaths in Prisons:**

Between 1st September, 2017 and 31st August 2018, a total of 169 inmates died in Punjab prisons. As per information shared, maximum inmates (137) died of natural cases and 27 died by suicide. Apart from that, four inmates in CJ Kapurthala died due to assault by outside elements and one inmate in CJ Ludhiana was killed by inmates inside the jail. CJ Ludhiana witnessed the maximum number of deaths amongst the Jails., (refer to table 2) which is a worrying picture. On an average, 14 deaths occurred in Punjab prisons per month (including an average of two suicides per month) during this time period. Lack of psychological support and an inadequate healthcare system can be directly linked to these deaths.

Prison	Natural Deaths	Suicide	Other Causes
CJ Amritsar	24	3	0
CJ Bathinda	12	3	0

*Reasons for the high number of deaths inside prisons must be investigated.*

Prison	Natural Deaths	Suicide	Other Causes
CJ Faridkot	7	5	0
CJ Ferozepur	9	2	0
CJ Gurdaspur	4	1	0
CJ Hoshiarpur	0	1	0
CJ Kapurthala	27	4	4 (death due to assault by outside elements)
CJ Ludhiana	28	4	1 (Murder by inmates)
CJ Patiala	8	2	0
Borstal School, Ludhiana	0	0	0
DJ Barnala	1	0	0
DJ Mansa	1	0	0
DJ Muktsar Sahib	0	0	0
DJ Roopnagar	5	0	0
DJ Sangrur	3	0	0
Maximum Security Jail	0	0	0
New DJ Nabha	2	1	0
Open Air Jail	0	0	0
WJ Ludhiana	2	0	0
SJ Fazilka	0	0	0
SJ Malerkotla	2	0	0
SJ Moga	0	0	0
SJ Pathankot	0	0	0
SJ Patti	2	1	0

Table 2: Data on Deaths in Prisons (between 1st September, 2017 and 31st August 2018)

i) **Special Diet for Women and Children:**

The Model Prison Manual recognises that during pregnancy and lactation, women need extra protein and minerals in their diet which can be obtained from food items like eggs, meat, fish and milk<sup>152</sup>. Along

<sup>152</sup> Chapter VI, Rule 6.02, p. 63, Model Prison Manual, 2016

*Proper psychological support system must be established inside the jails.*

*Pregnant and lactating women must be provided with an additional/special diet as per the mandate of the Model Prison manual.*

*Budget for healthcare inside prisons must be revised and the same should be provided to all prisons in a timely manner.*

*Procurement of medicines must be made easy for all the prisons. Enough budget should be allocated towards this.*

*Medicines that are being supplied should be provided through the office of the civil surgeon.*

*Punjab state government must provide budget to the jails for the diagnosis and treatment of HCV as many cases of HCV can be found inside Punjab prisons.*

with this, fresh fruits can also be made available to these women, as prescribed by the jail MO<sup>153</sup>. Findings of the report reveal that while children were being provided a special diet but in most of the jails, pregnant and lactating women were not being given the same.

#### **j) Inadequate Supply of medicines and Budgetary Constraints:**

Medical officer shared that jails in the State were faced with shortage of medicine (which is provided by the State). In such a scenario, jails were constrained to incur expenditure from its own resources to buy medicines from private vendors/stores. The shortage was worse when it came to supply of medicines for specific diseases like skin infections (which is also one of the most common diseases inside jails). Jail MO in Bathinda said that for the treatment of skin diseases the jail was only being supplied with one kind of medicine (*Fluconazole*) which was not enough and effective in treating all kinds of skin diseases. Apart from that, as it has already been highlighted in this chapter, jails were also short on dope-test kits.

Prison officers shared that the budgetary allocations for jails would evidence the allegations of the institution being a neglected one. In their opinion, the budget released for medical facilities was delayed and often not enough. The quality of treatment of specific diseases like HCV was directly linked to the available budget. Due to budgetary constraints, jail were not able to conduct HCV tests and the follow-up treatment. The medical unit of the jail had to borrow money from the welfare unit, in order to undertake operations of inmates and even to buy medicines from local vendors. As per the jail administration and medical officers, there was an urgent need to increase the budget for medical infrastructure and healthcare inside prisons.

---

<sup>153</sup> Chapter VI, Rule. 6.05, p. 66, Model Prison Manual, 2016

## CHAPTER 7

# PRISON LABOUR AND WAGES

The Punjab Jail Manual, 1996 emphasises on the need to develop work programmes and states that the aim of such work programmes shall be to equip inmates with better skills and work habits which will help in their rehabilitation.<sup>154</sup> The Jail Manual further recognizes that to encourage participation of inmates in work programmes, payment of fair wages and other incentives need to be associated to such programmes as this will help in their early return to the society.<sup>155</sup> The right to meaningful and gainful employment and the right to get wages for the work done is also recognized by the Model Prison Manual, 2016<sup>156</sup> which provides detailed provisions in regard to employment of prisoners, prison industries and skill development programmes as well as prison wages.<sup>157</sup>

For the achievement of the above-mentioned objectives of Punjab Jail Manual, 1996, duty has been cast upon the Deputy Superintendent and the Deputy Superintendent, Factory for the development of prison labour and work programmes. At the outset, the Deputy Superintendent<sup>158</sup> is duty-bound to allot each prisoner sentenced to undergo rigorous imprisonment to perform labour daily, if they are fit for labour.<sup>159</sup> Further, the Manual also creates a specific post of Deputy Superintendent, Factory<sup>160</sup> who is in-charge of the manufacturing department and other productive enterprises carried on in the jail, and is dutybound to carry out all operations relating to the manufacture of articles, stores, accounts, requirement of raw materials, tools and implements.<sup>161</sup> Rule 128 also provides a note which states that Assistant Superintendent, Factory shall be performing all the duties of Deputy Superintendent Factory in a jail where Deputy Superintendent is not posted.

Further, the Jail Manual provides detailed provisions in regard to labour and jail industries. In Chapter XII, the manual lays down

*Vocational and skill development training can be provided to inmates through the Punjab Skill Development Board.*

<sup>154</sup> Chapter II, Rule 4 (x), Punjab Jail Manual, 1996

<sup>155</sup> Chapter II, Rule 4 (xi), Punjab Jail Manual, 1996

<sup>156</sup> Rights of Prisoners (F), Model Prison Manual, 2016

<sup>157</sup> Chapter XV, Model Prison Manual, 2016

<sup>158</sup> In the case of State of Punjab, Officials informed that it was the Deputy Superintendent (Maintenance) who was in-charge of performing this function.

<sup>159</sup> Chapter VII, Rule 100 (c), Punjab Jail Manual, 1996.

<sup>160</sup> Chapter VII, Rule 128, Punjab Jail Manual, 1996

<sup>161</sup> Chapter VII, Rules 130-132, Punjab Jail Manual, 1996.

*Inmates should be paid all wages due to them, as per the mandate of the jail manual.*

detailed provisions in regard to length of working hours (which should not exceed more than Nine Hours a day),<sup>162</sup> hours of rest,<sup>163</sup> classes of labour,<sup>164</sup> description of works to be assigned<sup>165</sup> as well as tasks to be imposed on female and juvenile convicts,<sup>166</sup> to name a few of the provisions. The commentary to the chapter also recognizes that prisoners engaged in work are entitled to be paid reasonable wages for the work they are called upon to do inside and outside the jails, and that no prisoner can be forced to work without wages.<sup>167</sup>

In regard to the payment of wages to the inmates for work done inside jail, attention was brought to the *Reorganization of Punjab Jail Industries "Earning Scheme", 1964* of the Punjab Jail Department. The Scheme lays down a list of work that prisoners might be employed on,<sup>168</sup> and establishes a system of gratuity that needs to be paid to inmates.<sup>169</sup> The worker inmates for the purposes of payments have been classified into three categories i.e. Skilled Workers, Semi-Skilled Workers and Unskilled workers,<sup>170</sup> who are to be paid on the scale of Rs. 60, Rs. 50 and Rs. 40 per day, respectively.<sup>171</sup> The scheme also provides that the gratuity earned by an inmate should be calculated and transferred to the personal ledger accounts of the inmates at the end of the month, from which withdrawal is allowed by the inmate on a monthly basis.<sup>172</sup>

## 7.1 TYPES OF LABOUR ACROSS JAILS IN PUNJAB

As has been mentioned previously, it is the Deputy Superintendent (Maintenance), who is in-charge and responsible for allocating labour

<sup>162</sup> Chapter XXI, Rule 605, Punjab Jail Manual, 1996

<sup>163</sup> Chapter XXI, Rule 608, Punjab Jail Manual, 1996

<sup>164</sup> Chapter XXI, Rule 612, Punjab Jail Manual, 1996

<sup>165</sup> Chapter XXI, Rule 613 read with Rule 615, Punjab Jail Manual, 1996

<sup>166</sup> Chapter XXI, Rule 614, Punjab Jail Manual, 1996

<sup>167</sup> Please see, Chapter XXI, Punjab Jail Manual, 1996, Commentary, which highlights Chapter 22 and Paragraphs 670-711 of the old Punjab Jail Manual.

<sup>168</sup> Rule 9, Scheme for Reorganisation of Industries and in Jails and Introduction of "Earning Schemes", 1964

<sup>169</sup> Rules 17 & 18, Scheme for Reorganisation of Industries and in Jails and Introduction of "Earning Schemes", 1964

<sup>170</sup> Rule 19, Scheme for Reorganisation of Industries and in Jails and Introduction of "Earning Schemes", 1964

<sup>171</sup> Rule 20, Scheme for Reorganisation of Industries and in Jails and Introduction of "Earning Schemes", 1964. This rule has been amended multiple times to reach the scale mentioned and is the current paying scale.

<sup>172</sup> Rules 22 and 25, Scheme for Reorganisation of Industries and in Jails and Introduction of "Earning Schemes", 1964

as a part of the rigorous imprisonment inside the jail. Rule 623 of the Punjab Jail Manual, 1996 states that jail labour may be employed for firstly, the requirements of the jail and of the jail department; secondly, the requirements of the Government in any other aspect; and thirdly, other demands which the Inspector-General may approve from time to time. Further, Rule 615 of the manual provides a detailed list of forms of labour and the tasks to be carried out in each case.

It was informed by the officials across some of the jails, that prison labour is limited to convicted inmates, and under-trial inmates were only allowed to work in **two scenarios: 1) Where an under-trial wants to work on voluntary basis; and 2) Where the jail has a shortage of convicts and hence under-trials are required to work for the daily maintenance of the jail.**<sup>173</sup>Based on the observations of the team across the 24 functional jails, the on-going labour can be categorised under the following two categories:

1. **Factory/Manufacturing Unit Labour**
2. **Maintenance Labour**

In general, the Factory/Manufacturing unit across the jails (where it was present) consisted of the following sections:

- **Handloom Unit (Cloth making)**
- **Carpentry Unit (Furniture making)**
- **Sewing and Stitching Unit (available for both male and female inmates)**
- **Quilt Making Unit (available for both male and female inmates)**
- **Flour Making Unit**
- **Washing Soap and Phenyl Making Unit**
- **Pipe Making/Welding Unit**

However, there were some special and exclusive units unique to these jails. These were: **1) The Bakery Section (Central Jail, Ludhiana)** which had its own trademark registered **under the name “Anand Bakers”** and was catering to the production and supply of biscuits in all the jails across Punjab; **2) The Paper Printing Unit (Central Jail,**

<sup>173</sup> Borstal Jail, Ludhiana is one such example wherein the Deputy Superintendent informed that due to the jail population having less than 10% convicts, the jail administration was forced to utilize under-trials for the daily maintenance of the jail. Other examples, in general, include the sub-jails in the State, which have a lower population count, out of which, majority are undertrials.

*Jail medical officers can be given the task of allocating labour work to each inmate based on the their health status.*

*Similar model as Ludhiana (Bakery), Patiala (paper printing) and Kapurthala (bulb making) can be recreated in other jails as well.*

*Local work from each district should be identified and the prison inmates should be provided training/ skills in the same.*

*Local needs of the district can be co-related to the skills being provided.*

**Patiala)**, which was producing and supplying registers and books for maintenance across all the jails in Punjab; and 3) **LED Bulb Making Unit (Central Jail, Kapurthala) which was a unique collaboration between the jail and a Private Company from Jalandhar (KACAD Pvt. Ltd.)**, wherein LED Bulbs were being produced by inmates, and sold in the company shop located just outside the jail. It was further informed by the Deputy Superintendent (Factory) at Kapurthala that the company was paying per unit, and the money generated was being directly deposited in the account of inmates.

Other than that, in the observation of the visiting team, prison labour generally included (but was not restricted to) maintenance jobs such as:

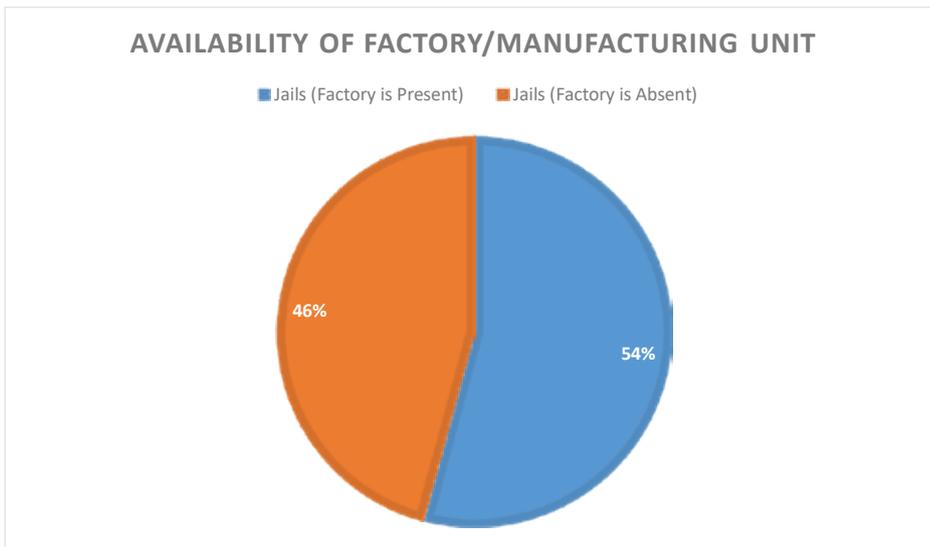
- **Working in Langar/Kitchen**
- **Cleaning and Sweeping**
- **Working as *lambardaar/Nigran***<sup>174</sup>
- **Operating the Prison Inmate Calling System (PICS) machine**
- **Working as barber**
- **Working as assistants/nursing staff in Medical Facilities such as Hospitals and Laboratories.**
- **Ironing clothes**
- **Working as *munshis/clerks* in the prison administration across the various units including warrant office, welfare office, Control Room, *mulaqaat* room, video conferencing operators etc.**
- **Working as assistants to Prison Officers**
- **Working in the jail gardens**
- **Maintenance of Library/Computer Rooms/Gymnasium (if available)**

## **7.2 FACTORIES/MANUFACTURING UNITS ACROSS JAILS IN PUNJAB**

Rule 626 of the Punjab Jail Manual, 1996 mentions that large industries should be concentrated in Central Jails, where machineries can be employed. However, the provision does not state that factories/manufacturing units in general needs to only exist in Central Jails. The fact that Rule 128 of the Manual provides for the appointment Assistant

<sup>174</sup> A guarding duty given to convicted inmates, where they are in-charge of specific barracks.

Superintendent, Factory in jails where Deputy Superintendent is not appointed, indicates that factories/manufacturing units should be established in all the jails of Punjab. Based on the observations of the visiting team across the 24 functional jails and the information provided, *Figure 1* represents the existence of factories across all the jails in Punjab.



*Figure 1: Availability of Factory/Manufacturing Unit (All Jails)*

As is evident from *Figure 1*, only 54% of the jails in Punjab have an established factory/manufacturing unit. However, it is important to note that from the 13 jails in Punjab which have an established factory/manufacturing unit, **three of these jails had a non-functional factory/manufacturing unit**, despite the infrastructure being available. **These were Central Jail, Gurdaspur, Borstal Jail, Ludhiana and District Jail, Muktsar Saheb.** This indicates that only 10 out of the 24 jails have a functional factory/manufacturing unit in the State of Punjab.

Further, it also requires mention that the existence of factories/manufacturing units is **primarily concentrated in Central jails** of the State where **eight of the nine Central Jails have the infrastructure available for factory/manufacturing units.**<sup>175</sup> Out of the 10 District Jails in the State, **only five of them**<sup>176</sup> have an infrastructure for the

<sup>175</sup> Central Jail, Hoshiarpur did not have a factory/manufacturing unit.

<sup>176</sup> Borstal Jail, Ludhiana, District Jail, Muktsar Saheb, District Jail, Sangrur, New District Jail, Nabha and Women's Jail, Ludhiana.

*Prison department should consider re-establishing factory/manufacturing units in Central Jail, Gurdaspur, Borstal Jail, Ludhiana and District Jail, Muktsar Saheb so that these can be made functional.*

same and **none of the functional five sub-jails** have a factory/manufacturing unit. In respect of sub-jails, **it is possible that due to the smaller size of the sub-jails and the pre-dominant population of inmates being that of under-trials** in the same, factories/manufacturing units are not set up in sub-jails. In these jails where factory/manufacturing units were lacking, the team observed that the labour for rigorous imprisonment primarily included the maintenance labour as mentioned above.

### **7.3 PAYMENT OF WAGES & BANK ACCOUNTS FOR INMATES**

As has been described in the previous sections, the Punjab Jail Manual, 1996, recognises the right of the inmates to be entitled for wages and states that no prisoner can be forced to perform labour without wages. Although the “Earning Scheme” of 1964 mentions ledger accounts to be kept for inmates, in the conversation of the team with the Deputy Superintendents (Factory) across the jails, it was found that bank accounts are opened for inmates, wherein 75% of the earned wages/gratuity is deposited in the accounts of the inmates and 25% of the earning is given to inmates in the form of money coupons to be utilised inside the jails for various facilities such as buying provisions from canteens, utilising the prison inmate calling facilities, etc. However, it was also observed that in regard to work in factories, payment is not made for the first three months of the labour done by the inmate, as the period is considered to be probationary/training period. This seems in contravention of the manual, which as mentioned earlier, prohibits labour without wages.

It was further informed by the officials, and Rule 635 of the Punjab Jail Manual, 1996 was brought to the attention, which stated that in regard to services of a menial or domestic nature such as cooks in *langars*, barbers, water-carriers, sweepers and the like, only 10% of the total number of prisoners (in a Central and District Jail) and 12% (in other jails) confined in the jails could be employed in such services. **Hence, the convicted inmates who were put on these jobs, were being paid on a rotational basis, where at a particular time only 10%/12% were being paid. This was despite the fact that in the**

*All convicted inmates working inside the prison are entitled to prison wages. Including the ones engaged in maintenance related work and those falling under the three-month probation period.*

*Convicts working inside the jail must be given bank statement of every three months on a regular basis.*

*Wages paid to inmates must be in line with the minimum wages prescribed by the State Government. The same should be reviewed by the State Government every 2-3 years.*

*Wages shouldn't be paid only to 10-12% of the labour, but to all convicts engaged in any kind of work inside prisons that qualifies as prison labour.*

**observation of the team, the jails continued to employ most of the convicts in these jobs of menial or domestic nature.**

However, in the interaction of the team with inmates regarding payment of wages, **it was observed that out of the 24 functional jails in Punjab, only two jails were such (Women's Jail, Ludhiana and Sub-Jail, Malerkotla) wherein no issues were documented in regard to payment of wages and opening of bank accounts.** In these two jails, the inmates stated that they were aware of the pay that they were entitled to and also had information regarding their bank accounts, wherein the wages were being deposited. **However, in the rest of the 22 jails, consistent issues regarding payment of wages and opening of bank accounts was found.** While in some of the jails, the inmates were not aware of the wages or opening of their bank accounts and were also not receiving their wages, in other jails the team found that while some of the inmates were aware and getting their wages in the bank accounts, the others were not. **In particular, Deputy Superintendents from jails such as Central Jail, Ludhiana and Central Jail, Patiala, confessed that payments had not been made since 2017 due to lack of budget for payment of wages.** Hence, the non-payment of wages and opening of bank accounts remains a cause of huge concern across the 22 jails.

## **7.4 ISSUES HIGHLIGHTED REGARDING FUNCTIONING OF FACTORIES/ MANUFACTURING UNITS**

In the interaction of the team with multiple Deputy Superintendents, Factory and Superintendents of the Jails, very specific issues regarding the maintenance and up-keep of factories/manufacturing units inside jails were highlighted. A brief summary of the same are as follows:

### **a) Lack of adequate Budget for Factory/Manufacturing Unit and Need for New Machinery**

The Deputy Superintendents highlighted that shortage of budget for factory/manufacturing unit was a prevalent issue across jails. The budget constraints existed for procurement of raw materials, purchase

*Bank accounts may be opened for convicts engaged in prison labour, to ensure that their wages are deposited in that account.*

*Prison authorities must make convicted inmates aware about their entitlement to wages for work undertaken.*

*The State Government must release funds, in a timely manner, for all the prisons so that wages, of convicted inmates engaged in prison labour, can be remitted in a timely manner.*

*Proper receipts should be given to inmates for the wages, preferably on a monthly basis.*

*The State Government must focus on reviving the factory and manufacturing units inside prison so that convicted inmates can be employed, which would ensure successful and profitable functioning of prison factories.*

*In order to boost production, technical staff must be appointed for factories and manufacturing units inside prisons.*

of new machinery, payment of salaries of technical employees and payment of wages for factory work (which was categorised as Skilled Labour and hence entitled to Rs. 60 per day). In their opinion, budgetary constraints were a major reason behind the inefficient functioning of the factory/manufacturing units so much so that they predicted that the said units may be shut down across Punjab jails very soon. This statement by officials can be corroborated from the observation that although there exists infrastructure for factory/manufacturing units in **Central Jail, Gurdaspur, Borstal Jail, Ludhiana and District Jail, Muktsar Saheb**, the same were non-functional. However, this is despite the fact that 23 out of the 24 jails in the State have under-utilised their allotted budget, and this contradiction needs to be further investigated.<sup>177</sup>

#### **b) Vacancy in Technical Posts**

A consistent grievance of the officials across the jails, which was also observed by the team during their visits, was the vacancy in technical posts inside the factory/manufacturing unit. This grievance and observation is also corroborated by the information provided by all the 24 functional jails, which state that between the period September of 2017 and August 2018, out of the 36 sanctioned posts for technical personnel, only 15 of them were filled.<sup>178</sup> In their unanimous opinion, the officials stated that continued existence of vacancy crippled the factory/manufacturing unit and resulted in inefficient production from the same.

#### **c) Refusal of Bank to open Accounts and Need for Zero Balance Accounts**

In a detailed and significant conversation with an Accountant in one of the jails, the team was made aware in regard to the issues surrounding bank accounts of inmates. The Accountant at the outset highlighted that the jails always faced difficulty in pursuing banks to open accounts of the inmates. Adding to that, if the banks did agree,

<sup>177</sup> Please see: Chapter 2, Prison Administration: Organisational Structure, Vacancy, Budget and Experiences, Section 2.3. Also Note: The Allotted Budget provided by the jails, do not provide a break-up of allotted budget for Factory/Manufacturing Units. Hence, there exists a possibility that there might be an issue of less allotment of budget for factories/manufacturing units which needs to be investigated further.

<sup>178</sup> Please see: Chapter 2, Prison Administration: Organisational Structure, Vacancy, Budget and Experiences, Section 2.2

it was difficult to convince the banks to open zero-balance accounts, which in the opinion of the accountant, was non-negotiable. **They highlighted that due to the long terms which convicted inmates spend inside the jail, in the absence of zero balance accounts, yearly charges would be cut from their accounts, which was unfair on the inmates.** They highlighted that there was an urgent policy requirement to address these issues.

d) **Employment of Prisoners as Clerks**

As per Rule 639 of the Punjab Jail Manual, 1996, the employment of prisoners as clerks is permitted, with sanction of the Inspector General, for an educated prisoner to copy letters, prepare rolls, write up registers and other work having no connection with warrants, remissions or money transactions. However, in the observation of the team across the 24 jails, convicted inmates were employed as *munshis/clerks* who helped out the prison administrators across various departments such as warrant office, welfare office, Control Room, *mulaqaat* room, video conferencing operators etc (to name a few). Although, the officials highlighted that they were being forced to do so due to all the jails facing heavy vacancy in regard to technical and ministerial personnel, the employment of inmates stands in contravention of Rule 639 of the Manual.

e) **Profits to be Re-invested/brought back to jails instead of State Treasury**

As per Rule 646 of the Punjab Jail Manual, 1996 all money in regard to the Factory/Manufacturing Unit needs to be paid into the State Treasury under appropriate headings. This in the opinion of the officials was a huge problem and was one of the main reasons behind the shutting down of factory/manufacturing units in the State of Punjab. **They unanimously suggested that such a system needs to be done away with and the money earned by Factory/manufacturing unit needed to be given back to the jails itself.** If such a system was established (with adequate checks and balances to prevent any kind of potential corruption), then the jail factory/manufacturing units would become self-sufficient in dealing with budgetary constraints, which would be without the bureaucratic

*All monetary dealings with regard to prison factories must be under the direct control of the Punjab prison department. The Punjab Jail Manual must be amended to include this aspect.*

*Profit earned from the factories, must be duly utilized by the prison department for the welfare and development of all the prisons.*

hassles of applying and disbursement of budgetary funding from the State Treasury, which also took a huge amount of time.

f) **Need to Move towards new Models of Collaboration for Factories/Manufacturing Units**

Rule 624 of the Punjab Jail Manual, 1996 allows for the manufacture articles for sale if only the requirements of jail and other departments have been met to the fullest extent it is possible to meet them. This suggests that the factory/manufacturing units currently, only produce articles that are required by the jail and other departments. The same was also observed by the teams during their visits to the jails.

However, during the interaction of the team with the jail officials, it was suggested that there was a definite requirement of evolving anew model for the operation of factories/manufacturing units. It was suggested that jails need to collaborate with private local industrial companies in their districts and identify ways in which the companies could directly make payment to the inmates through their jail accounts. They suggested that such a system will not help the factory/manufacturing unit thrive in a particular jail, but it would help in the rehabilitation of convicts, who will get opportunities to work for these companies once they get released after the completion of their sentence. Collaborations with hosiery industries (in Ludhiana) and sports equipment industries (in Jalandhar) were given as potential examples for collaborations. It is also important to note, that such a model was already witnessed by the team during their visit to Central Jail, Kapurthala where collaboration with a local LED Bulbs making company was already in place and successfully so.

## CHAPTER 8

# ABOUT VULNERABLE CATEGORIES

### 8.1 WOMEN PRISONERS AND THEIR CHILDREN

Recognizing the vulnerabilities of women prisoners, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules') were adopted by the UN General Assembly in December, 2010. These rules guide policy makers, legislators, sentencing authorities and prison staff in reducing the imprisonment of women and meeting the specific needs of imprisoned women<sup>179</sup>. Forming one tenth of the global prison population, characteristics and needs of women inmates have remained unacknowledged and largely been unmet by the criminal justice system<sup>180</sup>.

The Supreme Court of India, in its 2006 landmark judgment<sup>181</sup> recognised the extreme vulnerability of children staying with their mothers inside jails and observed that the prison environment is not congenial for their growth and development. The court stated that, "children, for none of their fault, but per force, have to stay in jail with their mothers. In some cases, it may be because of the tender age of the child, while in other cases, it may be because there is no one at home to look after them or to take care of them in absence of the mother." In this context the court issued several directions to states and union territories with regard to children of prisoners so that minimum standards of their living are maintained.

The Punjab Jail Manual lays down some key aspects with regard to women inmates and their children. However, these rules are mostly limited to specifications on their confinement (Rules 741-749)<sup>182</sup>, segregation (Rule 496, 498) and special diet (Rule 821). This section of this chapter, based on the study's findings, throws light on the conditions of confinement of women prisoners and their children and highlights specific issues faced by them.

<sup>179</sup> UN Bangkok Rules, Penal Reform International, <https://www.penalreform.org/issues/women/bangkok-rules-2/> Last accessed on 5<sup>th</sup> December, 2019

<sup>180</sup> UN Bangkok Rules on Women Offenders and Prisoners: Short Guide, Penal Reforms International, Pp. 04 <https://cdn.penalreform.org/wp-content/uploads/2013/07/PRI-Short-Guide-Bangkok-Rules-2013-Web-Final.pdf>, Last Accessed on 22<sup>nd</sup> November, 2019

<sup>181</sup> *R.D. Upadhyay V. State of AP (AIR 2006 SC 1946)*

<sup>182</sup> Chapter XXXVII- Female Prisoners and Children, p. 243-244, Punjab Jail Manual, 1996

**a) Women Inmates and their Children in Punjab:**

Nationally, women constitute 4.2% of the overall prison population<sup>183</sup>. While in Punjab their population is slightly higher, forming 5.1% of the total prison population<sup>184</sup>. Punjab prisons have an overall capacity to house 1,765 women prisoners (Refer to table 1), however, as on 31<sup>st</sup> August 2019, 1209 women prisoners were confined across 14 prisons of the state. As per the Punjab Jail Manual, children below four years of age can stay with their mothers inside the prison, the age limit can be extended to six with special permission from the jail Superintendent<sup>185</sup>.

S. No.	Name of the Prison	Authorised Capacity	Actual Population
<b>Central Jails</b>			
	Amritsar	284	155
	Bathinda	275	63
	Faridkot	164	105
	Ferozepur	136	71
	Gurdaspur	70	56
	Hoshiarpur	45	49
	Kapurthala	120	181
	Patiala	113	94
<b>District Jails</b>			
	Barnala	15	00
	Mansa	32	34
	New DJ Nabha	100	65
	Rupnagar	25	44
	Sangrur	66	97
	Women's Jail (WJ), Ludhiana	320	195
<b>Total</b>		<b>1,765</b>	<b>1,209</b>

*Table 1.1: Women Inmate Population in Punjab (as on 31-08-2019)*

<sup>183</sup> Prison Statistics India, 2017

<sup>184</sup> As on 31/8/2019, as per the data received from the office of DG (Prisons), Punjab.

<sup>185</sup> Rule 745, Pp. 243, Punjab Jail Manual, 1996

## b) Confinement of Female Inmates:

Punjab has just one prison meant exclusively for women prisoners. Located in Ludhiana, the Women's Jail housed a total of 195 women inmates as on 31<sup>st</sup> August, 2018. The remaining 1000 odd women prisoners were housed in 'female enclosures' located inside prisons with predominantly male inmate population. As per the Punjab Jail Manual, confinement of female prisoners in jails that also house male inmates will be in such a way that, "females shall be imprisoned in separate buildings, or separate parts of the same building, in such a manner as to prevent their seeing or conversing with male prisoners".

Out of the total 24 jails in Punjab, 13 have female enclosures. These are Central jails of Amritsar, Bathinda, Faridkot, Ferozepur, Gurdaspur, Hoshiarpur, Kapurthala, Patiala and Districts jail of Mansa, Sangrur, Barnala, Rupnagar and New DJ Nabha (Refer to table 1). CHRI's team found that Central prison Bathinda just had a makeshift arrangement to accommodate women inmates, wherein, the de-addiction ward inside the jail was being used to house them.

Women Jail Ludhiana has the highest sanctioned capacity and can house 320 women inmates, following closely are the female enclosures of Central jail Amritsar and Central jail Bathinda, which can house 284 and 275 women inmates, respectively. While women inmates were largely confined in Central jails, few districts jails like Rupnagar, Mansa, Barnala and New DJ Nabha also had female enclosures but with a small authorized capacity ranging from 100 (in New DJ Nabha) to 15 (in Barnala). **During the team's visits to all the jails, it was observed that apart from the one in Sangrur, no other female enclosure had overcrowding. During the team's visit, the said Sangrur jail had 97 women confined in an area meant to house 66 women inmates.**

Sections 499-508 of the Punjab Jail Manual clearly lay down the nature of segregation that has to be maintained between convicted and undertrial women inmates. However, **in the team's observation, this form of segregation was not in place in absolute terms in any of the 14 jails that housed women inmates.** One of the reasons for not segregating women could be due to their limited numbers. Another

*Build a separate enclosure for women inmates in Bathinda Central jail, as per the provisions of the Punjab Jail Manual, 1996.*

*Area of female enclosures should be increased in jails where the area is small.*

*Address overcrowding on an immediate basis in the female enclosure of District prison, Sangrur. This can be done by increasing the area of the female section and building more barracks.*

*Female inmates should only be kept in prisons located in districts where either their trial is pending or where their family is residing.*

*Observe segregation of women inmates as per the provisions of the Punjab Jail Manual. Women UTs must be housed in separate barracks from women convicts.*

*Appoint teachers from outside to visit all the women's enclosures.*

*Build a Balwadi or crèche in CJ Bathinda, CJ Hoshiarpur, DJ Mansa, DJ Rupnagar, New DJ Nabha and DJ Barnala.*

*Every jail where children are present, there should be some kind of recreational facilities available.*

*Children should be enrolled in nearby schools by the jail administration.*

reason could be attributed to the very architectural design of some female enclosures. For instance, both Central Prison, Gurdaspur and District Prison, Rupnagar each had just one big barrack in the female enclosures that housed all the women inmates. However, there was a common form of segregation in place in some jails, wherein women inmates were segregated based on their crime profile. Segregation in female enclosures appeared to be based on crimes committed i.e. on the basis of petty offences and heinous offences. For e.g. in WJ Ludhiana, women charged with NDPS related sections were confined together in one barrack.

### **c) Children of Inmates:**

As on 31<sup>st</sup> August, 2018, Punjab had a total of 61 children staying inside its prisons with their mothers. As it has been mentioned above, these were children below the age of six years. Findings of the study reveal that infrastructural requirements catering to the needs of children were not adequate in Punjab prisons. Data received from the jail shows that, out of the 14 prisons that have women inmates, six jails<sup>186</sup> did not have a *Balwadi* or a *Crèche* inside. In prisons with a *crèche*, teachers from outside were visiting in only CJ Patiala, CJ Kapurthala and CJ Gurdaspur. Additionally, it was observed that the most well maintained *crèche* existed in CJ Patiala. This was built by an NGO *Sarbatda Bhala*<sup>187</sup>.

The Punjab Jail Manual prescribes a special diet for children of three different age groups. The same rule mentions that whenever required, the jail medical officer may direct for an extra diet as well<sup>188</sup>. All jails were providing this special diet to the children, which includes milk powder, rice, sugar and fruits (apple and banana). It was informed that in CJ Gurdaspur, each child was also getting an egg. Some central jails had cooking facility available inside the *crèche* itself and one or two women inmates were given the responsibility of preparing food for children in this area.

It was observed that crèche facilities in Central jails were better than

<sup>186</sup> CJ Bathinda, CJ Hoshiarpur, DJ Mansa, DJ Rupnagar, New DJ Nabha and DJ Barnala

<sup>187</sup> <http://www.spsinghoberoisarbatdabhala.com/NewsEventDetail.asp?id=10> Last accessed on 5<sup>th</sup> December, 2019

<sup>188</sup> Rule. 821, p. 263, Punjab Jail Manual, 1996

what was the situation in District jails. **But there was an exception of CJ Faridkot where it was informed by inmates that the children would only get milk and fruit at times.** Even when fruits were being provided, the frequency of it was once in one-two weeks. The women inmates in CJ Faridkot, CJ Ferozepur and CJ Bathinda informed that sick or pregnant women inmates were not being provided with special diet when required. Except for CJ Amritsar, it is not clear for other jails if pregnant and lactating women are being provided special diet.

#### **d) Issues faced by Women Inmates in Punjab Prisons:**

##### **i) Infrastructural Issues:**

Since women inmates are lesser in number as compared to male inmates, the space allocated for female enclosures is much less, resulting in further restricted space for movement. Relatively newly built jails have architectural designs with bigger space allocated to female enclosures. However, many older jails have cramped spaces, especially in the female section.

In CJ Hoshiarpur, which is one of the oldest jails in the state, all three barracks in the female section were built in a highly congested manner with not much free space for women inmates to move around or sit outside the barracks. DJ Sangrur too had a very cramped female enclosure with almost negligible space for women to move outside the barracks. In other jails (both old and new) not all barracks were the same from inside. For the purpose of sleeping, some female barracks had elevated marble slabs being used as beds while in others, women were sleeping on the floor.

Even **toilets and bathing rooms were found to be in dirty and broken condition in the female section of some prisons.** Female enclosure in Sangrur had two toilets and two bathing rooms inside, most of the doors of which were broken. Similarly, in New DJ Nabha, the washrooms were very dirty and left open as its door had broken off. In this jail the toilets were small in size and the doors were very low in height.

As opposed to the male section, most of the female enclosures did not

*Ensure that standardized diet is being provided to the children of inmates in all the jails. While eggs are being given in some prisons (like CJ Gurdaspur), the same was not happening in other jails (like CJ Faridkot).*

*As some female sections like the ones in Gurdaspur and Sangrur were found to be highly cramped, more space needs to be added in these enclosures. Identify female enclosures with cramped space and renovate the same to ensure enough space is allocated to women inmates.*

*The prison department may consider giving an extra day of mulaqaat to women inmates.*

*If children below 18 years are visiting their parent in jail then the jail department may consider arranging a personal meeting in the admin block.*

*Identify prisons with run down structure, broken toilet seats, doors and tiles and renovate the same.*

*Similar to the male section, build a library, a kitchen, a dispensary, places of worship and a vocational training center in every female enclosure. OR Ensure that access to prison facilities including visit to the hospital, library, canteen, factory, legal aid clinic or a place of worship is provided at regular intervals, if not on daily basis, with adequate staff, so that women are not cut off even within the limited world of prisons.*

*Introduce skill development and vocational training courses for women inmates in all female enclosures. Women inmates should be consulted on the type of courses that they would want to take up, before the introduction of these courses.*

*Appoint lady medical officer either on permanent basis or deputation basis in all the female enclosures. The same should visit the enclosures either on daily basis or weekly basis, depending upon their availability from the civil hospitals.*

have a hospital, library, canteen, factory, legal aid clinic or a place for worship. Only CJ Amritsar, CJ Bathinda, CJ Kapurthala and CJ Faridkot had a langar/kitchen inside the female enclosures, in other jails, food prepared in the male section was served to the women inmates. As per the observation of the team, only the female enclosure in CJ Faridkot had a Gurdwara inside. A small canteen was there inside the female sections of CJ Kapurthala and CJ Gurdaspur.

#### ii) **Inadequate Vocational Training Programmes:**

Another crucial aspect which was missing from the female enclosures was proper skill development or vocational training courses. Of all the jails, only six jails<sup>189</sup> had sewing machines being used/available for use by women, either for personal use or for making items that could be later sold outside. Sewing units of CJ Ferozepur, CJ Bathinda and WJ Ludhiana were slightly bigger and both convicts and UTs were working here on voluntary basis. The sewing centre in CJ Bathinda and CJ Ferozepur had 13 sewing machines each and a training instructor was appointed by the Prisons Department. Women were also getting trained in making paper bags, knitting sweaters as well as painting and sketching. Interaction with women inmates in other jails expressed the desire to undergo skill development and vocational training while they are inside the jail. However, with the absence of such courses, they had no choice but to sit idle most of the day.

#### iii) **Inadequate Access to Healthcare**

The Model Prison Manual, 2016, emphasises the need for a lady medical officer inside prisons, especially catering to the day-to-day healthcare requirements of women prisoners. The manual specifically states that, “only lady doctor shall look after the medical care of women prisoners during their stay in prison”<sup>190</sup>. In Punjab, none of the 14 prisons that housed women inmates had a permanent lady medical officer appointed inside. This was despite the fact that women inmates almost unanimously felt the need of a lady doctor inside.

In the absence of a permanent lady doctor, WJ Ludhiana, CJ Bathinda,

<sup>189</sup> CJ Patiala, CJ Faridkot, CJ Bathinda, WJ Ludhiana, CJ Kapurthala and CJ Ferozepur

<sup>190</sup> Section 26.25, p.243, Model Prison Manual, 2016

CJ Ferozepur, CJ Kapurthala, CJ Patiala, DJ Sangrur, DJ Rupnagar and New DJ Nabha had female doctors visiting the jails on a temporary basis. As per interaction with officials and inmates in these jails, visits by lady doctors ranged between once in a week to once in a month. At other times, the female enclosures were either visited by the Jail Medical Officer (who happened to be male doctors in all 24 jails) during an emergency or on a regular basis. Need for a lady doctor was reiterated further in jails like DJ Rupnagar where women alleged harassment and problematic behaviour of the male medical officer (including alleged sexual harassment and preferential treatment).

Many times women inmates were simply referred to the civil hospital for any kind of medical assistance. Women inmates also shared that a Gynecologist was required to visit them for specific health issues but the visits were not taking place in majority of the jails. Only Rupnagar and Kapurthala prisons had a visiting Gynecologists. With regard to the jail hospital, women did not have access to the hospitals located in the male section. Only, WJ Ludhiana and CJ Faridkot had a room that was being used as clinic/dispensary.

**Another basic necessity, sanitary napkins were not being provided in New DJ Nabha and CJ Ferozepur.** Women had to either buy sanitary pads with their own money from the canteen or use a cloth as an alternative. Apart from these jails, in DJ Rupnagar and CJ Kapurthala, women were getting sanitary napkins from some NGO and not from the jail administration. Further, in other jails women were getting limited number of napkins, between five and eight, per month. Women inmates shared that the quantity of pads was not sufficient and the same should be increased.

#### iv) **Discrimination based on Class and Caste**

In the absence of family contact, often resulting in no *mulaqaat*, women were found to be surviving inside with negligible monetary resources. Facilities inside the jail that require money, like access to the canteen or the PCO service, were often out of bounds for women who had no family visits/*mulaqaat*. In such a scenario they were compelled to work for other women inmates. The work involved chores like cleaning utensils, cleaning washrooms and the barracks,

*Specialists like Gynecologists and psychologists should be appointed by jails to visit female enclosures in their respective jails.*

*Sanitary napkins in enough quantity and of good quality should be provided by jails free of cost to all women inmates.*

*Each prison should take steps to prevent the practice of women inmates from lower socio economic backgrounds working for other women inmates.*

*Appoint sweepers for all prisons and discourage/prevent the practice of women inmates cleaning toilets and washrooms.*

*Prison and legal service authorities may increase interaction with women inmates to identify cases/incidents of class and caste discrimination inside the jails and address the same through awareness camps and other pro-active measures.*

*Amend the Punjab Jail Manual and remove rules (example, Rule 748) that are discriminatory.*

cooking, washing clothes etc.

In the absence of a permanent sweeper, washrooms and toilets, located both inside and outside the barracks, in New DJ Nabha were being cleaned by women inmates themselves. During an interaction with the team, one of the women inmates claimed that she was paying other women to clean the toilets. Money that she received from her family during *mulaqaat* was also being used to ensure that she is not a part of the group that cleans toilets. This reflects on the prevailing class division inside New DJ Nabha where, in the absence of a permanent sweeper, women from only lower socio-economic backgrounds were being compelled to clean toilets inside.

Although caste discrimination was not something that was observed in an overwhelming sense in Punjab prisons, however, there was an indication towards its existence in CJ Kapurthala which is worth mentioning. During interviews with women inmates, an inmate who belonged to the schedule caste claimed that she faced caste based discrimination by other women inmates inside the jail. Sharing incidents of ill treatment by other inmates, she said that “*humare saath kutton ki tarah bartav karte hein, hume humesha dhut karte rehte hein aur apne paas nahi baithaya jata*” (The treatment we, lower caste people, receive is worst than how even dogs are treated. We are loathed so much so that no one even wants to be seated besides us). The same inmate was also found to be working in the kitchen. Despite of being an undertrial, she was given the duty of washing utensils in the kitchen.

While on one hand the Punjab Jail Manual lays down safeguards<sup>191</sup> against undue interference in religious and caste matters of individual inmates, on the other, it is important to throw light on the discriminatory language of the manual, Rule 748 of the manual states that, “**if there are no females (prisoners) of suitable caste for conservancy work paid sweepers shall be taken into the (female) enclosure..**”<sup>192</sup>.

<sup>191</sup> Rule 535, “Matters affecting caste or religion: (1) No undue interference with the religion or caste prejudices of prisoners shall be permitted.” p. 169, Punjab Jail Manual, 1996

<sup>192</sup> Rule 748 (2), Pp. 244, Punjab Jail Manual, 1996

## 8.2 FOREIGN NATIONAL PRISONERS

The Punjab Jail Manual does not contain any provisions with regard to the confinement of a foreign national (FNP) in its prisons. As on 31st August 2018, there were a total of 172 FNPs, including both men and women, in Punjab prisons. Nationally, FNPs constituted 1.1% of the total prison population of the country<sup>193</sup>. Percentage of FNPs in Punjab might be a mere 0.72%, however, their vulnerabilities inside prisons and issues merit discussion:-

### a) **Confinement of FNPs in Punjab Prisons:**

As a part of the study, CHRI's team interviewed a total of 33 FNPs from nine jails<sup>194</sup>. These prisoners were from Pakistan, Bangladesh, Nepal, Myanmar, Canada, United States of America, Nigeria, Uganda, Ghana, Ivory Coast, Central Africa and Dar-Es-Salaam. Among these, citizens of the USA and Canada were actually native Punjabis. During the course of this study, it was found that maximum FNPs were confined in CJ Amritsar (71), New DJ Nabha (31) and CJ Kapurthala (20).

**The findings of this study reveal that FNPs from African countries and Pakistan were being confined separately from other inmates of the jail.** Apart from Gurdaspur CJ, all other jails with Pakistani nationals had separate cells allocated for their confinement. Same was the case with prisoners from different African countries. Section 593 (c) of the Punjab Jail Manual simply mentions that cells can be used for separation of prisoners, however, the manual does not prescribe segregation on the ground of nationality. The exact purpose of this segregation remains unclear.

FNPs were mostly confined in high security wards of jails which consisted of cells. These wards were located in isolated areas, away from the central area of the jails which also had crucial places like hospitals, *chakkar*, legal aid room, PCO machines etc. The nature of these confinements restricted movement of FNPs in rest of the jails which also resulted in limited interaction with other inmates. It was

<sup>193</sup> Prisoners not possessing the passport of the country in which they are imprisoned.

<sup>194</sup> CJ Amritsar, CJ Bathinda, CJ Ferozepur, CJ Gurdaspur, CJ Ludhiana, CJ Patiala, DJ Sangrur, New DJ Nabha and WJ Ludhiana

*Include a chapter on Foreign National Prisoners in jail manual which will have details regarding their confinement in the jails of Punjab.*

*Avoid confinement of FNPs in isolated cells which restrict their movement in rest of the jail.*

*Prevent overcrowding in transit camps situated in Amritsar CJ. The same should house FNPs as per the provisions mentioned in the Punjab jail manual.*

only in CJ Patiala that the FNPs stated that although they were confined in a separate area but they were allowed to move freely during lock-out.

Among all the prisons of Punjab, Central jail Amritsar houses the maximum number of FNPs at any point of time, as FNPs are sent to Amritsar from other jails as well. All FNPs in this jail are confined in 'transit camp', situated in the high security ward of the jail. This ward had individual cells housing FNPs, mostly Pakistanis. Prisoners are sent to the transit camp upon completion of their sentences, pending the completion of repatriation process. Prisoners confined in the transit camp are referred to as 'internees'.

Section 600 of the Punjab Jail Manual very specifically mentions that there is only one condition whereunder more than one inmate can be kept in one cell<sup>195</sup>. As per the manual, the jail on the recommendation of the jail medical officer can keep an attendant (another inmate) with a seriously ill prisoner who is residing in a cell. Under no other circumstances can two inmates be confined together in one cell. However, the ground situation was quite different in CJ Amritsar where the cells that housed FNPs were extremely overcrowded. This was to an extent where one cell even housed ten FNPs, all of whom were suffering from mental illnesses.

**b) Issues faced by Foreign National Prisoners:**

**i) Dietary Issues**

In the absence of any specific prescribed diet for FNPs, in the Punjab Jail Manual, they were being provided the same food as the rest of the inmates. Since many FNPs<sup>196</sup> had different dietary requirements than what was provided by the jail, they had to rely on buying raw material from the canteen and cooking their own food. During shortage of food items in the canteen, like in the case of CJ Ludhiana, these FNPs were especially affected as they largely rely on canteen products for meeting their daily dietary requirements.

*Provide basic minimum diet as per the needs of FNPs especially for the ones who have different diets than what is given to other inmates. For example, instead of chapatti and dal, FNPs can be provided rice and potato.*

*Provisions may be added in the Punjab jail manual on the dietary needs of the FNPs.*

<sup>195</sup> Rule 600, p. 199, Punjab Jail Manual, 1996,

<sup>196</sup> Inmates from African countries

## ii) **Language Barrier**

Inmates who did not know the local language (Punjabi) or Hindi, found it difficult to communicate with other inmates inside the jail and even with prison officials who they encountered on a day-to-day basis. Language barriers also made it difficult for them to follow their case proceedings, thus raising doubts on the process outcomes.

## iii) **Lack of Communication with Family and Friends:**

Since the rules did not prescribe for International calls, FNPs could not be in touch with their native families. Only a few FNPs, who had friends and family in India, were in touch through PICS and *mulaqaat*.

## 8.3 ALLEGED JUVENILES

There are clear contradictions between what is being followed in the law presently and what the Punjab Jail Manual states. A basic definition of a 'child' mentioned in the Punjab Jail Manual is different from what is mentioned in the Juvenile Justice (Care and Protection) Act, 2015. While the former describes a child as someone below the age of 16<sup>197</sup>, the latter states the age of a child to be below 18 years<sup>198</sup> of age. The outdated nature of the State Jail Manual is clearly evident from this contradiction. The manual further states that any child, 14 years or upwards, accused of committing an offence can be sent to a prison<sup>199</sup>.

**During the course of the study, the team interacted with 22 inmates, in 11 jails<sup>200</sup>, who alleged that they were juveniles at the time of arrest.** These cases were highlighted to respective jails where inmates alleged that they are less than 18 years of age. It was also alleged by some of these inmates that the police (during the time of arrest) deliberately put the age as 19 years and they were not given a chance to share their status of juvenility with the magistrate during first production.

<sup>197</sup> Rule 750 (1)(ii), Pp. 245, Punjab Jail Manual, 1996

<sup>198</sup> Section 12, Pp. 3, Juvenile Justice (Care and Protection) Act, 2015

<sup>199</sup> Rule 750 (1)(i), Pp. 245, Punjab Jail Manual, 1996

<sup>200</sup> CJ Amritsar, CJ Bathinda, CJ Faridkot, CJ Gurdaspur, CJ Patiala, Borstal School Ludhiana, DJ Muktsar Sahib, DJ Rupnagar, DJ Sangrur, SJ Fazilka and SJ Pathankot

*Since most of the FNPs understand English, prison officials who can communicate in English should be used to interact with FNPs.*

*On a needs basis, interpreters may be arranged by the prison department or the embassy for better communication.*

*Alternate options of communication (like VC) can be introduced by the prison department for FNPs who want to get in touch with their families in their home countries.*

*Amend the Punjab jail manual in accordance with the Juvenile Justice (Care and Protection) Act, 2015 to for the definition of a juvenile.*

*Identify cases of alleged juveniles inside each jail and report the same to concerned courts and the juvenile justice board (JJB) and the District Child Welfare Committee.*

*Alleged juveniles and young offenders (18-21 years) should be confined in separate barracks from other inmates.*

*When an alleged juvenile is brought to the jail, the DLSA secretary should be informed by the respective jail. The DLSA must, on an immediate basis, work towards establishing juvenility of the inmate.*

Emphasising on the fact that no juvenile can be confined inside a prison meant for adults, the Model Prison Manual, 2016, lays down specific instructions on the procedures to be followed when an inmate “looks younger than his age”<sup>201</sup>. Prison officials in CJ Hoshiarpur and DJ Rupnagar even stated that as soon as an alleged juvenile is sent to jail, they refer the case to District Child Welfare Committee and the concerned court. However, despite this claim, the team found two alleged juveniles in DJ Rupnagar. As per the observations of the team, even though confinement of alleged juveniles is questionable, no form of segregation could be found for the confinement of these inmates.

## 8.4 PRISONERS SUFFERING FROM MENTAL ILLNESS

Giving special recognition to this category of inmates, section 2(w) of the Mental Healthcare Act, 2017, defines “prisoner with mental illness” as, “a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison”<sup>202</sup>. Along with specifying the nature of confinement of such prisoners inside the jail and conditions of transfer from the jail, the Act also lays down duties of concerned authorities in identifying such inmates inside the jails and providing them with adequate medical requirements.<sup>203</sup>

**Punjab Jail Manual defines persons with mental illness as “lunatic” in the chapter XXX which again highlights the outdated nature of the manual**<sup>204</sup>. Five jails<sup>205</sup> provided data on a total of 29 prisoners suffering from mental illness. Data from these jails further stated all these inmates are being provided with psychiatric treatment.

Information received from CJ Amritsar, which is among these five jails, states that FNP inmates with mental illness confined in transit camp are undergoing psychiatric treatment as per the advice of the Department of Psychiatry, Government Medical College Amritsar. However, as it had already been mentioned above, these inmates (total 10) were confined in a single cell meant for one inmate.

<sup>201</sup> Section 5.66, p. 62, Model Prison Manual, 2016

<sup>202</sup> The Mental Healthcare Act, 2017, Section 2(w), Pp. 4

<sup>203</sup> The Mental Healthcare Act, 2017, Section 103 (1, 2, 3, 4, 5, 6, 7) Pp. 42-43

<sup>204</sup> The jurisprudence on mental healthcare in India has moved beyond the offensive terminology mentioned in the Punjab Manual. The Mental Healthcare Act (2017) used the terminology of “prisoner with mental illness” which is defined in Section 2(1)(w), p.4 of the act as, “a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison”

<sup>205</sup> CJ Amritsar, CJ Gurdaspur, CJ Patiala, CJ Kapurthala and DJ Sangrur

*Amend the Punjab jail manual in accordance with the Mental Healthcare Act, 2017.*

*Psychological evaluation (after every 3-6 months) of inmates must be done so that it can be determined which inmate is not fit to be kept in the jail.*

*Remove FNP inmates with mental illness from the transit camp and house them in the jail hospital.*

## 8.5 TRANSGENDER PERSONS

Rule 496 of the Punjab Jail Manual, directing for separation of prisoners, mentions 'Homosexuals' as one of the categories of prisoners<sup>206</sup>. While the manual does not account for confinement of inmates that identify themselves as transgender. However, during the course of this study, the team came across four transgender women who identified themselves as kinnar. Three of them were using their Guru's name (as "in custody of") in the place of their parent's name. Whether all jail in Punjab are following this distinction is not clear as the team did not check the history tickets of these inmates.

With the absence of any substantive rules on confinement of transgender inmates, **it was observed that there was lack of uniformity in their confinement across prisons in Punjab.** These kinnars were interviewed in CJ Patiala, New DJ Nabha and Borstal School, Ludhiana. While in CJ Patiala and New DJ Nabha they were confined in the female section, but **Borstal School being an all-male prison, the Kinnar woman was being confined in the prison hospital with TB and HIV patients.** Interview with the inmate revealed that this form of confinement was not appropriate in nature as she was still being harassed and even teased by some boys of the jail. She further shared that although minimal search was being conducted on her but in the absence of female guards, the frisking was being done by male guards of the jail.

There was some form of uniformity in the confinement of the other Trans women who were in CJ Patiala and New DJ Nabha, wherein, they were specifically confined in the female section. However, there was still a difference in the nature of their confinement. In New DJ Nabha, the Trans woman was confined in the same barrack where other women inmates were staying but in CJ Patiala, the two kinnars were confined in a separate cell in the female enclosure. In Patiala, however, this confinement was not designated to them as soon as they entered the prison. They also shared that they do not like to be confined in a separate cell and wished to be confined in the barrack meant for women inmates as they identified themselves as women.

*Include a chapter on Transgender prisoners in the Punjab jail manual with specific and uniform details on their confinement.*

*Transfer the transgender woman from the Borstal school to the Ludhiana Women's prison.*

*Transgender women should be searched by female matrons.*

*Implement recommendations of the report 'Lost Identity: Transgender Persons Inside Indian Prisons'. [<https://www.humanrightsinitiative.org/publication/lost-identity-transgender-persons-in-indian-prisons>]*

<sup>206</sup> Rule 496, p. 155, Punjab Jail Manual, 1996

*Check cases/incidents of discrimination against transgender inmates confined inside prisons.*

Interaction with Kinnars confined in CJ Patiala revealed that the doctor kept them under observation for the initial couple of days in Battis Chakki<sup>207</sup> which is the male section and only once the jail doctor and jail administration were convinced of their identity that they were sent to the female section.

Apart from that, three of the four transgender women who were interviewed stated that they have faced discrimination and some form of harassment from other inmates because of their identity. The harassment ranged from eve teasing and sexually colored (in the case of Borstal School, Ludhiana) remarks to being looked down upon by women inmates.

---

<sup>207</sup> Refer to Central Jail, Patiala jail report

## CHAPTER 9

# IMPACT OF NARCOTICS, DRUGS AND PSYCHOTROPIC SUBSTANCE ACT, 1985 (NDPS ACT) IN JAILS ACROSS PUNJAB

The issue of drug menace plaguing the State of Punjab is well known and well documented. In a survey carried out by the Ministry of Social Justice and Empowerment (MoSJE), Government of India supported by the Department of Health, Government of Punjab and National Drug Dependence Treatment Centre, AIIMS, New Delhi in 2015, approximately 2,32,856 individuals in Punjab were estimated to be dependent on opioid substances.<sup>208</sup> However, since then, the situation regarding drug menace continues to remain unchanged in the State. In a recently released report of MoSJE titled “*Magnitude of Substance Use in India*” in February, 2019, Punjab continues to be amongst the top States with respect to substance use, and was ranked 3<sup>rd</sup> in consumption of alcohol (28.5% of total population), ranked higher than the national average of cannabis use (1.3% of total population), ranked 2<sup>nd</sup> for usage of opioids (7.2 lakh people), was amongst the top five States in Sedative and inhalant usage (2 lakh people) and was ranked 2<sup>nd</sup> in regard to people who self-inject drugs (PWID) (88,000 people).<sup>209</sup>

To deal with the issue of drug menace, the Council of Ministers on 2<sup>nd</sup> July 2018 constituted the Special Group on Drugs (SGoD) to develop an action plan to deal with the drug menace in Punjab. In its report titled “*Comprehensive Action against Drug Abuse (CADA)*”, the SGoD in August 2018 suggested a three-pronged strategy focusing on “Enforcement”, “De-Addiction & Rehabilitation” and “Prevention” (EDP Strategy) that would endeavor to synergise the efforts of all government departments in dealing with the issue of drug menace in the State. While the aspect of “prevention” does not have a direct impact, the first two aspects of the strategy i.e. enforcement and de-addiction and rehabilitation have considerable influence on the functioning of the jails in Punjab. This chapter aims to analyse these impacts, which are as follows:

<sup>208</sup> Information available at: [http://pbhealth.gov.in/scan0003%20\(2\).pdf](http://pbhealth.gov.in/scan0003%20(2).pdf) (last accessed on 3<sup>rd</sup> December 2019).

<sup>209</sup> Information available at: <https://pib.gov.in/newsite/PrintRelease.aspx?relid=188688&fbclid=IwAR1RxxwRAqyF440zHF0XxvJ4Jc6TW5Un539iB4NDMIBha4pQE4RQHbuRydPw> (last accessed 3<sup>rd</sup> December 2019); The report is available at: [http://socialjustice.nic.in/writereaddata/UploadFile/Magnitude\\_Substance\\_Use\\_India\\_REPORT.pdf](http://socialjustice.nic.in/writereaddata/UploadFile/Magnitude_Substance_Use_India_REPORT.pdf) (last accessed on 3<sup>rd</sup> December 2019)

a. **Impact on Jail Population**

As per the recent data put out by the Punjab State government, under its achievement on “War on Drugs”, the government states that the since the establishment of the Special Task Force (STF) in 2017,<sup>210</sup> it registered 27,744 cases and further made 33,622 arrests under the NDPS Act up till 31<sup>st</sup> July 2019.<sup>211</sup> Such high number of arrests coupled with stringent bail provisions, have a direct impact on the prison population in Punjab.

Cate- gories of Inmates	Under- trials	Convicts	NDPS Under- trials	NDPS Convicts	Civil Convict	Foreigner	Total
<b>Total</b>	8,864	4,538	6,485	3,471	73	172	23,603

*Table 1: Category of Inmates (All Jails)*

As is indicative from *Table 1*, between September 2017 and August 2018, **inmates accused/charged/convicted under the NDPS Act constituted 42.1 % of the prison population** – with undertrials constituting 27.4% and convicts 14.7%. However, at this juncture, it is important to mention that amongst this high population of inmates charged under the NDPS Act, 1985, it is not necessary that all amongst them are addicts.

b. **Impact on prison administration**

The Punjab Jail Manual, 1996 provides for different criteria for classification of inmates and mandates their separation to the best extent possible.<sup>212</sup> One such classification is based on treatment requirements of prisoners and states that drug addicts and drug traffickers be kept separate as far as possible.<sup>213</sup> Further, the manual also states that those addicted to opium/drugs should be placed under medical treatment with a view to them being purged of their habit.<sup>214</sup> In addition to these provisions laid down under the Manual,

<sup>210</sup> The Special Task Force (STF) was constituted by the Government of Punjab via Notification 16/35/17/5H5/1666 on 14<sup>th</sup> April 2017. The STF was headed by Additional DGP Rank officer to deal with the issue of drug menace.

<sup>211</sup> Information available at: <http://punjab.gov.in/documents/10191/0/Achievements+of+the+Govt+-+31.07.2019+Final.pdf/b3db198e-4e35-4b1e-a61a-a6f59cb23ec9> (last accessed on 4th December 2019)

<sup>212</sup> Rules 495 and 496, Punjab Jail Manual, 1996

<sup>213</sup> Rule 496

<sup>214</sup> Rule 923, Punjab Jail Manual, 1996

CADA in 2018, added the responsibility of treatment of addicts upon prison management.

Recognising that “imprisonment” offers the best opportunity to treat substance dependence as jail term can be used to wean people away from opioids/drugs,<sup>215</sup> CADA states that there is a need to provide effective drug de-addiction facilities across the jails in Punjab. For this, it requires that the Department of Health and Family Welfare, Government of Punjab to strengthen the Opioid Agonist Treatment services through establishing Outpatient Opioid Assisted Treatment (OOAT) centres in addition to the existing de-addiction centres/services, across the jails.<sup>216</sup> For the effective functioning of these OOAT centres, officials shared the ‘*Standard Operating Procedure for Outpatient Opioid Assisted Treatment (OOAT) with Buprenorphine-Naloxone*’ (hereinafter OOAT SOP) issued in 2017, which was being used across the jails in Punjab.<sup>217</sup> The OOAT SOP provides detailed provisions for the infrastructure, staffing and training of the OOAT centres as well as procedures for delivering OOAT services. During the team’s visit to the 24 jails, the following issues were found:

i. **Establishment of OOAT Centers in addition to the De-Addiction Centers/Treatment**

a) **De-Addiction Centre/Treatment**

In regard to the de-addiction centres/treatment, the team observed that a de-addiction centre was only established in nine of the 24 jails. These were **Central Jail, Amritsar, Central Jail, Bathinda, Central Jail, Faridkot, Central Jail, Ferozepur, Central Jail, Gurdaspur, Central Jail, Kapurthala, Central Jail, Ludhiana, Central Jail, Patiala and District Jail, Muktsar Saheb**. However, it is important to point out that although the infrastructure for de-addiction centre was available in the District Jail, Muktsar, the same was not functional.<sup>218</sup> In regard to the functionality of these centres, it was observed that the jail administration were primarily using one barrack which would

*Start the functioning of the de-addiction center at District prison, Muktsar Sahib.*

<sup>215</sup> Point vi, Part B: De-Addiction and Rehabilitation, *Comprehensive Action against Drug Abuse, 2018*

<sup>216</sup> Point vi (d), Part B: De-Addiction and Rehabilitation, *Comprehensive Action against Drug Abuse, 2018*

<sup>217</sup> Attached as Annexure VIII

<sup>218</sup> The reasons behind the non-functionality of multiple facilities inside District Jail, Muktsar has been dealt in detail in Chapter 1 (About Prisons: Population and Infrastructure) and Chapter 2 (Prison Administration).

confine all the addicts inside the jail. As informed by the medical officers, the treatment included complete isolation from the consumption/availability of drugs to them for a period ranging 10-15 days, post which, a call was taken to shift them to OOAT treatment if they had severe withdrawal symptoms. As it can be observed, these centres were only existing and the treatment was on going only in the central jails, and not in the district or sub-jails of the State. This had a direct impact on the inmates who were addicts in these district or sub-jails, which has been dealt in the subsequent section (section 9.3.2).

#### b) **OOAT Centers and Personnel**

As per the OOAT SOP of 2017, an OOAT centre inside the jail needs to have rooms for Doctor, a dispensing room, a room for counselling of patients and a waiting area, a storage space and facilities for record keeping.<sup>219</sup> Further, in regard to the staffing of the OOAT centre, each centre needs to have a part time psychiatrist (visiting once in a fortnight), two doctors (including one backup), two nurse (including one backup for 100 patients), two counsellors, one data entry operator, three-four peer educators and office support staff (two sweeper cum class IV).<sup>220</sup> This requirement of staffing is exclusive for the OOAT centre, and in jails, they are to be deputed in addition to the already existing jail medical staff.

However, **the team during their visits observed that an OOAT centre was only established in the same nine jails, wherein a de-addiction centre was established and treatment was on-going.** Additionally, **the team was only able to interact with an exclusive team for the OOAT centre in Central Jail, Bathinda.** In the other jails such as Central Jail, Ferozepur and Central Jail, Patiala, it was informed that a person (did not specify whether a doctor/psychiatrist/counsellor) from outside was coming regularly for the administration of the OOAT tablets. However, in the remaining six jails, the team were not able to enquire on how the OOAT centres was being staffed.

With the general medical facilities and sanctioned strength/availability of medical personnel already being inadequate across

<sup>219</sup> Part 1: Space and Infrastructure, OOAT SOP, 2017

<sup>220</sup> Part 2: Staffing and Training Related Issues, OOAT SOP, 2017

the jails in Punjab,<sup>221</sup> **the potential of these jails to have a parallel medical facility in the form of OOAT centres, which not only requires additional infrastructure, but also additional strength of medical personnel, poses serious doubts on the effectiveness of such centres.**

ii. **Lack of Drug Test Kits, Body Scanners and Issue of Drug Smuggling and Consumption**

a) **Lack of adequate quantity of Drug Testing Kits/Urine Testing Kits**

For the effective implementation of treatment protocol in OOAT centres, the Department of Health and Family Welfare, Government of Punjab, recognised the need for apt number of urine test kits and dope test kits. However, in September 2018, the Department issued a letter which identified that urine testing kits were not available in apt quantities in several districts of the State,<sup>222</sup> subsequent to which, a direction was passed regarding the procurement of urine test kits and dope test kits for OOAT centres.<sup>223</sup>

This same issue was observed by the team during their visit to the jails between September 2018 and June 2019 (time period for field visits of the study). In interaction of the team with the medical officers inside the jails, **it was informed that jails lacked adequate quantities of urine testing kits and dope testing kits inside the jails.** Considering that the central jails received a huge inflow of inmates who were addicts, the lack of testing kits was a major problem.

b) **Security Measures: Absence of Body Scanners**

As per CADA, 2018, for the effective administration of de-addiction facilities inside the jail, several security measures needed strengthening at existing jails. Out of the 10 security measures that

<sup>221</sup> For a detailed reasoning behind the observation, please see Chapter 5: Medical Infrastructure and Facilities

<sup>222</sup> Please see: <http://pbhealth.gov.in/Procurement%20of%20Urine%20testing%20kits%20for%20OOAT%20clinics%20and%20Dope%20test.pdf> (last accessed on 6<sup>th</sup> December 2019)

<sup>223</sup> Please see: <http://pbhealth.gov.in/Instruction%20regarding%20local%20procurement%20of%20urine%20screening%20kits%2031oct.pdf> (last accessed on 6<sup>th</sup> December 2019)

*Efforts must be made to make OOATs clinics function on full staff capacity, in accordance with the present OOATs SOP.*

*Efforts must be made to establish de-addiction centers and OOATs clinics in more prisons, especially the district prisons.*

*Adequate number of urine testing kits and dope testing kits must be provided in all OOATs clinics on an immediate basis.*

*The state must invest in body scanners with imaging techniques to be installed in prisons to detect smuggling of contraband especially drugs.*

*Purchase of other security equipment must be done in a steadfast manner.*

*Mechanisms must be put in place to check smuggling, buying and selling of drugs inside prisons.*

have been suggested, one of them is in regard to the usage of body scanners with imagining techniques at the main gates (*deories*) of the jails.<sup>224</sup> **However, in all the 24 jails visited, the team did not observe a single jail where body scanners were available.** On the other hand, **the prison officials, including medical officers unanimously across the jails stated that the jails were in urgent need of body scanners to tackle the issue of drug smuggling, as inmates would often smuggle drugs inside their body cavities.**

With the CADA, 2018 stating that the **proposal for purchase of security equipment had already been cleared by the Hon'ble Chief Minister, Punjab and had been sent to the Department of Finance, Government of Punjab for allurement of funds, the reasons for non-availability of body scanners across all the 24 jails should be inquired into.**

### c) **Issue of Drug Smuggling and Consumption**

As has been discussed in detail in Chapter 10 (Issues of Concern), **the issue of drug smuggling and consumption is rampant across the jails in Punjab, wherein the team observed this issue in 15 out of the 24 functional jails.** In order to discern the reason behind such rampant drug smuggling and consumption, it is **plausible that one of the contributing factors behind the same is the existence of high number of inmates charged/accused/convicted under the NDPS Act, 1985.** With the jails having a constant and huge influx of large number of addicts, it **leads to the creation of demand for drugs inside the jails. This demand incentivises smuggling by not only inmates, but also possibly contributes to corruption, wherein prison officials allegedly indulged in sale of drugs inside the jail.**<sup>225</sup>

Additionally, in regard to the consumption of diverse range of drugs inside the jails, allegations were made specifically in regard to the sale of *Addnok* tablets, which contains buprenorphine and is being administered by the OOAT centres. Although in the conversation with the personnel at the OOAT centre in Central Jail, Bathinda and Central jail, Patiala, it was informed that the person administering the tablets

<sup>224</sup> Point vi (g) (viii), Part B: De-Addiction and Rehabilitation, *Comprehensive Action against Drug Abuse, 2018*

<sup>225</sup> For a detailed discussion, please see Chapter 10: Issues of Concern

at OOAT Centres would crush the same and put it into the inmates mouth, inmates across the jails alleged that *Addnok* tablets were being sold by officials for a price ranging between Rs 250-500 per tablet. **This issue, if existing inside the jails across Punjab, is a huge cause for concern as OOAT centres are possibly creating an economy for the sale of these tablets inside the jails, thus being counter-productive to the aim of tackling drug menace.**

c. **Issues with regard to inmates Accused/Charged/Convicted under NDPS Act, 1985**

**Out of the total 660 inmates interviewed across the jails in Punjab, the team particularly interacted with 224 inmates to understand their specific grievances of in relation to the NDPS Act, 1985.** The following issues were observed:

i. **Infructuous nature of Section 64A, NDPS Act, 1985**

As a part of its enforcement strategy, CADA, 2018 states that there is a need to create effective awareness about implementation of provisions of sections 64-A & 39 of NDPS Act, 1985, which provide immunity from prosecution to the addicts caught with ‘small quantity’ of drugs and volunteering to undergo de-addiction treatment. For the implementation of this strategy, the CADA holds the Punjab Police Department as the responsible agency.

However, in the interaction with the 224 inmates accused/charged/convicted under the NDPS Act, 1985, the team **observed that none of the inmates were aware of the provisions of section 64A of NDPS Act, 1985.**<sup>226</sup> Additionally, a peculiar trend was observed in the interviews, which arguably rendered the applicability of section 64A to be infructuous in nature. Amongst the 224 inmates, while some of them confessed to being addicts and consuming drugs at the time of arrest, they **alleged** that although they had a very ‘small quantity’ of drugs for personal consumption, **Punjab Police would add to the confiscated quantity, so as to indicate that ‘commercial quantity’ of drug was confiscated by them.** This was a trend prevalent across the interviews which indicated that the Punjab Police would

<sup>226</sup> In the questionnaire regarding NDPS Inmates, the team only enquired regarding the awareness of Section 64A of NDPS Act, 1985 and not about Section 39 of NDPS Act, 1985

*Dose of Addnok tablet must be given to inmates under strict supervision of OOATs medical personnel. The inmates must be made to consume the tablet there and then, limiting the scope for illegal selling of these tablets inside the jail.*

*Illegitimate use of Addnok tablet inside prisons must be investigated.*

*The SLSA may create awareness programmes focused on Section 64-A & 39 of NDPS Act, 1985.*

deliberately try and arrest persons under the 'commercial quantity'. **With the lack of awareness amongst people regarding Section 64A, combined with alleged forged arrests showing 'commercial quantity', in practicality, it renders the objective of Section 64A to be infructuous as no inmate would ever be produced before the court accused of carrying 'small quantity' of drugs.** If these allegations hold true, then it raises serious concerns in regard to adequate enforcement of CADA, 2018.

ii. **Transfer to Central Jails: Issues and Impacts**

As has been discussed in Section 9.2.1 of this chapter, de-addiction treatment/centres and OOAT centres were primary available in the central jails of the State (with the exception of Central Jail, Hoshiarpur). Due to lack of de-addiction treatment/centres and OOAT centres in the district jails and sub-jails of the State, the officials informed the team that in case addicts were admitted to their jails, they would immediately transfer them to the central jails, where the de-addiction treatment and OOAT centres were available. For example, **the officials of District Jails, Barnala and Mansa stated that they would transfer addicts to Central Jail, Bathinda; officials of District Jail, Roopnagar and New District Jail, Nabha stated that they would transfer addicts to Central Jail, Patiala; officials of District Jail, Muktsar and Sub-Jail, Moga stated that they would transfer addicts to Central Jail, Faridkot and officials from Sub-Jail, Pathankot stated that they would transfer addicts to Central Jail, Gurdaspur.**

Multiple impacts were observed as a result of these transfers. **Not only were these transfers causing over-crowding in the central jails** where they would be sent, but the inmates getting transferred would also **suffer difficulties in regard to *mulaqaat* and court production**, as they would be shifted out from their home districts where their families would reside, and where their case would be ongoing. In the interaction of the team with these inmates, **they made desperate requests to the team to request the prison officials to send them back to the jails in their home districts.**

### iii. **No Remission for inmates convicted under NDPS Act, 1985**

As per Section 32A of the NDPS Act, 1985, any sentence awarded under the Act cannot be suspended, remitted or commuted.<sup>227</sup> While this is the law, convicted inmates under the NDPS Act, 1985 specifically raised a concern regarding the applicability of this provision as **'discriminatory'**. **The inmates stated that while they have been convicted and are serving sentence as per the directions of the court, the law taking away their entitlement of remission, which is granted for inmates convicted under heinous offences such as murder (under Section 302, Indian Penal Code, 1860) was unfair.** In the interaction with the team, statements were made such as *"how is my consumption of drug more heinous than an act of murder"* so as to the law taking away right of remission from them. In the observation of the team, **this grievance was unanimously voiced by the inmates convicted under NDPS Act, 1985, who urged that such difference in treatment in regard to remission needs to be reconsidered.**

### iv. **Allegation of fake cases being filed by Punjab Police**

An overwhelming allegation made by inmates accused/charged/convicted under NDPS Act, 1985 **was in regard to 'fake' cases filed against them by the Punjab Police.** Although this information is not verifiable, this observation was made by the team across all the jails in Punjab. Allegations were made wherein inmates claimed that rampant **arrests without inquiry were being made by Punjab Police** and convictions were **being made by the judges without examination of witness and just on the basis of quantum of the substance mentioned by the police in their FIRs.** The inmates claimed that **if the FIR mentioned 'commercial quantity', judges would immediately pass their judgement,** convicting them of the crime and sentencing them with 10 years imprisonment added with fine ranging up to Rs. 1 lakh.

In particular, **a trend was observed by the team, wherein from the 224 inmates interviewed, 94 of them claimed to be**

<sup>227</sup> Section 32A of NDPS Act, 1985 reads as: "No suspension, remission or commutation in any sentence awarded under this Act- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force but subject to the provisions of section 33, no sentence awarded under this Act (other than section 27) shall be suspended or remitted or commuted"

*Not granting remission to NDPS convicts must be reconsidered on a policy level.*

*Allegation on arbitrary arrest and imposing of false charges on NDPS accused persons by Punjab police must be investigated.*

*An overhead body may be set-up to monitor arrests made under the NDPS act in order to prevent the misuse of the act.*

*This body must also look at the nature of FIRs registered and judgment orders for NDPS cases.*

**charged/convicted under Section 22 of the NDPS Act, 1985.** The inmates stated that this provision, which provides punishment for for contravention in relation to **'psychotropic substances'**, was being exploited and misused by Punjab Police to make arrests. **The inmates alleged that one of the methods used by Punjab police, was the usage of 'tramadol' tablets and liquid bottles (for usage in injections) as one of the substances to put 'fake' cases on people.** They stated that at the time of arrest, Punjab police **would crush tramadol tablets, make it into a 'white powder' and add it to the quantity confiscated during arrest, to increase the quantity to 'commercial quantity'**. Additionally, it was also brought to the notice of the team by the inmates, that *'tramadol'* was not considered to be a 'psychotropic substance' up until it was declared to be one by the government in 2018,<sup>228</sup> and since the declaration, Punjab Police has been using it to arrest people indiscriminately. **With a huge number of inmates alleging fake cases, it becomes a matter which requires urgent attention.**

d. **Need for De-criminalisation of drug use under NDPS Act, 1985?**

In a 2015 briefing paper published by International Drug Policy Consortium provided a detailed critique of the Drug Policy in India and suggested that there was a need for removal of criminalisation of drug use amongst several other suggestions.<sup>229</sup> Most recently, in a report released by Vidhi Centre for Legal Policy in 2018 which evaluated the efficacy of the NDPS Act, 1985 across 18 districts in Punjab, it stated that the NDPS Act, 1985 had failed to achieve its objectives of deterrence and rehabilitation, and advocated for the need of de-criminalisation of drug use.<sup>230</sup>

Along with the above-mentioned impact that the NDPS Act, 1985 has had on the jails in Punjab, the team also observed that **senior prison officials and medical officers were not in favour of incarceration of addicts.** According to them, the prison was not a place for an addict

<sup>228</sup> Please see: <http://www.egazette.nic.in/WriteReadData/2018/185016.pdf> (last accessed on 6th December 2019).

<sup>229</sup> Tripti Tandon, "Drug Policy in India", IDPC Briefing Paper, February 2015, available at: [https://idhdp.com/media/400258/idpc-briefing-paper\\_drug-policy-in-india.pdf](https://idhdp.com/media/400258/idpc-briefing-paper_drug-policy-in-india.pdf) (last accessed on 6th December, 2019)

<sup>230</sup> Vidhi Centre for Legal Policy, "From Addict to Convict: The Working of NDPS Act, 1985 in Punjab", 22<sup>nd</sup> August, 2018, available at: <https://vidhilegalpolicy.in/2018/08/23/2018-8-23-from-addict-to-convict-the-working-of-the-ndps-act-1985-in-punjab/> (last accessed on 6<sup>th</sup> December 2019).

*The Central and the State government must consider initiating collaborative work focusing on efforts to decriminalize drug addiction.*

*Particular allegations made by NDPS inmates of the practices used by Punjab police to show their arrest must be looked into and investigated.*

where they can undergo rehabilitation. Rather, they **ought to be confined in a place where they can get effectively counselled by psychologists and be treated by psychiatrists.**

As this chapter has tried to indicate on the potential negative impact of NDPS Act, 1985 through their findings as mentioned above, **it is perhaps pertinent, that the Punjab State Government, while taking into consideration the findings of the other reports as mentioned in this section, would want to reconsider and re-evaluate its strategy of “imprisonment” as offering the best opportunity to treat substance dependence under CADA, 2018.**

*Punjab State Government must reconsider and re-evaluate its strategy of “imprisonment” as offering the best opportunity to treat substance dependence under.*

## CHAPTER 10

# ISSUES OF CONCERN: CUSTODIAL TORTURE

### 10.1 INSTANCES OF CUSTODIAL TORTURE IN POLICE AND JUDICIAL CUSTODY

The team's interaction with the inmates brought to light rampant accounts of custodial violence in Punjab, of torture and rape by police officers in police custody (during arrest, interrogation and investigation of accused persons) as well as in judicial custody (after admission to prison).

This chapter documents allegations of torture and rape in custody as recounted by prisoners themselves.<sup>231</sup>

**54% of the inmates interviewed (357 of 660) in Punjab prisons allege being subjected to custodial torture in police custody. While roughly 12% inmates alleged (80 of the 660 interviewed) incidents of violence (inflicted by prison authorities) inside the jails.**

Women prisoners shared grave allegations of custodial rape. The prisoners' narratives not only detail acts amounting to torture, but also point to violations of constitutional and statutory safeguards. In a vicious cycle, the criminal justice system's allowance of these violations enable the perpetration of custodial torture.

#### a) **Prohibition of torture**

In India, while torture is not yet defined by statutory law, the Supreme Court has affirmed that torture is prohibited. In its landmark judgment in D.K. Basu vs. State of West Bengal, the Court stated:

“Fundamental rights occupy a place of pride in the Indian Constitution. Article 21 provides “no person shall be deprived of his life or personal liberty except according to procedure established by law”. Personal liberty, thus, is a sacred and cherished right under the Constitution. The expression “life or personal liberty” has been held to include the right to live

<sup>231</sup> All statements were given in Hindi/Punjabi and have been translated by the study team for documentation in this chapter.

with human dignity and thus it would also include within itself a guarantee against torture and assault by the State or its functionaries”<sup>232</sup>

Additionally, as a signatory, India ought to adhere to the United Nations Convention against Torture and other Cruel, In-Human or Degrading Treatment or Punishment<sup>233</sup> (UNCAT) which defines “**torture**” as:

*“any act by which severe pain or suffering, **whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.**”*

Article 2 of UNCAT establishes the absolute prohibition of torture by laying down that no “exceptional circumstances whatsoever” can be invoked as a justification of torture. It also states that “an order from a superior officer or a public authority may not be invoked as a justification of torture”.<sup>234</sup>

The UNCAT calls on State parties to take effective measures to prevent torture, particularly by enacting domestic legislation that makes all acts of torture offences in criminal law, including complicity and participation in an act of torture, and codifying the matching punishments and needed remedies.

**While India signed the UNCAT on 14th October 1997, it is yet to ratify it by passing a robust domestic anti-torture law despite the preparation of Bills providing for an anti-torture law**<sup>235</sup>

A comprehensive stand-alone law, in compliance with UNCAT, would greatly empower victims of torture seeking protection and accountability.

<sup>232</sup> (1997) 1 SCC 416

<sup>233</sup> UN Convention Against Torture and other Cruel, In-Human or Degrading Treatment or Punishment, 1987,

<sup>234</sup> Article 2, UN Convention Against Torture and other Cruel, In-Human or Degrading Treatment or Punishment, 1987: <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>, accessed on 02/14/2020

<sup>235</sup> The Government of India has been repeatedly called upon at international levels to ratify the Convention. For instance, across India’s 3 cycles (2008, 2012, 2017) of the United Nations mandated Universal Periodic Review, a total of 57 countries have recommended to India to ratify UNCAT and enact domestic legislation prohibiting torture.

*India must ratify the United Nations Convention Against Torture and enact domestic legislation prohibiting torture. Among other things, this is required to increase accountability and redress grievances of victims of torture.*

## b) Allegations of torture in police custody

Of the total 660 prisoners interviewed by the study team across 22 prisons, 357 alleged to have been subjected to custodial violence by personnel of Punjab Police while they were in police custody.

A shortlist of the prisoners' allegations of the acts of torture they were subjected to by police include a range of physical harm (including sexual violence) that are presently recognized and understood as torture in international standards. Undoubtedly, mental harm accompanied the physical.

- **Electric shocks to ears and genitals**
- **Water-boarding**
- **Rolling (of baton on body)**
- **Stretching of legs**
- **Being stripped naked**
- **Being tied upside down and beating with sticks and belts**
- **Hitting sole and palm with a baton**
- **Pulling of hair**
- **Slapping**
- **Hitting head with slippers**

## c) Testimonies of torture in police custody

Brief testimonies by inmates, given below, detail the acts amounting to torture allegedly perpetrated by Punjab Police personnel, ranging from kicks and slaps to severe forms of torture like water boarding<sup>236</sup>, electric shocks, and sexual violence. Both men and women inmates were allegedly subjected to sexual violence. The testimonies throw up common and disturbing trends in the acts perpetrated.

*"Police ne mujhe beinteha torture kiya. They used to get drunk and beat me up on random instances and for entertainment purposes. I was stripped naked and objects inserted inside my*

<sup>236</sup> "Waterboarding, is a method of torture in which water is poured into the nose and mouth of a victim who lies on his back on an inclined platform, with his feet above his head. As the victim's sinus cavities and mouth fill with water, his gag reflex causes him to expel air from his lungs, leaving him unable to exhale and unable to inhale without aspirating water. Although water usually enters the lungs, it does not immediately fill them, owing to their elevated position with respect to the head and neck. In this way the victim can be made to drown for short periods without suffering asphyxiation. Waterboarding produces extreme physical suffering and an uncontrollable feeling of panic and terror, usually within seconds." Encyclopedia Britannica, <https://www.britannica.com/topic/waterboarding> accessed on 20/02/2020

*anus after which I was made to sit. Torture caused immense amount of trauma on me.”*

Waterboarding was one of the torture methods that rampantly was used by the Punjab police,

*“Third degree torture was done on me. I was given electric shocks on the entire body. I was made to pee on an electric heater. Mere muh pe kapda thooske upar se paani daala jisse mujhe saans aani band hone lagi”*

Allegations of involvement of staff of the Crime Investigation Agency (CIA)<sup>237</sup> were rife. One women prisoner shared a detailed account of her experience by the staff of CIA in Sannawal Thana. She claimed that she was kept in police custody for 10 days, and was under sections 407 and 302 IPC. The police staff **pulled off her nails, subjected her to water boarding and gave electric shocks on her ears and private parts.** She also stated that she was tied to a table and injected with an unknown substance, which made her unconscious. When she regained her senses, her clothes were wet and she felt like she had been raped. She further alleged that the police personnel shot a video of her in a naked state and threatened her against making any disclosures against those who implicated her in the case. With the beatings, inmates alleged denial of food and water.

*“CIA staff tortured me. They passed electric current through my body after stripping me naked. Policemen hit my head with their boots. I was even denied water”*

An inmate alleged that an electric wire was attached to his genitals and the police threatened to pass electricity through it if he did not “confess” in the manner as demanded by the police. He further claimed that the police made him sign several papers, the contents of which he did not understand. He claimed that his forced confession was also video recorded. Another inmate said he was repeatedly beaten on his back with sticks and batons which caused swelling in his legs, “Police threatened me that if I disclose torture details to the judge, they will take me on remand again”.

<sup>237</sup> There is limited information available online on the CIA wing of the Punjab Police. The only information that could be gathered was through Wikipedia:Crime Investigation Agency or CIA staff is a special branch of Punjab Police. The crucial or unsolved criminal cases like smuggling, kidnapping, narcotics, terrorism, murder, etc. are handed over to them. This branch of police is known for its ways to interrogate the culprit who committed the crime.

*Role of CIA in rampant custodial violence must be investigated by the judiciary.*

Subjecting inmates to electric shocks also emerged as a common torture technique,

*“The police passed electric shocks in my mouth and on my private parts. A heating instrument was put on my head due to which I sustained injury on my head. Initially when the police picked me up, they kept me in some residential flat for three days without food or water. After this I was taken to a police station in Mohali where I was kept for another 3-4 days. They then made to sign papers in Punjabi, which I did not even understand.”*

Another inmate alleged that he was given electric shocks, was hit with slippers, he said: “ I was made to lie down on my back naked then a baton was rolled on my body. I had great difficulty in walking for days following the severe torture”.

Similar allegations were also shared by women prisoners, who alleged that they were subjected to custodial violence, by both female and male police officers.

*“Male police officers arrested me around 2 am<sup>238</sup> in the absence of any female official. Male police personnel slapped me and even touched me inappropriately. I was kept in the police station for 30 minutes before a lady police woman arrived”*

*“I was tortured by male police officers. They hit me with slippers repeatedly and even put electric shock on my body. **Male police threatened me with rape.** I and my co-accused were forced to confess for something that we didn't commit”.*

*“Male police personnel of CIA Kharrar inflicted third degree torture on me for five days. They put electric shocks on ears. My head and face was repeatedly hit with slippers. The policemen even threatened to put chili powder in my private parts. Lady police officers tried to pacify the situation by reminding the male police officers that I have a child with me but they did not stop the torture. Even after that, the police used to take me and my husband on regular remand even from inside the jail, but yesterday the judge denied their request for another police remand”.*

In one case a woman inmate developed a hearing impairment. This

---

<sup>238</sup> A woman cannot be arrested after sunset and before sunrise, except in exceptional circumstances and only with the permission of a judicial magistrate (Section 46(4), Code of Criminal Procedure

was due to repeated slapping by male police officials. Allegations were also levelled against police constables who indulged in forced frisking, stripping, as well as beating by sticks and belts.

Another brutal narrative was shared by a 21 year old, who had been in prison for five months when the study team met her. She alleged being raped and subjected to violence by two police officials for three days. She alleged that the officials would get drunk and then rape her. She stated that the officer used to beat her child up as well, and then tell her that if the child dies, she does not need to worry, as he will give her a child. Additionally, they would sit on her chest, pull her cheeks and pull out her nails. She also alleged that her mother (who was also arrested with her) was sedated, after which the official inserted a baton inside her mother's vagina. She also specifically mentions that all that time they were being tortured, she along with her children and parents were deliberately kept at the police chowki and not brought to the police station. The police officials threatened to implicate her in false criminal cases, if she made any complaint to the Magistrate. She further shared that during her medical examination at the civil hospital, police officers answered all the questions asked about injuries by the medical officer and not by her. While she complained of this to a visiting judge, after being admitted to prison, which led to a visit by some police officials, no action was taken. Her complain was merely shrugged off by the police personnel who told her that *"mulazim yeh harqat nai kar sakte"* (Police officials could not have any of the things that she is accusing them of).

The team also interacted with transgender women lodged inside the jails. Two of them shared chilling details of torture in police custody. One of them shared that,

*"Policemen got drunk and then tortured me. They even tried to rape me but I started crying and that is how the rape got prevented. They did third degree torture on me. Stripped me naked and passed electric current on my ears and breasts. They put warm water in my nostrils and even beat me up with a baton."*

The other transgender woman too, had similar allegations to make, she shared that,

*"Male police personnel used to get drunk and then torture me. They made me strip, passed electric current on ears and breasts and beat*

*Punjab prison department should formulate a policy for punishment being given to inmates on disciplinary grounds.*

*The Superintendent must prepare a report on reasons for the jail transfer of an inmate. The permission for the same may be sought from the head office in a limited time frame.*

*List of BOV's with contact details must be put up at common areas inside the jail.*

*A procedure must be laid down to investigate incidents of beating and torture inside prisons.*

*Prison staff must be sensitized against the use of any form of force with prisoners.*

*Punishment like jail transfer on administrative purpose should be done according to the rules laid down in the jail manual and not on arbitrary basis.*

*Such punishments should be well documented by the prison staff.*

*me up severely on naked body. The policemen even threatened me with sexual assault."*

#### d) **Violence in Judicial Custody**

Allegations of violence were not just limited to incidents in police custody but also in judicial custody i.e. after admission to the prison. In the team's interaction with both jail officials and inmates, a narrative emerged that in several prisons, officials were using cells (commonly referred as chakkis) for arbitrarily isolating inmates and would often use beating as a form of disciplinary measure on prisoners.

Some inmates alleged that they had been put in isolation cells for up to 20 days. As mentioned above, out of the total inmates who were interviewed, roughly, 80 inmates alleged incidents of violence (inflicted by prison authorities) inside the jails. **Most of these allegations came from prisoners confined in central jails, and surprisingly no such incident was narrated by prisoners from sub-jails.**

Some of the inmates confessed that creating nuisance inside the jail or smuggling contraband articles inside would attract beating or transfer to cells. However, accusation was also made by inmates that beatings by prison staff would at times be arbitrary and often without any justification or cogent reason.

One inmate who was caught with contraband stated that,

*"I was caught with tobacco and as a punishment, I was sent to the chakkis (solitary cells) for 10 days. In protest I cut my hand at multiple places."*

There were also instances of all prisoners inside a barrack being beaten up if any kind of contraband substance like drugs or mobile phone was found in the barrack. Inmates were also regularly threatened with jail transfers. Inmates also complained about lack of any internal inquiry into such incidents, when reported. In one of the Central jails (Ferozepur CJ), women inmates informed that beating inside women's section would at times also involve male officials.

## e) Violation of legal rights and safeguards

The testimonies of torture in police custody indicate the repeated violation of legal rights and safeguards on arrest and detention by Punjab Police personnel. These amount to violations of both constitutionally guaranteed fundamental rights and legal rights laid down in criminal law. These include:

- Right to be informed of the grounds of arrest [Article 22(1), Constitution of India, Section 50, CrPC]
- Right to be produced before the nearest magistrate within 24 hours of arrest [Article 22(2), Constitution of India, Sections 57 and 76, CrPC]
- Right to have a family member or friend informed of their arrest and the place of their detention, and for the said information to be recorded in a designated register at the police station [Section 50A, CrPC]
- Right to meet and consult with a lawyer of their choice, or to be provided with a lawyer in case they cannot afford a lawyer [Article 22(1), Constitution of India and Section 41D, CrPC]
- Right to be examined by a government medical officer or a registered medical practitioner [Section 54, CrPC]
- Prohibition against torture or any abuse in custody [Article 21, Constitution of India]
- Right not to be pressured, threatened, or influenced by a police officer or any other person in authority to admit to an offence, or make a confession [Section 24, Indian Evidence Act and Section 163, CrPC].

No woman is to be arrested after sunset and before sunrise, save in exceptional circumstances. If such circumstances exist, a woman police officer shall obtain prior permission from the judicial magistrate of the jurisdiction through a written report [Section 46(4), CrPC]. One of the foremost and primary checks for all arrested persons is the requirement for him/her to be produced before the nearest judicial magistrate within 24 hours.<sup>239</sup> This is precisely aimed to prevent ill-treatment or abuse by police officers and bring judicial oversight over arrested persons in police custody as early as possible after arrest.

### **315 inmates claimed that their first production did not happen**

<sup>239</sup> Article 22 (2) of the Constitution of India states: "Every person who is arrested

*The SLSA must seek the implementation of NALSA 'Early Access to Justice at Pre-Arrest, Arrest and Remand Stage' that includes appointing panel lawyers and para legal volunteers at the police station.*

*Legal aid cells can be established at all police stations with legal aid functionaries stationed present 24\*7 at rotational basis so that the arrested person can seek legal advice and representation at the earliest.*

*When the judicial custody of the accused person is getting extended, the accused must be physically produced and not through VC.*

*Accused person must be produced preferably during the working hours of the magistrate.*

**within 24 hours.** A jail wise breakup of this can be seen in table 1.

This data itself, though not verified, is indicative of how non-compliance with legal safeguards are part and parcel of the perpetuation of custodial torture. It must be reiterated that the failure by the police to produce a person before a judicial magistrate within 24 hours of arrest amounts to violation of a fundamental right guaranteed by the Constitution; the highest threshold of violation of rights.

*All arrested persons must be produced in-front of a magistrate within the first 24 hours of their arrest. The judicial magistrate must make it a point to enquire, from the accused, about violence or torture in police custody.*

Jail	Inmates Interviewed	Inmates Alleging Torture	First Production after 24 hours of arrest
CJ Amritsar	32	14	12
CJ Bathinda	41	25	21
CJ Faridkot	66	31	28
CJ Ferozepur	45	27	27
CJ Gurdaspur	43	24	16
CJ Hoshiarpur	37	19	15
CJ Kapurthala	40	28	23
CJ Ludhiana	34	22	17
CJ Patiala	45	26	26
BJ Ludhiana	18	12	11
DJ Barnala	16	8	9
DJ Mansa	28	10	9
DJ Muktsar	23	9	9
DJ Roopnagar	28	16	16
DJ Sangrur	35	19	17
Maximum Security Jail, Nabha <sup>240</sup>	-	-	-

and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate". This is reiterated in the Code of Criminal Procedure.

<sup>240</sup>

New DJ, Nabha	33	17	14
Open Air Jail	-	-	-
Women's Jail	12	6	6
SJ Fazilka	13	5	4
SJ Malerkotla	23	12	10
SJ Moga	12	5	5
SJ Pathankot	20	11	10
SJ Patti	16	11	10
<b>Total</b>	<b>660</b>	<b>357</b>	<b>315</b>

*Table 1: Jail Wise Break-up of Inmates Alleging Custodial Violence in Police Custody and their First Production after Arrest*

e) **Custodial rape:**

The allegations of rape by police officers amount to the offence of custodial rape as laid down in Sections 375, 376, and 376C of the Indian Penal Code and should be prosecuted as such. Under the law, in certain situations of custodial rape, a rebuttable presumption is raised against the accused under Section 114A of the Indian Evidence Act. Also, the requirement of prior sanction for prosecution of a public servant no longer applies to cases of public servants accused of custodial rape as per amendments made to Section 197 of the CrPC in 2013.

With the strides made towards effective prosecution of custodial rape through legal reform mentioned, it is a travesty of the criminal justice system that a visiting judge disbelieved the woman inmate who reported her allegations of custodial rape to him for further action.

As per the CrPC, a mandatory judicial inquiry is to be conducted on any allegation of custodial rape. Section 176 of the Code of Criminal Procedure lays down that in addition to when a person “dies or disappears” in police custody, on an allegation of rape in police custody, a judicial inquiry “shall” be held by the Judicial or Metropolitan Magistrate within whose local jurisdiction the offence has been committed. This is an intrinsic safeguard that must be guaranteed to all victims.

*Jail medical officers must document all allegations of custodial violence by inmates newly admitted in a prison in the NHRC medical examination proforma followed during first medical examination.*

*Inmates should be made aware of reporting and speaking up against incidents of violence or torture inflicted on them in police or judicial custody.*

*Jail medical officers must obtain proper training on identification and documentation of torture and custodial violence.*

*Robust efforts must be made to prevent the smuggling of contraband articles inside prisons.*

*Illegal buying and selling of contraband articles like drugs inside prisons must be investigated thoroughly and steps must be taken to prevent such incidents from taking place.*

The importance of medical examination once a person is admitted to a prison, particularly with respect to documentation of custodial violence, has been discussed previously in Chapter 4 and Chapter 6<sup>241</sup> of this report. Based on observations and interactions by the study team, it emerged that while the medical examination upon admission was being conducted routinely, however, documentation of injuries and narratives by accused persons was absent.

The team also felt that many inmates chose to not speak to medical officers about the treatment meted out to them during police custody, due to the fear of repercussion from the police. Some preferred not to speak about custodial violence on their own volition, unless specifically asked by the medical officers. Doctors inside the jails too felt that they lacked basic training on identification and documentation of custodial violence. There also appeared to be lack of knowledge among inmates on redress available to them where they had been subjected to violence. These findings, highlight the inadequacies of the system in effectively preventing custodial violence.

## **2. Smuggling and Use of Contraband Articles Inside Punjab Prisons**

On the third day of the prison visit to Amritsar Central Jail, the team witnessed commotion in the admin block of the jail. A male inmate from inside the jail was brought in an unconscious state. This incident sent the understaffed prison officials and the jail MO (who was being interviewed by one of the team members at this point) in a state of panic and they wasted no time in giving the inmate first aid and subsequently sending him off to the civil hospital. The study team learnt upon enquiry to the persons present there, that the prisoner had overdosed on drugs.

This incident and interactions over the course of the study, affirmed the rampant use of drugs, inside Punjab prisons. Interactions with the prison officials and inmates revealed that drugs were one of the most widely smuggled contraband articles inside the jails. Out of the total 24 jails, incidents of smuggling were shared from 15 jails<sup>242</sup>.

<sup>241</sup> Chapter 4, 'Admission to Prison and Classification of Prisoners', P. 54. Chapter 6, 'Medical Infrastructure, Facilities and Access to Healthcare', p. 75.

<sup>242</sup> Central Jails of Amritsar, Bathinda, Faridkot, Ferozepur, Gurdaspur, Hoshiarpur, Kapurthala, Ludhiana, Patiala; District Jails of Barnala, Rupnagar, Sangrur, New DJ Nabha, Maximum Security jail and Sub-jail Patti

Inmates alleged that all kinds of drugs were easily available inside these jail. This included chewing tobacco and cigarettes to hard drugs like *chitta*, smack and OOATS tablets.

a) **Rampant Smuggling of Drugs and Mobile Phones in Central Jails:**

Allegations of smuggling of drugs and mobile phones were common in prisons like CJ Amritsar, CJ Bathinda, CJ Faridkot, CJ Ferozepur, CJ Hoshiarpur, CJ Kapurthala, CJ Ludhiana and CJ Patiala. Inmates alleged that the prison officials, especially PESCO (Punjab Ex-Servicemen Corporation) and Home Guard employees, were aware of the smuggling and drug consumption prevalent inside the central jail. It was further alleged that hospital *munshis* (convicts assisting in the Hospital Section) would help sell syringes inside the jail, which would be used by inmates to inject drugs. It was alleged that, while new syringes were being sold for Rs. 700, used syringes were being sold for Rs. 500 inside the jail. Specific medicines like *Tramadol* and *Addnock* were allegedly being used for this purpose.

In these jails, it was further alleged that mobile phones were being used in both, male and female sections. Cost of a basic mobile phone would be somewhere between Rs. 12,000 to Rs. 1,300 while cost of a smart phone was much higher, around Rs. 50,000. During search operations, barracks with mobile phones would be categorically left out and later officials would take bribe from inmates possessing mobile phones.

In these jail, the team was able to interact with some inmates, who themselves confessed of smuggling drugs, mobile phones as well as consuming drugs inside the jail. These inmates also shared the chronology of mobile phone smuggling. They stated that the officials would first sell mobile phones to inmates. Following this, search would be conducted leading to confiscation of mobile phone, subsequent to which the inmates would get beaten up by the officials and asked to cough up more money.

*Availability of drugs through illegal means, inside Punjab prison, must be investigated by higher authorities.*

*Allegations of smuggling and selling drugs and other contraband articles inside prisons on PESCO and Home Guards must be investigated by the Punjab Prison Headquarters.*

*Convicts working in hospitals as a part of their prison labour should not have access to medicines and injections/ syringes.*

Apart from the Central jails, incidents of mobile and drug smuggling were also reported from four district jails. One of these was DJ Rupnagar where the Deputy Superintendent showed a miniature mobile set to the team, and informed that these mobile phones were being smuggled inside the jail and were recovered from the body cavities of inmates who returned after their court hearings.

b) **Difficulties in detection of contraband**

It would be incorrect to say that all prison staff are involved in such activities, however substance-abuse and particularly its detection makes the task of prison administrators difficult. In the absence of technological aids like X-ray scanners and metal detectors for body searches and scanning of belongings, officials must rely on the method of frisking, which is time consuming and often does not give appropriate results. Jail officials shared that drugs are being brought in body cavity as well as shoes. An incident was shared with the team from SJ Patti, where, during *Mulaqaat* one lady tried to pass on drugs to an inmate, with the drugs stitched inside a shoe. It was due to the attentiveness of a warder that such an incident was caught. The jail then had to request a lady matron to conduct search on female visitors before *Mulaqaat*.

Incidents were shared from New DJ Nabha, where jail guards on night duty used to get tablets inside but those who were involved were suspended when this issue was highlighted. An inmate alleged that, “*Adnocck* tablet was being smuggled by prison guards in connivance with some prisoners. If senior officials get to know then they can take action”. In Maximum Security Prison, Nabha regular incidents of mobile phone recovery remained a cause for concern inside the jail, wherein 12 mobile phones were confiscated from inmates recently.

3. **Allegations of corruption**

Allegations of corruptions were shared by prisoners from 12 prisons<sup>243</sup>. Types of corrupt practices alleged to be prevalent inside these jails include:

---

<sup>243</sup> CJ Bathinda, CJ Faridkot, CJ Ferozepur, CJ Hoshiarpur, CJ Kapurthala, CJ Ludhiana, CJ Patiala, DJ Barnala, DJ Mansa, DJ Rupnagar, DJ Sangrur and SJ Moga

1. Prisons officials seeking bribes upon recovery of mobile phones or drugs.
2. Bribes to allow *mulaqaat* in the admin block/*deory*.
3. Bribes to allow inmates to take material given by family during *mulaqaat*, inside the jail.
4. Presence of VIP Barracks in some of the bigger jails. These were allegedly priced at Rs. 20,000-Rs.50,000. In these barracks only a few inmates were housed, much less than the sanctioned capacity.
5. Allegations regarding misappropriation of food stocks being done by officials inside the prison which resulted in the poor quality of food due to lack of adequate quantity to feed the entire prison.
6. Bribes from convicts serving rigorous imprisonment in order to assign them work with less labour. For example, inmates put on *Langar* duty, which is also considered to be one of the hardest, had to pay money if they wanted to change the duty.

Interestingly, inmates in Sub-jail, Moga informed that inmates were being charged to stay in SJ Moga since it was comparatively considered to be better prison. It was alleged that if the inmates did not pay the money, then officials would threaten them with jail transfers to other jails like CJ Faridkot.

The study team chanced upon an instance of corruption during one of their visits. They witnessed that barracks which were claimed non-functional by the prison staff, were actually being used to confine a member of a State legislature. Not only was the barrack functional, but two Punjab police officials were posted outside. On further query from prisoners, it was revealed that after the MLA was admitted to the jail, all the inmates were shifted out from their barrack and re-allocated to other barracks. Allegedly, two helpers were also staying with the MLA inside the barrack and facilities such as geyser, television and food being brought from restaurants was also being provided to him. Allegations were also made regarding the wife of the MLA also being allowed to meet him frequently inside the barrack. Not only are these practices unfair, but to imagine that for money, the barracks meant for 35-40 inmates are provided used by three people, despite the jail having a severe overcrowding rate.

*Funds must be directed towards the purchase of sophisticated technology to conduct search on inmates on entry to the prison.*

*Allegations of corruption against prison officials must be investigated by higher authorities*

## CHAPTER 11

# LEGAL AID FRAMEWORK AND ACCESS TO JUSTICE

Article 39A of India's Constitution imposes a responsibility on the State to secure equal opportunity of securing justice to all its citizens, and for this, makes the State dutybound to provide free legal aid through enacting suitable legislations or schemes. This is coupled with the right of every person (citizen and non-citizen alike) to receive free legal aid being recognized as a fundamental right under Article 21 of the Constitution<sup>244</sup>. In pursuance to the mandate and the corresponding right, the Legal Services Authorities Act, 1987 was enacted, which recognises persons in custody as a category to be provided with free and competent legal aid services.<sup>245</sup> Additionally, to facilitate legal services to persons in custody, the National Legal Services Authority (NALSA) enacted the National Legal Services Authority (Legal Services Clinic) Regulations, 2011 (hereinafter NALSA LSC Regulations, 2011),<sup>246</sup> which put the mandate on the District Legal Services Authorities (DLSAs) in every State to establish legal aid clinics in jails,<sup>247</sup> and necessitated that it is operated by lawyers (if deputed) and para-legal volunteers (PLVs).

Most recently, while recognising that issues existed which created a gap between the accused persons and the legal services provided to them, NALSA framed a Standard Operation Procedure (SOP) for Representation of Persons in Custody in 2016 (hereinafter NALSA SOP, 2016)<sup>248</sup> which aimed at streamlining the functioning of legal aid clinics in jails. Combined with the NALSA Guidelines for State Legal Services Authorities (SLSAs), DLSAs, Taluk Legal Services Committees (TLSCs) and High Court Legal Services Committees (HCLSCs), which directs DLSAs and TLSCs to establish of Jail *LokAdalats*, all the above-mentioned standards govern the legal aid infrastructure inside the jails in Punjab.

---

<sup>244</sup> See [HussainaraKhatoon v. State of Bihar, \[1980\] 1 SCC 98](#)

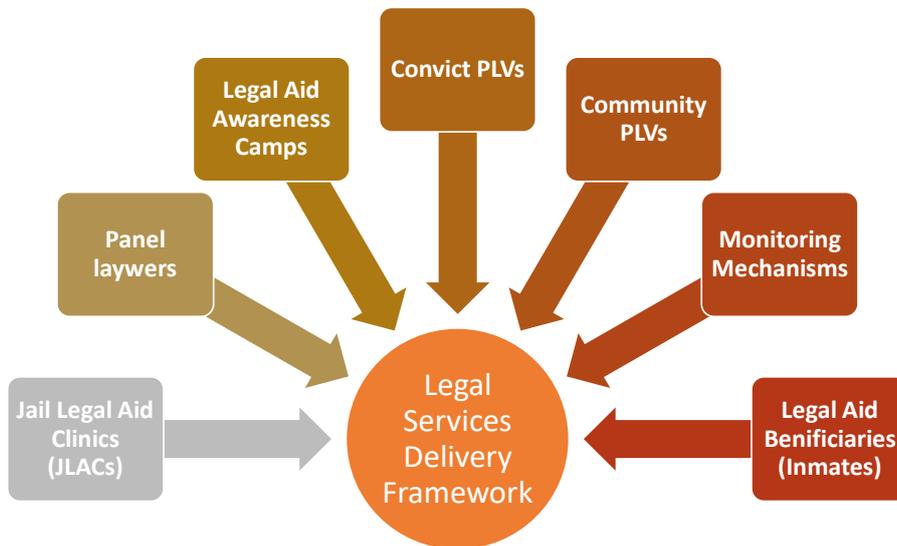
<sup>245</sup> Section 12 (g), Legal Services Authorities Act, 1987

<sup>246</sup> Available at : <https://nalsa.gov.in/acts-rules/regulations/national-legal-services-authority-legal-services-clinics-regulations-2011> (last accessed on 28th November 2019)

<sup>247</sup> Regulation 3 (b), National Legal Services Authority (Legal Services Clinic) Regulations, 2011

<sup>248</sup> Available at: <https://nalsa.gov.in/acts-rules/guidelines/standard-operating-procedure-for-representation-of-persons-in-custody> (last accessed on 28th November 2019)

## 11.1 LEGAL AID INFRASTRUCTURE AND FACILITIES ACROSS THE JAILS IN PUNJAB



*Figure 1: Legal Services Delivery Framework in Punjab Jails*

As depicted in *Figure 1*, the legal services delivery framework across the jails in Punjab generally consisted of seven components. These were:

- 1) Jail Legal Aid Clinics;
- 2) Panel Lawyers including jail visiting lawyers and remand advocates<sup>249</sup>;
- 3) Periodic camps organised by legal services authorities for legal aid awareness inside the jails;
- 4) PLVs who are chosen from amongst the convicted inmates inside the jails (serving long sentences) and help in providing legal aid services – convict PLVs;
- 5) PLVs who are appointed from the communities and get deputed to work inside the JLACs by their respective DLSAs – community PLVs;
- 6) Monitoring Mechanisms which include periodic visits by the Secretary, DLSA to monitor the functioning of the JLAC and the registers maintained therein; and
- 7) Legal Aid Beneficiaries (which are the inmates confined in the particular jail)

<sup>249</sup> As per the NALSA SOP, 2016, Panel lawyers can be deputed as “remand advocates” in each of the Magisterial courts and also, in the Courts of Sessions where required. As “remand advocates” are not posted within jails, they do not fall within the purview of this study

*Allocate a separate space to set up the jail legal aid clinic inside Open Aid Jail, Nabha.*

*The Punjab SLSA should make sure that the functioning of jail legal aid clinics is uniform in nature. Number of working days in a week for each of these clinics should be the same.*

A detailed description on the functioning of the above-mentioned components and the issues therein are discussed below:

### **11.1.1 Jail Legal Aid Clinics**

Based on NALSA LSC Regulations, 2011 and NALSA SOP, 2016, every jail needs to have an established legal aid clinic with a clearly demarcated space for the same.<sup>250</sup> Additionally, the NALSA LSC Regulations, 2011 also mandates that every legal services clinic should also have basic infrastructure like a table and 5-6 chairs.<sup>251</sup> **As per the information provided by the functional 24 jails, a jail legal aid clinic was established and functional in all the jails. Also, a clearly demarcated space for the jail legal aid clinic was available in 23 of the 24 jails (except Open Air Jail, Nabha).**<sup>252</sup>

In the inspection of the jail legal aid clinics inside the 24 jails of Punjab, the team were able to confirm the existence of basic and essential furniture such as tables and chairs. However, in some of the jails such as **Central Jail, Gurdaspur, Central Jail, Hoshiarpur, Central Jail, Ludhiana, Central Jail, Patiala, Central Jail, Kapurthala, District Jail, Barnala, District Jail, Sangrur, New District Jail, Nabha and Sub-Jail, Malerkotla**, the team also observed the presence of **computers (with active internet connection) and printers.**

In regard to the functionality of the legal aid clinics, a lack of uniformity across prisons was noticed. **While majority of the jail legal aid clinics were functional for six days a week (14 Jails),<sup>253</sup> there were four jails (Central Jail, Ferozepur, District Jail, Roopnagar, District Jail, Sangrur and Sub-Jail, Malerkotla) which were functional for all seven days in the week.** However, in **Sub-Jail, Pathankot**, the legal aid clinic was only functional for four days a week and in **District Jail, Barnala and Sub-Jail, Patti**, the legal aid

<sup>250</sup> Regulation 3(b), National Legal Services Authority (Legal Services Clinic) Regulations, 2011 and Directive 2, NALSA SOP, 2016

<sup>251</sup> Regulation 14, National Legal Services Authority (Legal Services Clinic) Regulations, 2011

<sup>252</sup> It is important to mention here that in the visit of the team to Borstal Jail, Ludhiana, the team were not able to confirm the existence of a separate room for Jail legal Aid Clinic. Additionally, in Maximum Security Jail, Nabha, although the officials informed that there was a separate room for jail legal aid clinic, the team was not able to physically inspect the same. Also, in Central Jail, Ferozepur, although the team physically inspected the separate room allotted for jail legal aid clinic, during the time of the visit, the clinic was non-functional as it was being renovated.

<sup>253</sup> The jails are Central Jail, Amritsar, Central Jail, Gurdaspur, Central Jail, Hoshiarpur, Central Jail, Kapurthala, Central Jail, Patiala, Central Jail, Ludhiana, Borstal Jail, Ludhiana, District Jail, Mansa, District Jail, Muktsar, Maximum Security Jail, Nabha, New District Jail, Nabha, Women' Jail, Ludhiana, Sub-Jail, Moga and Sub-Jail, Fazilka.

**clinic was only functional for two days a week.** No reasons have been provided by the DLSAs for this lack of uniformity in regard the functionality of jail legal aid clinics.

### 11.1.2 Panel Lawyers (Jail Visiting Lawyers)

As per the NALSA SOP, 2016, among the panel lawyers, some are deputed as remand lawyers in Magisterial and Sessions Courts, while some are assigned to visit the jails at least twice a week as jail visiting lawyers.<sup>254</sup> The other functions of the jail visiting lawyers include:

- Interacting with the inmates (especially the new inmates) to find out if they are represented by any lawyer and if not, they should inform the inmate about their right to get a legal aid lawyer;<sup>255</sup>
- Preparing a brief summary of each interaction with the inmates and send the same to the Secretary, DLSA along with contact details of the family of the accused, if available so that the panel lawyer can coordinate with them;<sup>256</sup>
- Keeping track of non-production of any inmate in the court as per the date given or of the cases where no next date is available and inform the Secretary, DLSA;<sup>257</sup>
- Communicating to the Secretary, DLSA whenever bail application has to be filed on behalf of an inmate;<sup>258</sup>
- Bringing to the notice of the Secretary, DLSA if an undertrial is not being represented by a lawyer in the Court;<sup>259</sup>
- Bringing to the notice of the Secretary, DLSA, cases where bail orders have been issued but bail bonds could not be furnished due to various reasons.<sup>260</sup>

All the above-mentioned responsibilities indicate that the jail-visiting lawyers play an extremely crucial role in the effective functioning of the jail legal aid clinics. *Table 1* (below) provides information on the no. of visits made by lawyers and submission of monthly reports between the period of September 2017 and August 2018.

<sup>254</sup> Directive 3, NALSA SOP, 2016

<sup>255</sup> Directive 7, NALSA SOP, 2016

<sup>256</sup> Directive 8, NALSA SOP, 2016

<sup>257</sup> Directive 11, NALSA SOP, 2016

<sup>258</sup> Directive 14, NALSA SOP, 2016

<sup>259</sup> *Ibid.*

<sup>260</sup> *Ibid.*

*The SLSA must ensure that the visits to the JLAC by the jail-visiting lawyers should be uniform across prisons.*

*Standard format (given by NALSA in 'Handbook of Formats: Ensuring Effective Legal Services') should be followed for monitoring the work of legal aid providers through periodic reports of JVLs, convict PLVs and Community PLVs.*

*Respective DLSAs must ensure regular reporting by JVLs and PLVs.*

Name of the Jail	Number of Visits by Lawyers (between September 2017 and August 2018)	Monthly Reports Submitted by Lawyers to DLSA (monthly)
Central Jail, Amritsar	71	71
Central Jail, Bathinda	Daily one panel lawyer	8
Central Jail, Faridkot	282	Nil
Central Jail, Ferozepur	Each Working Day	12
Central Jail, Gurdaspur	Each Working Day	12
Central Jail, Hoshiarpur	212	12
Central Jail, Kapurthala (DLSA, Kapurthala)	Each Working day	12
Central Jail, Kapurthala (DLSA, Jalandhar)	73	12
Central Jail, Borstal Jail & Women's Jail, Ludhiana (cumulative)	92	Nil
Central Jail, Patiala	Day by Day	12
District Jail, Barnala	2 days a week	12
District Jail, Mansa	58	3
District Jail, Muktsar Saheb	213	12
District Jail, Roopnagar	4 visits per week	-
Distrit Jail, Sangrur	260	260
Maximum Security Jail, Nabha	11	Nil
New District Jail, Nabha	Once a week	-
Open Air Jail, Nabha <sup>261</sup>	1	6
Sub-Jail, Fazilka	4 days a week	Nil
Sub-Jail, Malerkotla	190	190
Sub-Jail, Moga	6 days a week	No monthly report submitted
Sub-Jail, Pathankot	136	11
Sub-Jail, Patti	46	46

*Table 1: Jail Visiting Lawyers*

<sup>261</sup> There exists some discrepancy in the data in regard to Open Air Jail, Nabha

As is evident from *Table 1*, although jail visiting lawyers are visiting all the functional jails in Punjab, **there exists a lack of uniformity in regard to the visiting schedules of these lawyers.** While in some of the jails, lawyers are visiting every working day, the others have a schedule where the lawyers' visits range between once a week to four visits a week. No reasons have been provided by the DLSAs for this lack of uniformity in regard the schedule of jail-visiting lawyers.

Also, in regard to submission of reports by the jail visiting lawyers, while most of the jail visiting lawyers have been submitting monthly reports to the Secretary, DLSA, **in nine of the 24 jails (Central Jail, Faridkot, Central Jail, Ludhiana, Borstal Jail, Ludhiana, Women's Jail, Ludhiana, District Jail, Roopnagar, New District Jail, Nabha, Sub-Jail, Fazilka and Sub-Jail, Moga)** no reports were being submitted by the jail visiting lawyers.

While the team did not interact with jail visiting lawyers during the visits, but in the few jails where they did i.e. Central Jail, Faridkot, Central Jail, Hoshiarpur and Central Jail, Patiala, issues **regarding lack of adequate payment/honorarium for panel lawyers were highlighted.** Further, they shared their difficulties in working on specific cases, where prisoners hire other private lawyers as well, leading to chaos and logistical confusion during hearings.

### 11.1.3 Legal Aid Awareness Camps

As per the NALSA SOP, 2016, the DLSA is mandated to organise regular awareness camps in the jails so as to create awareness on legal issues and specifically on the rights of the persons in custody.<sup>262</sup> As per the information provided by the DLSAs designated for the functional 24 jails in the State, **legal awareness camps were being held in all the jails except Open Air Jail, Nabha.**

**The maximum number of camps were held by Central Jail, Amritsar (188) followed by Central Jail, Kapurthala which held a total of 160<sup>263</sup> camps. The least number of camps were held in jails such as the three jails in Ludhiana (Nine camps each), Central Jail, Patiala (seven camps), Sub-Jail, Fazilka (six camps), Sub-Jail, Pathankot**

<sup>262</sup> Directive 18, NALSA SOP, 2016

<sup>263</sup> For Central Jail, Kapurthala, 85 legal aid awareness camps were held by DLSA, Jalandhar and 75 legal

*Respective DLSAs must ensure regular reporting by JVLs and PLVs.*

*JVLs must be paid honorarium on a timely basis by the DLSAs.*

*Reasons behind holding less number of legal aid camps in some prisons needs to be investigated by the SLSA and measures must be taken to increase the frequency of camps in these prisons.*

**(five camps) and Maximum Security Jail and New District Jail, Nabha (two camps each) for the above-mentioned time period.**

#### **11.1.4 Convict Para-Legal Volunteers (PLVs)**

Para-Legal Volunteers (PLVs) play a crucial role in the effective dispensation of the legal aid facilities. NALSA LSC Regulations, 2011 mandate that every legal aid clinic should have two PLVs available during working hours. For legal aid clinics inside jails, the NALSA SOP, 2016 requires that sufficient number of convicts (serving long sentences) be identified and trained suitably to discharge the functions of PLVs. While being primarily responsible to spread awareness regarding free legal aid services and forwarding the names of the inmates who require the same to the District Legal Services Authority (DLSA),<sup>264</sup> Convict PLVs help in filing the applications for inmates, maintain registers<sup>265</sup> and help in providing the name and details of the lawyer to an inmate, once s/he is appointed. They are also required to keep track of non-production of any inmate before a court as per the date given or of the cases where no next date is available and inform the Secretary, DLSA regarding the same.<sup>266</sup>

PLVs appointed by the DLSA, are supposed to be paid an honorarium (per day of work) as per the National Legal Services Authority (Legal Aid Clinic) Regulations 2011,<sup>267</sup> and are trained on the basis of Scheme for Para-legal Volunteers (Revised) & Module for the Orientation - Induction - Refresher courses for PLV training.<sup>268</sup> In regard to the appointment and honorarium for convict PLVs in Punjab, as per the letter of Punjab State Legal Services Authority (PULSA) on setting up of legal aid clinics in Central, District and Sub-Jails, all DLSAs were required to identify at least three female and six male long term convicts (for Central jails), two female and three male long term convicts (for District Jails) and as per the availability of long term convicts (in Sub-Jails) and pay them an honorarium of Rs. 400 per day under the NALSA LSC Regulations, 2011.

##### **a) Appointment of Convict PLVs**

---

aid awareness camps were held by DLSA, Kapurthala.

<sup>264</sup> Directive 5, NALSA SOP, 2016

<sup>265</sup> Directive 6, NALSA SOP, 2016

<sup>266</sup> Directive 11, NALSA SOP, 2016

<sup>267</sup> Regulation 17, National Legal Services Authority (Legal Aid Clinic) Regulations 2011.

<sup>268</sup> Available on: <https://nalsa.gov.in/acts-rules/preventive-strategic-legal-services-schemes/scheme-for-para-legal-volunteers> (last accessed on 28th November 2019)

**Based on the information provided by the DLSAs for the period between September 2017 and August 2018, convict PLVs are appointed in all JLACs.** However, none of the jails have provided a break up in regard to the number of male and female convict PLVs.

In the observation of the team during their visit to the functional jails in Punjab, apart from **Central Jail, Bathinda<sup>269</sup> and Women's Jail, Ludhiana** the team were able to confirm the presence of inmates who claimed to be working as convict PLVs in the jails. **Further, out of the 14 jails which had women inmates,<sup>270</sup> the team observed that only eight of them had women convicts who claimed to be appointed and working as convict PLVs.**

b) **Maintenance of Registers**

In regard to the maintenance of registers by convict PLVs, in general, the team observed that registers were being maintained across the 24 functional jails. In general, the following registers being maintained:

- **Register regarding legal aid lawyers and their information (at District Level, High Court and Supreme Court Level)**
- **Register regarding Appeals filed from the Jails**
- **Register regarding refusal of legal aid lawyers (by inmates during admission to the jail)**

c) **Issue of Payment of Honorarium**

Despite the NALSA LSC Regulations, 2011 and the letter of PULSA mandating that convict PLVs be paid on per day basis, mixed responses were received by the team in their detailed interaction with the inmates who claimed to be working as Convict PLVs inside the jails.

*SLSA should appoint convict PLVs in CJ Bathinda and Women's jail, Ludhiana*

*SLSA should appoint female convict PLVs in all the female enclosures.*

*Honorarium for convict PLVs should be fixed per visit to clinics and the mode and frequency of payment should be defined. This should be implemented in a uniform way across all the 24 prisons.*

<sup>269</sup> While the team did come across a Convict PLV working in the female section, the team did not come across any convict PLVs working in the male section.

<sup>270</sup> Please see Chapter 7: Inmates from Vulnerable Categories (Part A: Women Inmates and their Children)

### PAYMENT OF HONORARIUM (CONVICT PLV)

■ Getting Paid ■ Partially Getting Paid ■ Not Getting Paid

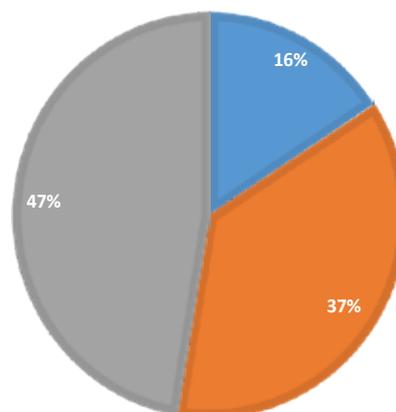


Figure 2: Payment of Honorarium for Convict PLVs (All Jails)

As provided in Figure 2,<sup>271</sup> out of the 24 functional jails in Punjab, **honorarium for the convict PLVs was being paid by the respective DLSAs only in three jails** (Central Jail, Amritsar, District Jail, Muktsar and Sub-Jail, Patti), i.e. the convict PLVs stated that they were being paid the designated amount on a regular basis.

**Convict PLVs from 47% of the jails, i.e. nine jails, claimed that they were not aware of the designated honorarium that they were supposed to receive and also were not receiving the same.** These jails were Central Jail, Hoshiarpur, Central Jail, Kapurthala,<sup>272</sup> Central Jail, Bathinda, Central Jail, Faridkot, Central Jail, Ferozepur, Central Jail, Ludhiana, Sub-Jail, Fazilka, Sub-Jail, Moga and Sub-Jail, Pathankot<sup>273</sup>. In the conversation of the team with some Secretaries of DLSAs (DLSA, Ferozepur and DLSA, Fazilka), it was informed that payments to convict PLVs were not being made as a matter of policy. Secretary, DLSA Ferozepur specifically stated that there existed a conflict in regard to who makes payment for convict PLVs (the Jail Department or DLSA), which was already being discussed by PULSA. **Further, in jails where the convict PLVs were being paid, there**

<sup>271</sup> This figure does not include information from Central Jail, Gurdaspur and District Jail, Roopnagar as the team could not inquire into the grievance regarding the payment of honorarium to PLVs from the Convict PLVs themselves. Also, Information from Maximum Security Jail and Open Jail, Nabha are also not included as the team did not interview convict PLVs in the respective jails.

<sup>272</sup> Convict PLVs interviewed claimed that while they were not being paid, convicts who were working as PLVs before them, were getting paid by the DLSA. However, it was not clear whether the convict PLVs were being paid by DLSA, Jalandhar or DLSA, Kapurthala

<sup>273</sup> Convict PLVs from Sub-Jail Pathankot claimed that they were not being paid their honorarium since May 2018, before which they were getting paid.

*As per the NALSA 2011 guidelines and as per the communication from Punjab SLSA to all DLSAs, it is clear that the DLSAs are required to pay honorarium to the PLVs, hence, these guidelines should followed by all DLSAs.*

*Arrears should be paid to all convict PLVs who have been working since before.*

*All convict PLVs must be paid in a uniform manner across all the 24 prisons.*

**existed a discrepancy in regard to the number of days for which convict PLVs were getting paid.** While in jails like Central Jail, Patiala and District Jail, Mansa, the convict PLVs informed that they were being paid for eight days in a month (Rs. 3,200), convict PLVs from District Jail, Sangrur informed that they were being paid for 10 days a month (Rs. 4,000)<sup>274</sup>. This is despite the fact that the Jail legal aid clinics in Central Jail Patiala, and District Jail, Mansa are functional for six days a week and Jail legal aid clinic in District Jail, Sangrur was functional for all seven days in a week.

While Convict PLVs from New District Jail, Nabha claimed they were being paid Rs. 5,000 a month, convict PLVs working in District Jail, Barnala stated that they were getting a lumpsum amount of money on a yearly basis.<sup>275</sup>The single convict PLV working in Borstal Jail, Ludhiana stated that he had received money just once in his entire tenure of working. **No reasons were given for this lack of uniformity in regard to payment of honorariums for convict PLVs, which remains in violation of NALSA LSC Regulations, 2011 and the letter of PULSA directing payment of honorariums on per day of work basis to convict PLVs. Hence, this remains a cause for concern which requires urgent attention.**

#### d) **Issue of Appointment Letters and Trainings for Convict PLVs**

Amongst the jails, where the team had detailed interactions with convict PLVs, only a few were able to share appointment letters or any documentary evidence to support their formal engagement as a PLV. **Only in jails such as Central Jail, Patiala and Central Jail, Hoshiarpur, the convict PLVs working were able to produce appointment letters.** In Central Jail, Kapurthala (where convict PLVs were being appointed by both DLSA, Kapurthala and DLSA, Jalandhar), a peculiar issue regarding the authority making the appointments was observed, where it appeared that the Superintendent had appointed the PLVs and not the DLSA. All the convict PLVs urged that they be provided identity cards as proof of them working as PLVs inside the jails.

<sup>274</sup> There existed a discrepancy in the payment being made to convict PLVs in male and female sections in District Jail, Sangrur, wherein the convict PLVs in female section claimed that they were being paid Rs. 400 per form filled.

<sup>275</sup> The PLVs did not inform on the amount being paid.

*Copy of the appointment letters must be given to every convict and community PLV, by the respective DLSA. Name of the appointing authority must be mentioned on the appointment letter (refer to NALSA's Handbook of Formats).*

*At the time of appointment, along with the appointment letters, duty notes should be given to JVLs & PLVs.*

*As requested by PLVs, the idea of giving identity cards to the appointed Convict and Community PLVs can be explored by the SLSA.*

*The training of the legal aid providers (JVL, Convict and Community PLV's) should be conducted, preferably, within the first month of their appointment.*

*All DLSAs must depute/ appoint community PLVs their respective prisons.*

Additionally, in the interaction with PLVs, it was alleged that apart from an orientation talk by the Secretary, DLSA, **no training or refresher courses were being provided/conducted for the convict PLVs.** This issue, if true, remains a cause of concern and needs to be further investigated.

### **11.1.5 Community Para-Legal Volunteers (PLVs)**

Although the NALSASOP, 2016 mentions that PLVs need to be identified and appointed from the convicts who are serving long sentences inside the jail, a good practice regarding appointment and deputation of PLVs who are working in the communities was observed in some of the jails in Punjab. Out of the functional 24 jails, 11 jails were identified by the visiting team, wherein community PLVs were appointed by the DLSA in addition to the convict PLVs and were deputed to work inside the jails. **These were Central Jail, Ludhiana, Central Jail, Gurdaspur, Central Jail, Hoshiarpur, Borstal Jail and Women's Jail, Ludhiana, District Jail, Mansa, District Jail, Roopnagar, District Jail, Sangrur, Sub-Jail, Moga, Sub-Jail Malerkotla and Sub-Jail, Patti.**

**The huge potential of community PLVs to facilitate the effective rendering of legal aid facilities for persons in custody was observed by the team visiting the jails.** For example, in **Central Jail and Borstal Jail, Ludhiana**, the community PLVs deputed to work were carrying out their duties efficiently wherein they were helping in facilitating contact between the families of inmates and the inmate. Apart from that, they were also constantly in touch with Secretary, DLSA, Ludhiana bringing to their notice all the prevalent issues in both the jails. In **Women's Jail, Ludhiana**, the team observed the community PLV working was effectively carrying out all the duties by making all the inmates aware of their legal aid lawyers and following up with the lawyers regarding their cases on a regular basis. Similar observations were also made in regard to community PLV appointed by DLSA, Sangrur who was carrying out efficient work in **District Jail, Sangrur and Sub-Jail, Malerkotla.** Seeing these instances, the deputation of community PLVs in all the jails can be explored.

**The team also had an opportunity to have detailed conversation with community PLVs, who unanimously suggested that there**

**needed to be an urgent need in the increase of their honorarium.**

At present, all of them were being paid Rs. 400 per day, which were inclusive of all the costs regarding travel and food. They considered this insufficient and suggest that the **honorarium maybe increased to Rs. 700 per day.** Additionally, some of the community PLVs stated that although they were receiving their honorariums, the **disbursement was not regular and was often given cumulatively after 3-6 months.** They suggested that its payment should be made to them on a **monthly basis.**

*As requested by community PLVs NALSA may consider increasing their honorarium.*

### **11.1.6 Monitoring Mechanisms**

For the effective monitoring of the jail legal aid clinics and the work being done by the legal aid providers including jail visiting lawyers and convict PLVs, certain mechanisms are in place. These include 1) Periodic visits by the Secretary, DLSA; 2) Monitoring of registers being maintained in the JLAC by the Secretary, DLSA; 3) Periodic reports submitted by jail visiting lawyers to the Secretary, DLSA; and 4) Periodic reports submitted by convict PLVs to the Secretary, DLSA.

#### **a) Periodic Visits by Secretary, DLSA**

**As per the information provided by the DLSAs in Punjab, between September 2017 and August 2018, periodic visits by the Secretary, DLSA was being conducted in all the 24 functional jails in Punjab.** This information was also confirmed by the team during their visits to the jails. On an average across all the jails, 15 visits (approx..) were being made by Secretary, DLSAs, with the highest number of visits being conducted by the Secretary, DLSA, Kapurthala in Central Jail, Kapurthala (56)<sup>276</sup> and the least number of visits done by the Secretaries, DLSAs in Maximum Security Jail, Nabha, Sub-Jail, Fazilka and Sub-Jail, Pathankot.

*DLSA secretaries must visit prisons in their jurisdiction on a regular basis (at least once a month), as mandated by the SLSA.*

#### **b) Monitoring of Registers**

As per the information provided by the DLSAs in Punjab, between September 2017 and August 2018, registers were being monitored by the Secretary, DLSA in all the functional jails in Punjab. However, it

<sup>276</sup> This number includes visits by Secretaries of DLSA, Kapurthala and DLSA, Jalandhar

*All DLSAs must make sure that the JVLs and PLVs submit periodic reports every month.*

needs to be pointed out that the visiting teams were not able to enquire regarding the periodic monitoring of the registers during their visits.

**c) Periodic Reports submitted by Jail Visiting Lawyers**

As has been previously discussed in Section 10.1.2 of this chapter, **in nine of the 24 jails (Central Jail, Faridkot, Central Jail, Ludhiana, Borstal Jail, Ludhiana, Women’s Jail, Ludhiana, District Jail, Roopnagar, New District Jail, Nabha, Sub-Jail, Fazilka and Sub-Jail, Moga),** no reports were being submitted by the jail visiting lawyers.

**d) Periodic Reports submitted by Convict PLVs**

As per information provided by the DLSAs, between September 2017 and August 2018, reports were being submitted by the convict PLVs only **in 50%, i.e. 12 jails** in Punjab. **The jails in which periodic reports were not being submitted were: Central Jail, Faridkot, Central Jail, Ferozepur, Central Jail, Gurdaspur, Central Jail, Hoshiarpur, Central Jail, Kapurthala,<sup>277</sup> Central Jail, Ludhiana, Borstal Jail, Ludhiana, District Jail, Mansa, District Jail, Roopnagar, Women’s Jail, Ludhiana, Sub-Jail, Fazilka, and Sub-Jail, Moga.**

**11.1.7 Legal Aid Beneficiaries**

The main beneficiaries of the legal aid facilities inside the jail are the inmates. *Table 2* below provides the number of applications filled across all the jails and the number of inmates who were provided with a legal aid lawyer:

<b>Name of the Jail</b>	<b>Number of Applications Filled</b>	<b>Number of Inmates assigned with a Legal Aid Lawyer</b>
Central Jail, Amritsar	475	475
Central Jail, Bathinda	196	196
Central Jail, Faridkot	239	239
Central Jail, Ferozepur	200	200

<sup>277</sup> For Convict PLVs appointed by both DLSA, Kapurthala and DLSA, Jalandhar

*The SLSA must take measures to increase awareness among inmates on a regular basis.*

Name of the Jail	Number of Applications Filled	Number of Inmates assigned with a Legal Aid Lawyer
Central Jail, Gurdaspur	343	343
Central Jail, Hoshiarpur	182	175
Central Jail, Kapurthala <sup>278</sup>	1,045	1,045
Central Jail, Borstal Jail & Women's Jail Ludhiana	698	698
Central Jail, Patiala	488	488
District Jail, Barnala	398	398
District Jail, Mansa	184	184
District Jail, Muktsar Saheb	116	116
District Jail, Roopnagar	90	90
District Jail, Sangrur	660	660
Maximum Security Jail, Nabha	61	48
New District Jail, Nabha	63	60
Open Air Jail, Nabha	5	1
Sub-Jail, Fazilka	291	291
Sub-Jail, Malerkotla	67	61
Sub-Jail, Moga	68	68
Sub-Jail, Pathankot	141	141
Sub-Jail, Patti	106	104
<b>Total</b>	<b>6,116</b>	<b>6,081</b>

*Table 2: Number of Inmates Provided with Legal Aid (All Jails)*

As is evident from *Table 2*, between September 2017 and August 2018, a total of 6,116 applications for legal aid lawyers was filled across all jails in Punjab. However, only 6,081 of them were provided with a legal aid lawyer. **No reasons have been provided by the DLSAs for not providing lawyers to 35 inmates for whom applications were filed.**

Further, to evaluate the satisfaction levels with legal aid services, the team had detailed interaction with the inmates. **Out of the total 660**

<sup>278</sup> This number includes the total number of applications by both DLSA, Kapurthala and DLSA, Jalandhar

*The practice of having two lawyers (legal aid and private) must be kept in check and discouraged among inmates, by the DLSAs.*

**inmates interviewed across all the jails, 213 of them claimed to have been availing the services of legal aid lawyers.** Overall, the team got an impression that inmates were largely dissatisfied with the services being provided by legal aid lawyers. Broadly, the reasons behind the same are as follows:

a) **Perception of Inmates against Legal Aid Lawyers**

In the interaction of the team with inmates who had legal aid lawyers across the jails in Punjab, a trend emerged, wherein **inmates had a perception that as legal aid lawyers were working for 'free', they were not diligent enough towards their cases and hence were not working effectively.** Inmates alleged that whenever they had legal aid lawyers, **the chances of them getting bail was effectively low** and the **chances of them getting convicted for the crimes was disproportionately high** in comparison with private lawyers.

As a result of this perception, the team observed that inmates with **legal aid lawyers, would often switch to availing the services of private lawyers.** Another prevalent trend observed by the team was that **the inmates who had legal aid lawyers, would also simultaneously appoint a private lawyer for their cases, thinking that it would help make their case stronger.** Further, the inmates also believed that **private lawyers were more effective and efficient in regard to procuring bail for the inmates, whereas legal aid lawyers did not care about the inmates getting bail.**

**All these perceptions, in the observation of the team, often led to inmates opting for private lawyers, even when they were aware that they would not be always able afford the same.** Some inmates stated that they would go for private lawyers after mortgaging or selling of their ownings and by taking loan from moneylenders. This is an indication of the lack of trust in the legal aid system and the quality of services provided.

b) **Time of Appointment and Details of Legal Aid Lawyers**

A prevalent trend across the jails in Punjab **was the large amount time taken for the appointment of lawyers after the inmate had**

**filed their legal aid applications.** Most of the inmates who had legal aid lawyers, claimed that it would always take a lot of time (**up to a month in regard to legal aid lawyers at district level, up to 4-8 months and in some cases, up to an year in regard to appointment of legal aid lawyers at High Court and Supreme Court level**). In particular, during the team's visit to Central Jail, Patiala, a complete lack of appointment of lawyers from DLSA, Mohali was also brought to the notice of the team.

Also, although the information provided by the DLSAs states that all the inmates who were given legal aid lawyers were also provided with the contact details of the lawyers, the team found some discrepancies in regard to the same. For example, **in Central Jail, Kapurthala, inmates alleged that they were only being provided with the names of their legal aid lawyers and not their contact details. In regard to New District Jail, Nabha, the inmates claimed that the appointment letter of legal aid lawyers was not being provided to the inmates at all.** Although these are a few examples, the team came across a large number of inmates across the different jails, wherein the inmates **having legal aid lawyers were not aware whether there has been an appointment done, and in case where legal aid lawyers have been appointed, they did not have the details of them.**

### c) **Lack of contact between Inmate and Legal Aid Lawyers**

The NALSA Standard Operating Procedure, 2016 (NALSA SOP, 2016) states that the panel lawyer who is appointed to represent a person in custody in the court should interact with the person in custody to have a better understanding of the case in hand.<sup>279</sup> Further, the SOP states that where possible, video conferencing may be used to enable communication with the jail inmates.<sup>280</sup>

**However, in the observation of the team, lack of contact between the inmates and the lawyers was widely prevalent across the jails in Punjab.** The lack of contact would manifest in different ways, some of which are as follows:

- **Non-appearance during production of the inmate**
- **Not picking up phone calls- the inmates stated that their**

<sup>279</sup> Directive 16, NALSA SOP, 2016

<sup>280</sup> Directive 20, NALSA SOP, 2016

*The duration between the application for legal aid for a person in custody and actual appointment of the legal aid lawyer should not be more than 24 hours.*

*The SLSA must look into the issue of legal aid lawyers not getting appointed from DLSA Mohali for inmates lodged in CJ Patiala.*

*DLSAs must make sure that inmates who have opted for legal aid are aware about the details of the lawyers including their contact numbers.*

*DLSAs must also ensure that these lawyers are in touch with their clients (inmates).*

*DLSAs must ensure that all panel lawyers appointed, as legal aid counsels for persons in custody, must pay them a visit inside the prison, at least once a month and make them aware about the details of their cases.*

*DLSAs must ensure that these lawyers interact with their clients before and after each hearing.*

existed a conundrum in regard to contacting lawyers. While the inmates are allowed to use prison inmate calling system<sup>281</sup> between 7:00AM in the morning and 5:00 PM in the evening, the inmates alleged that if and when they would call lawyers during these time periods, the lawyer would ask them to call after 5:00 PM as they would be in the Court. As inmates were not allowed to use facilities after 5:00PM, they would be left with no alternatives to get in touch with lawyers. While it could be that lawyers are not able to take calls during court hours, contact of lawyers and their clients is imperative for preparation of an effective defence, and hence, this issue must be addressed at the earliest.

- **Not meeting during Mulaqaat.**<sup>282</sup> - the inmates alleged that the legal aid lawyers were not allowed to meet them during mulaqaat, as mulaqaat was only allowed for family members. As a result, they stated that no legal aid lawyer would ever come and meet the inmates in the jail.<sup>283</sup> There should be a clear process, time and demarcated space provided by the prison department for meeting of lawyers with clients, both private and legal aid.
- **Not being in touch during the remand phase** (wherein inmate is produced through video conferencing) which could range between 3-6 months.
- **Not responding properly to calls made by family members of the inmates.**

#### **d) Corruption- Accusation of Money being Charged by Legal Aid Lawyers**

The team came across several allegations from prisoners across the jails of legal aid lawyers demanding of money from inmates or their families. Inmates claimed that in particular, legal aid lawyers would ask for money to file bail applications on their behalf, refusing which the legal aid lawyer would not file the application. Other inmates also alleged that the legal aid lawyers would also get in touch with the family members of the inmates and ask for money

<sup>281</sup> Please see: Chapter 4: Prison Facilities

<sup>282</sup> Also See: Chapter 5: Basic Facilities

<sup>283</sup> An exception to this was observed in cases where the Jail-Visiting Lawyers were also co-incidentally the legal aid lawyer for the inmates in the particular jail. In such cases, the lawyers and the inmates were able to establish contact inside the jail.

**from them**, where, in some instances, due to the lack of awareness of family members, they would end up paying the legal aid lawyers. **Some inmates also claimed that when asked for money, they would also readily pay the legal aid lawyer at times, in the hope that the lawyer would help them get bail or get them acquitted.**

#### e) **Status of Appeal- High Court and Supreme Court Legal Aid Lawyers**

As has been mentioned previously in this chapter, the team observed that a long time was being taken for the appointment of legal aid lawyers at the High Court and the Supreme Court level. Additionally, **the inmates who were provided services of legal aid lawyers at the High Court or Supreme Court level, stated that they were not being updated on the status of their appeals.** The inmates also stated that getting in touch with High Court lawyers was often difficult, as they would not receive their phone calls, and even when they would, they would not respond properly to them or their family members.

#### f) **Lack of Grievance Redressal Mechanism**

The inmates along with some Convict PLVs working inside the jails stated that there was no mechanism available to share grievances against services provided by legal aid lawyers. They requested that such a mechanism be institutionalised and prisoners be made aware of the process.

## 11.2 **JAIL LOKADALATS/CAMP COURTS**

As has been discussed previously, the NALSA Guidelines for SLSAs, DLSAs, TLSCs and HCLSCs, require the DLSAs/TLSCs to establish and hold *Jail LokAdalats* for the settlement of compoundable criminal cases.<sup>284</sup> During the visit of the team to the 24 functional jails in the State, the team observed that *Lokadalats* (called as Camp Courts in Punjab) were being held in at least 13 of them.<sup>285</sup> **The visiting team**

<sup>284</sup> Guideline 22, NALSA Guidelines for SLSAs, DLSAs, TLSCs and HCLSCs, 2011.

<sup>285</sup> The visiting team could not gather information on the conducting of camp courts in the other 10 jails. These were: Central Jail, Gurdaspur, Central Jail, Patiala, Borstal Jail, Ludhiana, District Jail, Barnala, District Jail, Mansa, Maximum Security Jail, Nabha, New District Jail, Nabha, Women's Jail, Ludhiana, Sub-Jail Fazilka and Sub-Jail Pathanakot. It is also important to note that no camp courts were being held at the Open Air Jail, Nabha as it did not have under-trial inmates.

*DLSAs must ensure that legal aid counsels are present in court during the remand phase of the accused person.*

*DLSAs must ensure that legal aid services are rendered free of cost and any complaint of the lawyer indulging in corrupt practices must be taken seriously.*

*Communication to the jail, in the form of letters or any other document, from the High Court regarding an inmate's case must be shared with the respective inmate.*

*The SLSA must ensure that the legal aid counsels at the High Court and Supreme Court level communicate with their clients in detention either in person or through video-linkages or telephone calls.*

*The SLSA must develop a mechanism in the form of a helpline number where inmates can register their complaints or any grievances that they might have on the existing legal aid delivery system.*

Camps courts may be held in all 24 prisons on a regular basis.

The SLSA must make it mandatory for DLSA secretaries conducting camp courts to make the inmates aware about the process of pleading guilty and the consequences of pleading guilty.

Jail Visiting Lawyers (JVLs) should have access to the new entrant ward (Mulahiza ward) of the prison. Paralegal volunteers (PLVs) either convict or community can also ensure that new inmates are brought to the clinic

Posters should be put up at the legal aid clinics as well as other prominent areas in the prison including the new entrant's wards about the right to legal aid and time and place of JLACs.

Reasonable efforts must be made from the DLSA secretary's side to produce the challan of persons accused under petty offence.

Inmates must be made aware about the provisions of plea bargaining during legal aid camps by the jail visiting lawyers.

was also able to observe the proceedings of the camp court in Central Jail, Amritsar and District Jail, Sangrur. The following figure provides the procedure for camp courts:

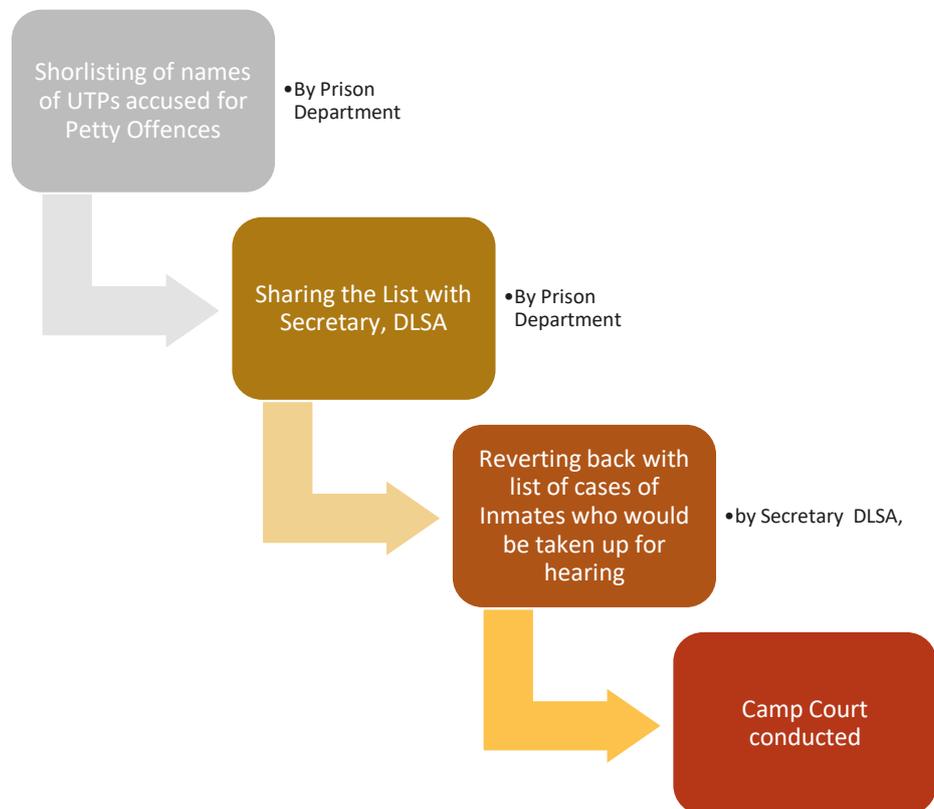


Figure 3: Steps involved in Camp Courts

Based on Figure 3, for the conduction of camp court, four main steps were involved: 1) The Secretary DLSA, asks the Superintendent in-charge to shortlist names of undertrial inmates **who have been charged with petty offences, and who were nearing the completion of their term of their punishment, even if they would have been convicted;** 2) Following the shortlist, these **names would be then sent to the Secretary, DLSA** of the particular district for their consideration; 3) After consideration by the Secretary, DLSA, **a list would be sent back with the names of the undertrial inmates whose cases would then be taken up for hearing;** 4) A particular day **(on monthly basis) would be fixed for conducting the camp court, when the inmate would be asked whether they want to plead guilty or not guilty.** In case the inmate pleaded guilty, the Reader accompanying the Secretary, DLSA would hand over a copy of pre-written judgment, take the thumb impression of the inmate, and then would inform the inmate that they

would be released in a few months as per the pre-determined sentence already mentioned in the judgment.

In the team's conversation with the Secretary, DLSA, Sangrur, he informed that during the short-listing phase, both the jail officials and his office would ensure that only first-time offenders charged for petty offences would be shortlisted for hearing in camp courts, and not habitual offenders. Additionally, he said he ensures that that the inmates while pleading guilty were also made aware of the consequences of the same.

In the team's interaction with jail officials regarding the functioning of the Camp Courts, officials appeared to be **satisfied with the process. They stated that these monthly camp courts help in decreasing the population of the jails, and hence also, help in reducing overcrowding.** However, some officials suggested that the scope of camp courts needed to be widened and not just be limited to petty offences, so as to tackle the issue of overcrowding more effectively.

# **SECTION B**

**ANNEXURE I:**

# **PUNJAB STUDY MoU**



## PUNJAB STATE LEGAL SERVICES AUTHORITY

Site no. 126, Sector 69, SAS Nagar - 160069

Ph. No. 0172-2216750, 0172-2216690

Toll Free : 1968

e-mail : [ms@pulsa.gov.in](mailto:ms@pulsa.gov.in)

website: [www.pulsa.gov.in](http://www.pulsa.gov.in)

**Harpreet Kaur Jeewan**  
(District & Sessions Judge)  
Member Secretary

PULSA/2018/16573

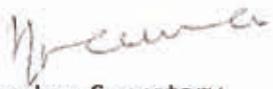
Dated, S.A.S. Nagar, 19-10-18

To

✓  
The Director,  
Commonwealth Human Rights Initiative,  
3rd Floor, 55A, Siddhartha Chambers, Kalu Sarai,  
New Delhi-110016

Subject: Memorandum of Understanding for study on Prison Conditions in Punjab.

Please find enclosed herewith Memorandum of Understanding duly signed by the undersigned, for study on Prison Conditions in Punjab.

  
Member Secretary

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered between Commonwealth Human Rights Initiative (CHRI), New Delhi and Punjab State Legal Services Authority (PSLSA) to conduct a research on prison conditions in compliance of the directions issued by Hon'ble Supreme Court of India in its judgement dated 15.09.2017 in Writ Petition (Civil) No. 406 of 2013 titled, "Re-Inhuman Conditions in 1382 Prisons"

As per the discussions between the parties CHRI has prepared a framework for conducting a research study that will observe, study, and evaluate the existing conditions of prisons in the State of Punjab. The parties now, have therefore, through this Memorandum of Understanding agreed to the following broad areas of research, methodology, time frame of the study, specific deliverables and expenditure.

**Date:** 15 September 2018

**Parties:** The Commonwealth Human Rights Initiative, (hereinafter referred to as CHRI), 55A Third Floor, Siddharth Chambers, Kalu Sarai, New Delhi 110 016 represented/through its International Director

AND

Punjab State Legal Services Authority, (hereinafter referred to as PSLSA), Site No.126, Opposite GMADA Community Centre, Sector 69, S.A.S. Nagar, Mohali represented by Member Secretary, PSLSA.

### **I. Background**

1. CHRI is an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. The core areas of the prison reforms programme comprise improving prison oversight, strengthening safeguards against unnecessary detention, ensuring effective legal aid services for persons in custody and facilitating repatriation of foreign national prisoners upon completion of their sentences.
2. PSLSA is a statutory body established under the Legal Services Authorities Act 1987. It is an independent authority constituted to provide free legal services, access to justice to people and conducting lok adalats and give effect to policies and directions for effective implementation of justice delivery system in the state of Punjab.

*Heaven*  
14/9/2018  
Punjab State Legal Services Authority  
S.A.S. Nagar

## II. Objective

The objective of the proposed research study is to examine the condition of all prisons in Punjab in compliance of the directions of Hon'ble Supreme Court of India dated 15.09.2017 in Writ Petition (Civil) No. 406 of 2013 titled "Re-Inhuman Conditions in 1382 Prisons". The study will investigate nine essential themes viz. prison administration & infrastructure; prison regime including segregation of prisoners; medical facilities & health; visitation rights & facilities; access to information; access to legal aid in prisons; vocational training & prison labour; prison oversight and; provisions for vulnerable categories of prisoners - women prisoners & their children, mentally ill prisoners and foreign national prisoners.

## III. Proposed Methodology

The study will be based on data collected from both primary and secondary sources, i.e. semi-structured interview method, direct observation and secondary data review. Primary and secondary data collection will involve the following techniques:

- a) *Semi-structured interview method*, a tool used in qualitative research methodology wherein the interviewer uses an interview guide, which includes a list of questions, themes or topics that need to be covered during the course of the interview. This method will be used to interview select undertrials, convicts and the prison staff.
- b) *Direct observation*, a method of data collection, is used to gather relevant qualitative data on the basis of direct observation of the natural surroundings of the respondent/subject.
- c) *Secondary data review* is a process of data collection from different sources. In order to substantiate the findings and evaluate the situation on ground, CHRI shall circulate formats to the prison departments/prisons as well as the legal services authorities for procurement of data relevant to the subject matter of the study.

## IV. Period

The period of the research study will be 24<sup>th</sup> September 2018 to 31<sup>st</sup> March 2019 covering 26 jail visits (9 central, 7 district, 7 subsidiary, 1 women, 1 borstal and 1 open jail). The schedule of the visits will be prepared in consultation between both parties. It will be inclusive of prison visits which will be completed within the first three months of the study. Documentation, analysis and evaluation of the observations will be done in the following three months, after the conclusion of prison visits. However, unexpected delays may arise if, data from prisons or legal services authorities is not provided within the specified period; permission for conducting prison visits is not received; or any such similar reasons. The period of the study factors in an additional two months, in case of any possible delays.

## V. Deliverables

The final report, to be submitted by CHRI by 31<sup>st</sup> March 2018, will comprise of a thematic report based on observations from the prison visits and data-based evaluation of compliance by prisons against the standards given in the Punjab Jail Manual and Model Prison Manual 2016. It will also have jail wise sheets with pertinent data and analysis. The report would also include key findings & recommendations. The final study will be published by the PLSA in the joint name of both the parties.

## VI. Scope and Structure of the Report

As per the Prison Statistics India Report, 2015, Punjab has 26 jails situated in 22 districts; 9 central, 7 district, 7 subsidiary, 1 women, 1 open jail and 1 borstal school. Occupancy rate is 117.8% with a prison population of 23, 645 prisoners. 55.2% percent of the prison population i.e. 13,046 inmates are under-trials, and 10,599 are convicts. Out of the convicts, 2,396 are life term convicts and 7 are on death row. The number of female prisoners are 1135. As of August 2018, there are 530 judicial officers in the State of Punjab.

All the areas as per directions of the Hon'ble Supreme Court vide order dated 15.9.2017 in WP (Civil) no 406 of 2013 shall be taken as a theme and sub-theme for the study including the following:-

- 1. Personal Information of Prisoners Regarding Their Cases - Access to Information:** Facilities available for prisoners to access their case information would be recorded. These include mechanisms such as history tickets and information kiosks. Also interviews of atleast 50 inmates would be conducted to assess whether they know their rights, are aware of basic criminal trial procedure, details of their case and current status etc. The inmates would be selected on basis of age, sex, nature of offence and period of detention.
- 2. Women Prisoners & Their Children:** An assessment would be made on facilities available to women prisoners & their children, to ensure that their rights are protected. Place of detention, procedures for conducting searches upon admission, presence of separate and secure enclosures, guarding staff, presence of male staff in women enclosures, maintenance of health and hygiene, diet for women, provisions for pre- and post-natal care for pregnant women will also be documented. Focus will also be on children of women prisoners regarding their diet, educational facilities, and procedures after completion of 6 years and compliance with other directives, as delivered by the Supreme Court under R.D. Upadhyay vs State of A.P. & Ors -Writ Petition (Civil) 559 of 1994.
- 3. Separation of Juveniles from Other Prisoners - Juveniles in Detention:** Examination of mechanisms that are in place to ensure juveniles are not detained in prisons meant for adults and are also not treated in the same way as adult prisoners. In case they are detained along with adult prisoners, such cases will be brought to the notice of the concerned authorities. Conditions of detention in the Borstal school will also be observed.
- 4. Health of the prisoners/hygienic conditions in Jail - Medical Facilities & Health:** The availability of medical facilities in prison will be documented. Presence of hospital, dispensary, number of medical officers, doctors, psychologists, psychiatrists, nursing staff,

*Heenan*  
14/9/2018

ambulance, medical checks at time of admission, procedures in case of terminally ill persons and medical emergencies, kinds of diseases complained of and so on. To assess the hygiene, facilities of potable drinking water, basic cleanliness in kitchens, cleaning routines of water tanks, number of toilets, bathrooms etc. will be documented.

5. **Availability of Vocational, Semi-Skilled or Other Job Oriented Opportunities - Vocational Training & Prison Labour:** The availability of vocational training activities, educational facilities, post release assistance, welfare funds, wages paid, etc. will be documented. Also, the presence of welfare officers, probation and aftercare officers and their roles will be observed.
6. **Visits by family members of prisoners - Visitation Rights & Facilities:** The *mulaqat* process i.e. the process of the inmates meeting their family will be documented. Primary focus will be on procedures involved in *mulaqat*, its frequency, mode of *mulaqat* for family and special provisions for meeting children. Provision to write letters, telephone facilities, video conferencing with family members, and items family members can give to undertrials and convicts will be recorded.
7. **Services/Facilities being provided by legal services institutions - Access to Legal Aid in Prisons:** Legal aid services available to prisoners will be documented. Visits by representatives from District Legal Services Authority (DLSA), PLSA & High Court Legal Services Committee (HCLSC), constitution of prison legal aid clinics, compliance with National Legal Services Authority (NALSA) Standard Operating Procedure (SOP) of 2016, training of convict paralegal volunteers (CPLVs) and jail visiting lawyers, documentation & registers, grievance redressal boxes, legal awareness camps, legal awareness posters, etc. will be recorded.
8. **Building & infrastructure of jail - Prison Administration & Infrastructure:** The organizational structure of the prison department will be examined and evaluation of sanctioned and actual appointments of prison officers in various designations and budgets will be made. Based on observations, basic infrastructure of each prison will be studied. Number of wards, overcrowding rates, capacity, population, area available to each prisoner, ventilation, washrooms, open areas, hygiene, cleanliness, condition of buildings, safety will be evaluated.

## VII. Expenditure & Payments

PLSA will take care of all travel, accommodation and food arrangements within the State of Punjab whereas CHRI agrees to complete the study for a total consultancy cost of Rs 2,50,000/- (Two Lakhs Fifty Thousand Rupees) which PLSA has agreed to provide to CHRI.

This amount will be paid to CHRI in two instalments i.e., 50% after the completion of visits to 12 jails and 40% on submission of first draft of the report and 10% on final submission of the report. Please find below CHRI's account and other details:

4 | Page

50% Completion of visit to 12 Jails  
40% Submission of first draft  
10% final submission  
Heerwan  
14/9/2018

CHRI PAN	AAATC0348M
Account Name	Commonwealth Human Rights Initiative
Name of the Bank	HDFC Bank Ltd
Account No.	00321000127891
RTGS/NEFT IFSC	HDFC0000032
Branch Code	000032
MICR Code	110240004
SWIFT CODE	HDFCINBBDEL

In witness whereof the parties have signed this Memorandum of Understanding of the day, month and year first hereinabove written.

*Sanjoy Hazarika*

On behalf of the Commonwealth Human Rights Initiative

Name: Sanjoy Hazarika

Title: International Director, CHRI

Signature:

On behalf Punjab State Legal Services Authority (PSLSA)

Name Harpreet Kaur Jeevan

Title Member Secretary, PLSA.

Signature:

*Jeevan*  
 14/9/2018  
 Punjab State Legal Services Authority  
 S.A.S. Nagar

ANNEXURE II:

# SAMPLE QUESTIONNAIRE

# Under-Trials

**Name of the Interviewer:**

**Name of the Prison:**

**Date:**

1.	Name of the Inmate	
2.	Father's Name	
3.	Date of Birth (Age/FIR)	
4.	Belongs to (Name of the District and State)	
5.	Education & Previous Occupation	
6.	Caste & Religion	
7.	Offences charged (Sections and Name of Act)	
8.	Court (First Production/ Number of Days)	
9.	Days in Police Custody (including remand)	
10.	Custodial Torture (Details)	

11.	Time Spent in Jail	
12.	Medical examination at the Civil Hospital/Prison (Within how many days) & Details.	
13.	Whether Custodial violence was enquired by/informed to the Doctor?	
14.	Any illness (before and after entering the prison)	
15.	Lawyer (No lawyer/Private lawyer/Legal Aid Lawyer) & Details	
16.	Whether interacting with lawyer/Family interacting with lawyer?	
17.	Legal Aid awareness (at the time of admission/after admission)	
18.	Mulaqaat (Duration, problems, satisfaction)	
19.	Whether using PCO/ Canteen Facilities & issues with the same? (including source of money)	

20.	Quality of Food, drinking water & bathing Water?	
21.	Information on Jail Staff & Superintendent?	
22.	Drug Circulation inside Prison (Consumption/Smuggling)?	
23.	Incidents of in-fighting and solitary cells?	
24.	Whether Medical Camps are happening?	

## Under-Trials

1.	Time spent in jail	
2.	Whether Court Production happening? (Physical/VC)	
3.	Number of times produced/experience of VC/Physical production	
4.	Awareness of the case status	
5.	Whether applied for Bail?	
6.	Whether family informed of Judicial Custody?	
7.	Admission Procedure (Search and Materials provided)	
8.	Comments & Any other information	

ANNEXURE III:

# NDPS QUESTIONNAIRE

# NDPS (UNDER-TRIALS)

Name of the Interviewer:

Name of the Prison:

Date:

1.	Name of the Inmate	
2.	Father's Name	
3.	Date of Birth (Age/FIR)	
4.	Belongs to (Name of the District and State)	
5.	Education & Previous Occupation	
6.	Caste & Religion	
7.	Offences charged (Sections and Name of Act)	
8.	Court (First Production/ Number of Days)	
9.	Days in Police Custody (including remand)	
10.	Custodial Torture (Details)	

11.	Time Spent in Jail	
12.	Medical examination at the Civil Hospital/Prison (Within how many days) & Details.	
13.	Whether Custodial violence was enquired by/informed to the Doctor?	
14.	Any illness (before and after entering the prison)	
15.	Lawyer (No lawyer/Private lawyer/Legal Aid Lawyer) & Details	
16.	Whether interacting with lawyer/Family interacting with lawyer?	
17.	Legal Aid awareness (at the time of admission/after admission)	
18.	Mulaqaat (Duration, problems, satisfaction)	
19.	Whether using PCO/Canteen Facilities & issues with the same? (including source of money)	

20.	Quality of Food, drinking water & bathing Water?	
21.	Information on Jail Staff & Superintendent?	
22.	Drug Circulation inside Prison (Consumption/Smuggling)?	
23.	Incidents of in-fighting and solitary cells?	
24.	Whether Medical Camps are happening?	

## Under-Trials

1.	Time spent in jail	
2.	Whether Court Production happening? (Physical/VC)	
3.	Number of times produced/ experience of VC/Physical production	
4.	Awareness of the case status	
5.	Whether applied for Bail?	
6.	Whether family informed of Judicial Custody?	
7.	Admission Procedure (Search and Materials provided)	
8.	Kind of Drug caught with?	
9.	Quantity of drug caught with? (Small/intermediate/heavy recovery)	
10.	Whether confessional statement made under Section 67 of NDPS Act?	

11.	If caught with small quantity, whether aware of Section 64A of the NDPS Act?	
12.	Whether using drug for personal use/Whether any one consuming in family?	
13.	Whether undergoing OOATS or any other treatment?	
14.	Comments & Any other information	

ANNEXURE IV:

# PUNJAB PRISON FORMATS

# PUNJAB SLSA STUDY IN COMPLIANCE WITH THE DIRECTIONS OF THE HON'BLE SUPREME COURT PROFORMAS FOR PRISON AUTHORITIES

## **I: MASTER TABLE (PERIOD- 1st September 2017- 31st August 2018)**

### **A. PRISON WISE INFORMATION:**

S. No.	Name of the Prison	Year of Establishment	Total Area	Total Capacity	Total Population	Total Number of Barracks			Total Number of Solitary Cells
						Male Barracks	Female Barracks	Transgender Barracks	

### **B. PERIOD OF DETENTION OF INMATES:**

Period of Detention	Undertrials	Convicts	Detenues	Others
0-3 months				
3-6 months				
6 months- 1 year				
1 year - 3 years				
3 years- 5 years				
5 years and above				
Total				

## **II: WOMEN INMATES AND THEIR CHILDREN**

### **A. PRISON WISE INFORMATION OF WOMEN INMATES AND THEIR CHILDREN (1st September 2017- 31st August 2018)**

S. No.	Name & Type of Prison	Total Number of Women Inmates		Number of Foreign National Women Inmates		Number of Children in Prison		Whether Balwadi/ Crèche facilities available inside	If yes, who runs Balwadi/ Crèche	Whether children provided education	If yes, who provides education
		UTP	Convict	UTP	Convict	Male	Female				

## HEALTH & MENTALLY ILL INMATES

### III: MEDICAL TREATMENT IN PRISONS

#### A. PRISON WISE INFORMATION ON THE MEDICAL FACILITIES AVAILABLE (PERIOD- 1st September 2017- 31st August 2018)

S. No	Name of Prison	Specify Whether there is a Hospital Inside the Prison or Not	Whether Medical Officer available? Name & Date of appointment & Visiting time	Capacity of the Hospital?	Whether the hospital inside the Prison has Operation theatre (OT)?	Appointment of Doctors					Number of Ambulances Available in the Prison
						Number of General Physicians	Number of Psychiatrists	Number of Psychologists	Number of Gynaecologists	In case there is no full time Medical Officer, who undertakes daily check-up of prisoners? Name, qualification and no. of times they visit jail	

#### B. PRISON-WISE INFORMATION ON MEDICAL TREATMENTS (PERIOD- 1st September 2017- 31st August 2018)

S. No.	Name of Prison	Medical Treatment (Inside Prisons)			Medical Treatment (Outside Prisons)		
		Total Number of Prisoners treated	Total Number of prisoners admitted to hospital	Total number of prisoners provided medical assistance in OPD of Hospital	Total Number of Prisoners referred to specialists outside prison	Total number of prisoners referred to hospitals outside the prison	Name of the Hospital outside prisons referred to

### IV: VOCATIONAL TRAINING & AFTER RELEASE CARE

#### A. VOCATIONAL TRAINING & EDUCATION OF INMATES (PERIOD- 1st September 2017- 31st August 2018)

S. No.	Name & Type of Prison	Number of Inmates enrolled in formal education programs				Number of Inmates given vocational training				Number of Convicts currently working	Wages for Skilled Work	Wages for Semi-Skilled Work	Wages for Unskilled Work	Items Produced	
		Convict		UTP		Convict		UTP							
		M	F	M	F	M	F	M	F						

## V: COMMUNICATION WITH FAMILY

### A. PRISON WISE INFORMATION ON THE PROCESS OF MULAQAAT AND OTHER MEANS OF COMMUNICATION WITH THE FAMILY (PERIOD- 1st September 2017- 31st August 2018)

S. No.	Name & Type of Prison	Days of the week when Mulaqat is allowed	Timings of Mulaqat for each day	Periodicity of Mulaqat for		Whether telephone facility available for both men & women inmates		If Yes, whether telephone facility available for both Undertrial & Convict		If Yes, periodicity for availing facility		If Yes, charges per call charged to an inmate	Whether any special facilities available for foreign national prisoners to contact their family. specify
				UTP	Convict	Men	Women	UTP	Convict	UTP	Convict		

## PRISON INFRASTRUCTURE

S. No.	Name of the Prison	Total Number of fans		Total Number of Tube-lights/ bulbs		Total Number of Toilets		Total Number of Bathing Rooms		Total number of water tanks	
		Male section	Female section	Male section	Female section	Male section	Female section	Male section	Female section	Male section	Female section

## PRISON OVERSIGHT

### VI: PRISON VISITING SYSTEM<sup>1</sup>

#### A. PRISON-WISE INFORMATION ON CONSTITUTION & FUNCTIONING OF BOARD OF VISITORS (PERIOD- 1st September 2017- 31st August 2018)

Name of Prison	Current status of Appointment and Constitution			Meeting and Visits			Training	Reporting & Follow Up			
	No. of Jails with NOV's currently appointed with the date of appointment	Total Number of NOV's appointed	No. of Jails with BOV's currently constituted with the date of constitution	No. of Visits by Official Visitors	No. of Visits by Non-Official Visitors	No. of meetings held by the BOV's from	No. of training/ orientation programs organised for Non-Official Visitors	Whether any template has been developed for the visitor to record their observations?	No. of reports submitted by the visitors to the State Government/ Prison Heads	No. of action taken reports sent by the Jail Superintendent to the Jail Department	No. of action taken reports sent by the Jail Department to the State Government

<sup>1</sup> According to Section 59(25) of the Prisons Act, 1894 every state has the power to make rules on 'Appointment and Guidance of Visitors to Prisons'. Today every state prison rules, with some variation incorporate Board of Visitors.

## FOREIGN NATIONAL PRISONERS

### PROFORMA VII: FOREIGN NATIONALS

#### A. PRISON-WISE INFORMATION ON FOREIGN NATIONAL PRISONERS, CONSULAR ACCESS & REPATRIATION (PERIOD- 1st September 2017- 31st August 2018)

S. No	Name of Detention Centre/ Prison	Total number of Foreign Nationals (As on 31st August 2018)				Number of Foreign Nationals provided consular access				Total number of prisoners who have contact with their family	Total number of Foreign nationals repatriated	Please provide prisoner-wise reasons for delay in repatriation of foreign nationals who have completed their sentence
		UTP	Convict	Detenue	Completed Sentence	UTP	Convict	Detenue	Completed Sentence			

### VIII: TREATMENT OF MENTALLY ILL PRISONERS (Period: 1st September 2017- 31st August 2018)

S. No.	Name & Type of Prison	Number of Inmates given Psychological Counseling				Number of Mentally Ill Prisoners				Whether Psychologist available in prison at all times?	Number of Inmates given Psychiatric Treatment				Number of Visits by Psychiatrist	Number of Inmates transferred to psychiatric treatment hospital	Number of Undertrials whose trials are suspended because they are unfit to stand trial	
		UTP		Convict		UTP		Convict			UTP		Convict				M	Female
		M	F	M	F	M	F	M	F		M	F	M	F				

#### B. PERIOD OF DETENTION OF MENTALLY ILL PRISONERS

Period of Detention	Undertrials	Convicts	Detenues	Others
0-3 months				
3-6 months				
6 months- 1 year				
1 year - 3 years				
3 years- 5 years				
5 years and above				
Total				

## **IX: PRISON STAFF STRENGTH**

A. Please provide structural tree and hierarchy of the prison administration. (as on 31<sup>st</sup> August 2018)

B. PRISON-WISE INFORMATION ON PRISON STAFF STRENGTH (As on 31st August, 2018)

NOTE: The information is sought for the categories of personnel provided in the Model Prison Manual of 2016.

A. Designation/Post	B. Sanctioned Strength	C. Actual Strength <sup>2</sup>
I) Executive		
a) Superintendents		
b) Additional Superintendent		
c) Deputy Superintendents		
d) Assistant Superintendents		
II) Guarding staff		
a) Chief Head Warders		
b) Head Warders		
c) Warders		
III) Medical personnel		
a) Medical Officers		
*Woman Gynaecologist		
b) Psychiatrist		
c) Nursing staff		
d) Pharmacist		
IV) Welfare Units		
a) Assistant Director, Correctional Services		
b) Welfare Officer		
c) Law Officer		
d) Psychologist/Counsellor		
e) Probation Officer		
V) Educational Personnel		
a) Teachers		
b) Physical Training Instructor		
VI) Technical Personnel		
a) Instructors		
b) Foremen		
c) Electricians		
d) Plumbers		

<sup>2</sup> If the actual strength for any designation/post is zero, please mention if the work is being done by staff who are part-time or appointed on deputation or appointed as a result of collaboration with other institutions.

A. Designation/Post	B. Sanctioned Strength	C. Actual Strength <sup>3</sup>
e) Mason		
f) Drivers		
g) Motor Mechanic		
VII) Agricultural Personnel		
a) Supervisors		
b) Agricultural Assistants		
VIII) Ministerial Personnel		
a) Administrative Officer		
b) Office Superintendent		
c) Accountant		
d) Store Keepers		
e) Cashier		
f) Office Assistants		
g) Stenographers		
h) Typist/Computer Operators		
i) Miscellaneous Staff		

## **X: COURT PRODUCTION & VIDEO-CONFERENCING**

### **A. PRISON-WISE INFORMATION ON COURT PRODUCTIONS AND AVAILABILITY OF POLICE ESCORTS FOR PRODUCTION & MEDICAL PURPOSES (PERIOD- 1st September 2017- 31st August 2018)**

S. No	Name of Prison	Name of district	Number of prisoners ordered by the court to be produced in various courts	Number of prisoners actually sent from prison to various courts	Number of prisoners not produced either physically or through video conferencing	Average number of police escorts provided on a daily-basis for production purposes	Number of inmates who were supposed to be sent from prison to a hospital/ treatment place	Number of inmates who were actually sent from prison to a hospital/ treatment place	Average number of police escorts provided on a daily-basis for medical purposes

<sup>3</sup> If the actual strength for any designation/post is zero, please mention if the work is being done by staff who are part-time or appointed on deputation or appointed as a result of collaboration with other institutions.

**B. PRISON-WISE INFORMATION ON VIDEO-CONFERENCING (PERIOD- 1st September 2017- 31st August 2018)**

S. No.	Name of Prison	Name of district	Whether video conferencing facility functional for court production	Number of computers set up for video-conferencing purposes	Total number of prisoners ordered by the court to be produced by video conferencing	Total number of productions which took place through video-conferencing for remand purposes	Total number of productions which took place through video-conferencing for trial purposes	Whether video conferencing facility used for any other purpose (please specify)

**GENERAL INFORMATION**

**XI: PRISON OCCUPANCY**

**A. PRISON-WISE INFORMATION ON PRISON POPULATION ( PERIOD- 1st September 2017- 31st August 2018)**

S. No.	Name of the Prison	Capacity of Prison		Total Prison Population as on last day of every month		Number of Undertrials as on last day of every month		Number of Convicts as on last day of every month		Number of Detenues as on last day of every month		Number of Civil Prisoners as on last day of every month		Occupancy Rate as on last day of every month	Sleeping area per prisoner* (in square metres)	Ground Area per prisoner* (in square metres)
		Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women			

\*NOTE: Chapter II of the Model Prison Manual, 2016, provides for the minimum accommodation capacity of barracks, cells and hospitals per prisoner.

**B. INFORMATION ON INFLOW AND OUTFLOW OF UNDERTRIALS ( PERIOD- 1st September 2017- 31st August 2018)**

S. No.	Name of Prison	Number of Undertrials admitted during the year	Number of Undertrials convicted during the year	Number of Undertrials released on bail during the year	Number of Undertrials acquitted during the year	Number of Undertrials died during the year

**C. PRISON-WISE INFORMATION ON INFLOW AND OUTFLOW OF CONVICTS ( PERIOD- 1st September 2017- 31st August 2018)**

S. No.	Name of the Prison	Number of convicts admitted during the year	Number of convicts released on				Number of convicts died during the year	Number of convicts in prison beyond completion of their sentence, and reasons thereof
			completion of sentence/ acquittal on appeal during the year	parole/ furlough during the year	suspension of sentence during the year	prematurely/ upon directive of State Sentence Review Board during the year		

## **XII: DEATHS IN PRISONS**

### **A. PRISON-WISE CAUSES OF DEATHS IN PRISONS (PERIOD- 1st September 2017- 31st August 2018)**

Causes of Death	Male		Female	
	Undertrials	Convicts	Undertrials	Convicts
Natural Deaths				
Suicide				
Execution				
Deaths due to Assault by Outside Elements				
Murder by Inmates				
Deaths due To Firing				
Deaths due to Negligence / Excess by Jail Personnel Others				

### **B. PRISON-WISE INFORMATION ON DEATHS IN PRISONS (PERIOD- 1st September 2017- 31st August 2018)**

S. No	Name of Prison	SEPTEMBER – NOVEMBER (2017)		DECEMBER 2017 – FEBRUARY, 2018		MARCH – MAY (2018)		JUNE – AUGUST (2018)	
		Date of Death	Date of Initiation of Judicial Enquiry u/S.176, CrPC	Date of Death	Date of Initiation of Judicial Enquiry u/S.176, CrPC	Date of Death	Date of Initiation of Judicial Enquiry u/S.176, CrPC	Date of Death	Date of Initiation of Judicial Enquiry u/S.176, CrPC
-	-	-	-	-	-	-	-	-	-

## **XIII: CONVICTS AND APPEALS**

### **Prison wise information on Appeals Filed for Convicts (PERIOD- 1st September 2017- 31st August 2018)**

No. of visits by representative from HCLSC	No. of visits by representatives from SCLSC	No. of video conferencing sessions conducted between HCLSC/SCLSC lawyer and prison inmate?	No. of Jail Appeals filed in High Court	No. of Jail Appeals filed in Supreme Court

## **XIV: BUDGET ALLOCATION**

### **A. PRISON WISE BUDGET ALLOCATION AND EXPENDITURE:**

S. No.	Name of the Prison	Budget Allocation			Budget Spent			Annual Financial Statement
		2014-2015	2015-2016	2016-2017	2014-2015	2015-2016	2016-2017	

**XV: PRESENCE OF NGOs**

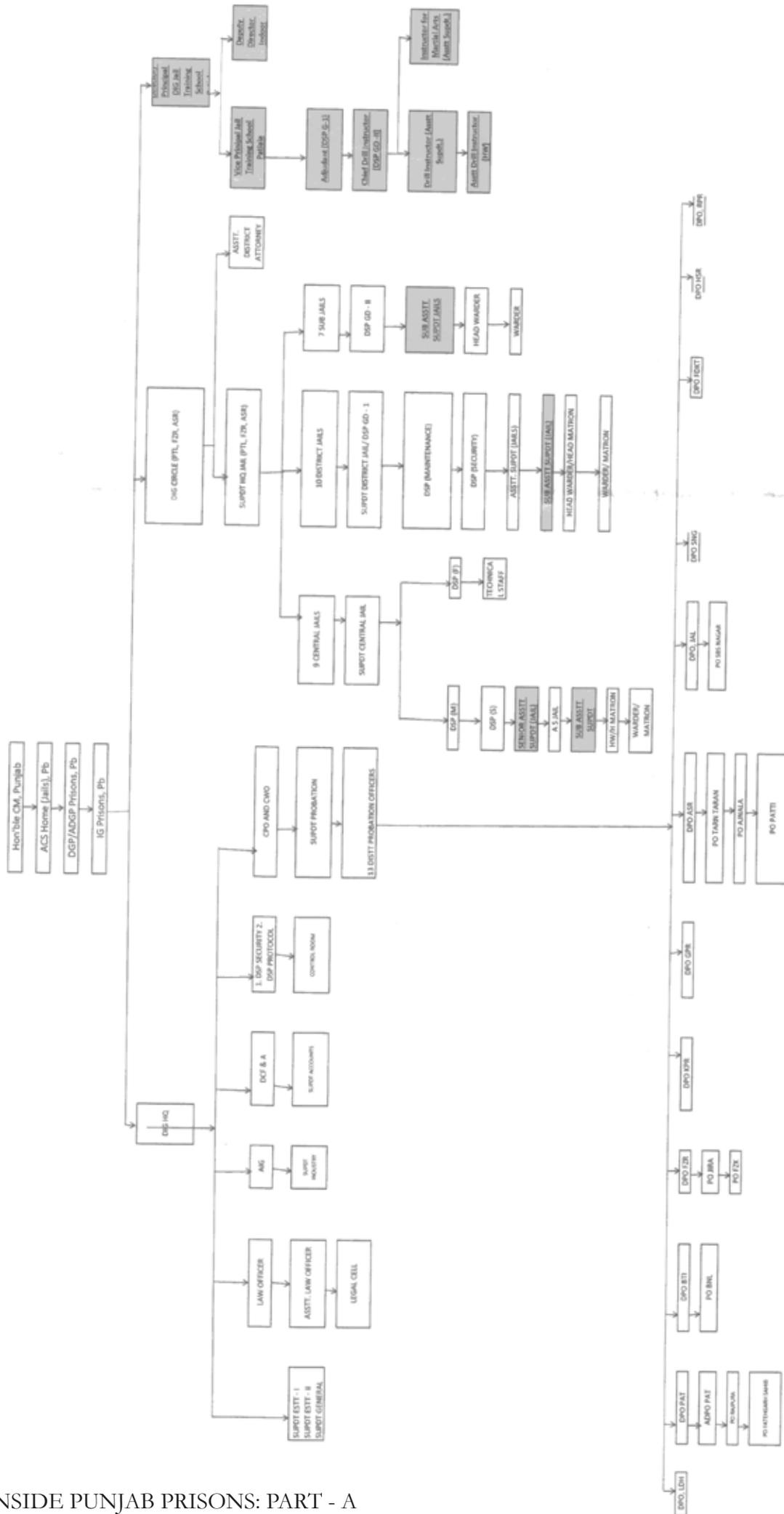
**A. NGOs ASSOCIATED**

S. No.	Name of the Prison	Name of the NGOs Working in the Prison Currently (1st September 2017- 31st August 2018)	Name of the NGOs that were associated with the prison in the past 3 years

ANNEXURE V:

# ORGANISATION STRUCTURE

**Proposed Organization Structure**



ANNEXURE VI:

# MHA ADVISORY ON UTRC

V-17014/4/2013-PR  
Government of India  
Ministry of Home Affairs

\*\*\*\*\*

Women Safety Division, 2<sup>nd</sup> Floor,  
Major Dhyan Chand National Stadium,  
India Gate, New Delhi-110002

February 18, 2019

To

1. The Principal Secretary/ Secretary (Home) of all States and Union Territories.
2. The Director General/ Inspector General of Prisons of all States and UTs.

**Sub: Meetings of Under-Trial Review Committees (UTRCs)- Standard Operating Procedure.**

Sir,

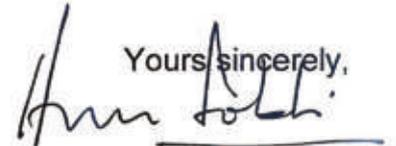
In the Writ Petition (Civil) No. 406 of 2013 titled "Inhuman Conditions in 1382 Prisons", the Hon'ble Supreme Court vide its Order dated 31.10.2017 had directed the National Legal Services Authority (NALSA) to frame a Standard Operating Procedure (SOP) to make the functioning of the Under Trial Review Committees (UTRCs) more meaningful and efficient.

2. Guidelines in the form of "The Standard Operating Procedure for Under-Trial Review Committees" have since been framed by NALSA. These guidelines (SOP) have been taken on record by the Supreme Court of India and the Hon'ble Court vide its order dated 4.12.2018 has directed that all Under Trial Review Committees will adhere to these guidelines. A copy of the Standard Operating Procedure (SOP) prepared by NALSA is enclosed.

3. The Hon'ble Court in its order dated 31.10.2017 has also directed that henceforth in all meetings of Under-Trial Review Committees, the Superintendent of the concerned District Jail/Central Jail/Sub Jail should be included as a member of the UTRC in all States/UTs. All States/UTs are therefore requested to take note of this direction of the Court. The Hon'ble Court has also directed that the Under-Trial Review Committees, in the first six months of the year 2019, will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. These reports will then be compiled and forwarded to NALSA. A copy each of the Hon'ble Supreme Court's order dated 31.10.2017 and 4.12.2018 are also forwarded to all States/UTs for information and compliance.

Encl.: As above.

Yours sincerely,



(Arun Sobti)

Under Secretary (PR & ATC)

Phone : 23075297

Email : [uspr-mha@nic.in](mailto:uspr-mha@nic.in)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

RE-INHUMAN CONDITIONS IN 1382 PRISONS VS Petitioner(s)

VERSUS

STATE OF ASSAM & ORS. Respondent(s)  
(Applications for intervention and clarification)

Date : 31-10-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

For Petitioner(s) By Post

For Respondent(s) Mr. K.K. Venugopal, AG  
Mr. R.M. Bajaj, Adv.  
Ms. Binu Tamta, Adv.  
Mr. Ankur Talwar, Adv.  
Ms. Sushma Suri, AOR  
Ms. Sushma Manchanda, Adv.  
Mr. B.K. Prasad, Adv.  
Ms. Sushma Manchanda, Adv.  
Mr. G.S. Makker, Adv.  
Mr. B.V. Balram Das, Adv.  
Mr. M.K. Maroria, Adv.

For States of  
Andhra Pradesh Mr. Guntur Prabhakar, Adv.  
Ms. Prerna Singh, Adv.

Assam Mr. Shuvodeep Roy, Adv.  
Mr. Sayooj Mohandas M., Adv.

Bihar Mr. M. Shoeb Alam, Adv.  
Ms. Fauzia Shakil, Adv.  
Mr. Ujjwal Singh, Adv.  
Mr. Mojahid Karim Khan, Adv.

Validly unknown

Digitized by  
MEENAKSHI KUMAR  
Date: 2023-11-09  
17:12:54  
Reason:

Mr. J.K. Gilda, Adv. Gen.  
Mr. Atul Jha, Adv.  
Mr. Sandeep Jha, Adv.

	Mr. D.K. Sinha, Adv.
Goa	Mr. Anshuman Srivastava, Adv. Mr. S.S. Rebello, Adv. Mr. Apoorva Bhumes, Adv.
Gujarat	Ms. Hemantika Wah, AOR Ms. Shodhika Sharma, Adv. Ms. Puja Singh, Adv. Ms. Jesal Wah, Adv.
H.P.	Mr. Varinder Kumar Sharma, Adv.
Haryana	Mr. B.K. Satija, Adv.
J&K	Mr. M. Shoeb Alam, AOR Ms. Fauzia Shakil, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Jharkhand	Mr. Tapes, Kumar Singh, AOR Mohd. Waqas, Adv. Mr. Aditya Pratap Singh, Adv.
Karnataka	Mr. V.N. Raghupathy, AOR Mr. Parikshit P. Angadi, Adv.
Madhya Pradesh	Mr. Mishra Saurabh, AOR Mr. Ankit Kr. Lal, Adv. Ms. Vanshuja Shukla, Adv.
Maharashtra	Mr. Mahaling Pandarge, Adv. Mr. Nishant R. Katneshwarkar, Adv.
Manipur	Mr. Ashok Kumar Singh, AOR
Meghalaya	Mr. Ranjan Mukherjee, AOR
Mizoram	Mr. T. G. Narayanan Nair, AOR Mr. K.N. Madhusoodhanan, Adv.
Nagaland	Mrs. K. Enatoli Sema, AOR Ms. Edward Belho, Adv. Mr. Amit Kumar Singh, Adv. Mr. K. Luikang Michael, Adv. Mr. Z.H. Isaac Haiding, Adv.
Odisha	Mr. Anindita Pujari, Adv. Ms. Kavita Bhardwaj, Adv.

Punjab	Ms. Uttara Babbar, Adv. Ms. Akanksha Choudhary, Adv.
Rajasthan	Mr. S.S. Shamsbery, Adv. Mr. Amit Sharma, Adv. Mr. Sandeep Singh, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Ruchi Kohli, Adv. Ms. Pragati Neekhra, Adv.
Sikkim	Mr. A. Mariarputham, Adv. Gen. Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Simran Jeet, Adv. for M/s Arputham Aruna & Co.
Tripura	Mr. Gopal Singh, AOR Mr. Rituraj Biswas, Adv.
Tamil Nadu	Mr. M. Yogesh Kanna, AOR Mrs. Sujatha Bagadhi, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, Adv. Mr. Mrityunjai Singh, Adv.
Uttar Pradesh	Ms. Aishwarya Bhati, AAG Mr. Adarsh Upadhyay, AOR
Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv. Mr. Sukrit R. Kapoor, Adv.
West Bengal	Mr. Raja Chatterjee, Adv. Mr. Runa Bhuyan, Adv. Mr. Chanchal Kr. Ganguli, Adv.
A&N Islands	Mr. Bhupesh Narula, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
Chandigarh	Mr. M.S. Doabia, Adv. Mr. S.S. Rawat, Adv.
Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. Manuraj, Adv.  Mr. Rajvinder Singh, Adv. Mr. Hitesh Kumar Sharma, Adv.

Mr. T.V. Talwar, Adv.  
Mr. Kuldip Singh, Adv.

Mr. Kamal Mohan Gupta, AOR

Applicant Ms. Ritu Kumar, Adv.  
Mr. Satya Mitra, Adv.

NHRC Ms. Anitha Shenoy, Adv.  
Ms. Srishti Agnihotri, Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have seen the affidavits filed by the States of Maharashtra, M.P. and U.P. and we have also heard learned counsel appearing for these three States. We have also heard the learned Attorney General as well as the learned Amicus and Mr. Alok Agarwal, Member Secretary, NALSA.

It appears from the affidavits and submissions made that some fine tuning is required in respect of the functioning of the Under Trial Review Committee.

Two suggestions have immediately been advanced:

The first suggestion is that the Superintendent of the District Jail/Central Jail/Sub-Jail should be a member of the Under Trial Review Committee so that information from the Jail is made available to the members of the Committee.

We are of the view that this suggestion is worth accepting. We direct that henceforth in all the meetings of the Under Trial Review Committee, the Superintendent of the concerned District Jail/Central Jail/Sub-Jail should also be included as a member of the Under Trial Review Committee in all States.

The second suggestion put forth (and which we accept) is that

some sort of standard operating procedure should be prepared for the functioning of the Under Trial Review Committee for all States.

The learned *Amicus* says that he will sit down with the Member Secretary, NALSA and learned counsel for the States of Maharashtra, M.P. and U.P. who have volunteered to assist the learned *Amicus* as well as the Member Secretary, NALSA for framing a standard operating procedure so that the functioning of the Under Trial Review Committee is made more meaningful and efficient. The standard operating procedure will also include the procedures to be followed after the recommendations are made by the Under Trial Review Committee for moving appropriate applications before the concerned court for release of the Under Trial Prisoner and also follow up for the next meeting.

Additional or further suggestions may be discussed by learned counsel with the learned *Amicus*. With regard to the questionnaire framed by the learned *Amicus* and circulated on 10.10.2017, he says that he has been in touch with the concerned officials of the Ministry of Home Affairs who have in turn been in touch with the concerned officials of the State Governments and NIC.

The learned *Amicus* informs us that the Ministry of Home Affairs is taking steps to finalize the questionnaire and perhaps put up the draft questionnaire on a portal to be created by the NIC. The learned *Amicus* has been assured that the needful will be done within 2-3 weeks. The learned Attorney General says that not more than four weeks may be required for this purpose.

The learned Attorney General has informed us that a meeting has been convened by the Ministry of Home Affairs on 16.11.2017 at

the level of the Additional Secretary in the Ministry of Home Affairs. The Inspector General of Police (Prisons) of all the States have been invited to participate in the meeting. It is proposed, among other things, to discuss the software pertaining to e-prisons and the various advisories that have been issued by the Ministry of Home Affairs as well as implementation of the directions given by this Court from time to time.

We expect the State Governments and the Inspector General of Police (Prisons) to respond to the queries / issues raised by the Ministry of Home Affairs particularly keeping in mind the fact that we are dealing with issues relating to the human rights of individuals which must be given prime importance.

The Member Secretary, NALSA along with the Director, NALSA as well as the learned Amicus may participate in the meeting to be held on 16.11.2017.

There is no requirement for the State of Meghalaya to file an affidavit. The Registry is directed to return the same.

List the matter on 12.12.2017.

I.A. No. 103676 (Application for intervention)

The application for intervention has been filed by the National Human Rights Commission.

The application for intervention is allowed.

I.A. No. 103677/17 (Application for clarification)

The prayer in this application is to clarify that whether the

cases from the period 2012 to 2015 that are pending before the NHRC and cases disposed of by the NHRC would require to be considered by the High Courts.

We make it clear that there is no intention to take away the jurisdiction of the NHRC in respect of the cases that have already been decided and in which compensation has been awarded. However, the NHRC is requested to ensure that payment of compensation is made early.

We also make it clear that there is no intention to take away the jurisdiction of the NHRC with regard to the pending cases of custodial deaths whether natural or unnatural.

The application is disposed of.

(MEENAKSHI KOHLI)  
COURT MASTER

(KAILASH CHANDER)  
COURT MASTER

ITEM NO.2

COURT NO.2

SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

IA 173194/2018 in Writ Petition(s)(Civil) No(s). 406/2013

**RE-INHUMAN CONDITIONS IN 1382 PRISONS**

(REPORT OF NALSA ON STANDARD OPERATING PROCEDURE FOR UNDER-TRIAL  
REVIEW COMMITTEE)

Date : 04-12-2018 This application was called on for hearing today.

**CORAM :** HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE HEMANT GUPTA

Mr. Gaurav Agrawal, Adv. (A.C.)

**Applicant** Ms. Aparna Bhat, Adv.

**For Petitioner(s)** By Post

**For Respondent(s)** Mr. A.N.S. Nadkarni, ASG  
Ms. Binu Tamta, Adv.  
Mr. R. Bala, Adv.  
Ms. Sushma Manchanda, Adv.  
Ms. Suhasini Sen, Adv.  
Mr. G.S. Makker, Adv.  
Mr. B.V. Balram Das, Adv.  
Ms. Arti Sharma, Adv.  
Mr. Pankaj Pandey, Adv.  
Mr. Raghavendra Mohan Bajaj, Adv.

**NALSA** Ms. Anitha Shenoy, Adv.  
Mr. Sunil Chauhan, Director, NALSA  
Ms. Srishti Agnihotri, Adv.

**For States of  
Andhra Pradesh** Mr. Guntur Prabhakar, Adv.  
Ms. Prerna Singh, Adv.

**Arunachal Pradesh** Mr. Anil Shrivastav, Adv.  
Mr. Rituraj Biswas, Adv.  
Mr. Satyendra Kumar Srivastav, Adv.

Signature Not Verified  
Digital signed by  
DEEPAK GUPTA  
Date: 20/12/2017  
17:04:48 IST  
Reason: —

Mr. Shuvodeep Roy, Adv.  
Mr. Somnath Banerjee, Adv.

**Bihar** Mr. M. Shoeb Alam, Adv.  
Mr. Ujjwal Singh, Adv.  
Mr. Mojahid Karim Khan, Adv.

Chhattisgarh	Mr. Atul Jha, Adv. Mr. Sandeep Jha, Adv. Mr. Dharmendra Kumar Sinha, Adv.
Goa	Mr. Anshuman Srivastava, Adv. Mr. S.S. Rebello, Adv. Ms. Apoorva Bhumesh, Adv.
Gujarat	Ms. Hemantika Wahi, AOR Ms. Jesal Wahi, Adv. Ms. Puja Singh, Adv. Ms. Vishakha, Adv. Ms. Parul Luthra, Adv.
H.P.	Mr. Vikas Mahajan, AAG Mr. Vinod Sharma, Adv.
J&K	Mr. M. Shoeb Alam, Adv. Mr. Ujjwal Singh, Adv. Mr. Mojahid Karim Khan, Adv.
Jharkhand	Mr. Tapeshe Kumar Singh, AOR Mr. Aditya Pratap Singh, Adv.
Karnataka	Mr. V.N. Raghupathy, AOR Mr. Lagnesh Mishra, Adv. Mr. Parikshit P. Angadi, Adv.
Kerala	Mr. C.K. Sasi, Adv. Ms. Nayantara Roy, Adv.
Maharashtra	Ms. Deepa M. Kulkarni, Adv. Mr. Anoop Kandari, Adv. Mr. Nishant R. Katneshwarkar, Adv.
Manipur	Mr. Leisangthem Roshmani Kh., Adv.
Meghalaya	Mr. Ranjan Mukherjee, AOR Mr. K.V. Kharlyngdoh, Adv. Mr. Daniel Stone Lyngdoh, Adv.
Mizoram	Mr. K.N. Madhusoodhanan, Adv. Ms. Nitya Madhusoodhanan, Adv. Mr. T. G. Narayanan Nair, AOR
M.P.	Mr. Rajesh Srivastava, Adv.
Nagaland	Mrs. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv.
Odisha	Mr. Anindita Pujari, Adv.

	Ms. Aarti Krupa Kumar, Adv.
Punjab	Ms. Jaspreet Gogia, Adv. Ms. Mandakini Singh, Adv.
Rajasthan	Mr. Amit Sharma, Adv. Mr. Ankit Raj, Adv. Ms. Indira Bhakar, Adv. Ms. Nidhi Jaswal, Adv. Ms. Ruchi Kohli, Adv.
Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. for M/s Arputham Aruna & Co.
Tripura	Mr. Shuvodeep Roy, Adv. Mr. Rituraj Biswas, Adv.
Tamil Nadu	Mr. M. Yogesh Kanna, AOR Mrs. Sujatha Bagadhi, Adv. Mr. Raja Rajeshwaran, Adv.
Telangana	Mr. P. Venkat Reddy, Adv. Mr. Prashant Tyagi, Adv. For M/s Venkat Palwai Law Associates
Uttar Pradesh	Mr. Rajan Kumar Chourasia, Adv. Mr. Harish Pandey, Adv.
Uttarakhand	Ms. Rachana Srivastava, AOR Ms. Monika, Adv.
West Bengal	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Amit Verma, Adv. Mr. Abhishek Manchanda, Adv. Ms. Kajal Dalal, Adv. Ms. Dimple Nagpal, Adv. For M/s PLR Chambers
A&N Islands	Mr. Mirnal Kanthi Mondal, Adv. Mr. K.V. Jagdishvaran, Adv. Mrs. G. Indira, Adv.
Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. S. Manuraj, Adv.  Mr. Colin Gonsalves, Sr. Adv. Ms. Ritu Kumar, Adv.

Mr. Satya Mitra, Adv.

Mr. T.N. Rama Rao, Adv.

Mr. Hitesh Kumar Sharma, Adv.

Mr. T. Veera Reddy, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Guidelines have been framed by NALSA called "The Standard Operating Procedure for Under-Trial Review Committees".

These Guidelines are taken on record and the Under-Trial Review Committees will adhere to these Guidelines.

It has been stated by NALSA, as a background Note, that, as on 31.12.2017, the data received from different prison authorities indicates that the holding capacity of 1250 prisons in India is 3.78 lakhs and the actual inmates are about 4.19 lakhs. In other words, there is an excess of inmates over the holding capacity. In some prisons, overcrowding is to the extent of 150% of the holding capacity. The overcrowding is particularly acute in the States of Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157%) and Maharashtra (144%).

We have been given to understand that the number of under-trial prisoners of this country constitutes more than 67% of the prisons' population. Urgent steps are quite clearly and obviously necessary for the release of under-trial prisoners, if not for the early conclusion of their trial.

Under these circumstances, though NALSA has recommended for quarterly meetings to be held by the Under-Trial Review Committees, we direct that in the first six months of the year 2019, the Under-Trial Review Committees will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. The reports will then be compiled and forwarded to NALSA.

The Guidelines be circulated to all the States/Union Territories, Director General of Prisons in all States/Union Territories and the State Legal Services Authorities.

Application stands disposed of.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
ASSISTANT REGISTRAR



**NALSA's**  
**STANDARD OPERATING PROCEDURE (SOP)**  
**for UNDER TRIAL REVIEW COMMITTEES (UTRCs)**

**WP (C ) 406/2013 – In Re-Inhuman Conditions in 1382 Prisons**

**NATIONAL LEGAL SERVICES AUTHORITY**

**12/11, JAM NAGAR HOUSE, NEW DELHI**

Website: [www.nalsa.gov.in](http://www.nalsa.gov.in) e-mail: [nalsa-dla@nic.in](mailto:nalsa-dla@nic.in) Cont. 011-23382778



## INDEX

Sl. No	Contents	Page no.
1.	Background	1-2
2.	<b>Part I</b> SOP for UTRCs where Jail Records are not digitized and even if digitized no Software Filters have been applied	3-10
3.	<b>Part II</b> SOP for UTRCs where Jails are digitized and have Software to filter the cases which are eligible for release	11
4.	<b>NALSA's Additional Suggestions</b>	12-14
5.	<b>Annexure 'A'</b> Template of Datasheet of eligible UTPs for consideration of UTRC	15-16
6.	<b>Annexure 'B'</b> Template of Datasheet of Convicts for consideration of UTRC.	17-18
7.	<b>Annexure 'C'</b> Template of New Modified Custody Warrant	19-20

## Background

In terms of the Section 12(g) of the Legal Services Authorities Act, 1987, a Person in Custody is entitled to free and competent legal services. In India, as per prison statistics. 2015 released by NCRB, there are around 1250 Central, State and Sub-jails, housing around 4.19 lacs prisoners including 80,000 women. According to NCRB data, 67 % of the above inmates i.e. 2.94 lacs are UTPs. This percentage of UTPs is one of the highest in the World in so far as the World UTP average in the prisons is only 31 %.

As on 31.12.2017, as per the data received from different Prison Authorities the holding capacity of 1250 prisons in India is 3.78 lacs and the actual inmates are 4.19 lacs. Accordingly, the prisons in India are overcrowded by 114 %. Situation in some of the Prisons is so precarious that they are holding more than 150% of their holding capacity. While the situation in States like Tamil Nadu (66%), Telangana (76 %), West Bengal (66 %) is comfortable given to the fact that the States constructed adequate number of prisons but the situation is serious in States like Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157 %), Maharashtra (144%) where the number of Prisons is quite low.

1158 Legal Services Clinics have been established by the Legal Services Institutions in around 1250 jails.

In this background, Chief Justice R. C. Lahoti (Retired) wrote a letter dated 13.06.2013 addressed to Hon'ble Supreme Court of India highlighting over crowding in prisons, inadequacy of staff, need of training, unnatural deaths, etc. This letter was registered as Public Interest Litigation by Supreme Court of India on 05.07.2013.

Series of directives on the above subjects were passed by the Hon'ble Supreme Court of India to various Authorities/Departments. On 24.04.2015, Hon'ble Supreme Court of India directed that Prisoners Management Software (PMS) being used in Tihar Jail, Delhi may be improved and deployed in all other jails in the country.

It was followed by the appointment of Director, NALSA as Nodal Officer to assist the Hon'ble Supreme Court Bench. NALSA issued directions to the State Legal Services Authorities and District Legal Services Authorities for helpline release of prisoners who could not furnish the bail bonds. Model Prison Manual was also drafted by Ministry of Home Affairs with the help of NALSA.

On. 18.09.2015, It was highlighted that the Under Trial Review Committee (UTRC) constituted by the Ministry of Home Affairs shall consider the cases of inmates who have completed half of their sentence in terms of Section 436A Cr. P.C.

On 05.02.2016, UTRCs were directed to meet at least once in every quarter starting from 31.03.2016 and Secretary of District Legal Services Authority was made member of the Committee to assist the UTRC.

On 06.05.2016, the domain of UTRC was enhanced much beyond Section 436(A) Cr. P.C. by inclusion of total 14 categories of inmates for consideration of their early release.

On 31.10.2017, NALSA was directed to prepare a Standard Operating Procedure (SOP) for smooth functioning of Under Trial Review Committees (UTRCs) with an aim to ensure that UTPs covered under 14 categories get benefit without delay.

On 12.12.2017, SOP was prepared and as per the directions of Hon'ble Supreme Court of India the same was circulated with the various stakeholders and placed on website of NALSA for inviting suggestions. The suggestions received from different stakeholders were incorporated with the help of Ld. Amicus Curiae.

On 08.05.2018, an SOP containing additional suggestions was placed on Record of Hon'ble Supreme Court of India. Vide an order dated 02.08.2018, NALSA was directed to redraft the SOP.

This redrafted final SOP has been prepared accordingly.





## NALSA's

### STANDARD OPERATING PROCEDURE (SOP) FOR UTRCs

#### PART-I

##### Definitions:

- a) "Jail" means Central Jail, District Jail, Sub Jail, Women Jail, Special Jail and borstals.
- b) "Jail Superintendent" includes Deputy Superintendent and Officer Incharge of the jail.
- c) "UTPs" means Under Trial Prisoners who are in custody at the time of preparation of the list of UTPs by the Superintendent and includes inmates who are out on interim bail.
- d) "UTRC" means Under Trial Review Committee chaired by District & Sessions Judge consisting of District Magistrate, Superintendent of Police, Secretary, DLSA and Jail Superintendent, as members.
- e) "E-Prison Portal/ PMS" means E-Prison Portal developed by NIC under directives of Ministry of Home Affairs and includes stand alone Software developed by States for their Jails.
- f) "Secretary DLSA" means Secretary of the concerned District Legal Services Authority appointed u/s 9(3) of Legal Services Authorities Act, 1987 and any other officer officiating as Secretary.
- g) "Bail Applications" Bail applications include applications moved u/s 436A, 437 Cr.P.C. and 439 Cr.P.C. apart from other provisions pertaining to technical bail under the Cr.P.C., namely bail under proviso to Sections 167 and 437 (6) Cr.P.C. and similar provisions in other special enactments.

**SOP FOR UTRCS WHERE JAIL RECORDS ARE NOT  
DIGITIZED AND EVEN IF DIGITIZED NO SOFTWARE  
FILTERS HAVE BEEN APPLIED.**

**STEP 1:      Reporting of Data of UTPs / Convicts by Prisons.**

- 1.1 The Jail superintendent of every jail in the district will collate the data regarding the UTPs lodged in the jail in the format as per **Annexure-A** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet.

**Particulars of UTPs**

- (1) Name of the UTP
- (2) Father's name
- (3) Gender / Age
- (4) FIR/Crime No
- (5) Police Station
- (6) District
- (7) Arrested under section-
- (8) Particulars of the Court
- (9) Date of Arrest
- (10) Date of First Remand
- (11) Date of admission in prison
- (12) Date of filing charge sheet.
- (13) Chargesheeted under Section-
- (14) UTP represented by Legal Aid/Private Lawyer
- (15) Name of the lawyer with contact details, if available.
- (16) Whether bail has been granted to the accused, if so when.
- (17) If accused is not released on bail despite grant of bail, reason for the same, if available.
- (18) If the UTP suffering from any disease, mental or physical, details regarding the same.
- (19) Whether UTP is a convict/Under trial in any other case.
- (20) If yes, separate entry in the data sheet be made qua the additional Case.

- 1.2 Particulars of convicts - A separate 'List of Convicts' be prepared as per **Annexure-B** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet: -

- (1) Name of the Convict
- (2) Father's Name
- (3) FIR No.
- (4) Police Station
- (5) District
- (6) Name of the Trial Court
- (7) Date of Conviction
- (8) Duration & Nature of Sentence
- (9) Total Remission Earned
- (10) Date when sentence completed
- (11) Reason for Non-Release
- (12) Whether case considered by Sentence Review Board?
- (13) Reason for not granting pre-mature release
- (14) Additional information or Remark

- 1.3 The aforesaid detail as on 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December of every year may be sent by the Jail Superintendent to the Secretary DLSA latest by 7<sup>th</sup> day of the next following month.

**STEP 2: Processing of Data by Secretary, DLSA**

- 2.1 The office of Secretary, DLSA, with the aid of empaneled panel lawyers, Retired Judicial Officers and law students trained as PLVs, if required and available, shall draw list of UTPs/Convicts eligible for consideration by the UTRC out of Data sent to him from Step-I in the light of criteria laid down by Hon'ble Supreme Court in *WP(C) 406/2013-Re-Inhuman Conditions in 1382 Prisons*, as per detailed hereunder (Para 2.2).

If any further details are required by the Secretary, DLSA from any court or from the Jail Superintendent or from the police authorities, the same may be ascertained by the Secretary DLSA. Thereafter, the Secretary DLSA shall prepare a list of eligible UTPs for consideration of UTRC in the Excel Sheet/Soft form as per **Annexure A & B**.

- 2.2 Cases of UTPs / Convicts falling under following categories shall be considered by the Secretary, DLSA for placing them before the UTRC:-

- 2.2.1 UTPs / Convicts falling under covered under Section 436A Cr.P.C.  
*[As per order of Hon'ble Supreme Court dated 24<sup>th</sup> April, 2015]*

- 2.2.2 UTPs released on bail by the court, but have not been able to furnish sureties.  
*[As per order of Hon 'ble Supreme Court dated 24<sup>th</sup> April, 2015]*
- 2.2.3 UTPs accused of compoundable offences.  
*[As per order of Hon 'ble Supreme Court dated 24<sup>th</sup> April, 2015]*
- 2.2.4 UTPs eligible under Section 436 of Cr.P.C.  
*[As per order of Hon 'ble Supreme Court dated 05<sup>th</sup> February, 2016]*
- 2.2.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment.  
*[As per order of Hon 'ble Supreme Court dated 05<sup>th</sup> February, 2016]*
- 2.2.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them.  
*[As per order of Hon 'ble Supreme Court dated 05<sup>th</sup> February, 2016]*
- 2.2.7 UTPs become eligible to be released on bail u/s 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days.  
*[As per order of Hon 'ble Supreme Court dated 06<sup>th</sup> May, 2016]*
- 2.2.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.  
*[As per order of Hon 'ble Supreme Court dated 06<sup>th</sup> May, 2016]*
- 2.2.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C.  
*[As per order of Hon 'ble Supreme Court dated 06<sup>th</sup> May, 2016]*
- 2.2.10 UTPs who are sick or infirm and require specialized medical treatment.  
*[As per order of Hon 'ble Supreme Court dated 06<sup>th</sup> May, 2016]*
- 2.2.11 UTPs women offenders  
*[As per order of Hon 'ble Supreme Court dated 06<sup>th</sup> May, 2016]*
- 2.2.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of

imprisonment and have suffered at least 1/4<sup>th</sup> of the maximum sentence possible.

*[As per order of Hon'ble Supreme Court dated 06<sup>th</sup> May, 2016]*

2.2.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.

*[As per order of Hon'ble Supreme Court dated 06<sup>th</sup> May, 2016]*

2.2.14 UTPs eligible for release under Section 437(6) of Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.

*[As per order of Hon'ble Supreme Court dated 06<sup>th</sup> May, 2016]*

2.3 The DLSA Secretary must inform the District & Sessions Judge that the complete list has been prepared and request him to convene the UTRC meeting at the earliest. A copy of the list may also be shared with other members of the UTRC so that they can come prepared for the meeting.

### **STEP 3: Processing of identified cases by UTRC**

3.1 The District & Sessions Judge shall convene the UTRC meeting as soon as the intimation is received from the DLSA, Secretary about the completion of the lists.

3.2 UTRC shall consider the cases shortlisted by the Secretary, DLSA and make recommendations for release/ appropriate action.

3.3 Upon processing the individual cases, the recommendations of UTRC may include:-

#### **3.3.1 In case UTPs covered under Section 436A Cr.P.C.:**

UTRC may recommend to concerned trial court to take up the matter and consider him/her for release on bail if there are no special reasons to deny bail, with or without sureties.

#### **3.3.2 UTPs released on bail by the court, but have not been able to furnish sureties:**

The UTRC may recommend the trial court to examine the reason why the accused is not furnishing surety/ bail bonds and if he/she is unable to do so due to poverty, then the trial court may consider reducing the

bail amount on the application of the lawyer under S.440, CrPC or release on personal bond.

**3.3.3 UTPs accused of compoundable offences:**

The UTRC may recommend to the trial court to consider if the offence can be compounded between the complainant and the accused as per law.

**3.3.4 UTPs eligible under Section 436 of Cr.P.C.:**

The UTRC may recommend to the trial court to consider releasing such an accused on personal bond in case he is unable to furnish bail bond within seven days of bail order.

**3.3.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment:**

The UTRC may recommend to the trial court to consider invoking of Probation of Offenders Act in fit cases as also plea bargaining in appropriate cases.

**3.3.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them:**

The UTRC may examine the reason for non-release of the convict and the Officer in-charge of prison may be recommended to look into the matter so that the convict is released as soon as possible.

**3.3.7 UTPs become eligible to be released on bail under Section 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days:**

The UTRC may recommend to the trial court to consider release of the accused in cases where chargesheet is not submitted within the statutory time frame.

**3.3.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years:**

The UTRC may recommend to the trial court to consider releasing of the UTP on bail in such cases.

**3.3.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.:**

The Executive Magistrate/ District Magistrate court may be recommended to release/discharge such persons with or without conditions or to make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

**3.3.10 UTPs who are sick or infirm and require specialized medical treatment:**

The UTRC may examine the medical condition of the inmate and if it is found that the inmate is very sick and specialized treatment is essential for survival, then the UTRC may recommend the trial court to consider granting bail on medical ground, as provided under S.437, CrPC, even for temporary period.

**3.3.11 UTPs women offenders:**

Women under trial prisoners who are not accused of serious offences may be considered for release on bail under S.437, CrPC, especially they are first time offenders by the concerned trial courts. The UTRC may also recommend suitable measures under the directions of the Hon'ble Court in R. D. Upadhyay vs State of A.P. & Ors. (AIR 2006 SC 1946).

**3.3.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible:**

The UTRC may request the trial court to consider granting bail to such young offenders. If the person is found guilty in the course of trial, benefit of S.3 or S.4 of the Probation of Offenders Act, 1958, may be given to the accused.

**3.3.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code:**

UTRC may recommend the trial court to take appropriate steps in accordance with Chapter XXV of the Code and provide adequate treatment to such inmates.

**3.3.14 UTPs eligible for release under Section 437(6) of Cr.P.C., wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case: UTRC may request the trial court to consider granting bail to such UTPs under Section 437(6) of Cr.P.C.**

3.4 The UTRC shall enter its recommendation in column no. 21-23 of Annexure-A and column no.15-17 of Annexure-B.

3.4.1 Recommendation of UTRC

3.4.2 Date of recommendation

3.4.2 Brief reasons for UTRC recommendation

3.5 The UTRC shall share recommendations with the concerned Trial Court/Jail Superintendent and Secretary, DLSA. Jail Superintendent shall bring it to the notice of UTP/Convict. Secretary, DLSA shall instruct the panel lawyers to move appropriate application in legal aided cases. The Trial Courts may deal with the recommendations in the manner deemed appropriate for each particular case with the assistance of Legal Aid/Private Lawyer.

**STEP 4: Follow up:**

UTRC shall keep track of the follow up action in recommended cases as detailed in Annexure-A (Column No.24- 26) & Annexure-B (Column No.18-20) as under:-

4.1 Action taken on recommendation.

4.2 Final Outcome

4.3 Date of release of UTP/Convict.

**STEP 5: Collation of data on quarterly basis by the Secretary, DLSA**

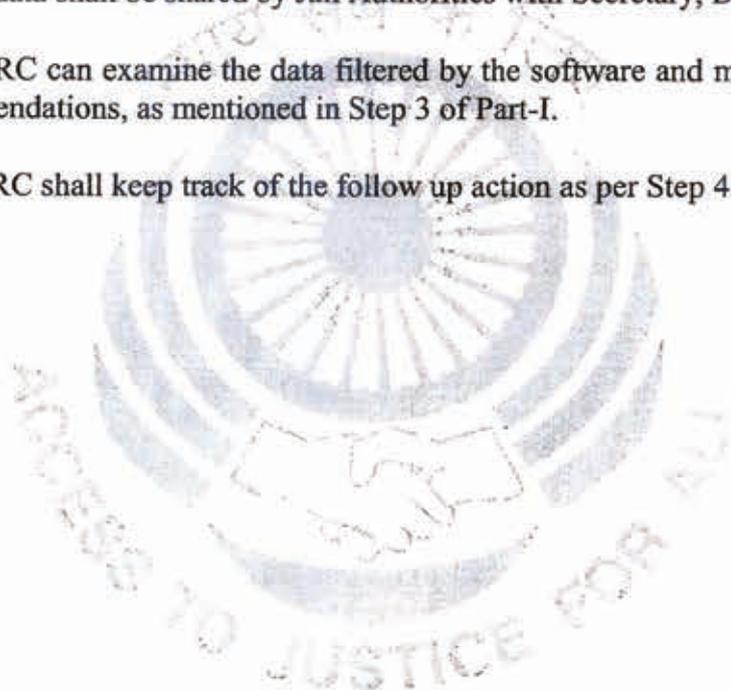
Secretary, DLSA shall collate the above data in Annexure-A & B and generate quarterly report under the following heads:

1. Number of UTPs/Convicts considered by UTRCs in a given quarter/year.
2. Number of UTPs/Convicts recommended for bail/release.
3. Number of bail/other applications moved post recommendations.
4. Number of inmates released pursuant to UTRC's recommendation.

## **PART-II**

### **SOP for UTRC where Jails are digitized and have Software to filter the cases which are eligible for release**

- 5.1 If the jail concerned has appropriate data in digital format and is able to apply the filters, then the Step 1 and Step 2 of Part-I would merge into one and the filtered data shall be shared by Jail Authorities with Secretary, DLSA.
- 5.2 The UTRC can examine the data filtered by the software and make appropriate recommendations, as mentioned in Step 3 of Part-I.
- 5.3 The UTRC shall keep track of the follow up action as per Step 4 of Part-I.



## **NALSA's ADDITIONAL SUGGESTIONS**

In order to expedite Trials and ensure Access to Justice for UTPs/Convicts NALSA suggests following new initiatives:-

### **Suggestion No.1 : Usage of modified 'Custody Warrant'**

- NALSA has designed a new Modified Custody Warrant which is annexed as **Annexure 'C'**. The need thereof arose since as on date the Prison Data is maintained only on the basis of case details received by the Jail Authorities from the First Custody Warrant which is in turn based solely on case particulars contained in the FIR. This data is amenable to change at different stages i.e. stage of filing of Chargesheet, framing of Charge and then passing of final Judgement.

Adoption of this new Modified 'Custody Warrant' is necessary as unless the specific offence in which UTP is kept in detention is regularly updated, the software filters will not be able to give correct results. For example, an accused initially arrested u/S 302 IPC may be finally chargesheeted u/S 304 IPC.

This new Modified Custody Warrant carry the particulars of the Legal Aid Counsel/Private Counsel representing the UTPs at different stages.

### **Suggestion No.2: Training/sensitization of Remand Court/Trial Court to safeguard the rights of the UTPs to be considered for bail.**

It is suggested that judicial academies of respective States may undertake training/sensitization courses of judicial officers with an aim to highlight the reason behind the UTPs : Convicts ratio in prisons which currently stands as 67% : 33% in our country. The world average of UTPs : Convicts ratio stands at only 31%:69%. The Training of judicial officers may include highlighting importance of -

- Compliance of Section 41, 41 A to D Cr.P.C. by police authorities.
- Release of arrested persons/UTPs in deserving cases by invoking Section 59 of Cr.P.C with or without bond.
- Highlighting importance of 14 situations/criteria laid down by Hon'ble Supreme Court in WP Civil No. 406/2013 "Re-inhuman conditions in 1382 prisons" and their timely compliance for decongestion of jails.

**Suggestion No.3: Inclusion of Chief Public Prosecutor in UTRC.**

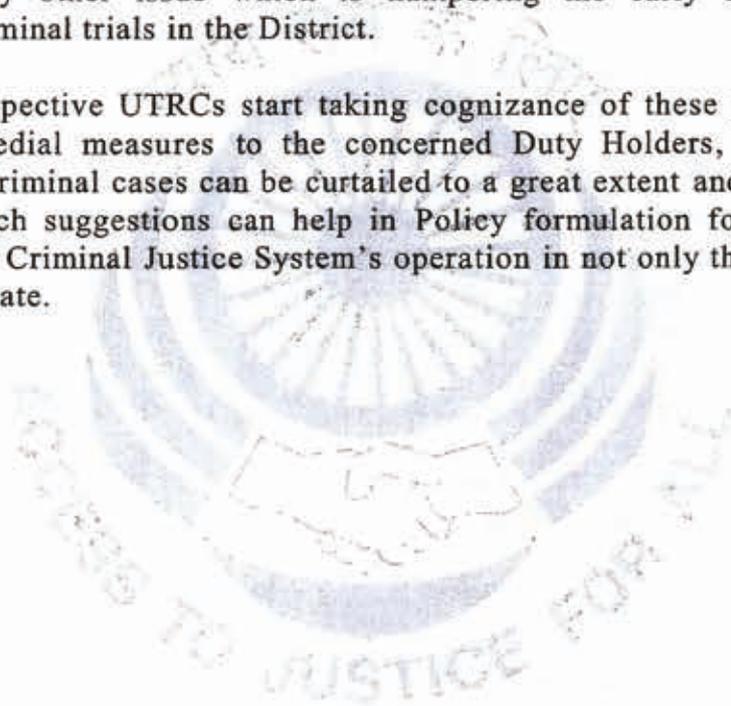
- State is represented by Public Prosecutor in each criminal court i.e. MMs/Sessions. As and when any Bail Application is moved by the UTPs either on merits or on technical grounds, as a matter of routine, it is observed that they are opposed by Public Prosecutors/Additional Public prosecutors/Asstt. Public prosecutors representing State in the Court. Hence, inclusion of Chief Public Prosecutor of the District in the UTRC would assist in compliance of directions of Hon'ble Supreme Court.

**Suggestion No.4: Expanding the mandate of UTRC**

- UTRC is mandated to ensure compliance of directions issued by Hon'ble Supreme Court. However to ensure that UTPs' right to speedy trial is upheld, it is proposed that UTRC shall look into the individual cases so as to ascertain as to why a particular criminal trial is not getting concluded in a reasonable time and is getting dragged. Such a review of individual cases would go a long way in identifying the broad reasons which results in the delay of trials. This would also help reduce imbalance of 67%:33% UTPs:Convicts ratio.
- While identifying bottle necks in the Criminal Justice System of a particular district, other facets which can be looked into and addressed by the UTRC may include:
  - 4.1 Check on non-compliance of Section 41 Cr.P.C. to curtail avoidable/unnecessary arrests by the Police.
  - 4.2 Non production of UTPs before the Remand/Trial Court either in person or via video conferencing facility on account of lack of logistic facilities.
  - 4.3 Delay caused by frequent inter-state transfer of UTPs
  - 4.4 Non filing of FSL/CFSL report in time.
  - 4.5 Failure of police to trace, serve and produce the Public/Expert witnesses.
  - 4.6 Delay caused in frequent transfer of investigation related witnesses like police officials, documents.
  - 4.7 Non availability of dedicated PPs in each criminal court.
  - 4.8 Rational distribution of criminal cases in different courts within district

- 4.9 Paucity of staff like Ahlmad or stenographer for the criminal court
- 4.10 Delay caused by lack of efficiency in administrative set up like Copying Agency, Facilitation Centre, Record Room( in case of fetching of old file) etc.
- 4.11 IT Infrastructural need like, Desktop, printer, NIC-net, stationary etc. apart from Data entry professionals.
- 4.12 Popularize ADR methods as also Plea Bargaining for quick disposal.
- 4.13 Suggest segregation of trial in case one or more co-accused are absconding.
- 4.14 Availability of effective and efficient Free Legal Aid Services.
- 4.15 Seeking Cooperation from the Bar for expediting trial.
- 4.16 Any other issue which is hampering the early conclusion of criminal trials in the District.

Once the respective UTRCs start taking cognizance of these problems and suggest remedial measures to the concerned Duty Holders, the delay in disposal of criminal cases can be curtailed to a great extent and learning out comes of such suggestions can help in Policy formulation for improving efficiency of Criminal Justice System's operation in not only the District but also in the State.



**TEMPLATE**

<b>List of eligible UTPs for consideration of UTRC</b>																				
																			<b>Annexure-A</b>	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
Name of the UTP	Father's name	Gender/Age	FIR/Crime no.	Police Station	District	Arrested under Section	Particulars of the Court	Date of arrest	Date of first Remand	Date of admission in Prison	Date of filing chargesheet	Chargesheeted under Section	UTP represented by Legal aid/private	Name of the lawyers with contact details, if available	Whether bails has been granted to the accused, if when	If accused is not released on bail despite grant of bail, reason for the same, if available.	If the UTP suffering from any disease, mental or physical, details regarding the same.	Whether UTP is a convict/Under trial in any other	If yes, separate entry in the data sheet be made qua the additional Case.	

**Note:**

- Column Nos. 1 to 20 to be filled by Jail Superintendent.

Contd.....

TEMPLATE

21	22	23	24	25	26
Recommendation of UTRC	Date of Recommendation	Brief reasons, for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of UTP

**Note:**

- Column Nos. 21 to 26 to be filled by UTRC.

TEMPLATE

Annexure-B

List of Convicts

1	2	3	4	5	6	7	8	9	10	11	12	13	14
S.No.	Name of the Convict	Father's Name	FIR No.	Police Station	District	Name of the Trial Court	Date of Conviction	Duration & Nature of Sentence	Total Remission Earned	Date when sentence completed	Reason for Non-Release	Whether case considered by Sentence Review Board?	Reason for not granting pre-mature release

**Note:**

- Column Nos. 1 to 14 to be filled by Jail Superintendent.

Contd....

**TEMPLATE**

**Annexure-B**

15	16	17	18	19	20
Recommendation of UTRC	Date of Recommendation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of Convict

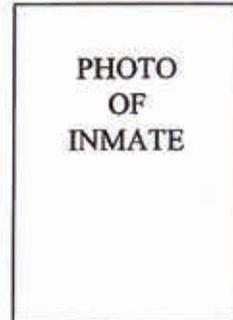
**Note:**

- Column Nos. 15 to 20 to be filled by UTRC.

**"CUSTODY WARRANT"**

Jail No. : \_\_\_\_\_

Name		FIR No	
Father's Name		U/s(as per FIR)	
Age		Arrested U/s	
Gender		Police Station	
Address		District	
Nationality		Date of Arrest	



REMAND DURING INVESTIGATION ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		

- Date of Filing of Charge Sheet : .....
- Offences against the Accused : .....

REMAND AFTER FILING OF CHARGE SHEET ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

- Date of Committal in Sessions trial cases:.....
- Date of Framing of Charge : .....
- Charge framed under offences : .....

**REMAND DURING PROSECUTION EVIDENCE**

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

**REMAND DURING STATEMENT OF ACCUSED**

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

**REMAND DURING DEFENCE EVIDENCE**

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

**REMAND DURING FINAL ARGUMENTS**

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

- **Result of Trial** : .....
- **Judgement Pronounced on** : .....
- **If convicted, offences convicted under** : .....
- **Sentence imposed** : (Attach separate sheet)
- **Compensation awarded to victim** : (Attach separate sheet)

ANNEXURE VII:

**NHRC PROFORMA FOR  
HEALTH SCREENING  
OF PRISONERS ON  
ADMISSION TO JAIL**

के.एस. मणि  
सचिव  
K.S. MONEY  
Secretary General



राष्ट्रीय मानव अधिकार आयोग  
फरीदकोट हाऊस, कॉपरनिकस मार्ग  
नई दिल्ली- 110 001 भारत  
National Human Rights Commission  
Faridkot House, Copernicus Marg,  
New Delhi - 110 001 INDIA

D.O. No. 4/7/2010-PRP&P

17<sup>th</sup> May, 2010

Dear Mr. Prasad,

Please refer to the Commission's letter No. 4/3/99-PRP&P dated 11.02.1999 regarding medical examination of prison inmates.

Concerned with death of prisoners in various jails due to spread of contagious diseases like Tuberculosis, the Commission had vide letter dated 11.02.1999, referred to above, advocated their medical examination at the time of entry to the jail as well as periodically thereafter as per proforma enclosed as Appendix-I. This was intended to facilitate provision of timely and effective medical treatment to the prisoners with medical problems.

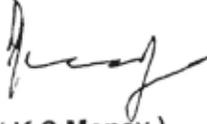
It has been observed that a large number of prisoners die of Tuberculosis in the jail and HIV patients are quite vulnerable to Tuberculosis. It is, therefore, imperative that thorough medical examination should be conducted of all the prisoners at the time of their admission in jail in order to find out whether the prisoner is suffering from Tuberculosis, lung disease or HIV, or any other disease.

Keeping these considerations in mind, the Commission has made some modifications to the proforma earlier prescribed for the medical examination incorporating tests for Tuberculosis. The revised proforma is enclosed as Appendix-II.

You are requested to circulate the revised proforma to all the prison administrators in your State/ UT in order to ensure that medical examinations of all the prison inmates is carried out in accordance with the revised proforma, at the time of their entry into prison and at regular intervals.

With <sup>kind</sup> regards,

Yours sincerely,

  
( K S Money )

Shri S V Prasad,  
Chief Secretary,  
Government of Andhra Pradesh, and  
Secretariat,  
Hyderabad-500 022.

*all other chief secretaries  
Administrators of the State/UTs as per list attach*  
18 MAY 2010

फोन : 91-11-23384856, फैक्स : 91-11-23384962 /23384863  
Phone : 91-11-23384856, Fax : 91-11-23384962 /23384863, E-mail : sgnhrc@nic.in, Website : www.nhrc.nic.in



APPENDIX - I

**PROFORMA FOR HEALTH SCREENING OF PRISONERS ON  
ADMISSION TO JAIL**

Case No. ....  
Name ..... Age ..... Sex ..... Thumb impression.....  
Father's/Husband's Name ..... Occupation .....  
Date & Time of admission in the prison .....  
Identification marks .....

Previous History of illness

Are you suffering from any disease? Yes/No

If so, the name of the disease :

Are you now taking medicines for the same?

Are you suffering from cough that has lasted for  
3 weeks or more Yes/No

History of drug abuse, if any:

Any information the prisoner may volunteer:

Physical examination:

Height.....cms. Weight..... kg. Last menstruation period .....

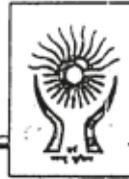
- |                      |                            |        |
|----------------------|----------------------------|--------|
| 1. Pallor : Yes/NO   | 2. Lymph Node enlargement: | YES/NO |
| 3. Clubbing : YES/NO | 4. Cyanosis:               | YES/NO |
| 5. Icterus: YES/NO   | 6. Injury, if any .....    |        |

4. Blood test for Hepatitis/STD including HIV, (with the informed consent of the prisoner whenever required by law)

5. Any other .....

Systemic Examination

1. Nervous System



2. Cardio Vascular System
3. Respiratory System
4. Eye, ENT
5. Gastro Intestinal system abdomen
6. Teeth & Gum
7. Urinal System

The medical examination and investigations were conducted with the consent of the prisoner after explaining to him/her that it was necessary for diagnosis and treatment of the disease from which he/she may be suffering.

Date of commencement of medical investigation

Date of completion of medical investigation

Medical Officer

**PROFORMA FOR HEALTH SCREENING OF PRISONERS  
ON ADMISSION TO JAIL**

- Case No. ....
- Name .....Age.....Sex.....Thumb impression.....
- Father's/ Husband's Name.....Occupation.....
- Date and time of admission in the prison.....
- Identification marks.....
1. Previous History of illness:
- (a) Are you suffering from any disease if so, the name of the disease: Yes/No
- (b) Are you now taking medicines for the same? Yes/No
- (c) Are you suffering from cough that has lasted for 3 weeks or more? Yes/No
2. History of drug abuse, if any:
- Any information the prisoner may volunteer:
3. Physical Examination:
- Height.....cms Weight.....Kg. Last menstrual period.....
- (a) Pallor: Yes/No (b) Lymph Node enlargement: Yes/No
- (c) Clubbing: Yes/ No (d) Cyanosis : Yes/ No
- (e) Icterus : Yes/ No (f) Injury, if any.....
4. Pathological Tests/ X-ray for TB
5. Blood test for Hepatitis/ STD including HIV (with the informed consent of the prisoner whenever required by Law).
6. Any other.....
7. Systemic Examination
- (i) Nervous system
- (ii) Cardio Vascular System
- (iii) Respiratory system
- (iv) Eye, ENT
- (v) Abdomen (Gastro Intestinal System (GIT) and other organs)
- (vi) Teeth and gum
- (vii) Urinary system.

P.T.O.

The medical examination and investigations were conducted with the consent of the prisoner after explaining to him/her that it was necessary for diagnosis and treatment.

Date of commencement of medical investigation.....

Date of completion of medical investigation.....

Signature and Seal of Medical Officer



**Shri S.V. Prasad,**  
Chief Secretary,  
Government of Andhra Pradesh  
Secretariat,  
Hyderabad-500 022.

**Shri Tabom Bam,**  
Chief Secretary,  
Government of Arunachal Pradesh,  
Civil Secretariat,  
Itanagar.

**Shri Naba Kumar Das,**  
Chief Secretary,  
Government of Assam,  
Civil Secretariat,  
Guwahati.

**Shri P. Joy Oommen,**  
Chief Secretary,  
Government of Chhattisgarh,  
Civil Secretariat,  
Raipur

**Shri Anup Mukerji,**  
Chief Secretary,  
Government of Bihar,  
Civil Secretariat,  
Patna.

**Shri Achal Kumar Jyoti,**  
Chief Secretary,  
Government of Gujarat,  
Sardar Bhawan Sachivalaya,  
Gandhinagar.

**Shri Sanjay Kumar Srivastava,**  
Chief Secretary,  
Government of Goa,  
Main Secretariat,  
Panaji.

**Ms. Urvashi Gulati,**  
Chief Secretary,  
Government of Haryana,  
Civil Secretariat,  
Chandigarh.

**Ms. Asha Swarup,**  
Chief Secretary,  
Government of Himachal Pradesh,  
Civil Secretariat,  
Shimla.

**Shri Sham Singh Kapur,**  
Chief Secretary,  
Government of Jammu & Kashmir,  
Civil Secretariat,  
Srinagar.

**Dr. A.K. Singh,**  
Chief Secretary,  
Government of Jharkhand,  
Civil Secretariat  
Ranchi.

**Shri S.V. Ranganath,**  
Chief Secretary,  
Government of Karnataka,  
Civil Secretariat,  
Bangalore

**Shri P. Prabhakaran,**  
Chief Secretary,  
Government of Kerala,  
Civil Secretariat,  
Thiruvananthapuram.

**Shri Avani Vaish,**  
Chief Secretary,  
Government of Madhya Pradesh,  
Vallabh Bhawan,  
Bhopal – 462216.

**Shri J.P. Dange,**  
Chief Secretary,  
Government of Maharashtra,  
Sachivalya, Fort Area,  
Mumbai.

**Shri D.S. Poonia,**  
Chief Secretary,  
Government of Manipur,  
Civil Secretariat,  
Imphal.

**Shri Winston Mark Simon Pariat,**  
Chief Secretary,  
Government of Meghalaya,  
Civil Secretariat,  
Shillong.

**Shri Vanhela Pachuau,**  
Chief Secretary,  
Government of Mizoram  
Civil Secretariat,  
Aizawl.

**Shri Lalthara,**  
Chief Secretary,  
Government of Nagaland,  
Civil Secretariat,  
Kohima.

**Shri Tarun Kanti Mishra,**  
Chief Secretary,  
Government of Orissa,  
Orissa Secretariat,  
Bhubneswar.

**Shri Subodh Chandra Agrawai,**  
Chief Secretary,  
Government of Punjab,  
Civil Secretariat,  
Chandigarh.

**Shri T. Srinivasan,**  
Chief Secretary,  
Government of Rajasthan,  
Civil Secretariat,  
Jaipur.

**Shri Tseten Dorji.**  
Chief Secretary,  
Government of Sikkim,  
Civil Secretariat,  
Gangtok.

**Thiru K. S. Sripathi,**  
Chief Secretary,  
Government of Tamil Nadu,  
Civil Secretariat,  
Chennai.

**Shri S.K. Panda,**  
Chief Secretary,  
Government of Tripura,  
Agartala – 799006.

**Shri Nrip Singh Napalchyal,**  
Chief Secretary,  
Government of Uttrakhand,  
Civil Secretariat,  
Dehradun.

**Shri Atul Kumar Gupta,**  
Chief Secretary,  
Government of Uttar Pradesh,  
Civil Secretariat,  
Lucknow.

**Shri Ardhendu Sen,**  
Chief Secretary,  
Government of West Bengal,  
Writers Building,  
Kolkata 700001.

**Shri Vivek Rae,**  
Chief Secretary,  
U.T. of Andaman & Nicobar Islands,  
Port Blair.

**Shri Pradip Mehra,**  
Advisor to the Administrator,  
U.T. of Chandigarh,  
Delux Building,  
Chandigarh.

**Shri Satya Gopal**  
Administrator,  
U.T. of Daman & Diu,  
Moti Daman – 396220.

**Shri Rakesh Mehta**  
Chief Secretary,  
Government of NCT of Delhi.  
Indraprastha Estate,  
New Delhi - 110002.

**Shri J.K. Dadoo,**  
Administrator,  
U.T. of Lakshadweep,  
Government House,  
Kavaratti.

**Shri Satya Gopal**  
Administrator,  
U.T. of Dadra & Nagar Haveli  
Silvassa.

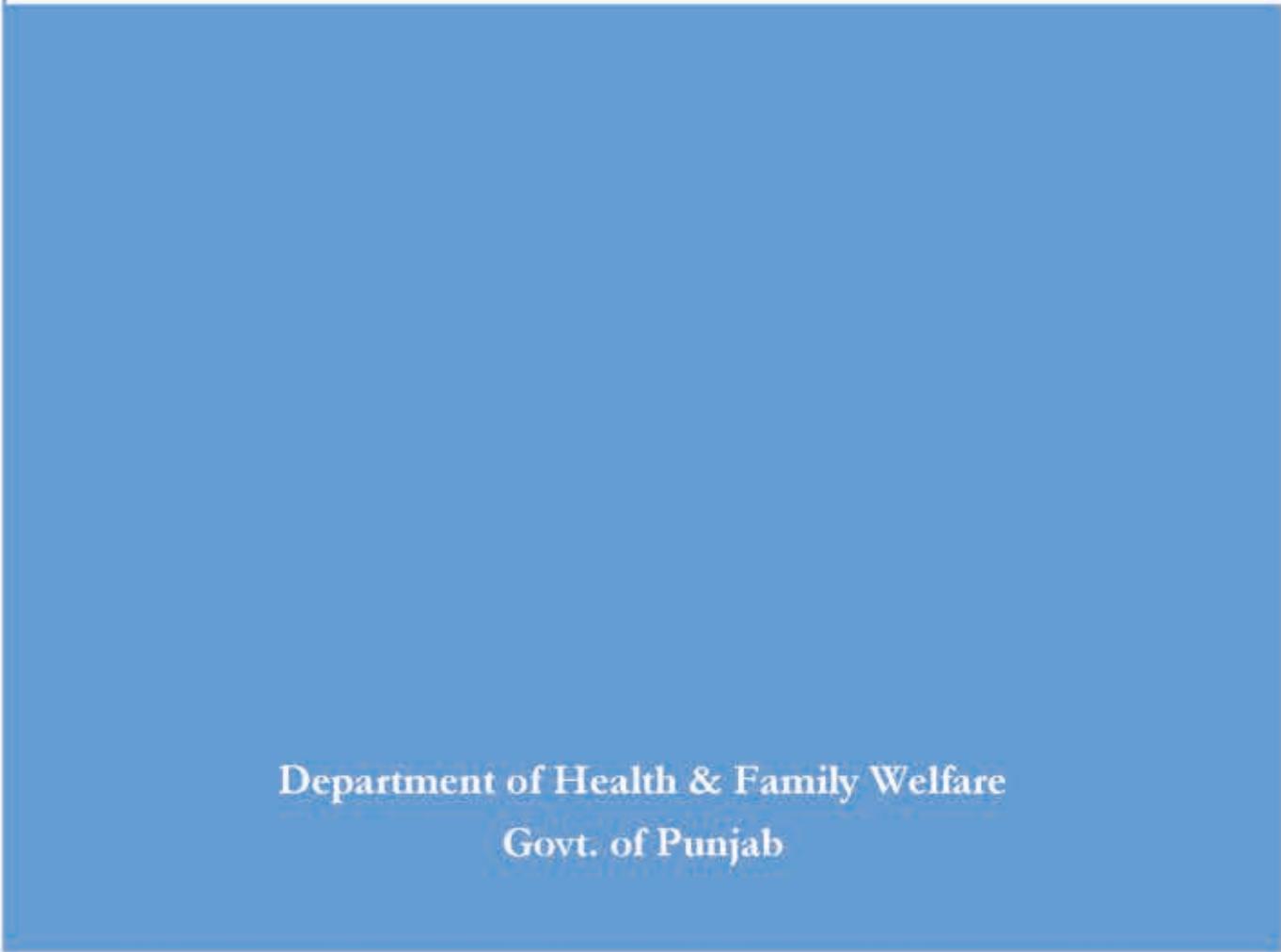
**Shri R Chandra Mohan,**  
Chief Secretary,  
Government of Puducherry,  
**Puducherry**

ANNEXURE VIII:

**STANDARD OPERATING  
PROCEDURE FOR  
OUTPATIENT OPIOID  
ASSISTED TREATMENT  
(OOAT) WITH  
BUPRENORPHINE-  
NALOXONE**



**Standard Operating Procedure**  
for  
Outpatient Opioid Assisted  
Treatment (OOAT) with  
Buprenorphine - Naloxone



Department of Health & Family Welfare  
Govt. of Punjab

© Department of Health & Family Welfare, Govt. of Punjab 2017

Document authored by:

The publication is available online at the official website of Department of Health & Family Welfare, Govt. of Punjab at

Foreword

# Standard Operating Procedure

## **Table of Contents**

Introduction	5
Space & Infrastructure	6
Staffing & Training	7
Process of initiating OOAT services	11
Delivering OOAT services	12
Other services	16
Supply chain mechanism	16
Special condition	18
Monitoring mechanism	19
Reporting and Documentation	19

## **Introduction:**

Heroin and other opioid dependence cause significant morbidity and mortality; it is a chronic and enduring condition that often requires long term treatment and care. Adequate access to a range of treatment options is required to be offered to respond to the varying needs of people with heroin/opioid dependence.

In 2015, Punjab Opioid Dependence Survey was conducted by Society for Promotion of Youth and Masses (SYPM) and researchers from National Drug Dependence Treatment Center (NDDTC), AIIMS with support from Ministry of Social Justice and Empowerment, Government of India to a) provide estimates of number of opioid dependent individuals in Punjab and b) map the presence of services and interventions for drug dependent individuals and identify in service delivery.

As per the survey findings, Punjab has estimated number of 232,000 opioid-dependent individuals and 860,000 opioid users. The State has three times more users than corresponding all-India figures. Heroin (chitta/brown sugar) is the drug of choice for more than half of the users and one third of them use it through injecting route. About one third use opium/bhuki/doda and rest use other synthetic preparations such as propoxyphene, tramadol, buprenorphine, codeine etc. Peer influence is the most common reason for starting drugs as reported by survey respondents.

Study also reported disparity in services needed and offered to the opioid dependent individuals. Four out five patients tried to give up on opioid use however, just over one third received any kind of support. One in six patients did receive some kind of medical treatment and only one in ten opioid-dependent patients had received Opioid Substitution Therapy to help patients with long-term withdrawal and cravings. Admission to inpatient de-addiction centers appears to be the most focused treatment strategy of the State and as per the current approach, it may take at least 10 years to provide treatment to the entire opioid dependent population of the State. Accordingly, recommendation has been made to provide both short term (detoxification) and long-term (opioid agonist) treatment options, as opioid dependence is a chronic relapsing disorder.

Opioid Agonist Therapy (OAT) is an efficacious, safe and cost-effective modality for the management of opioid dependence. Such treatment is a valuable and critical component of the effective management of opioid dependence and prevention of HIV among IDUs. Scientific evidence suggests that substitution treatment can help reduce criminality, infectious diseases and drug-related deaths as well as improve the physical, psychological and social well-being of dependent users (Gibson et al. 1999).

Pharmacological agents used as substitution substances in the management of opioid dependence are: Methadone, Buprenorphine, Levo Alpha Acetyl Methadol (LAAM), Dihydrocodeine and Tincture of opium (laudanum). Methadone is the most employed agent in substitution treatment around the world. Buprenorphine is emerging as a useful complementary or alternative option to methadone. The partial opioid-receptor agonist profile of buprenorphine is attractive, and this drug can be used to suppress heroin craving and antagonize heroin effects, while having a limited potential for dose escalation and toxicity. Buprenorphine is efficacious in comparison with other available options as

shown by individual comparative studies of buprenorphine in heroin dependence (Johnson et al. 1992; Strain et al. 1994; Ling et al. 1996; 1998; Johnson et al. 2000; Pani et al. 2000) and meta-analyses (West et al. 2000; Barnett et al. 2001). In India, maintenance treatment with buprenorphine has been ongoing for many years (Kumar et al, 2003; NACO, 2007; NACO, 2008; Kumar et al, 2009; Kumar & Agrawal, 2012).

Department of Health & Family Welfare, Govt. of Punjab plans to initiate and further scale-up OAT services through existing Drug de-addiction & rehabilitation centres and public health facilities at district, sub divisional and block levels. In order to assist in implementation of psychosocially assisted OAT with sublingual buprenorphine-Naloxone in Punjab, as one of the pharmacological option for opioid dependence, this SOP has been developed to guide the programme.

## **A. Space & Infrastructure:**

### **i) Location:**

An OOAT centre will be established in existing infrastructure of public health setup i.e. Community Health Centres, Primary Health Centres along with government run Drug Treatment & Rehabilitation centres. This will facilitate in ensuring treatment of common co-morbid medical conditions of the opioid dependent individuals.

### **ii) Infrastructure:**

An OOAT centre should have space for:

- a. **Doctor room:** This room will be used by the doctor to elicit history, examine patients and initiate treatment as well to conduct follow up. The room should have adequate space for a doctor, a patient and his/her companion to sit and discuss various issues, and an area for performing physical examination. The room should provide a sense of privacy to the patient to enable him/her to speak freely about his/her personal problems.
- b. **Dispensing room:** This room is for a nurse to dispense medication daily to the patients. The room should have a table with space to store medicines to be dispensed on a single day. There should be enough space for a nurse to sit along with 2 – 3 patients (a patient needs to be seated for 3 – 5 minutes till the medicine dissolves under direct observation by the nurse while s/he administers medicine to another patient) and an office support staff. Utmost precautions should be taken for storing the medicines safely. The medicine should be stored in a securely locked cupboard. The space should be cool, away from direct sunlight, and properly ventilated. The storage space should not be easily accessible to the patients and visitors.
- c. **Counselling room:** This room will be used by the Counsellor to elicit history of the patient and conduct the follow-up. The room should ensure privacy of the patients.

- d. **Activity room:** one large room with the capacity to accommodate 30-40 people shall be used by the Counsellor for group counselling/NA meeting.
- e. **Registration room:** This room will be used by Data Manager/Pharmacist to register new patients and maintain the program data. The room should have sufficient space to place a computer, printer, chair for data manager and shelves to keep patient files. There should be adequate space available at the centre for maintaining patient records and other relevant documents; and proper filing systems should be in place.
- f. **Waiting area:** This area is for the patients to be seated while they wait for their turn. This can also be a place for the patients to rest after having received their doses; and may be appropriately furnished.

The centre should be able to provide the patients with a sense of comfort, security and privacy, and attractive enough for the patients to access the services. All the rooms should have adequate lighting and ventilation. The centre should also have provision of drinking water with restroom facility for both the genders.

### **iii) Equipment:**

The centre should have

- Basic furniture for the staff and patients
- Computer, Printer cum Scanner with internet facility for record keeping and reporting
- Biometric system for individual tracking of patients
- Shelves (5) and Almirahs with lock (3) for record keeping and medicine storage
- Equipment for basic medical examination: e.g. stethoscope, torch, disposable gloves, BP apparatus, weighing machine, thermometer, etc.
- Urine drug screening strips for Buprenorphine, Tramadol, Morphine and Benzodiazepine
- Emergency kit and emergency medications (to terminate seizure, treat overdose, treat acute respiratory problem)
- In case of centres providing other health care services: equipment for abscess management, waste disposal system etc.

## **B. Staffing and Training:**

### **i) Staffing:**

The following categories of staff are essential in an OOAT Centre.

- i. Psychiatrist (part time)
- ii. Medical Officer – 2 (including back up doctor)
- iii. Nurse – 2 (including back up nurse)

- iv. Counsellor – 1
- v. Data Entry Operator – 1
- vi. Peer Counsellor – 3-4
- vii. Office support staff – Sweeper cum class IV - 2

While the Psychiatrist will act as part-time faculty, the other category of staff should be employed full time in the OOAT centre. Peer Counsellors from drug using background would be preferred, and have been found to be more effective in dealing with patients. Also, preference should be given to those who have prior experience of working with drug users.

Mechanism should be in place to provide back-up coverage during a staff member's absence / leave. The staff should ensure that the confidentiality of the patient is maintained at all cost. The staff should demonstrate a non-discriminatory attitude, and be sensitive and caring towards opioid dependents.

### **Roles & Responsibilities of OOAT centre staff:**

#### **a) Psychiatrist:**

The Psychiatrist plays a pivotal role in overall management of the programme. S/he will be responsible for overall functioning of the centre and need based coordination with key stakeholders i.e. Department of Health, project staff, other service providers, local administration, law enforcement agencies, media and the general public. Key areas of work include:

- Taking lead in implementing the project activities
- Treatment of co-morbid psychopathology
- Coordination of termination of medication phase with Medical officer
- Facilitate in preparation of project action plan
- Coordinating different activities of the project
- Facilitating advocacy activities with support from OOAT centre staff
- Coordinating and/or conducting in-house training of project staff
- Conducting staff meetings on monthly basis
- Ensuring regular functioning of OOAT centre
- Execution of tasks or responsibilities assigned by the Department of Health

#### **b) Medical Officer:**

**Qualification:** The Medical Officer should have a minimum qualification of MBBS with valid registration from the medical council. Those with MD Psychiatry/Diploma in Psychiatry Medicine (DPM) will be preferred.

There shall be at least **one** Medical Officer in every OOAT centre and s/he will be responsible for day to day functioning of the centre. S/he is expected to provide best possible medical

care to the patients as per the standard clinical practice guidelines. Key areas of work include:

- Assess patients for establishing diagnosis of Opioid dependence and suitability of initiating substitution therapy
- Identification of co-morbid psychopathology
- Prescribe suitable doses of buprenorphine-Naloxone to appropriate patients after urine screening, and conduct regular follow ups as per protocol
- Provide routine health check and basic health care including appropriate clinical management/referrals for wound/abscess, overdose management and STI treatment, as per the facilities available at the clinic.
- Documentation as per guidelines/ protocols.
- Provide basic information to the patients and family members about the treatment process
- Referrals for STI treatment, ICTC, De-addiction centre and other relevant services
- Continuing professional development and sharing information between other substitution providers
- Help the centre in carrying out advocacy activities

c) **Nurse:**

**Qualification:** The nurse should have a minimum qualification of GNM.

The nurse plays a crucial role in dispensing medicines as well as maintaining stocks/records of medications on a regular basis. There shall be at least one nurse for every 100 patients. Key areas of work include:

- Dispensing medications as per treatment guidelines/ protocols
- Assisting doctor in treating abscess, providing medication etc.
- Record urine screening results of each patient
- Maintaining registers (daily stock and dispensing registers) in the prescribed format
- Regular communication with Counsellor and treating doctor
- Providing emergency first-aid services in the absence of doctors
- In addition, following responsibilities will be handled by nurse regarding stock management of OOAT medicine:
  - Receive the medicine stock from supplier i.e. Department of Health
  - Count the medicines and confirm that the stocks supplied are in accordance with the consignment records sent by the supplier
  - Ensure that consignment note are maintained properly as required by the NDPS Act
  - Ensure that medicine is properly stored in the hospital pharmacy
  - Ensure that records of medicine are properly maintained as required by Department of Health

- Alert the nodal officer/doctor-in-charge of the OST centre, if there is an impending stock-outs
- Furnish stock position regularly as required by Department of Health

**d) Counsellor:**

**Qualification:** The counsellor should have a Master's degree in psychology/social science. If the counsellor is from drug using background, s/he should have completed Bachelor's degree with training in counselling. Those who have received training in counselling and have prior experience of working with drug users will be preferred.

The counsellor is primarily and directly responsible for individual clients' treatment and progress in the therapy to achieve whole person recovery. Key areas of work include:

- Counsel Opioid dependent patients primarily at the OOAT centre, and if required in the community.
- Provide different forms of counselling including motivational counselling, family counselling, group counselling etc.
- Record attendance of patients in group counselling and NA meeting
- Maintain documentation in the prescribed format

**e) Data Entry Operator:**

**Qualification:** The Data entry operator should be graduate and should have received formal training in computer applications. In case of Pharmacist, he/she should have done D-pharma from a recognized institution.

The data entry operator will be responsible for maintaining data in OST center. Key areas of work include:

- Register patients in the OOAT center on all working day.
- Take out the patient related files during every visit by the patient for follow- up.
- Ensure that the records are maintained by every staff.
- Feed the data in MIS and generate reports as per the project need.
- Prepare and send monthly reports.
- Analyze the reports and provide feedback on the dropouts to the staff.

**f) Peer Counsellors:**

**Qualification:** The peer counsellors should necessarily be from recovering opioid use background. S/he should have good communications skills and should be acceptable to the drug using community in general.

The peer counsellors are the foot-soldiers of OOAT programme, and often also serve as role models for the patients registered in the programme. There shall be at least 3-4 peer counsellors for every OOAT centre. Key areas of work include:

- Provide information about the OOAT services to the opioid using community at field level
- Identify new patients, provide motivation and follow up through outreach service to access OOAT clinic
- Conduct Behavioural Change Communication (BCC) sessions in the field
- Assist Narcotic Anonymous (NA) group in conducting regular meetings at the centre;
- Assist NA in organising support group/SHG meeting and group discussion.

***ii) Training:***

The OOAT staff should have received training specifically on Substitution Therapy. Ideally, they should receive central training at the State level by trainers identified by Department of Health, Govt. of Punjab. Till the central training is organised for new project staff, hands on training should be provided through trained project staff of nearby centre to ensure working knowledge among the new staff. Refresher training of the staff should be organized at least once in a year.

**C. Process of initiating OOAT services:**

***i) Knowledge about extent and pattern of opioid use:***

Prior to initiating OOAT services, the staff should have a working knowledge about the extent and pattern of opioid use in the concerned district. Project staff should have an understanding about:

- drug using pattern among the opioid users in the district
- pockets having significant number of opioid users in the district
- key stakeholders i.e. health care providers, local community leaders, ‘influential’ people (people who can influence the acceptability of the programme) etc.

***ii) Advocacy with key stakeholders:***

The centre should conduct advocacy meetings with various stakeholders both prior to initiating the OOAT services as well as subsequently on an ongoing basis. The stakeholders shall include but not limited to:

- Law enforcement agency/local administration: informing the local police stations and narcotics department and soliciting support from them
- Health care providers of the health facility where OOAT centre is located
- Local community leaders
- Religious leaders etc.

**iii) Mapping of available health services:**

The centre should conduct an assessment of health services available in the nearby health facilities which is likely to be needed by the opioid dependents. Thus a ‘mapping’ of the service providers should be conducted prior to starting an OOAT intervention. The centre can have either a physical mapping of these services, or a directory of these services. Awareness and linkages with the following services should be established beforehand:

- Detoxification and Rehabilitation centre
- DOT centre for Tuberculosis treatment
- STI Clinics
- Hepatitis C treatment
- Integrated Counselling and Testing Centre (ICTC) for HIV testing
- ART centre
- Clinics/Hospitals for providing abscess management and other health services including emergency services for overdose management
- Laboratory Services: basic services (e.g. hemogram, LFT etc.)

**D. Delivering OOAT services:**

**i) Preparatory Phase**

The patient may visit the centre as a self-referred client or may be referred to the centre by any of the following: Drug Treatment & Rehabilitation centre, health care provider i.e. Medicine department, Department of Psychiatry, ICTC, ART centre, NGO working on substance use, other substance users etc.

On arrival at the OOAT centre, the patient should be attended by the Counsellor. The concerned staff should briefly interact with the patient and address the following issues:

- Understanding the patient’s perception about OOAT and expected outcome expectations
- Explain the treatment initiation process i.e. assessment by Counsellor and Medical Officer prior to initiation of treatment in order to determine whether the patient fits the criteria for OOAT initiation
- Inform the rules & regulations, clinic timings, procedure to be followed while on OOAT i.e. to meet the Doctor and Counsellor regularly for follow-up, participate in group discussion, ensure involvement of family members in treatment process as per need etc.

The patient will go through the following process:

- Registration
- Initiation of a client file containing assessment formats, consent form, etc.
- Referral to the Counsellor and Doctor for Psycho-social assessment and clinical assessment respectively

During the course of psycho-social assessment Counsellor needs to discuss following issues with the patients:

- Dispel myths & misconception of patient related to OOAT
- Inform the patient “Dos and Don’ts” while s/he is on OOAT i.e. to come daily for medication, report side effects, if any, undergo urine screening at periodic interval, being honest about drug use status etc.
- Inform the patient about content of the consent form and get the same signed from patient

#### **ii) Induction, Follow-up and Termination phase**

The treatment will be provided in following stages:

- Induction
- Stabilization
- Maintenance
- Termination
- Follow up

Minimum duration of the treatment is one year and one week before reaching the termination stage, which can vary from patient to patient as per their drug history. Under the OOAT program, a combination of buprenorphine/naloxone will be used to treat patients with exception of pregnant women, who will receive buprenorphine only. All dosing during induction and stabilization stages is to be done at OOAT centre under direct supervision of project staff.

#### **Induction Phase (4-7 days):**

This stage will start with registration of the patient at OOAT centre, initial assessment by Counsellor and Medical Officer to assess his/her suitability for the treatment. Each patient will be registered in a central registry using bio-metric system and will be assigned a unique identification number (UIN). This will assist in identification of patients, check duplication of services, limit diversion of medicine and record the stabilization dose of patients for future reference.

After registration, the Counsellor and Medical officer will assess the patient to establish a diagnosis of opioid dependence as per World Health Organization (WHO) issued International Classification of Diseases (ICD-10) guidelines. No distinction is made between IV drug users and other users (oral, inhalation, snorting) as the underlying disease process is same. Once opioid dependence is diagnosed by the Medical Officer, patient will be initiated on buprenorphine-naloxone combination under direct supervision of staff to reach a stable dose that controls withdrawal and cravings. This process can last from three to four days.

Onsite urine drug screening (UDS) will be conducted on all patients. Urine drug screen will check the presence of benzodiazepines, morphine, tramadol and buprenorphine and help in deciding the appropriate level of services for the patients. Patients having alcohol and benzodiazepine dependence, history of seizures and severe opioid dependence would be referred for inpatient detoxification at nearest de-addiction center. After completion of detoxification these patients can be inducted into OOAT.

Intravenous drug users will be required to undergo HIV, hepatitis and TB testing and patients having positive results will be referred to specialized treatment centers. Patients having co-morbid symptoms of depression, anxiety and psychosis will be referred to Psychiatrist for further treatment. Pregnant women are to be initiated on buprenorphine alone. In case of patients who are below 18 years of age, consent from parent/guardian will be taken before starting the treatment.

Once a stable dose of medication is established, patient will move to the next phase of stabilization.

**Stabilization Phase (4 months):**

Patients will be given directly observed medication on daily basis all through this stage. All patients will start attending addiction counseling group sessions three days a week and individual counselling sessions on weekly basis. Patients will also be attending peer support groups three days a week alternating with addiction counseling group sessions.

Urine drug screening (UDS) will be done once a week on random days. UDS will be used to monitor progress of treatment; safety of the patient and to decide what stage of treatment patient needs to be in. Once patient has attended 90 counseling sessions (addiction and peer support combined) and has 4 consecutive negative UDS he/she can be moved to the next treatment stage of early maintenance.

**Maintenance Phase (8 months):**

As patient's physical, psychological and social functioning improves and s/he starts to gain control over the disease of addiction, they will be given more autonomy over their medication dosing.

In this stage, patients will be switched to three times a week dosing pattern under direct supervision. They will be allowed 1-2 take home doses on other days. Patients will be required to attend at least 2 peer support/NA sessions on days of their dosing. They will be

encouraged to attend more than two peer support/NA sessions, if they desire and also encouraged to start these sessions in their hometown.

Patients will be required to attend one addiction counseling group session in a week and one individual session every other week. Patients' dose and take homes will continue to be contingent on them attending peer support/NA sessions and addiction counseling sessions on respective days.

Urine drug screening will be done every two weeks. If patient returns two positive drug screens s/he will be switched over to the stabilization phase and will continue there until four negative drug screens. On returning four negative screens, patient will be switched back to stabilization phase.

As patients remain drug free and stay involved in the treatment, their physical health improves, they understand their cognitive distortions, identify their triggers for relapse and start to develop positive coping skills. As they continue to stay involved in peer support/NA they regain their confidence, feel supported and develop a sense of empowerment and belonging in the community. These changes at physical, psychological and social level prepare them for eventual termination of medication.

**Termination Phase (1 to 2 months):**

As physical and social functioning improves and patients feel adequately supported from peers and family, termination of medication treatment will be discussed. Termination of medication treatment would be decided by mutual consent of the patient, medical officer, addiction counselor and supervising psychiatrist.

If the initiation for termination comes from the patient it will be welcomed. Patients will be tapered from buprenorphine-naloxone slowly as per guidelines established.

On termination of medication, patients will be offered opioid antagonist treatment of Naltrexone for additional cover assistance in gaining confidence of leading an opioid free life. Naltrexone can be prescribed on a monthly basis and can be continued for a period of 6–12 months.

**Follow up Phase (6 months):**

Patients will be encouraged to follow up with addiction counselor initially twice a month for two months and then monthly for the next four months. These sessions will focus on relapse prevention and patients will be enquired about drug use, withdrawal, cravings, social and occupational functioning. In case of patient relapsing to opioid use, he/she will be re-initiated into the medication-assisted program. Patients will be encouraged to continue their involvement with peer support/NA groups lifelong.

**iii) Clinic timing:**

The OOAT centre should be open 7 days a week. The centre shall function for at least 6–7 hours per day. During public holidays/ Sundays, the clinic may be open for a limited duration (3-4 hours). Prior information on the timings for holidays / Sundays should be provided to the patients. The dispensing hours can be decided by the OOAT centre as per the patients' needs. A notice board should display these timings with contact details of the doctors in case of emergency. On Sunday/holiday drug will be dispensed by backup staff nurse and no new cases will not be registered in the program.

**E. Other services:**

Other medical co-morbidities are common in substance using population. In order to facilitate screening, diagnosis and subsequent management of co-morbid disorders, OOAT centre should also be able to provide other services to drug dependent individuals. The services should include (but not limited to):

- Treatment of Hepatitis C
- Overdose management
- HIV Testing
- TB treatment
- STI services for patient and regular sex partner
- ART for PLHIV drug dependents
- Drug treatment and rehabilitation etc.

Ideally, the centre may provide any/all of the above mentioned services directly as part of integrated care to the substance using population. Provision of these services at the centre will enhance the adherence of the patients on OOAT to a greater extent. In case the patient is being referred to a particular service facility, the centre should provide detailed address of the facility along with information on reasons for referral and its benefits and outcomes. Every referral should be done using a referral slip. Also, follow up with the referral agency should be done periodically (at least once in a fortnight) to see whether patient has accessed these services.

**F. Supply Chain Mechanism:**

Ensuring robust supply chain mechanism of OOAT medicine is essential as centres will require an uninterrupted supply of medicine stock. The project staff should also be aware that the medicines are scheduled drugs and regulated under Indian narcotics laws i.e. Narcotic Drug and Psychotropic Substances (NDPS) Act, 1985. The laws require that the consumption details be maintained diligently by the centre implementing OOAT. The onus

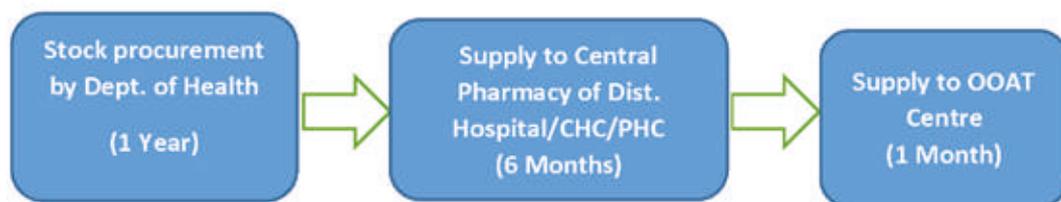
of maintaining the supply chain shall lie with the Medical Officer whereas the responsibility of maintaining the daily stock registers shall lie with the nurse.

**i) Procurement of medicine stock and supply to OOAT centres**

Procurement of medicine will be done at State level through Punjab Health Systems Corporation, Govt. of Punjab. Each centre will be provided 6 months stock as per the consumption pattern. Bulk of the stock should be kept in the central pharmacy of district hospital/CHC/PHC under secure lock and key, which shall be accessible to the chief pharmacist only. At the place where actual dispensing takes place, no more than one week's stock should be maintained. The Medical Officer should ideally check the stock registers and the dispensing registers daily, or at least twice weekly. This verification should be initialled by the Medical Officer.

In the central pharmacy too, a Central Stock Register should be maintained in the prescribed performa. The chief pharmacist should check the central stock register monthly. An analysis of the consumption and stock should be done regularly so that any depletion of stock more than the expected can be brought to notice and appropriate measures can be taken in time.

Whenever the stock is received PHSC/Dept. of Health, each strip should be physically verified for missing tablets in the strip. In addition, the batch number of the stocks should be checked against the indent received, and recorded in the Central Stock Registers. Any change should be promptly brought to the notice of the supervising agency / Dept. of Health and recorded. Also, the expiry dates of the stocks should be checked and recorded in the central stock registers. The Nodal Officer should sign on every entry made in the Central stock Register.



**ii) Stock management at OOAT centre**

At the OOAT centre, the medicine stock should be stored in an almirah which can be securely locked. The almirah should be locked at all times and should be accessible only to the Nurse and Medical Officer. The stock and dispensing register should also be stored in this safe. Medicine should be taken out on daily basis as per the consumption requirement.

The Nurse shall maintain a register documenting the daily consumption and dispensing of OOAT medicines in the prescribed format.

- On every dispensing day, before dispensing, the nurse shall collect the average daily requirement of medicines where they have been stored, and duly enter the amount taken out in the Daily Stock Register and sign on the entry.
- The nurse shall enter each tablet dispensed to the client in the Dispensing Register.
- The patient should sign on the dispensing register/daily attendance register against his/ her name/ ID number daily.
- At the end of the day, the nurse should add up the total number of tablets dispensed (for all strengths) and record it in the Dispensing Register. He/she should sign on the final count in the dispensing register.
- The remaining stock of drug at the end of the day should be taken back to the store in the centre.
- The nurse should then record the day's consumption in the daily stock register against the 'stock dispensed' column, and then calculate the remaining amount of tablets of all the strengths. This, then, should be entered in the 'remaining stock' column. The nurse should then sign on the entry every day.

The Dispensing Register as well as the Stock Register should be kept secured in a well-secured cupboard after entries are made, and the keys (for accessibility) should be kept with the nurse and Medical Officer. During days when the Nurse is on leave/ absent, this procedure shall be carried out by the Medical Officer or back up Staff Nurse.

### **G. Special condition:**

#### **i) Take home dosage of OOAT Medicine**

During induction and stabilization phase of treatment, take home doses should be allowed only in special circumstances. These may include:

- In case of bundh, civil unrest in the locality / town, etc.: take home may be permitted as a 'special case'.
- In case the patient has to go out of station, s/he will be referred to nearest OOAT centre for availing the services.
- The client is sick and not able to come to the OOAT clinic: in such cases, take home doses of 2-3 days may be given to family members of the patient.

#### **ii) Attempted Diversion**

In some cases, the patient may attempt to divert medicines from the centre. This could be brought to the notice of the staff members by other patients, or the staff members have themselves caught the patient doing so. This should be considered as a serious issue, and reasons for the diversion should be found out. If there are reasons of withdrawal/ craving, then the doses should be adjusted by the doctor. If it is found that the client is trying to sell/ divert the medicines, a warning should be issued during the first offence. The staff members

should become more vigilant towards the patient. If the same patient is found to repeat this, then his treatment should be terminated temporarily. Alternatively, if some staff members may be found to divert the medicines, the nodal officer should take a serious view on this, and the staff should be immediately terminated from the job.

#### **H. Monitoring Mechanism:**

Monitoring of OOAT program will be critical to ensure the quality of service delivery. The centre will be visited once in a month to provide handholding and onsite support to the project team to provide services as per the protocol. This will also facilitate in addressing technical and operational issues in order to strengthen the program. The visit will be undertaken by Psychiatrist to address treatment related issues. Similarly, program expert will visit the centre to address operational issues of the program, facilitate in data analysis and feedback to the project staff to strengthen the program. Periodic visit will also facilitate in addressing the administrative issues related to program implementation. Monitoring of all centres can be undertaken through designated officials of Department of Health who are conversant with the program or through reputed external agency who have experience of mentoring similar program in the State.

#### **I. Reporting and Documentation:**

The formats for record keeping will be prescribed by the Department of Health indicating roles of the staff-in-charge of particular records. Medical Officer should conduct periodic reviews of the records and analyse them to improve the functioning of the centre. The records should also be preserved in the record room / space for record keeping for internal/ external monitoring and evaluation. Confidentiality should be maintained at all times. Monthly report in the prescribed format will be shared with the Department of Health by 1<sup>st</sup> week of every month by the centres.

### **CONCLUSION**

This document serves to describe the standards that have to be followed and adopted for implementing OOAT program in the State of Punjab through Department of Health. These standards are also liable to change – once the centres and the state acquire considerable experience in OOAT implementation, higher standards would then be set, which the centres should strive to achieve.

# CHRI PROGRAMMES

CHRI seeks to hold the Commonwealth and its member countries to high of human rights, transparent democracies and Sustainable Development Goals (SDGs). CHRI specifically works on strategic initiatives and advocacy on human rights, Access to Justice and Access to Information. Its research, publications, workshops, analysis, mobilisation, dissemination and advocacy, informs the following principal programmes:

## 1. Access to Justice (ATJ) \*

\* **Police Reforms:** In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as enforcers of a regime. CHRI's programme in India and South Asia aims at mobilising public support for police reforms and works to strengthen civil society engagement on the issues. In Tanzania and Ghana, CHRI examines police accountability and its connect to citizenry.

\* **Prison Reforms:** CHRI's work in prisons looks at increasing transparency of a traditionally closed system and exposing malpractices. Apart from highlighting systematic failures that result in overcrowding and unacceptably long pre-trial detention and prison overstays, it engages in interventions and advocacy for legal aid. Changes in these areas can spark improvements in the administration of prisons and conditions of justice.

## 2. Access to Information

\* **Right to Information:** CHRI's expertise on the promotion of Access to Information is widely acknowledged. It encourages countries to pass and implement effective Right to Information (RTI) laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Sri Lanka, Afghanistan, Bangladesh, Ghana and Kenya. In Ghana, CHRI as the Secretariat for the RTI civil society coalition, mobilised the efforts to pass the law; success came in 2019 after a long struggle. CHRI regularly critiques new legislation and intervene to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. It has experience of working in hostile environments as well as culturally varied jurisdictions, enabling CHRI bring valuable insights into countries seeking to evolve new RTI laws.

\***Freedom of Expression and Opinion -- South Asia Media Defenders Network (SAMDEN):** CHRI has developed a regional network of media professionals to address the issue of increasing attacks on media workers and pressure on freedom of speech and expression in South Asia. This network, the South Asia Media Defenders Network (SAMDEN) recognises that such freedoms are indivisible and know no political boundaries. Anchored by a core group of media professionals who have experienced discrimination and intimidation, SAMDEN has developed approaches to highlight pressures on media, issues of shrinking media space and press freedom. It is also working to mobilise media so that strength grows through collaboration and numbers. A key area of synergy lies in linking SAMDEN with RTI movements and activists.

## 3. International Advocacy and Programming

Through its flagship Report, Easier Said Than Done, CHRI monitors the compliance of Commonwealth member states with human rights obligations. It advocates around human rights challenges and strategically engages with regional and international bodies including the UNHRC, Commonwealth

Secretariat, Commonwealth Ministerial Action Group and the African Commission for Human and People's Rights. Ongoing strategic initiatives include advocating for SDG 16 goals, SDG 8.7 (see below), monitoring and holding the Commonwealth members to account and the Universal Periodic Review. We advocate and mobilise for the protection of human rights defenders and civil society spaces.

#### **4. SDG 8.7: Contemporary Forms of Slavery**

Since 2016, CHRI has pressed the Commonwealth to commit itself towards achieving the United Nations Sustainable Development Goal (SDG) Target 8.7, to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.' In July 2019 CHRI launched the Commonwealth 8.7 Network, which facilitates partnerships between grassroots NGOs that share a common vision to eradicate contemporary forms of slavery in Commonwealth countries. With a membership of approximately 60 NGOs from all five regions, the network serves as a knowledge-sharing platform for country-specific and thematic issues and good practice, and to strengthen collective advocacy.



**COMMONWEALTH HUMAN RIGHTS INITIATIVE**

55A, THIRD FLOOR, SIDDHARTH CHAMBERS, KALU SARAI  
NEW DELHI 110017, INDIA

TEL: +91 11 4318 0200; FAX: +91 11 2686 4688

EMAIL: [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org)

WEBSITE: [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)