

Workshop on

# PRISON REFORMS IN RAJASTHAN

*Meeting of a Focus Group*

*Comprising Senior Officials of Criminal Justice System, prison visitors and NGOs working in the field of prison reforms*

**September 6, 2003**

Patel Bhavan  
HCM Rajasthan Institute of Public Administration  
JLN Marg, Jaipur

**Organised by  
Commonwealth Human Rights Initiative**

In collaboration with the

**Department of Home and Justice, Government of  
Rajasthan  
& Prison Department, Rajasthan**



A Report  
on the proceedings of Workshop on  
**PRISON REFORMS IN RAJASTHAN**

Organized by  
Commonwealth Human Rights Initiative,  
Department of Home and Justice, Government of Rajasthan  
& Prison Department, Rajasthan

On September 6, 2003 at HCM RIPA, Jaipur

Workshop rapporteur – Mr. RK Saxena, Consultant, CHRI

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### Acknowledgements –

We express our sincere gratitude to

- The Rajasthan State Human Rights Commission
- Chairman, Rajasthan Legal Services Authority
- Chief Secretary, Government of Rajasthan
- Principal Secretary, Department of Home and Justice, Rajasthan
- Director General of Police
- Director General of Prisons
- Director of Prosecution
- Director of Social Welfare
- Director, HCM RIPA, Jaipur
- Various NGOs working in the field of corrections and
- Non-official visitors of prisons

without whose unstinted support and cooperation this workshop could not have materialized.

## **Commonwealth Human Rights Initiative [CHRI]**

The Commonwealth Human Rights Initiative [CHRI], New Delhi is a non-partisan international non-governmental organization and part of a family of independent organization working for the practical realization of human rights of the ordinary citizen of the Commonwealth. Human rights education and advocacy are at the core of all CHRI's activities, and the aims and ends of its reports and investigations.

CHRI was born out of an awareness that although Commonwealth countries have shared legal principles and values, little had been done to set human rights standards within the association itself or to promote a culture of human rights.

CHRI aims to raise awareness of and adherence to internationally recognized human rights instruments and declarations made by Commonwealth Heads of Governments, and those embodied in the Harare Principles in particular.

CHRI believes that the promotion and protection of human rights is the responsibility of governments but that the active participation of civil society acting in concert is vital to deepening democracy, assuring the rule of law, sustaining development and ensuring the practical realization of human rights.

CHRI's main thrust is on:

- Right to Information
- Police Reforms
- Prison Reforms
- Constitutionalism
- Human Rights Advocacy

CHRI was founded in 1987 by a group of eminent persons and sponsoring Commonwealth associations who felt that enough was not being done about human rights in the Commonwealth countries. Our arena of work is therefore Commonwealth-wide. We believe that the collective consciousness of the Commonwealth as an association must prioritize and reflect the needs of the global South, which forms the majority of its population. We believe that the presence of both developed and developing countries in this association provides valuable synergies and opportunities for exchange of ideas and good practices. We focus our work on areas that reflect human rights concerns that are common to most countries of the Commonwealth.

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## Introduction

The Prisons and Human Rights programme of the Commonwealth Human Rights Initiative [CHRI] focuses essentially on improving the functioning of the Prison Visiting System in the country to make it an effective instrument of monitoring prison conditions. Through the prison visiting system, lay people from the outside community and those who are duty-bound to oversee prisons by virtue of their office can monitor conditions in an otherwise closed establishment and make recommendations for improvement.

One reason often given for the difficulty of keeping prisons under constant scrutiny is the inherently closed nature of prison and the difficulty of access. The prison visiting system is meant precisely to ensure that there is access, that there are channels for complaint and redress and that an independent group of people can monitor the functioning of prisons and bring some relief to the lives of both prisoners and the administration.

Over the years, however, the prison visiting system has become dysfunctional. It is reduced to a mere formality and a sinecure for political friends and enemies to be accommodated and assuaged. Suspecting that this situation of a superficial prison visiting system is common to many Commonwealth jurisdictions, and yet it is a mechanism that potentially has the ability to be the one corrective in an otherwise neglected, closed and unresponsive system, the Commonwealth Human Rights Initiative [CHRI] embarked on a study to examine what prison visitors are really meant to do and what they actually do in fulfilling their functions.

CHRI started the programme in 1999 with a study on the functioning of the prison visiting system in Madhya Pradesh, which revealed severe inadequacies prevalent in the system and suggested the need to overhaul it. Over the past few years we have managed to engage the key actors and stakeholders in the state in an active dialogue to address the problems faced by both the prison staff and prisoners.

Encouraged by its positive experiences in M.P., CHRI decided to expand its programme to Rajasthan and undertook an in-depth study of the conditions of prisons in the State with a special emphasis on the prison visiting system. This study was done with the active cooperation and support of the Department of Home and Justice and the Prison Department. The study brought to light the infirmities in the functioning of the prison visiting system and highlighted some of the dismal conditions faced by prisoners and the prison personnel in the state.

### **Objectives of Workshop**

With the objective of sharing the findings of the study with various stakeholders in the operation of the Prison Visiting System, and with the additional objective of bringing to light some of the appalling conditions in which prisons and prison personnel have to function, CHRI decided to hold a Workshop on Prison Reforms on September 6, 2003 at Jaipur. In this effort CHRI received generous support from the Government of Rajasthan and the State Human Rights Commission.

In organizing this Workshop the CHRI aimed at –

- Bringing together all the agencies of the Criminal Justice System together at one forum so as to develop a culture of an integrated approach to the problems of prisons that defy solution by prison department in isolation;
- Discussing prevalent conditions of prisons with senior officers of the Department of Prisons and the controlling administrative Department of Home and Justice;
- Highlighting the need for reviving Prison Visiting System as a potential tool for prison reforms;
- Seeking cooperation and support of the government and of NGOs in this effort; &
- Offering services of CHRI for a sustained programme of orientation training to prison visitors for making their operation and work more fruitful and result oriented.

It is heartening to place on record that CHRI has been able to achieve its objectives and aims through this Workshop, although the time available was short. We would, at the outset, like to share this satisfaction by expressing our gratitude to all the officers of the Government of Rajasthan -- the Chief Secretary, the Principal Secretary Home and Justice, Director General of Police, Director General of Prisons, Director of Prosecution, Director of Social Welfare --, the State Human Rights Commission, the Rajasthan State Legal Services Authority, and NGOs working in the field of corrections for participating in the deliberations either themselves or through their senior personnel.

It is a matter of great satisfaction that Non-official Visitors of prisons took part in the deliberations in a significant number. There were Senior Prison Officers, Prison Medical officers, Chief Probation Officer, Prison Welfare Officers, Advocates, Members of Juvenile Justice Boards, and media persons among 76 participants. Mr. A.K. Khare, DIG Prisons, M.P., Bhopal was specially deputed by the Government of Madhya Pradesh to attend the Workshop. They all deserve our sincere thanks.<sup>1</sup>

We also thank the Director of HCM RIPA and his staff for their cooperation in providing us the venue and other essential facilities for the workshop.

## **Proceedings**

Proceedings of the Workshop were divided into four sessions, including the Inaugural and the Valedictory Session.<sup>2</sup>

The Workshop began at 09.30 AM with the registration of participants. The **Inaugural Session** detailed the theme of the meeting and presented the findings of the study on the general conditions of prisons in Rajasthan. The **First Session** covered functions and role of non-official visitors [NOVs], problems regarding their selection criteria and appointment, and the recommendations that emerged in the study on this subject. The **Second Session** was devoted specifically to the functions and role of official visitors and the board of visitors who form an integral part of the visiting system, the existing gaps in their functioning and the required action to fill the gaps. The **Valedictory Session** discussed the formulation of an action plan based on the proceedings of the day. It involved the participation of all those present and the valedictory address by the chief guest.

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<sup>1</sup> A list of participants is enclosed as Annexure – 1.

<sup>2</sup> A copy of the programme is enclosed as Annexure – 2.

## **INAUGURAL SESSION**

Day's proceedings started with the arrival of Mr. Justice Saghir Ahmad, Chairman, Rajasthan State Human Rights Commission [RSHRC], who was the Chief Guest on the occasion. He was accompanied by Mr. B.L. Joshi, IPS [Retd.], and Mr. R.K. Ankodia, Rajasthan Higher Judicial Service [Retd.], both Members of RSHRC.

The Session was presided over by Mrs. Maja Daruwala, Director, CHRI, while Mr. A.S. Gill, IPS, Director General of Prisons, Rajasthan was the co-chairperson.

Mrs. Maja Daruwala began by welcoming the Chief Guest, Mr. Justice Ahmad, other dignitaries present on the dais and the participants of the workshop. Offering a short introduction to CHRI, its main fields of work and the tilt of its attention to global South where socio-political conditions threaten conservation of human rights, she told that CHRI works also for good governance through its programmes of police and prison reforms, propagation of right to information and promotion of the culture of accountability in governance.

Presenting the main theme of the Workshop, she said that Prison Visiting System, comprising ex-officio visitors and non-official visitors is a very potential social tool affecting the life of prison inmates and staff through an independent discernment of prison conditions. CHRI is therefore engaged for the past some years in the study of the operation of this system – formerly in Madhya Pradesh and now in Rajasthan.

She expressed her happiness over the amazing cooperation that CHRI has received in Rajasthan from the Government, the Rajasthan State Human Rights Commission, the Prison Department and other governmental and non-governmental agencies both in the completion of the study and in organizing the present Workshop for presenting the results of the study before various agencies of the criminal justice system.

She, however, showed her concern that rules for the appointment and guidance of prison visitors are not being followed in the right spirit in the state. There are a number of procedural failings that lead to loss of accountability, both on the part of prison officials and prison visitors.

The system of prison visitors is considered by prison staff as an un-necessary intrusion in their work. For various reasons non-official visitors are not considered as credible functionaries. They are discounted in their intentions and discouraged from attending to their assignment. This rejective attitude of prison personnel combined with the neglect of work by visitors has rendered the Prison Visiting System almost dysfunctional.

Social and ideological developments concerning conservation of human rights in custodial institutions seriously demand that the system be revived and revitalized in order to be effective and result oriented. It shall pave way for drawing attention of the government to the prison department, which otherwise is badly neglected.

She emphasized the need for a sustained dialogue between functionaries of various agencies of the criminal justice system, and advocated that this would open essential channels for the amelioration of difficulties faced both by prisoners and the prison staff in the state.

## Keynote Address

Mr. Justice Saghir Ahmad, Chairman, Rajasthan State Human Rights Commission, inaugurating the Workshop delivered his keynote address on the main theme of contemplated deliberations in the workshop.



*Mr. B.L. Joshi, Justice Saghir Ahmad, Mr.A.S. Gill*

Jails in India, he said, are impregnable. What happens inside the high walls is known to the people outside only by the process of filtration. In this situation the concept of 'rights of prisoners' would remain unimplemented because of the mysterious and mythical image of prisons which remained beyond the reach of any kind of institutional accountability.

Referring to several judgments of the apex and higher judiciary he pointed out that certain residuary rights, namely, the right against solitary confinement, right against imposition of iron fetters, right against handcuffing and the right against custodial violence had to be protected and safeguarded. He also pointed out that prisoners also had the right to wages, and the right to medical aid, hygienic living conditions, clean drinking water and food according to the scales laid down.

But in spite of the directives of the judiciary and recommendations of various committees appointed for the review and reform of custodial conditions, prisons and other custodial institutions continue to be seized by apathy and neglect. The condition of women inmates is appalling in all respects – their inappropriate living accommodation, their personal hygiene, their safety against physical abuse and the denial of the natural right to rear their children.

Against this background of abysmal conditions in prisons, Mr. Justice Ahmad placed the Prison Visiting System and said that the principle and the philosophy behind the institution of 'Visitors' was to provide some sort of transparency as to what was happening inside the jails surrounded by high-rise walls. The system of Prison Visitors was made to open a window in these otherwise impregnable walls and to ensure some kind of involvement of the community in the management of prisons. But, unfortunately this institution has totally failed. It has failed to oversee the working of prisons and to ameliorate the sufferings and grievances of prisoners.

In this situation he shared the views with Mr. C. Rajasekhar of the Department of Law Studies, Karnataka University, that 'keeping the ineffectiveness of the prevailing system, the appointment of a prison ombudsman, as an alternative mechanism may be seriously considered. Such an ombudsman should function as a grievance man within the present set up, acting independently of the prison authorities and he should report directly to the respective High Courts.' He also advocated the mechanism of surprise inspection of custodial institutions by independent bodies such as the National Human Right Commission, State Human Rights Commission, and the State Commission for Women.

Difficulties faced by women in prison [and those released from the prison] could be effectively handled by a collaborative effort of the state Social Welfare Department and voluntary



organizations. Voluntary women organizations should be encouraged to work in association with the government agencies to organize release on bail, bail projects, rescue homes and after-care homes for women offenders and ex-prisoners.

Agreeing with the recommendations of Justice Mulla Committee on Prison Reforms [1980-83], Justice Saghir Ahmad advocated that, as an essential step forward for prison reforms, it was necessary to improve the working conditions of prison personnel as well. The status, emoluments and other service conditions of prison personnel should be commensurate with their job requirements and responsibilities.

The institution of 'Visitors', he said as a concluding remark, has failed to deliver the goods. It has not been able to break the barriers set up by prison bureaucracy. Therefore, as an alternative measure, he reiterated, a prison ombudsman or a judicial officer should be appointed to attend to the grievances of prison inmates in each state. If, however, the institution of Visitors was to continue, it must be reinforced with the inclusion of organizations and individuals working in the field of conservation of human rights, specially the rights of prisoners, as non-official prison visitors.

## **Findings of the Study**

### ***Prevailing Conditions in Prisons of Rajasthan***

The keynote address was followed by a power-point presentation on 'The Need for Reforms' in prisons. It was based on the findings of the Study conducted by CHRI on prevailing conditions in the prisons of Rajasthan.<sup>3</sup>

The following is a self explanatory brief of the presentation:

#### **PRISONS The need for Reform**

**Prisoners** are deprived of liberty. Their total dependence on prison authorities and ignorance about their rights make them vulnerable to health and security risks.

The basic nature of prisons in general – that they are secluded from civil society and they need to be secure for the custody of inmates – leads to:

- Lack of transparency
- Lack of accountability
- Violation of human rights
- Dismal living conditions, and
- Corruption

### ***Prisons in Rajasthan***

Total 100 prison institutions in the state include: 8 Central Prisons, 3 District Prisons 'A' class, 22 District prisons 'B'



*Mr. R.K. Saxena presenting the findings of the study*

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<sup>3</sup> The study was conducted by Mr. R.K. Saxena, Consultant for CHRI.

class, 1 Reformatory for Women, 1 Reformatory for Youthful Offenders, 58 Sub-jails, and 7 Open Camps.

### ***Prison conditions in Rajasthan***

#### **Overcrowding**

- As compared to states of Bihar, Haryana, Orissa and Delhi, where prison population is higher than available accommodation, the position in Rajasthan is better.
- However, conditions in certain jails, for example, Central Prison Bikaner, District prisons Bundi, Dausa, Chittorgarh and some sub-jails is alarming.
- Overcrowded barracks with lack of minimal facilities create inhuman living conditions, for example, in jails at Bundi, Chittorgarh, Khetri, Parbatsar, and Ramganj.

#### **Prison Buildings**

- Surrounded by crowded localities [for example at Jaipur, Bikaner, Bandikui]
- Old and dilapidated [for example at Bikaner]
- Victims of poor maintenance – repair works taken casually, no monitoring
- Water pipe-lines dysfunctional
- Electric wiring, loose and hanging
- Poorly maintained emergency toilets that make barracks inhabitable
- Dark, dingy and sooty kitchens, most of them using firewood fuel leading to unhygienic conditions [for example at Dholpur, Bhilwara, Alwar and Bundi]
- Uneven, crusty floors of barracks are difficult to clean
- Blocked sewage lines and clogged drains
- Accommodation for women is insufficient and inappropriate

#### **Inadequate Staff**

- Acute shortage of security and administrative staff
- Of 1872 security and supervisory staff, at the time of study, approximately 640 posts were vacant
- Vicious circle: shortage of staff > exposure to mishaps [escapes, violent attacks, death, etc] > suspension of defaulters > further shortage of staff > more chances of mishaps...
- Lack of proper supervision leads to upper hand of prison inmates
- Shortage of staff adversely affects:
  - Correctional activities
  - In-job training programmes
  - Work efficiency and accuracy
  - Overall prison discipline

#### **Paucity of women guards**

- Lack of lady warders especially in district jails and sub-jails is a major problem for women inmates staying alone in desolate barracks within prisons for men
- Rules for segregation of women prisoners from males result in complete isolation and solitary confinement for single women inmates
- Personal needs especially of pregnant women and those with children go unattended
- Intervention of the judiciary is essential in certain cases, but it is lacking

- Services of social case workers and participation of voluntary groups on regular basis are also desirable but wanting
- No attention is being paid to the appointment of temporary lady warders or lady home-guards when women offenders are admitted to district jails or sub-jails

### **Under-trial Prisoners**

- Large majority of under-trial prisoners come from poor and under privileged sections of the society
- Swelling under-trial population – ratio of convicts to under trial prisoners is 1:2
- Keeping them for long periods is a waste of human energy and a burden on public exchequer
- Problem needs to be addressed with a coordinated effort of all organs of the Criminal Justice System:
  - Faster investigation
  - Speedy trial
  - Stringent application of rules for bail
  - Extended role of judiciary in prisons for review of Under trial prisoners
  - Alert prison administration
  - Free Legal Aid
  - Extended role of Lok Adalats
  - Regular production of accused in courts and video conferencing

### **Prison industries**

- Highly neglected aspect of prison management
- Hackneyed vocations and out-dated work procedures
- Idle labour for lack of raw-material and work tools
- Lack of proper vocational teachers
- Adverse affect of Section 433A of Code of Criminal Procedure on work culture of inmates

### **Problems of Prison staff**

- Disparity in pay scales in spite of parity in selection procedures with other departments such as Police
- Lack of promotional avenues
- Lack of recognition, which is demotivating
- Poor housing and inappropriate mess facilities
- Absence of recreational facilities and non-availability of leave
- Overwork and monotony
- Inadequate training
- Lack of exposure to better institutions

Initiating **discussions** on the subject of the session, Mr. Chetan Deo, Superintendent, Central Prison, Udaipur pointed out that the main reason why prison reforms have not been able to make a headway is that, in the matter of allocation of funds, 'prisons' do not get the priority that they deserve. The ever-increasing complexity of work in prisons has been met with ever-decreasing budget allocations over the past some decades.

Recommendations of Mulla Committee and of the body set up under the chairmanship of Mr. Kapoor for improvement of prison conditions, he said, have not been followed as yet. Both these committees specifically recommended that the work of dealing with offenders in prison is a specialize work and therefore, the selection procedures and service conditions of prison personnel must be commensurate with their job requirements. But these recommendations have not been heeded to.

Lack of funds has been responsible for several ills in prisons. Useable space in living barracks is being continuously reduced because of lack of proper repair work. Good rehabilitative programmes cannot be undertaken in prison industries because there are no funds. Still some programmes of rehabilitative value are being taken up at Udaipur Central Jail with the cooperation of M.L.S. Agriculture University for prisoners who want to go back to their agricultural land after their release.

Mr. Chetan Deo suggested that the SHRC should intervene in the matter and ask the Government to provide sufficient staff to prisons and to improve their service conditions which is one of the primary pre-requisites of prison reforms.

Mr. B.L. Joshi, Member, SHRC informed the house that almost all inspection reports sent by SHRC to the Government point out these deficiencies of prisons and suggest measures to remedy them. But he advised that instead of having any confrontational or defensive approach to these problems, all agencies of the Criminal Justice System, and the Government, must come forward to solve them in a constructive manner so that violation of human rights in custodial institutions could be averted.

Reforms, Mrs. Maja Daruwala said, should indeed be seen as reform of the whole prison system, but organizations such as the CHRI have to pay attention to prisoners' rights when directives of the courts and rules made by the legislature for proper management of prisons are not followed by the administration.

During the course of open discussions on the subject of prison reforms there were several suggestions from NOVs and other participants representing NGOs. Some important suggestions were as follows:

Mr. Hari Ram, NOV, Bharatpur

- Cases of old and infirm convicts [say, above the age of 65 years] should be given a sympathetic and positive consideration in matters of premature release.
- As an effective measure of social rehabilitation, parole should be granted liberally to prisoners sentenced to life-imprisonment.
- Short-term convicts should be processed through some kind of community treatment, instead of being sent to the prison.
- Inmates suffering from consumptive or contagious diseases should be segregated from other prisoners at jails or sub-jails where this is not being done at present.
- NOVs should be paid some local journey expenses.

Mr. Tara Chand Gehlot, NOV, Ajmer

- Examination fees should not be charged from prisoners appearing at examinations conducted by the Board of Secondary Education, Ajmer.

Mr. Mathuresh Somvanshi, NOV, Bandikui

- Board of Visitors must be constituted at every district or sub-division and their meetings be held regularly, so that NOVs may discuss prison problems with local officers and persuade them to take remedial measures.
- The Government and the Prison Department must process the reports of NOVs expeditiously and take appropriate action on the recommendations made or issues raised therein. NOVs should also be informed of the action taken. NOVs feel discouraged in their work if, in spite of their repeated efforts to draw attention of the government to infirmities in the working of prisons, no response is received from any quarter.

Mrs. Nishat Hussain, Social Worker

- Women offenders [particularly that large majority of them who are in prison for the first time] need counseling at the time of entry into the prison. In sharp contrast to this human need, the treatment meted out to them by prison staff is not only harsh, inhuman and distressing, but also against common tenets of our age-old culture. They are required to remove their bangles, toe-rings, and other signs of married status that women wear as a part of our social traditions. Rules should be framed to avert such depressing behaviour.
- Professionally trained women counselors must be appointed at least at the main Reformatory for Women at Jaipur.

Mr. Devi Singh Budhia, NOV, Sub-Jail, Bayana

- The sub-jail in Bayana is perpetually overcrowded. Prison population is generally more than double the capacity. Partly covered toilets and open bath platforms create ugly sight. There is no accommodation for women inmates. Living conditions are inhuman. All this needs immediate attention.

## **SESSION I**

### ***The Prison Visiting System [PVS]***

Session I of the Workshop was devoted to the Prison Visiting System [PVS] with special reference to the appointment and functioning of Non-official Visitors [NOVs]. This session was presided over by Mr. R.K. Nair, Chief Secretary, Government of Rajasthan. Mr. A.S. Gill, Director General of Prisons, Rajasthan, and Mrs. Maja Daruwala, M.D., CHRI, were co-chairpersons of the session.

The presentation made on behalf of the CHRI covered the functions and role of Non-official Visitors, the selection criteria and appointment of NOVs and some recommendations made by persons responding to the question-schedule of the Study-team appointed by CHRI for reviewing the working of the system in Rajasthan.

A brief of the power-point presentation made on the subject is as follows:

#### **The Need for PVS**

- Shielded from public eye, the impermeability of prisons brings in an element of ***unaccountability***.
- However, the law in many countries provides the community with a key to the closed doors through the system of prison visitors.
- PVS acts as a monitoring mechanism to ensure ***transparency*** in the institution.
- It is also a symbol of ***community involvement*** in the penal system.

**Legal Provisions for Visitors** are contained in

- Prisons Act 1894 - Section 59 [25]
- Rajasthan Jail Rules 1951 [Part XXIII]

#### **Who are Visitors?**

Ex-officio visitors [OVs] such as:

- I.G. of Police, Director of Public Health, Deputy I.G. of Police, District Magistrate [DM], District & Sessions Judges, DIG Police, SDM, Civil Surgeon, local MLAs etc.

Non-official visitors [NOVs]:

- People from the community appointed by the Government of Rajasthan for all prisons in the State.
- The number of such NOVs at each Central Prison is 6, District Prison 3, and at each Sub-jail 2.
- Qualification: should be able to write inspection note in own hand [Rule 3-a of Part XXIII]
- Term of appointment – 2 years [Rule 4]
- Roster of Visitors to be framed by DM [Rule 5]
- Duty of prison visitors to see that the law and rules governing prison management are carried out fully.
- Points to be noticed by the visitors include – the prison building, overcrowding, drainage, water supply, food, clothing, discipline, punishment, women prisoners etc.

#### **Some controversial provisions**

- Conversation with prisoners not to exceed 20 minutes.

- Ban on visiting prisoners on hunger strike or detained under preventive laws.
- Ban on touching rations.
- Women visitors not to enter men's ward.
- Ban on giving publicity to matters connected with prisons.
- Home secretary included as a visitor.

### **The Study**

- Questionnaires were sent out to all the 230 non-official visitors appointed by the Government of Rajasthan for the years 2000-2002, all 92 officers in-charge of prisons, and all 32 District Magistrates. Randomly selected 93 under-trial prisoners and 91 convict prisoners [total 184], lodged in various jails of the state were interviewed by the study-team. Interviews were also conducted on officers of other departments connected with prisons.
- Time span covered by the study was: June 2000 to June 2002
- Study team visited 24 prison institutions that included 5 Central Prisons, 4 District Prisons A class, 7 District Prisons B class, 6 Sub-jails, 1 Reformatory for Women, and 1 Reformatory for Young Offenders.

### **Faulty implementation of rules, and anomalies in the functioning of NOVs**

- Appointment of NOVs is made only on political considerations - DM is seldom consulted, although it is a mandatory provision of rules. When NOVs were asked to state the political party to which they belonged, all responding NOVs mentioned the ruling political party.
- Consent of prospective NOV not obtained at any stage.
- No scrutiny of the antecedents of prospective appointees is made, and their level of education, social or service backgrounds or possible criminal records are not checked.
- The letter of appointment of NOVs shows that all 230 NOVs had been appointed under one office order with discrepancies in names, addresses, occupations etc.
- There is no communication with NOVs after appointment, no acknowledgements of the letter of appointment and no feedback.
- NOVs are totally ignorant about their duties and rights as prescribed in rules; they are unaware of their *do's* and *don'ts*. No guidelines are provided to them.
- There is total lack of orientation of NOVs to their work before or after their appointment; they are not aware even of what constitutes a 'visit'.
- Roster of visitors, which is a provision of rules, was found to be formed only at 2 jails out of the 43 that responded.
- There is no system of monitoring of visits and there is no follow up of reports made by visitors.
- NOVs seldom visit their prisons and those who visit rarely record their observations on points prescribed in the guidelines.
- Under the existing rules Prison headquarters are not supposed to keep track of or to control the functioning of PVS. There is therefore no systematic record or follow-up of roster of visitors, constitution of visiting boards, periodicity of visits, processing of visiting notes and of action taken on the observations made by visitors.
- There is lack of accountability at all stages.

## Some responses received from prisoners/prison staff/NOVs

- There is general consensus that Prison Visiting System should not only be continued but also further strengthened.
- The number of NOVs at different prisons is not so important as the regularity of their visits and a proper follow-up of their observations.
- NOVs should not be only from amongst political party workers with an allegiance to a specific party. They should also be picked up from other respectable citizens with experience of social work. Emphasis should be laid on appropriate scrutiny and right selection.
- For a candidate to be eligible for nomination as NOV there ought to be some criteria defining educational qualifications.
- NOVs should be formally introduced to prison inmates and the prison staff, and they should be informed about the role and functions of NOVs.
- The work of NOVs should be periodically assessed, and only those who perform well should be given repeat appointment.
- The work of NOVs is in the nature of social service and hence they should not be remunerated. However, they should definitely be paid local conveyance charges. A large number of NOVs themselves carry this view.
- NOVs should be given short orientation training immediately after their appointment in order to enable them to perform their duties well.
- Regional meeting of NOVs with officials of Prison HQ should be held twice a year and a state level meeting with the Minister-in charge of Prisons once a year.
- Functioning of NOVs should be monitored at Prison HQ.
- NOVs should be asked to evaluate their prisons on a scale of assessment on various facets of prison management.
- They should cooperate with prison officials and make efforts to garner community support for improvement of prison conditions and for rehabilitation of prisoners.
- Good efforts by NOVs must be given some kind of public recognition.



*Mr. Saxena making the presentations*

## Discussions

The session was opened for discussions by the Chairperson, Mr. R.K. Nair.

Mrs. Nirmala Chaudhary, NOV, Jaipur raised the issue that in spite of their appointment by the government NOVs are not received by prison officials with due respect and attention. They have almost to force their entry in prisons where living conditions are invariably below the requirements of rules, whether it be the question of their food or clothings or personal hygiene or their living barracks. They are not informed of, or invited at the occasion of, visit of prison by the Minister or other high officials.<sup>4</sup>

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<sup>4</sup> The NOV was all the time confusing between police personnel and prison personnel on account of the similarity in their uniform. The CS [Chairperson] had to intervene to correct her on that count.



Mr. S.N. Pahadia, Prison Welfare Officer, Jaipur suggested that NOVs may coincide their visits with 'Monday Parade' [the weekly visit of all prison officials to the whole of prison premises as prescribed in rules], after which they could also hold meeting with prison officials to discuss about their observations. But, the CS [Chairperson] held that this arrangement would negate the very purpose for which the institution of prison visitors has been created. They have to work independent of the government mechanism posted at prisons in order to probe whether the management of prisons is in accordance with rules or not.

Mrs. Aruna Akodia, NOV, Kota demanded that on appointment NOVs must be provided with some literature on the functioning of prison visiting system. They must be given some guidelines on which to perform their duties as non-official visitors of prisons.

She also wanted that convicted women prisoners who had attained the age of 60 should be sympathetically considered for parole and premature release. During their incarceration younger women inmates must be given some vocational training of rehabilitative value, she said.

Mr. Ashok Pandit, NOV, Ajmer was concerned about the shortage of staff at Central Prison, Ajmer in view of the fact that quite a large number of inmates standing trial in serious offences are lodged at that jail.

Mrs. Asha Verma, NOV, Karauli, also complained of the old and dilapidated building in which the District Jail of Karauli is lodged. The building has no space for vocational occupations or for agricultural work, resulting in complete idleness and waste of human labour. Scanty staff [with several posts lying vacant and no sanctioned post of lady warders or sweepers] lead to serious problems of management. Services of doctor and compounder are available only on part time basis and there is no vehicle to carry the sick to hospital. All these problems, she said, need to be looked into and remedied at the level of the government.

On being asked by the Chairperson if she had any difficulty in her assignment as NOV or if she had any suggestions to make to improve the PVS, she expressed her satisfaction over the attitude of prison staff towards prison visitors.

Mrs. Gayatri Sisodia, NOV, Kota, emphasized the need for retaining and reinforcing the Prison Visiting System; but she suggested that NOVs should be selected from amongst persons who have an aptitude for social work and some experience in the field. She insisted that NOVs must be oriented to their assignment with the help of some reading material pertaining to their duties and responsibilities.

Mrs. Suman Saini, NOV, Jaipur shared views with her counterparts at other prisons that NOVs should be provided with Identity Cards to authorize them an access to the prison. She was in favour of periodic collective meetings of NOVs with higher officers of Department of Prisons and the administrative department in the government.



*A Non-official visitor sharing her experiences*

Mrs. Kamla Koli, NOV, Sub-Jail, Hindaun City, while thanking the CHRI and the Home Department for having organized a meeting to discuss problems of the Prison Visiting System for the first time in Rajasthan, expressed her concern over the off-

putting and negative attitude of prison personnel towards NOVs and their functions. She was also sore about excessive overcrowding in the sub-jail of Hindaun City in Karauli District, where basic facilities such as toilets, bath-platforms and kitchen were extremely inappropriate. She was also in favour of orienting NOVs in respect of their functions and responsibilities.

Mr. R.K. Nair, Chief Secretary, Government of Rajasthan, and Chairperson of the Session addressed the house by extending his felicitations to the CHRI for having offered this opportunity for exchange of views on such an important issue as prison reforms and the role of prison visitors in it.

He agreed with the views expressed by various participants that awareness about the concept of Prison Visiting System was very low amongst various stakeholders of prison management and therefore the most important thing was to provide some kind of orientation training about the PVS and its efficacy to both prison officials and prison visitors.



*Mr. R.K. Nair, Chief Secretary*

The Government shall welcome if, with the assistance of CHRI, a scheme of short training to NOVs and prison personnel is formulated and implemented in near future. Contents of such training programme should, among other things, include the role and functions of NOVs with regard to both convicts and under-trial prisoners. Since prison officers in general look at the operation of Prison Visiting System as an interference in their work, they also need to be oriented about the fruitfulness of the system in bringing about prison reforms. They should be told about how to deal with NOVs and how to facilitate their work.

He also emphasized the need for constituting and regulating the function of Board of Visitors at local level where prison problems could be discussed at meetings of local officers and be solved at that level in order to avoid unnecessary delay.

He agreed with the suggestion made during the course of discussions that at all occasions when the Minister or any other higher official visits the prison, concerned NOVs should be informed so that they may also be present during such visit. This will help solve several problems.

Mr. R.K. Nair, CS, made the point of view of the Government clear on the issue of nominating the Home Secretary [HS] as an OV of prisons through a recent amendment in rules. In Rajasthan, he said, the HS is incidentally the administrative secretary of Prisons as well. But if, as in some other states, prisons are not his charge, the Home Secretary does not automatically hold the position of an official visitor of prisons. Therefore it was necessary to amend the rules to include the HS as an OV in the Prison Visiting System.

At the close of first session, Mrs. Maja Daruwala, Director, CHRI thanked the Chief Secretary, Mr R.K. Nair for having spared time from his busy schedule for chairing the session.

## **Session II**

### ***Official Visitors and Boards of Visitors***

Session II of the Workshop was presided over by Dr. Dharm Singh Sagar, Principal Secretary, Department of Home and Justice, Government of Rajasthan. Mr. A.S. Gill, Director General of Prisons, Rajasthan, and Ms. Maja Daruwala, Director CHRI, were co-chairpersons of the session, in which the functions and role of official visitors and boards of visitors were discussed in details.

After a brief introduction of the chairperson, Ms Daruwala, asked for the power-point presentation of the findings of the study on the subject of 'Official Visitors and Board of Visitors' which is as follows:

#### **Legal Provisions are contained in -**

- Prisons Act 1894 – Section 59 [25]
- Rajasthan Jail Rules 1951 [Part XXIII]
- According to these rules official visitors are classified into four categories:
  - State level-4 officers
  - Range level-3 officers
  - District level-4 officers
  - Sub-division level-1 officer
- No upper limit is prescribed for number of visits to be made by official visitors, but it shall not be less than 3 per official per year [Rule 2].
- Boards of Visitors shall be selected biennially by the DM from amongst the official and non-official visitors of each prison [Rule 7].
- The Board shall consist of two official and two non-official members, one of whom shall be nominated as chairperson [Rule7].
- Roster of Visitors shall be framed by the DM [Rule 5].

#### **Purpose of constitution of the Board and preparation of roster** is to ensure that:

- A meeting of the Board of Visitors shall be held once in three months at the district or sub-divisional headquarters, where the prison or sub-jail is located, to discuss problems ailing that prison [Rule 8];
- The Board of Visitors for each jail shall visit the jail twice a year;
- In accordance with the roster prepared by the BOV, one official or non-official visitor shall visit the prison once a month during the year; and
- In addition, according to the roster prepared by the DM, the NOV's shall visit the prison by turn once a month.

#### **Functions of visitors and BOVs**

- To ensure that laws and rules regulating the management of prison are duly carried out.
- To collectively visit the jail and inspect all buildings, check the quality of prisoners' food, inspect punishment books and observe all the other issues as stated in the jail manual.
- To hear complaints and petitions made by prisoners.
- To record remarks, complaints, and suggestions in the Visitor's Book.
- To report, if necessary, to the government separately.

### **Anomalies in the functioning of the official visitors system**

- Out of 13 ex-officio visitors to prisons, 7 have never visited any prison although according to Rule 2, each one of them should have visited at least 3 times each year [State level and Range level officers have not paid any visit to prisons, 2 District level officers also have not paid any visit].
- The number of visits paid by the District & Sessions judge, DM and SDM are 5 times short of the required number.
- Rules still provide for the appointment of such ex-officio visitors, the posts of which do not exist, e.g., IG of Civil Hospitals, Director of Public Health, etc.
- Rules do not provide for any monitoring mechanism or supervisory control over the functioning of official as visitors of prisons.
- Roster of visits has not been constituted in majority of districts.
- BOVs have not been constituted in majority of the districts.
  - Meeting of BOVs have not been held at any place.
  - Problems that can be tackled locally have remained unattended
  - There is no accountability or answerability at any stage.

It was pointed out before the opening of the subject for discussions that Divisional Commissioners who were invited by the CHRI for the Workshop, somehow could not make it convenient to attend it, otherwise the deficiencies in the working of Official Visiting System in prisons could well be conveyed through them to the District Magistrates.

Initiating discussions on the subject Dr. DS Sagar, Principal Secretary Home, and Chairperson of the session, narrated his own experiences as official visitor of prisons during his earlier postings as Sub-divisional Officer, District Magistrate and Divisional Commissioner. He recalled how visits were pre-announced and how everything in the prison – cleanliness, sanitation, living barracks, food, dresses, gardens, records, and so on – was put in perfect order for the scheduled inspection. No one came up with any complaint and it appeared as if everything was in perfect order. But the feed-back he got from other sources – the police, NOVs and NGOs working in prisons – did not corroborate that rosy picture. This, he said, is a fact that should not be contradicted only for the



*Dr. D.S. Sagar, Principle Secretary*

But, on the other hand, this also is a fact that several problems in prisons prolong for lack of funds. In spite of being repeatedly pointed out by official and non-official visitors, desired improvement in prison conditions cannot be brought about only because of scanty financial provisions in the budget even for essential activities.

Pointing to the role of DM and SP in the processing of cases of convicted prisoners for premature release and parole, he emphasized that the reports sent by DM and SP play a decisive part in the finalization of such cases and therefore these reports should neither be casual nor contradictory. Serious thought should be given to the preparation of these reports and these should be based on facts rather than on conjectures and routine precedents.

During pre-independence days, he said, it suited imperial powers to shape prisons and structure prison management only to maintain security and discipline in these custodial institutions. Therefore physical environment and administrative control of prisons was harsh, suppressive and binding. But the post-independence welfare state has taken upon itself the responsibility of reformation and rehabilitation of offenders, specially children, youth and women, entailing several improvements such as, liberalizing prison conditions, vocational training to inmates, protection of their residuary rights, and so on. It is for ensuring that prisoners get their due and that prison conditions are conducive to reformation, that the institutions of official and non-official visitors are being revived and reinforced. Human rights organizations are also being encouraged to work in collaboration with government officials to achieve this desirable objective.

Mr. A.S. Gill, DG Prisons and Co-chairperson of the session wanted prison officials to express their views about the current working of prison visiting system, particularly the functioning of ex-officio visitors.

Mr. Hari Prasad Jatav, NOV, Ajmer, while pointing to certain other deficiencies in prisons, said that there was no coordination between NOVs, OVs and prison officers. MD, CHRI clarified to the house that the question of coordination will arise only when these persons come together at the time of meetings of Board of Visitors. Since no meetings were held, the occasion for coordination, naturally, did not arise.



*Mr. Chetan Deo Upadhyay, Central Jail Udaipur*

Mr. Chetan Deo, Superintendent, Central Prison, Udaipur endorsed the view saying that the meeting of the Board of Visitors is an essential step for the restoration of the Prison Visiting System. Not only that, NOVs must also be provided with an opportunity to meet higher prison officials at least twice a year to discuss prison problems with them. Official visitors should pay unannounced visits to prisons and make deep study of prison problems instead of doing routine rounds. They should bring all such factors to the notice of the government that need financial provisions for improvement in prison conditions. Their intervention in this respect would certainly be more effective than the pleadings of prison officials.

He enumerated some of the excellent correctional programmes being conducted in prisons and said that prison visitors should help prison administration in rehabilitation of offenders after their release. As for corruption in prisons, it is a reflection of the society as a whole. It can be effectively mitigated with a concerted effort of NOVs, OVs, NGOs and prison officials.

Mr. M.L. Sharma, IG of Police [Crime], himself an ex-officio visitor of prisons listed under the rules, conceded his lack of information about such nomination and said that several other office bearers who have been listed in Prison Rules as ex-official visitors of prisons are, in fact, unaware of their nomination as such. Looking to the administrative changes that have come up during the past 50 years after the framing of these rules, it has become imminently necessary to amend this list and to evolve a method of informing official visitors about their duties and functions with regard to prisons and prisoners. Home Department must issue a circular to all official visitors in this regard.

The Home Department, he said, should also circulate to all OVs a checklist of items to be observed at the time of visit to prisons. This should be a format with blank space against each item, in which the OVs could record their observations and suggestions for improvement of prison conditions. It may be stipulated in the circular that a copy each of this observation report may be sent to the Officer-in-charge of prison, the concerned District Magistrate and the DG of Prisons, so that observations made by OVs could be seen at all levels and remedial measures taken at appropriate level. This might perhaps serve as a ready reckoner for prison reforms.

A similar check-list, he said should be circulated to all SPs and DMs for sending reports in respect of prisoners whose cases are considered for premature release and parole. These reports, he admitted, are generally misleading because they are routinely drawn by lower staff who do not understand the implication of the report on the life of prisoners. In order, therefore, to make these reports objective and well considered, it is necessary to draw a checklist of points which the SP and the DM should view personally before finalizing it. [Mr. ML Sharma offered to prepare such a checklist].

On the issue of corruption in the department Mr. Sharma had a very positive and constructive suggestion to make. The fact that there is corruption in the department, he said, cannot be denied. Nor can we feel proud that we are not topping the list of corrupt departments. Prison department may not be indulging in big scams involving millions; but what really counts is the amount of suffering generated by small extortions from the general public. Therefore we must concede the truth of the matter that there is something wrong somewhere and, instead of feeling conceited in being less corrupt than others, we must immediately start mitigating the evil even if this be in a small measure per day. We must pin-point places and services that can be misused for corruption and keep watch over them to ensure easy access to public as per rules. The code of conduct of the bureaucrat, he said, has its own identity independent of that of political executives; and its sanctity should be conserved, maintained and observed as such.



*Mr.S.S. Bissa, Superintendent Central Prison, Jodhpur*

Mr. S.S. Bissa, Superintendent Central Prison, Jodhpur contended that the perspective of prisons is not as gloomy and dismal as it is generally drawn. He hoped that with more such meetings and workshops, the picture shall positively improve. Agreeing with the suggestions of Mr. M.L. Sharma, he said that a rational use of discretion by prison officials can mitigate several ailments of prison management.

Prison visitors, he said, should come to the prison with a positive mind-set and discern the difficult situations in which management is placed on account of lack of resources, both human and financial. If they can place confidence in us, we would go all out to cooperate with them in finding solutions to prison problems.

One very important facet which requires coordinated efforts of prison officials, prison visitors, non-government agencies and social workers is the social and economic rehabilitation of offenders after their release. All these agencies should come together to frame pre-release programmes for placement possibilities of prisoners due to be released within a period of 3 to 6 months.

He expressed his apprehension that in the situation of the recommendations of Justice Mallimath Committee being accepted in the present form, the number of lifers and long term prisoners will rise to unexpected proportions and create several social and emotional problems. In that situation, and

in the wake of compensations being granted to the victims of their crime, functions of OVs, NOVs and the Boards of Visitors will have to be reviewed to accommodate their new role.

In his concluding remarks, Dr. D.S. Sagar, Principal Secretary Home and Chairperson of the session, while appreciating the outcome of discussions, added that for all trainee officers of the cadre of IAS, IPS, RAS and RPS coming to OTS for foundational/pre-posting training, their duties and functions as official visitors of prisons should be included as an essential part of their course content. A letter in this regard shall be written by the Home Department to the Director of HCM Rajasthan Institute of Public Administration, Jaipur.

## VALEDICTORY SESSION

### ***Summary and Action Plan***

Hon'ble Justice Mr. Shiv Kumar Sharma, Judge, Rajasthan High Court and Chairman, Rajasthan State Legal Services Authority was invited as Chief Guest to deliver valedictory address to the participants of the Workshop. This concluding session was presided over by Dr. Dharm Singh Sagar, Principal Secretary, Department of Home and Justice, Government of Rajasthan. Mr. A.S. Gill, Director General of Prisons, Rajasthan, and Ms. Maja Daruwala, M.D., CHRI, continued to be co-chairpersons of this session as well.

Some of the participants had expressed their desire to raise some points for discussion in continuation of the subject matter of previous sessions because, for want of time, they could not do so earlier. With the permission of the Chairperson, Mrs. Maja Daruwala, asked them to put up their views in brief.

Mr Hari Prasad Jatav, NOV, Ajmer began by complimenting CHRI for organizing a meaningful and fruitful dialogue between various stakeholders of the criminal justice system and the prison visiting system on the issue of prison reforms. He went on to say that the factual situation of prisons is that they have become places of punishment beyond what has been awarded by the courts. Torture, harassment and exploitation is a common feature of prisons. A prisoner has to purchase protection from this 'extra-judicial punishment' on cost – the more money a prisoner is the more comfort he can avail. Mr. Jatav enumerated some of the facilities that are available in prisons at cost and said that old-timers from amongst inmates themselves are in league with prison staff in executing such extortion in which they have their own, although small, share.

He suggested that the real picture of prison could be drawn only if NOVs are allowed to make surprise visits and permitted to talk to prisoners in confidence without the presence of prison staff.

Mr. A.S. Gill intervened at this stage to say that such generalized accusations cannot be of any worthwhile consequence in prison reforms. In case the department is informed of some specific incidents of violation of rules in the management of prisons and prisoners, action will be taken without fail and without delay. If NOVs make note of such specific cases in the Visitors Book, they shall be passed on to the Department as per rules and an appropriate action shall be taken on them. Splashing generalized criticism against a system through print media is not a solution to the problem. The purpose of PVS is to methodically discern infirmities in prison management and systematically process them to seek effective remedies. Due procedure has to be followed if we want the PVS to succeed in its aims and objectives.

Mr. M.L. Chauhan, Superintendent, Central Prison, Ajmer, narrated the difficult conditions under which prison personnel have to manage prisons. Some of the services in prison have to be manned by prisoners themselves, because there are no paid employees to execute them. Cooking food, cleaning prison premises, fetching water from sources, cleaning food-grains, mending vegetables, and so on, are tough manual services demanding physical labour, and no prisoner is voluntarily willing to opt for them even when, under the existing rules, he is paid wages for his work. Under these circumstances prison management has to impose these duties by turn on unwilling inmates who are physically and mentally capable of performing them. NOVs should not try to read any



corruption in the assignment of such duties, otherwise the daily routine of prisons will suffer mismanagement.

NOVs, he went on to say, should not deem their duties performed only in pinpointing shortcomings; they must go beyond that to share with 'resourceless' prison personnel to find out ways to remedy these ills in spite of lack of funds and man-power. If NOVs come to the prison only with a negative mind-set for finding faults with the administration, they cannot expect cooperation from the staff.

As for undue harassment, he said, we should all understand that in these days, when a complaint on an inexpensive post card is entertained by the higher and apex judiciary as a writ petition against the state, it cannot be said that prisoners take everything lying or yield to corruption under duress.

Reverting to the proceedings of the session Ms Maja Daruwala expressed her satisfaction the way both these contradictory points of view came up in this conversation in the august presence of Justice Mr. SK Sharma, because this in a way summarized the two sides of the debate on the issue of community intervention in prison management. This, in her opinion, could help the Justice to make his valedictory address more poignant.

Summarizing the action plan as emerging from the course of various sessions during the day, she pointed out that –

1. There is unanimity of opinion among government officials, officers of the Prison Department and the NOVs about some kind of short term training to non-official visitors of prisons in manageable groups on regional basis. The time and venue of such training programme could be decided with mutual consensus.
2. Home Department, Government of Rajasthan, shall write a letter to all District Magistrates insisting on the constitution of a Board of Visitors for each prison in the state and ask for a feed back on its compliance. Reports and proceedings of the meeting of Boards of Visitors should be shared with the SHRC once in an year to achieve some coordination between the Government and the Commission in matters of prison reforms.
3. On behalf of the CHRI Mr. RK Saxena, Consultant, shall record all suggestions forthcoming in meetings and workshops and send them to the concerned departments and other bodies for consideration and appropriate action.

### **Summary of proceedings of the Workshop and Recommendations emerging from the Study conducted by the team of CHRI**

For the appraisal of the Chief Guest, Mr. Justice SK Sharma and those others who were not present during previous three sessions, RK Saxena, Consultant, presented a summary of the proceedings of the Workshop and recommendations emerging from the Study conducted by the team of CHRI.

Some of the main points were as follows:

- Prison Visiting System, if properly executed, could be an effective institution conducive to gradual but steady prison reforms.
- The basic principle underlying the creation of the institution of PVS is not to raise a parallel administration but to complement the management of prisons.

- Official and Non-official visitors have not been vested with powers to take decisions in matters relating to prisons, but they can play an effective role as independent agencies for highlighting deficiencies in prison management in order to pressurize the government for remedial measures.
- The work of NOVs is in the nature of social service and should be treated as such by those who are assigned this work.
- Visitors can and should play a positive role in vocational training of prison inmates, and in their rehabilitation after their release. They can feel assured of full cooperation of prison officers in such endeavour.

CHRI believes that there is a ray of hope within this system for bringing about change in prison conditions. To increase monitoring and scrutiny of the system from within, CHRI over the past some years has focused on prison visitors and prison doctors as key agents of change. The system of Prison Visitors [particularly the institution of Non-official Visitors] has great potentials, and this system can be revived and revitalized through simple interventions, such as:

- Organizing workshops to bring together members of the judiciary, police, prisons, human rights organizations, women organizations, non-government agencies and, most importantly, non-official visitors of prisons with the objective of sharing views and pooling commonly agreeable measures for improvement;
- Interacting with prison officials to clear misgivings that have precipitated as a result of faulty implementation of rules governing the appointment and guidance of prison visitors;
- Interacting with official visitors and other government functionaries with a view to ensuring their cooperation and support for credible and constructive intervention in the improvement of prison conditions; and
- Organizing orientation and training programmes for Non-official visitors of prisons to acquaint them with various aspects of the system including, among other things,
  - Their rights and duties as prescribed in prison rules,
  - Effective coordination with the prison department and the government,
  - Exposure to good practices elsewhere in the state and in the country,
  - Possibilities of making prisons accessible to non-government agencies and organizations interested in the reformation and rehabilitation of offenders,
  - Prisoners' residuary rights and general redress mechanisms,
  - Skills to initiate community involvement in prisons without substituting the primary responsibility of the State, and
  - Making investigative visits with humanitarian approach and writing effective visiting notes.

Recommendations emerging from the study of Prison Visiting System conducted by the team of CHRI, and a proposed draft of amendment in rules relating to the appointment and guidance of visitors of prisons [Part XXIII of Rajasthan Jail Rules – 1951] are appended as Annexures 3 and 4 respectively.

## Valedictory Address

**Mr. Justice Shiv Kumar Sharma** began his valedictory address by quoting Oscar Wilde who wrote from prison during his own incarceration –



I know not whether laws be right  
Or whether laws be wrong;  
All that we know who be in jail  
Is that the wall is strong;  
And that each day is like a year –  
A year whose days are long.

*Mr. Justice Shiv Kumar Sharma*

It is only a prison inmate who can understand the need for prison reforms, because from without everything looks fine with the system of penal custody in the country. Alluding to the conversation that took place between prison officials and NOV's during discussions, he said that the struggle for ego has pushed back the question of prison reforms to a secondary position.

Those who had conceptualized prison visiting system perhaps had in their mind that some welfare oriented individuals of the open society, who were sensitive to human issues, would go to the prisons and sit together with prison officials to find ways to solve problems faced by prisoners and prison staff. But the way this highly useful system has degenerated into a struggle for supremacy is an unfortunate situation.

An estrangement between prison officials and visitors of prison is not going to serve any fruitful purpose, because reforms require constructive and cooperative efforts on the part of both the government and the society in general. Criticism is easy, but finding solution to problems and helping offenders regain their lost status in the society is a tough task that requires positive and humanitarian approach.

Corruption in prisons is only a reflection of its presence in the entire society, the structure of which has transformed from 'need-based' to 'greed-based'. The political foundation of our democracy has run into defame and it is really difficult to talk of prison reforms in such an environment.

There was a reference during discussions to difficulties faced by inmates in the grant of parole which happens to be one of the most potent correctional tools for social integration of offenders. Several cases of parole come up before the judiciary for a judicial intervention, and it is distressing to note that in similar circumstances one prisoner is granted parole and the application of the other is rejected. A simple look at the reports of SP and DM will reveal that mind has not been applied at any stage to discern the pros and cons of the release of an inmate from the prison for a short period. Parole committees put greater reliance on routine reports from the police and the administration, instead of on the remarks of jail officials and probation officer, whereas rules provide for vice versa.

The human aspect of parole is reformation and social integration and therefore, except in extreme cases of habitual offenders, law should be interpreted in favour of seeking reformation of the offender. But no one cares to read the real purpose of the law.

In the case of an offender who was sentenced to **life** imprisonment for murder and for **7 years** rigorous imprisonment for destroying evidence, the sentencing judge inadvertently missed to write in the warrant that the sentences shall run concurrently. In appeal this situation was somehow maintained and the sentences ran consecutively. When this accused had served 15 years of imprisonment, his case was put up for premature release under section 433A of the Cr.PC. But legal experts in the Secretariat opined that out of the 15 years served, 7 were against the second sentence of rigorous imprisonment and that therefore this offender must serve another 6 years before his case could be considered for premature release. This is a glaring example of misuse of reasoning and misinterpretation of law. On one hand we talk of reformation and, on the other, law is interpreted in such archaic manner.

Although the existing laws and rules are insufficient to cover reformatory and rehabilitative aspects of prison management, but they can and should be interpreted and applied in modern prison management to achieve these desirable goals. Each one of us working in the criminal justice system has to develop this positive outlook if we want that simple offenders might not turn hardened criminals during their incarceration.

Over the past few years, office bearers of State Legal Services Authority have visited various prisons in the state and have appointed advocates to organize legal aid cells within prisons. These cells are functioning at various jails and sub-jails, and we want that prisoners should take advantage of these services. It is our endeavour to provide quality services as free legal aid and wherever it is desirable we appoint senior advocates to appear on behalf of persons in custody or in any other disadvantageous situation.

The essence of reformation is change of heart – it is as much a change of heart of the people functioning in the criminal justice system as of the offenders. As long as prison officials, prison visitors and others working for reformation keep estranged for power and supremacy, no improvement can be dreamt of. In such unhealthy ambience the purpose of prison visiting system can never be achieved. We must therefore give a second thought to the process of selection of non-official visitors and appoint only such persons who sincerely wish to work for the improvement of conditions in prisons. Non-official visitors' system should not be made a sinecure for political friends to be accommodated.

Similarly, prison officials should also not stop NOV's from recording shortcomings in the Visitors Book. They should always examine the truth of the matter and if there is anything lacking, they should make a concerted effort to improve it. If each one of us does his duty, each one keeps the windows of heart and mind open for constructive ideas, we can collectively contribute to make a better society. And in this effort we should not be afraid of small disadvantages in the material world. Let us all work together like a team to promote prison reforms which is the ultimate goal of Prison Visiting System.

The Workshop concluded with a vote of thanks from Ms Maja Daruwala, Director, CHRI and Mr. A.S. Gill, DG Prisons, Rajasthan. Mr. Gill felt assured that with the cooperation of CHRI the Prison Visiting System shall now function in the State with better results.

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**Workshop on Prison Reforms, Jaipur**  
**HCM Institute of Public Administration, JLN Marg, Jaipur**  
**September 6, 2003**

*Agenda*

Registration

9:00 – 9:30 am

**Inaugural session**

Welcome Address	9:30 - 9:45 am	Mrs. Maja Daruwala Director, CHRI
Keynote Address	9:45 - 10:00 am	Justice Mr. Saghir Ahmad Chairperson, SHRC
Findings of the study – a power point presentation on conditions of prisons in Rajasthan	10:00 - 10:20am	CHRI
Discussion	10:20 - 11:00 am	

Tea Break

11: 00 – 11:20 am

**SESSION 1**

Chairperson: Mr. R.K. Nair, Chief Secretary

Co-Chairpersons: Mr. A.S. Gill, DG Prisons and Mrs. Maja Daruwala, Director, CHRI

**Topic: Non-Official Visitors**

Function and role of NOV's	11:20 – 11:30 am	CHRI
Selection criteria and appointment of NOV's	11:30 - 11:40 am	CHRI
Recommendations	11:40 – 12:00	CHRI
Experiences in M.P	12:00 – 12:15 pm	
Discussion	12:15 - 1:00 pm	

Lunch

1:00 - 1:45 pm

**SESSION 2**

Chairperson: Dr D.S. Sagar, Principal Secretary, Home and Justice

Co-Chairpersons: Mr. A.S. Gill, DG Prisons and Mrs. Maja Daruwala, Director, CHRI

**Topic: Official Visitors and Board of Visitors**

Functions and role of official visitors and board of visitors	1:45 – 2:05 pm	CHRI
Recommendations	2:05 – 2:15 pm	CHRI
Discussion	2:15 – 3:15 pm	

Tea Break

3:15-3:30 pm

**Valedictory Session**

Chairperson: Justice Mr. Shiv Kumar Sharma, Judge Rajasthan High Court and  
 Chairman State Legal Services Authority

Co-Chairpersons: Mr. A.S. Gill, DG Prisons and Mrs. Maja Daruwala, Director, CHRI

Action plan to be formulated with various stake holders	3:30 - 4:30 pm	
Summary and comments	4:30 - 4:45 pm	Director CHRI
Valedictory address	4:45 - 5:00 pm	Mr. Justice Shiv Kumar Sharma
Vote of thanks	5:00 - 5:10 pm	CHRI

## CHRI's recommendations

### Jail Rules

1. Rules framed under section 59 [25] of the Prisons Act 1894, i.e., Part XXIII of Rajasthan Prison Rules 1951, hereinafter mentioned as 'rules', should be suitably changed to make Prison Visiting system practical and efficacious. [A *draft of rules amended in the light of this study is enclosed as Annexure - 4*]
2. Under 'Points to be noticed by Visitors' appended to the rules, some more points need to be added such as – conservation of human rights, use of parole as instrument of social rehabilitation, literacy programmes, vocational training programmes, working of UT prisoners review committee, up-keep of infants with women inmates, and institutional mechanism for redress of grievances.

### Ex-officio visitors

1. Official designations namely, I.G. of Civil Hospitals, Director of Public Health and Civil Surgeon, mentioned in rule 1 of the rules have become redundant because they are non-existent, and therefore these may be deleted or appropriately changed.
2. The services of some other state level officers, such as the I.G. of Police [Crime], I.G. of Police [concerned with deployment of force for production of under-trial prisoners in courts], Director of Industries, Director of Adult Education, Director of Technical Education, Director of Agriculture, and so on, should be availed of under some other administrative mechanism [such as State Prison Advisory Board] the meetings of which could be held once or twice a year, and the implementation of the recommendations of which, under a time-bound programme, could be made mandatory. If they are kept on the list of ex-officio visitors, the provision of minimum number of visits to be made by them [rule 2] should be removed, because this is being perpetually violated and there is no accountability for its violation.
3. [a] The services of district level officers such as the Superintendent of Police, the Chief Medical and Health Officer, District Industries Officer, Chairperson of the District Legal Aid Committee, District Probation Officer, Chief Health/sanitary Inspector of Municipal Corporation/Board, District Education Officer [or any other officer in charge of adult education in the district] should be included in the list of Ex-officio visitors of prison.
4. [b] It should be made mandatory that a committee, to be designated as "Ex-officio Visitors District Committee" [EVDC] comprising these officers [together with other district level officers under present rules and at least 2 Non-official Visitors] shall, under the chairpersonship of the District Magistrate, jointly visit the Central/District Prison and Sub-jail, if any, within their jurisdiction at least once in six months. The District & Sessions Judge, the Chairperson of District Legal Aid Committee and the Superintendent of Police may depute a surrogate, not below next in command, to be on this Committee.
5. [c] One of the main functions of EVDC, apart from attending to the requests of inmates and making observations on "*points to be noticed by Visitors*" mentioned in the rules, shall be to advise and help prison administration in the development of correctional programmes by using social resources and mobilizing support from outside agencies.

6. [d] A visiting note on all aspects of prison management enumerated in the rules shall be drawn by the office of the District Magistrate and sent to the Superintendent of concerned jail within 7 days of the visit. It shall be mandatory for the officer-in-charge of jail to forward this note, with comments on the possible implementation of each point raised, to the I.G. of Prisons within next 7 days.
7. [e] The position of implementation of each point raised or recommendation made in the note shall be communicated by the officer-in-charge of jail to the chairperson of the Committee, with a copy each to the members, within 4 months of the visit, so that the Committee has a clear picture of the progress on previous note before the next visit.
8. [f] In case the Chairperson of EVDC has reasons to believe that any issue raised has been met with undue delay or by an evasive reply, he shall write directly to the D.G. of Prisons or the Home Secretary in that regard.
9. The number of minimum mandatory visits of ex-officio visitors shall be three per year, including visits with the EVDC.
10. A meeting of the EVDC shall be held once in a quarter on a date and time fixed by the District Magistrate, and the Officers-in-charge of all jails in the district shall be specially invited to attend these meetings.
11. This EVDC shall substitute the existing provision of Board of Visitors as contained in rules 7 and 8 of the rules.

### **Appointment of Non-Official Visitors [NOVs]**

1. NOVs shall not be appointed **only** on the basis of political affiliations or from amongst political workers. They shall also be drawn from respectable citizens of the society, retired officials of the defense services, police, judiciary, education, administration, social welfare, prisons, industries and so on. NGOs such as Rotary Club, Lions Club, PUCL, RUWA, Defense Service Welfare Boards, etc., can be contacted for this purpose.
2. Minimum qualifications for appointment as NOV shall be Senior Secondary examination passed from a recognized Board of education.
3. The appointment of NOVs for jails within a district should be made **only** on the recommendation of concerned District Magistrate.
4. The District Magistrate shall, through his own sources, draw a list of potential candidates for appointment as NOVs of prisons, and send them letters of intent, soliciting their consent, making it clear that the work is voluntary and in the nature of social service, carrying no remuneration except reimbursement of actual local conveyance charges.
5. This letter of intent shall be sent to as many persons as would, on receipt of consent, allow a panel of prospective NOVs **double** the number required for each jail, together with at least three women candidates for each jail, to be drawn at the office of the DM.
6. These panels shall be forwarded to the Department of Home and Justice, through the I.G. of Prisons, for the consideration and final decision of the government.
7. Separate panels of three NOVs each shall be appointed for Women Reformatory at Jaipur and Reformatory for Young Offenders at Ajmer. All 3 NOVs of Women Reformatory shall be ladies, one of whom shall be a retired member of judicial services. Of the 3 NOVs at Reformatory for Young Offenders, one shall be a working or retired person of technical/vocational education.
8. 2 out of 6 NOVs at the Central Prisons, and 1 out of 3 NOVs at District Prisons shall be woman. There shall be no bar on the appointment of women NOVs at sub-jails.
9. All appointments of NOVs shall be made by the government.

10. Each appointee shall be informed of the assignment through a separate letter together with a copy of rules for the guidance of NOV's, their rights and duties. [Indian Jail Committee long back recommended that "A **pamphlet setting out the powers and duties of visitors** should be drawn up, and supplied to the office of each official visitor and to each non-official visitor on appointment." [Report of the IJC- 1919-20. p-520]
11. 'A visitor who has shown interest in his work and has proved his usefulness in the past ought to be **re-appointed again** so long as he is fit and willing to serve and should not be dropped out merely on the ground that he has held the post long enough, or that he should make way for others, or that he is not a *persona grata* with the jail authorities.' [Report of the Indian Jails Committee – 1919 -1920; p.516]
12. The term of appointment of NOV's should be 3 years instead of two, as at present [Rule 4.] and the Department of Home and Justice should so process the matter as to ensure appointment of all NOV's in the entire state by close of September every three years. This will facilitate training of NOV's within the month of October when weather is suitable for the purpose.

### **Removal of NOV's**

1. The present provision contained in rule 4. [b] of the rules conferring right on the Government for removal of any NOV from the list of visitors without assigning any reason, may be deleted, because it sounds arbitrary and may facilitate removal on political grounds. Provisions contained in sub-rule [c] of this rule are sufficient to take care of undesirable activities of NOV's.
2. One more sub-section may be added to this rule empowering the District Magistrate to take suitable action for the appointment of another NOV at a jail if the removal of any NOV is deemed desirable for the rest of the remaining period of his/her term.

### **Training of NOV's**

1. NOV's shall be imparted an orientation training on all aspects of their assignment within one month of their appointment.
2. This intensive training of 2 or 3 days shall, *inter alia*, cover subjects such as, the administrative hierarchy of prison department; classification of prisons and prisoners; rights and duties of prisoners; special problems of under-trial, mentally sick, women, 'long-term' and 'first offender' prisoners; the role of society in the rehabilitation of offenders; use of social resources for correctional work; conservation of human rights in custodial institutions; and above all the duties and rights of NOV's.
3. Training programmes may be conducted every third year, coinciding with the appointment of NOV's, at the Jail Training Institute, Ajmer.
4. There may be four such programmes : One for NOV's of all Central Prisons, District Prisons 'A' class and two Reformatories [for women and young offenders]. This batch shall comprise 63 NOV's. The second for about 66 NOV's of District Prisons 'B' class; and the rest two for NOV's of sub-jails comprising about 58 NOV's each.
5. Resource persons for training programmes should be drawn from various agencies of criminal justice system.
6. Good resource material should be developed in Hindi by Prison Department for distribution among NOV participants.
7. Training programmes shall not be in the nature of teacher-taught relation, but emphatically participatory, in which specific time periods shall be devoted for NOV's to put up questions, discuss issues and seek resolution to their doubts.

## Functioning of the NOV System

1. On receipt of information that NOVs have been appointed, Officer-in-Charge [OIC] of a jail shall address a letter to each of the NOVs of that jail, inviting them on a particular day for a formal introduction with the staff and inmates. Such introduction could be in the nature of a small function at a common place where the staff, inmates and NOVs could all assemble for a short time or in the form of a general round of the prison and its various offices during working hours.
2. After a formal introduction, NOVs shall not expect any call or invitation from the OIC of a jail for further visits.
3. Within 30 days of the appointment of NOVs for various jails in a district, the District Magistrate shall call a meeting of all such NOVs and, in consultation with them, place their names on a roster of visits for each prison or sub-jail in the district. The names of NOVs shall be arranged in such manner as to ensure one visit of each prison per month by turn, by NOVs appointed for that prison.
4. There is already a provision for more than one visits of a jail in a month in rule 5 of the rules, and it should be retained. This provision can be used by NOVs for making visits in groups or for special visits without prior intimation to the OIC of the jail.
5. The provision for 'Duration of Visits' as contained in rule 6 of the rules needs reconsideration. It is undoubtedly true that the working routines in prisons are so tight that no time is left for the staff to spare for 'purposeless loitering' [as visits of NOVs are coined by some of the staff]. It is also true that these functional routines cannot be postponed or cancelled on account of diversion of staff with prison visitors. But certain facts need to be understood by all concerned, namely –
  - that prison visit by NOVs is a very useful and purposeful activity if conducted with proper understanding by NOVs and with the cooperation of prison staff;
  - that NOVs [of the stature suggested in this report] *must* be acquainted with the entire routine of prisons for a proper understanding of the difficult nature of duties and responsibilities of staff; and also the conditions in which inmates have to live within the framework of rules;
  - that even when prison visitors wish to see the working of a jail at any odd hour, the functional routine of that hour should not be disturbed or postponed and the visitors should be shown the factual working of that hour, taking sufficient precaution for security of both visitors and inmates;
  - that the Officer-in-charge of the jail, if he is really preoccupied with work may not accompany visitors at odd hours and may depute a dependable surrogate for the purpose; and
  - that even if NOVs wish to visit a jail at night to grasp its nocturnal arrangements, such visits [which naturally shall be once in a blue moon] can be combined with the visit of 'officer-on-night-round' [rule 54 of section II of part XXV of Rajasthan Jail Rules 1951] under the same cautions as mentioned in rule 55.Therefore provisions of rule 6 of the rules governing appointment and guidance of visitors of prisons should be suitably amended to say that NOVs shall **generally** visit prisons during day between unlocking and locking-up time.
6. Every visit by an NOV or a group of NOVs shall [as soon as possible, but not later than 7 days] be followed by a visiting note on each and every point mentioned in the guidelines forming part of the rules. Even if the visitors have to mention brief remarks such as 'good', 'bad', 'nothing

objectionable', 'no comments' etc., but the point must be mentioned. This note shall be in addition to the mandatory general remarks in the Visitors Book.

7. OIC of the prison shall, within 7 days of the receipt of the visiting note, forward it with his comments on each point and the administrative position with regard to the implementation of any suggestion made, to the Inspector General of Prisons.
8. All visiting notes [From both official and non-official visitors] received at the prison headquarters shall be processed by a special cell within 30 days and a reply sent to the OIC of jail mentioning -
  - Action taken on all reasonable suggestions falling within the administrative and financial powers of the Head of Department;
  - Reference made to the administrative department in the government on all reasonable suggestions not within the powers of HOD; and
  - Reasons for disagreement on suggestion found unreasonable or impractical.
9. NOVs shall retain the prerogative of writing directly to the Government in Home Department on issues they think proper.
10. NOVs shall also have the right to refer all instances of alleged or apparent violations of human rights or of ostensible situations leading to the possibility of such violation, to the State Human Rights Commission.
11. Monitoring of visits and of action taken on visiting notes by the Prison Department and the Government are an extremely important aspect of making prison visiting system productive and efficient. This should therefore be done at two levels – at Prison Headquarters and at prison section of the Home Department.
12. Monitoring Cell at Prison Headquarters shall, after every 6 months of the appointment of NOVs, sort out the names of prisons and sub-jails in which visits are not being conducted in accordance with the stipulations of rules or provisions of rosters, and inform the concerned District Magistrate about the situation.
13. Once in six months NOVs should be asked to make an objective assessment on various aspects of the management of the prison for which they have been so appointed. This assessment can be done on a kind of format designed in question 18 of Annexure - 6.
14. There should be at least one meeting of all NOVs of prisons falling within a division of the state with the Commissioner of that division. It should be attended by all District Magistrates of that division and as many ex-officio visitors of such prisons as possibly can. The condition of all prisons and sub-jails of the division should be reviewed at this meeting on all the points mentioned in the guidelines for NOVs and the proceedings together with recommendations be sent to both the D.G. of Prisons and the Home Department.
15. Similarly, one such meeting should be arranged at the state level to be chaired by the Minister for Jails. This meeting should be attended by senior officers of the Prison Department and Home Department, Divisional Commissioners, Superintendents of all Central Prisons and four NOVs from each division to be nominated by the D.G. of Prisons. An agenda of prison improvement based on the visiting notes of various NOVs may be prepared by the Home Department and circulated in advance for discussions at the meeting.
16. On demand, official documents, records and statistical statements relating to 'points to be noticed' mentioned in rules shall be made available by OIC jails to both ex-officio visitors and non-official visitors.

### **General Working Conditions**

1. NOVs should not be paid any remuneration for the work they are expected to do; but, they must be paid actual charges on local conveyance for each visit.
2. In case an inmate so desires, he/she should be allowed to meet NOVs within sight of prison staff but out of their hearing.
3. A list of NOVs together with their addresses may be displayed at some of the places in prison accessible by inmates, such as assembly hall, kitchen, dining place, library, reading room, prison dispensary, etc.
4. When NOVs are not on visit, inmates should be allowed to make submissions to them regarding their genuine needs by writing letters at their own cost.
5. Government should consider instituting some kind of public recognition or award for performing demonstrably excellent services as NOV of prisons.
6. The most important pre-requisite of a successful social intervention in prisons is a positive relationship between prison visitors and prison staff. While it is expected of NOVs to demonstrate through their dedication that they are there to procure and provide a welfare oriented use of social resources in prisons, it is necessary for the prison staff to be respectful and cooperative to these social workers.

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Draft of proposed Amendments  
in  
**Rules framed under section 59 [25] of the Prisons Act 1894.**

**Part XXIII of Rajasthan Prison Rules 1951.  
Appointment and Guidance of Visitors of Prisons**

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1. *Ex-officio Visitors*- [1] The following office bearers shall be ex-officio visitors of all the prisons and sub-jails in the State:
  - (i) Chairperson and Members of National and State Commission for Women
  - (ii) Registrar of Rajasthan High Court
  - (iii) D.G. of Police
  - (iv) I.G. of Police [Crime]
  - (v) I.G. of Police [Force Deployment]
  - (vi) Director of Industries
  - (vii) Director of Medical and Health Services
  - (viii) Director of Technical Education
  - (ix) Director of Agriculture
  - (x) Director of Adult Education[2] The following office bearers shall be ex-officio visitors of all the prisons and sub-jails falling within their jurisdiction:
  - (i) Divisional Commissioner
  - (ii) DIG of Police [Crime]
  - (iii) DIG of Police [Force Deployment][3] The following office bearers shall be ex-officio visitors of all the prisons and sub-jails falling within the district:
  - (i) District & Sessions Judge
  - (ii) Chairperson, District Legal Aid Committee
  - (iii) District Magistrate
  - (iv) Superintendent of Police
  - (v) Chief Medical and Health Officer
  - (vi) District Industries Officer
  - (vii) District Probation Officer
  - (viii) District Education Officer [Dealing with Adult Education]
  - (ix) Chief Health/sanitary Inspector of Municipal Corporation/Board[4] Every member of the Rajasthan Legislative Assembly residing at the headquarters of a district or sub-division, shall be an ex-officio visitor of the prison, if any, situated in such headquarters.  
[5] Chief Judicial Magistrates and Sub-divisional Magistrates shall be ex-officio visitors of all prisons and sub-jails falling within their jurisdiction.
2. *Visits by official visitors*. – The number of visits to be paid by official visitors in the year, shall be unlimited, but the number of visits paid by official visitors under sub-rules [3] to [5] above shall not be less than three, including visits made with EVDC under rule 3, below.

3. *Ex-officio Visitors District Committee* – [1] A committee, to be designated as “Ex-officio Visitors District Committee” [EVDC] comprising officers enumerated in sub-rule [3] of rule 1 above shall, under the chairpersonship of the District Magistrate, jointly visit the Central/District Prison and Sub-jail, if any, within their jurisdiction at least once in six months. The District & Sessions Judge, the Chairperson of District Legal Aid Committee and the Superintendent of Police may depute on this Committee a surrogate, not below next in command.
- [2] One of the main functions of EVDC, apart from attending to the requests of inmates and making observations on “*points to be noticed by Visitors*” mentioned in these rules, shall be to advise and help prison administration in the development of correctional programmes by using social resources and mobilizing support from outside agencies.
- [3] A visiting note on all aspects of prison management enumerated in the rules on “*points to be noticed by Visitors*” shall be drawn by the District Magistrate and sent to the Superintendent of concerned jail within 7 days of the visit. The officer-in-charge of jail shall forward this note, with comments on the possible implementation of each point raised, to the I.G. of Prisons within the next 7 days.
- [4] The position regarding implementation or otherwise on each point raised or recommendation made in the note shall [after obtaining instructions from Prison Headquarters where necessary] be communicated by the officer-in-charge of jail to the chairperson of the Committee, with a copy each to the members, within 4 months of the visit, so that the Committee has a clear picture of the progress on previous note before the next visit.
- [5] In case the Chairperson of EVDC has reasons to believe that any issue raised has been met with undue delay or by an evasive reply, he shall communicate directly with the D.G. of Prisons or the Home Secretary in that regard.
- [6] A meeting of the EVDC shall be held once in a quarter on a date and time fixed by the District Magistrate, and the Officers-in-charge of all jails in the district shall be specially invited to attend such meetings.
4. *Non-official Visitors, Power of the Government of Rajasthan to appoint* – [1] The Government of Rajasthan shall appoint non-official visitors for all prisons in the State. Their number shall ordinarily be six for each Central Prison, three for each District Prison and two for each Sub-jail.
- [2] These appointments shall be made on the recommendations of the Collector and District Magistrate of the district in which the prison or sub-jail is situated.
- [3] NOVs shall be drawn from respectable citizens of the society and from retired officials of various organizations, such as, the defense services, criminal justice system, education, administration, industries and so on. District Magistrates may, for this purpose consult some NGOs of repute working in the field of general social welfare and conservation of human rights.
- [4] Minimum qualifications for appointment as NOV shall be Senior Secondary examination, passed from a recognized Board of education.
- [5] The District Magistrate shall, through his own sources, draw a list of potential candidates for appointment as NOVs of prisons, and send them letters of intent, soliciting their consent, making it clear that the work is voluntary and in the nature of social service, carrying no remuneration except reimbursement of actual local conveyance charges.
- [6] This letter of intent shall be sent to as many persons as would, on receipt of consent, allow a panel of prospective NOVs **double** the number required for each jail, together with at least three women candidates for each jail, to be drawn at the office of the DM.
- [7] These panels shall be forwarded to the Home Department, through the I.G. of Prisons, for the consideration and final decision of the government.

[8] Separate panels of three NOVs each shall be appointed for Women Reformatory at Jaipur and Reformatory for Young Offenders at Ajmer. All 3 NOVs of Women Reformatory shall be ladies, one of whom shall be a retired member of judicial services. Of the 3 NOVs at Reformatory for Young Offenders, one shall be a working or retired person of technical/vocational education.

[9] 2 out of 6 NOVs at the Central Prisons, and 1 out of 3 NOVs at District Prisons shall be women. There shall be no bar on the appointment of women NOVs at sub-jails.

[10] Each appointee shall be informed of the assignment through a separate letter together with a copy of rules for the guidance of NOVs.

5. *Term of office and removal of non-official visitors.* – [1] The term of office of non-official visitors shall be three years.  
[2] The Government of Rajasthan may on the recommendation of the concerned Collector and District Magistrate at any time direct that any non-official visitor shall not visit the prison for a specified time or for the rest of the term, if there are reasons that the NOV is not using visits for a *bona fide* purpose or is using them for the furtherance of an unlawful or undesirable object.  
[3] The District Magistrate shall take suitable action for the appointment of another NOV at a jail if the removal of any NOV is deemed desirable for the rest of the remaining period of his/her term.
6. *Training of non-official visitors.* – NOVs shall be imparted an orientation training of two to three days on all aspects of their assignment within one month of their appointment. Training of NOVs shall, *inter alia*, cover subjects, namely, use of social resources for correctional work and conservation of human rights in custodial institutions.
7. *Roster for monthly visits and additional visit by a visitor.* – [1] Within 30 days of the appointment of NOVs for various jails in a district, the District Magistrate shall call a meeting of all such NOVs and, in consultation with them, cause their names to be placed on a roster of visits for each prison or sub-jail in the district. The names of NOVs shall be arranged in such manner as to ensure one visit of each prison per month by turn, by NOVs appointed for that prison.  
[2] A visitor who is, for any reason, prevented from visiting the prison according to his turn in the roster may visit it in another month, provided that he informs the Officer-in-charge of the jail before-hand of his intention to do so.  
[3] A non-official visitor may visit the prison at any time on any day with the general or specific permission of the District Magistrate.  
[4] A non-official visitor who is about to absent himself for a period of six months or more from the station where the prison of which he is a visitor is located, shall report the circumstances to the District Magistrate, in order that a substitute may, if necessary, be appointed, and in the event of his failure so to report, he shall be regarded as having vacated office on the expiry of three months from the date of his departure, and a substitute arrangement shall be made.
8. *General introduction and time of visit.* – [1] On receipt of information that NOVs have been appointed, Superintendent of a jail shall address a letter each to all the NOVs of that jail, inviting them on a particular day for a formal introduction with the staff and inmates. Such introduction could be in the nature of a small function at a common place where the staff, inmates and NOVs could all assemble for a short time or in the form of a general round of the prison and its various offices during working hours.

[2] After a formal introduction, NOVs shall not expect any call or invitation from the OIC of a jail for further visits.

[3] NOVs shall **generally** visit prisons during day between unlocking and locking-up time.

[4] If a prison visitor, having obtained proper permission to do so, visits the prison at any odd hour, the functional routine of that hour at the prison shall not be disturbed or postponed and the visitor shall be shown the factual working of that hour, after taking sufficient precaution for security of visitor as well as inmates. A visit of an NOV at night can be combined with the visit of an 'officer-on-night-round' [rule 54 of section II of part XXV of Rajasthan Jail Rules 1951] with the same cautions as mentioned in rule 55 of that section.

9. *Visitors to be accompanied by jail staff and an escort.* – The Superintendent shall arrange that every visitor to the prison is accompanied by a responsible jail officer and by an escort which shall consist, at Central Prisons of two warders, and at other prisons or sub-jails, of one warder, armed with batons.
10. *Names of visitors to be displayed.* – The Superintendent shall have a board hung up at the jail gate on which the names of all jail visitors official and non-official, as well as the roster for non-official visitors prepared by the District Magistrate under rule 7, shall be noted and no person other than those authorized to visit a jail, shall be allowed to visit. A list of NOVs together with their address shall be displayed at a prominent places within the prison accessible by inmates.
11. *Duties of visitors.* – [1] It is the duty of a visitor to satisfy himself that the law and rules regulating the management of prisons and prisoners are duly carried out in the prison, to visit all parts of the prison and to see all prisoners, and to hear and inquire into any complaints that any prisoner may make to him. He may for this purpose talk to any prisoner out of the hearing but in the full sight of the officer accompanying him. Such conversations with prisoners should not exceed a reasonable time limit.
- [2] A list of questions indicating some of the points to which a visitor may direct his inquiries is appended to these rules.
- [3] An official or non-official visitor may call for all books, papers and record other than those of confidential nature, which are connected with the administration of any department of the prison.
- [4] No visitor may issue any order or instruction to any subordinate jail officer.
- [5] Non-official visitors may not visit prisoners who are not allowed to be interviewed on medical grounds.
- [6] Non-official or official visitors shall not, without the previous sanction of the Superintendent, hold conversation with any under-trial who may happen to be their client or relation.
12. *Visitors' Book and Visiting Notes.* – [1] There shall be only one visitors' book for the use of official and non-official visitors. The book shall not be removed from the jail premises except for photocopying, with the permission of the Superintendent.
- [2] Every visitor shall, after he has completed the visit to jail, record in the visitors' book, the date and hour of his visit, and may enter therein any remarks of suggestions he may wish to make with regard to the internal arrangements of the jail or the state of discipline maintained therein. Entries in the visitors' book shall be made in the visitor's own hand-writing.
- [3] Every visit by an NOV or a group of NOVs shall [as soon as possible, but not later than 7 days] be followed by a visiting note on every point to be observed by visitors appended to these

rules. Even if the visitors have to mention brief remarks such as 'good', 'bad', 'nothing objectionable', 'no comments' etc., the point must be mentioned. This note shall be in addition to the mandatory general remarks in the Visitors Book.

[4] Remarks recorded by the visitor in the visitors' book shall be treated as confidential and shall not be communicated to the prisoners or to any one outside the jail.

[5] The Superintendent shall, within 3 days of the receipt of the visiting note, forward a copy of the visiting note with his comments on each point and the administrative position with regard to the implementation of any suggestion made, to the Inspector General of Prisons.

13. *Processing of visiting notes.* – [1] All visiting notes received at the prison headquarters shall be processed by a special cell within 30 days and a reply sent to the Superintendent mentioning : [i] action taken on all reasonable suggestions falling within the administrative and financial powers of the Head of Department; [ii] reference made to the administrative department in the government on all reasonable suggestions not within the powers of Head of the Department; and [iii] reasons for disagreement on suggestion found unreasonable or not practical.

[2] A copy of the orders, if any, of the Inspector General or the Government, shall be forwarded to the visitor by the Superintendent of the jail.

[3] The Superintendent shall cause these orders to be copied in brief in the visitors' book for the information of visitors.

[4] NOVs shall have the prerogative of writing directly to the Government in Home Department on issues they think proper.

[5] NOVs shall also have the right to refer all instances of alleged or apparent violations of human rights or of ostensible situations leading to the possibility of such violation, to the State Human Rights Commission.

14. *Complaints of prisoners.* – [1] Should there be any complaint which a prisoner may make to a visitor about his own treatment or that of any other prisoner or about the conduct of any officer, or should the visitor himself observe any matter of which he feels notice ought to be taken, he should refer it to the Superintendent, or if he so desires, make a representation on the matter to the Government.

[2] The remarks recorded by a visitor in the visitors' book should include any complaint made to him by a prisoner which in his opinion deserves notice. When the Superintendent is of opinion that a prisoner has made a groundless complaint to a visitor and should be punished, he shall record a brief statement of the facts and note what punishment he proposes to award and send it to the visitor who if he dissents from the conclusion of the Superintendent, may require that the case be submitted to the Inspector General for orders. A copy of the Inspector General's order will be communicated to the visitor who may then, if he thinks fit, address the Government regarding the case.

15. *Monitoring of visits and of action taken on visiting notes.* – Monitoring of visits of both official and non-official visitors and of action taken on visiting notes shall be done at two levels – Prison Headquarters and the Home Department. Any default in following the roster of visits shall be brought to the notice of concerned District Magistrate by the office of IG of Prisons.

16. *Meeting of NOVs with officials.* – [1] There shall be at least one meeting of all NOVs of prisons falling within a division of the state with the Commissioner of that division every year. All District Magistrates and representatives of District and Sessions Judges functioning as ex-officio visitors shall be invited to attend this meeting to review the condition of all prisons and sub-jails

of the division on all points appended to these rules. Proceedings of this meeting, together with recommendations shall be sent to both the D.G. of Prisons and the Home Department.

[2] One meeting of NOVs shall be held every year at the state level. It shall be chaired by the Minister for Jails attended by senior officers of the Prison Department and Home Department, Divisional Commissioners, Superintendents of all Central Prisons and four NOVs from each division to be nominated by the D.G. of Prisons. An agenda of prison improvement based on the visiting notes of various NOVs shall be prepared by the Home Department and circulated in advance for discussions at the meeting.

17. *General instructions and directive principles.* – [1] NOVs shall not be paid any remuneration for the work they are expected to do; but, they shall be paid actual charges on local conveyance for each visit.

[2] When NOVs are not on visit, inmates shall at their own cost be allowed to make submissions to them regarding their genuine needs by writing letters.

[3] Once in six months NOVs should be asked to make an objective assessment on various aspects of the management of the prison for which they have been so appointed. A format on which such assessment can be done and which can further be improved with time and experience is appended to these rules.

[4] Government should institute some kind of public recognition or award for non-official visitors of prisons for performing demonstrably excellent services in promoting correctional work.

[5] The most important pre-requisite of a successful social intervention in prisons is a positive relationship between prison visitors and prison staff. While it is expected of NOVs to demonstrate through their dedication that they are there to procure and provide a welfare oriented use of social resources in prisons, it is necessary for the prison staff to be respectful and cooperative to NOVs.

[**Note:** Rules 14 to 17 of the existing rules, not directly related to prison visiting system may continue to be a part of these new rules in a changed sequence of numbers]

### **Points to be noticed by visitors**

[1] Buildings. – Are buildings secure and in good repair? Is the actual useable accommodation sufficient for the average prison population? Is segregation of different categories of offender, and of sick from healthy, possible in the existing situation? Is there a proper enclosure for women inmates where they can be kept safely under custody without causing undue and unlawful discomfort?

[2] Overcrowding. – Is there any overcrowding? How many times in an year the prison becomes overcrowded and for how many days? Under such situations where are excess prisoners accommodated? What steps are being taken to solve the problem?

[3] Drainage and sewerage. – Is drainage and sewerage system of prison in a satisfactory state? Have all conservancy toilets changed to flush system? Is the flush system functioning? Is there sufficient supply of water to run the system in order? Is bio-degradable material clogging the drains? Are emergency toilets inside residential barracks kept clean with proper supply of water and disinfectants? What other defects exist in the system?

[4] Water supply.- What is the source of water supply? Is the water-supply sufficient and good and the means of carriage suitable? Are drinking water wells, sumps and storage tanks cleaned with a periodicity? Is there any wastage of water resulting from defects in the supply system?

[5] Food. – Are articles of food in the store-room and elsewhere properly kept and in good condition? Are cooking utensils sufficient, clean and useable? Is the kitchen properly ventilated, clean, safe and well-kept? Are rations issued in accordance with the prescribed scales for different categories of inmates? Are women inmates allowed to cook for themselves?

[6] Clothing. – Have prisoners the prescribed amount of clothing and bedding in their possession during different seasons of the year? Is it in serviceable order? Is the storage system correct? Are non-washable beddings properly disinfected and de-odoured ?

[7] Bathing. – Are bathing platforms and other bathing places sufficient for the average prison population? Are bathing places for women inmates properly covered and safe? Does water supply reach bathing platforms/places? Is the source of water accessible to all prison inmates including women?

[8] Labour. – Are prison industries in proper running condition? Is the supply of raw-material perennial? Are machines and tools in proper working condition? Is full task taken from each prisoner eligible to work and is the record of 'work done' properly kept? Are prescribed wages paid and accounted for?

[9] Discipline. – Do inmates exhibit confidence in the prison staff? Are inmates and their living places properly and periodically checked for contraband?

[10] Punishment. – Is the ratio of prison punishments unduly high? Is there any instance of unlawful or torturous punishment not prescribed under rules?

[11] Under-trial prisoners. – Is the 'Under-trial prisoners Review Committee' performing its functions with prescribed periodicity? Are cases of under-trial prisoners scanned in accordance with court rulings? Is free legal aid accessible to deserving prisoners? Is there proper facility for under-trial prisoners to meet their lawyers? Are they regularly produced before respective courts on the date of hearing? Is sufficient police guard available for the purpose?

[12] Adolescents. – Are all adolescent prisoners of age ranging from 18 to 28 sent to the Reformatory for Young Offenders at Ajmer?

[13] Medical care. – Is a medical professional readily available on call for the care of sick? Are medicines available when needed and on time? Is 'in-door medical care' readily available either in the prison or in a general hospital/dispensary? Are services of women medical professional available in prisons where women inmates are in sufficiently large number? Are mentally sick criminal prisoners getting regular and appropriate psychiatric treatment?

[14] Parole. – Is parole liberally granted to all eligible convicts? Are cases of second or subsequent parole subjected to less stringent scrutiny than the first? Does the viewpoint of police and district administration on parole exhibit the understanding that this facility is of great importance in the social adjustment and assimilation of offenders?

[15] Advisory Board Meetings. – Are meetings of Advisory Board held regularly to review cases of premature release, particularly those of lifers? Is there any lifer whose case has not been put up before the Board even after completion of 14 years of imprisonment?

[16] Conservation of human rights. – Is there any instance of violation of human rights or of the residuary rights of prisoners? Is there any case that needs attention of the State Human Rights Commission? Is there any ostensible situation that may lead to the possibility of general or specific violation of such rights of persons in custody?

[17] Correctional programmes. – Are programmes of academic, moral and vocational education taken up in the prison? Are services of credible voluntary organization taken for the purpose? Are open camps being utilized to their full capacity? Are inmates exposed to the outside world through print or electronic media? Is there any facility for games, sports or any other healthy engagement?

[18] Infants with women inmates. – Are infants living with women offenders taken care of properly? Can their nutrition, dress, education, and entertainment be supplemented by any benevolent non-government agency?

[19] Redress of grievances. – Is there an established system of redress of grievances of inmates? Is the mandatory 'grievance box' kept and operated regularly? Are prisoners free to put up their difficulties to prison officials?