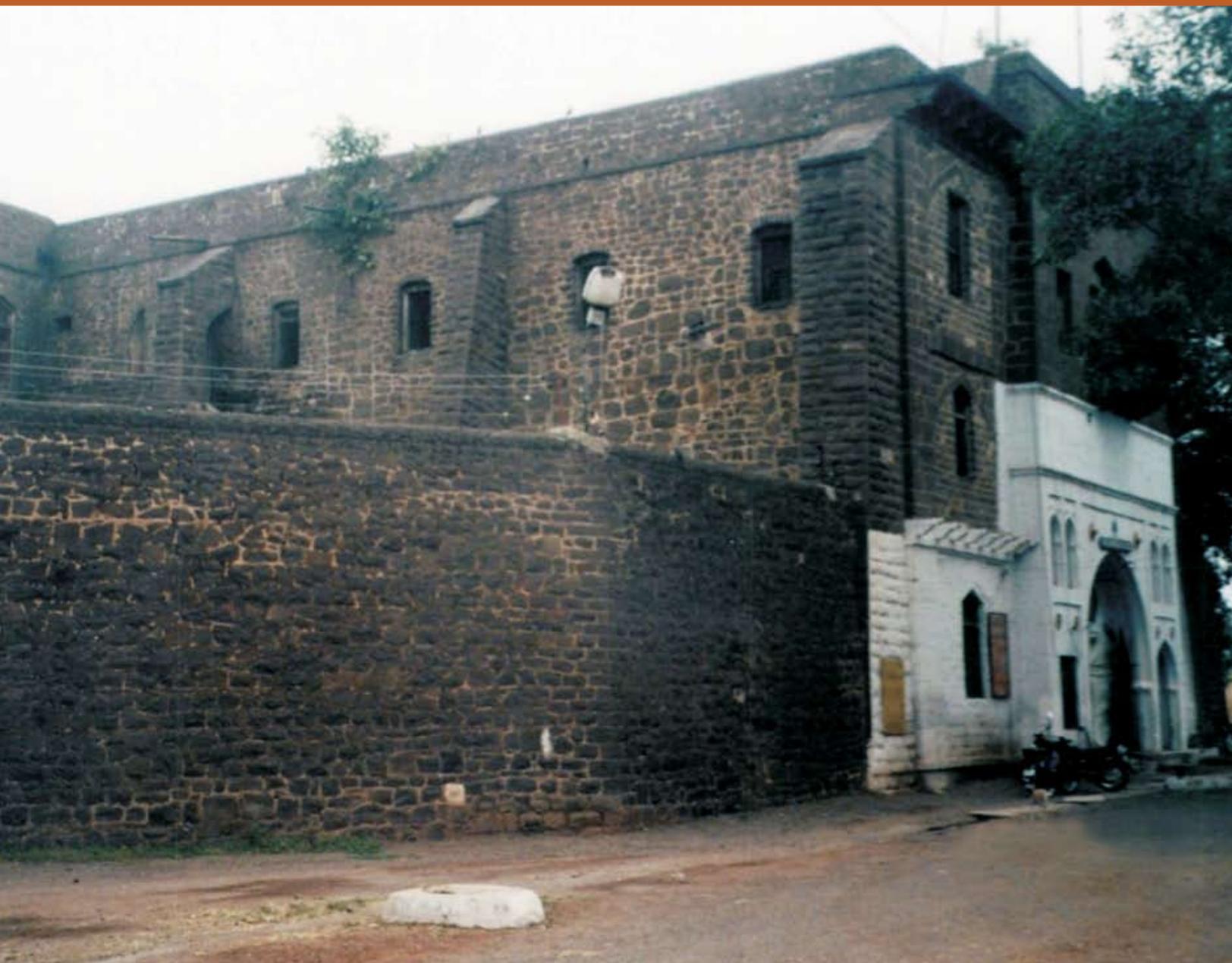


CHRI 2010

# CONDITIONS OF DETENTION IN THE PRISONS OF KARNATAKA



# CHRI

Commonwealth Human Rights Initiative

working for the **practical realisation** of *human rights* in the countries of the Commonwealth

# Commonwealth Human Rights Initiative

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ISBN: 81-88205-88-5

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## CHRI New Delhi Office

B-117, 2nd Floor  
Sarvodaya Enclave  
New Delhi - 110 017, India  
Tel: +91-11-43180200  
Fax: +91-11-2686-4688  
E-mail: [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org)

## CHRI London Office

Institute of Commonwealth Studies  
School of Advanced Study, University of London  
2nd Floor, South Block, Senate House,  
Malet Street, London, WC1E 7HU  
Tel: +44(0) 207 862 8857  
Fax: +44(0)207 862 8820  
E-mail: [chri@sas.ac.uk](mailto:chri@sas.ac.uk)

## CHRI Ghana Office

House No. 9,  
Samora Machel Street Asylum Down,  
Opposite Beverly Hills Hotel,  
Near Trust Towers, Accra, Ghana  
Tel/Fax: +233 302971170  
E-mail: [chriafrika@humanrightsinitiative.org](mailto:chriafrika@humanrightsinitiative.org)  
[chri\\_info@yahoo.com.au](mailto:chri_info@yahoo.com.au)

# **CONDITIONS OF DETENTION IN THE PRISONS OF KARNATAKA**

**2007-08**

**Author**

Murali Karnam

**Editors**

Maja Daruwala

Pujya Pascal

Commonwealth Human Rights Initiative, New Delhi

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## CONTEXT OF THE STUDY

In the sixty years of Indian independence no specific study on Karnataka's prison conditions has ever been commissioned by any government. The members of the All India Commission on Prison Reforms (1980-83) visited the state's prisons but did not devote any chapter or part of their report to prisons in Karnataka.

CHRI had, by chance, received favourable signals from the then head of the state's Prison Department, Mr. S. T. Ramesh regarding the possibility of undertaking a study, and approached him with a proposal to study the prison conditions from the perspective of prison visitors. An earlier experience of conducting a study of prisons revealed that "permission" did not always guarantee full or sufficient access on the ground. Governments in the past had granted CHRI limited permission to study certain aspects of prisons after repeated lobbying and recommendation from the National Human Rights Commission (NHRC), but the permission itself had several restrictions on the purview of the study. This makes any study extremely limited, leaving very little room for analysis or intervention.

CHRI began the study in Karnataka by focusing on the assessment of the day-to-day functioning of the prison visiting system. It was discovered that the system was so politicised that it was nearly dysfunctional. Consequently, CHRI expanded its focus to include other important aspects of civil society and government engagement with the prisons. Gradually, we found we were given access without restrictions although this was unexpected. These factors conditioned the nature and purview of this report and the fluid boundaries in terms of time frame and the subject of investigation reflect the gradual and negotiated access granted as the study progressed. The lesson we learnt was that one needs to adopt a step-by-step engagement approach, which to a large extent, conditions civil society interventions in prisons.

## METHODOLOGY

With permission to visit prisons and access records granted in June 2007, the CHRI research team collected secondary data from prison headquarters and familiarised itself with the relevant provisions, rules and regulations of the Karnataka Prison Rules, 1974 and the Karnataka Prison Manual, 1978. Elaborate and separate questionnaires for inmates, officers and non-official visitors were prepared in Kannada. The team started visiting the prisons for interviews with prisoners and personnel from September 2007. Both structured and open-ended interview methods were used because prison conditions differed across the state and most of the inmates were illiterate. All supporting documents relevant for the study were collected from prisons across the state.

## INTRODUCTION

The CHRI team familiarised itself with the basic features of different categories of prisons and jails and tried to study every segment in order to arrive at a comprehensive picture of their functioning. As on 15 January

2008, only 83 out of 99 institutions were functioning, which were under the general supervision of the Prison Department. Of the remaining institutions, the oldest ones were closed owing to defects in the buildings, such as leaking roofs and clogged drainage systems; while the newly built ones were not open due to a shortage of staff. The team visited 39 institutions of various categories. These included all seven central prisons; seven of the eleven functioning district prisons; three of the four district headquarter sub-jails; seven of the 30 *taluka* sub-jails under the Prison Department; 12 of the 28 *taluka* sub-jails under the control of the Revenue Department; and one of the two special sub-jails.

## Prison Buildings

Prisons are residencies for temporary or extended periods for accused persons and convicts. The importance of location and the maintenance of the prison buildings cannot be overemphasised. Many of the older prisons in the state were originally located on the outskirts of the towns and cities, but with the expansion of those towns, the prisons have now become central to the towns and cities. However even today the older prisons at Gulbarga, Belgaum, Dharwad, Gadag and Shimoga remain on the outskirts and the same policy is being continued in the construction of new prisons at Madikeri, Tumkur and Haveri. The Bangalore Central Prison is located 20 kms. from the bus stand and railway stations. This poses serious difficulties not only for the prison administrators but also for the families and visitors of prisoners and anyone involved in reformation and rehabilitation of inmates. The policy does not reflect the claims of governmental concern on reformation or the reintegration of offenders into society.

The Model Prison Manual of 2003 drafted by the Bureau of Police Research and Development (BPRD), lays down certain criteria for the selection of prison locations. The nature of prison functions and the availability of communication and other institutional supports are some of the most important elements. However governments not only in Karnataka, but also in other states have disregarded these suggestions in practice. As the commercial value of land in city centres increased, the prisons were relocated. As a result, the primacy given to "public interest" takes a beating in the policies of the government.<sup>1</sup> The practice of locating prisons outside the towns has continued and with it the attitude of policymakers of out-casting offenders as unwanted, lives on. Only concerns of security and future possibilities of expansion of the structures should not condition prison location. Unless policymakers consider the reformatory function of prison as much as its security, and acknowledge that the institutions are to serve the essential public function of reintegrating the inmates, the situation may not change.

Most of the prisons in Karnataka were built more than 100 years ago<sup>2</sup> by the British and the princely states of Mysore and Hyderabad.<sup>3</sup> Since independence only seven sub-jails, five district prisons and one central prison have been built. Gulbarga Central Prison was built in 1969 though it hardly has any of the features of a modern reformatory.

With the exception of Bangalore Central Prison, built in 1997, none of the structures have features conforming to modern penal standards. Some have been built under the union government's prison modernisation scheme over the past five years. The rest are so old and their maintenance so deplorable that many are no longer

<sup>1</sup> The debate about dismantling old prisons, handing over such land to private enterprises, relocating prisons far from towns, and the resistance and reluctance to provide prime lands for reconstruction is not unusual in India.

<sup>2</sup> Seven prisons are over 150 years old and 36 are a hundred years old. Buildings of 13 of the 41 sub-jails under the Revenue Department's control is so pathetic, they can no longer be used for human living.

<sup>3</sup> Prisons in south and north Canara, Madikeri and Bellary districts were built by the colonial British government; Gulbarga, Raichur, Bidar and Bijapur prisons were opened by the Nizam's Government of Hyderabad and rest were under the control of Mysore state.

suitable for human habitation. The responsibility for the maintenance and whitewashing of these buildings rests with the Public Works Department (PWD). However, observing the state of the prison buildings, the dark walls, filthy barracks, dungeon-like dormitories, broken toilets, open drainage, cracks and crevices in the cells and the falling roofs, one cannot but wonder whether the PWD exists at all and if it does, has it ever been made accountable for its performance? There seems to be no system in Karnataka for certifying the suitability of buildings for human habitation. In other parts of the country, buildings more than a hundred years old are being demolished as unsuitable and dangerous for habitation. The irony of the situation is that under the prison modernisation scheme the responsibility for upgrading Mangalore District Prison to a central prison, the expansion, repair and renovation of 25 existing jails, and the provision of water supply and sanitation to 12 existing jails was handed over to the same department whose record of maintaining jail buildings has been non-existent.

### *Madikeri District Prison: A Nineteenth Century Dungeon*

A look at one or two of the prisons reveals the scale of gross negligence on the part of the government. Just a few yards from the office of the deputy commissioner is the District Prison of Madikeri. Established in 1871 and part of an old fort, the prison is dilapidated and damp all over. The entire building, both inside and outside is covered with thick moss because it rains for most part of the year. The building also houses some district offices on its rooftop. Yet there is no trace of any maintenance being done by the PWD in the past decade. Inside, the building is cold and dark. The lack of any boundary wall around the building and easy access to the rooftop make security a serious concern. The situation is further complicated by the lack of staff necessary to run the prison. The consequences of this sickening negligence finally falls on the prisoners, who remain locked up twenty-three hours a day. A new prison building is under construction on the outskirts of the town, but there is no hope of moving into it without adequate staff.

### *Bijapur Central Prison: The Oldest Prison Building*

Built in 1593 to cater as a guesthouse for King Adil Shahi's guests, the monument was converted into a prison in 1887 and is the oldest prison in Karnataka.

Not only is the building mammoth looking, but it also has several small ancient structures in the form of tombs and mosques around it. There is a mosque inside too, which is open for visitors during Ramadan. The prison stands out as one of the most protected prisons having a double enclosure with two high, thick walls built around it. This structure does not show any signs of renovations or repair. The condition of the roof is deplorable and the staff living there often complained of water leakages during the rainy season. The present condition of the building is hard to imagine if one hasn't seen it, but believe it or not, some of the staff quarters found on the premises were once used as horse stables.

The junior staff quarters in Belgaum are no better and their conditions are as bad as the inmates' cells. In fact, influential prisoners in some prisons appear to fare far better than the junior staff living in their quarters. Tragically, the staff's pathetic living conditions and the consequent neglect that they've felt all these years affect their attitude and influence their behaviour towards prisoners.

### *Sub-jails under the Revenue Department's Control*

A special mention needs to be made about the state of the sub-jail buildings. Till a few years ago, there were 41 sub-jails under the revenue department, managed by junior officers at the *taluka* level. The sub-jails have been a part of the century-old buildings of the *taluka* offices, 12 of which were gradually closed down as they

were in a state of collapse. CHRI found 10 other jails – a little more than rubble – which were used as places to confine the accused. Most of these jails were located in busy, teeming parts of the town, so expansion of the buildings appeared virtually impossible. Even where the old *taluka* office buildings have been abandoned by the Revenue Department, the sub-jails continue to thrive. At Hukeri, the sub-jail is still housed in the old building while the Revenue office has shifted to a new building. We noticed that the Kadur sub-jail in Chikmagalur district was being opened after minor repairs in the ancient building of the *taluka* office.

The living conditions in these jails are appalling. Most of them have extremely tiny windows or none at all. Living in poorly ventilated cells (Chikkodi, Athani, Ankola, Honnavara and Batkal) is made more difficult by lack of fresh air or natural light because the so-called windows are covered with thick iron and wooden grills, making the cells look like dark dungeons.

The cells are dark even during the day and inmates have to take turns to stand near the grill door for fresh air. In most of these sub-jails, at least one or two cells were closed either temporarily or permanently, resulting in overcrowding in the remaining cells. And because the actual capacity is much less than the authorised capacity, the cells were overcrowded on a regular basis.

Inmates are locked up for 24 hours a day and look desperate for recreation and exercise, or even exposure to fresh air and sunlight. They suffer from muscle and joint pains and most of them look pale and anaemic. Long-standing undertrials<sup>4</sup> complained of not being able to face direct sunlight during their court attendances and of sickness and dizziness. This state of affairs results from years of indifference and the government's unwillingness to honour either its own standards or uphold the laws of the land. This is nothing short of criminal negligence.<sup>5</sup>

## THE PROBLEM OF OVERCROWDING

The problem of overcrowding in Indian prisons is not a new feature and is synonymous with all the other problems of imprisonment. It cripples every attempt to humanise living standards behind bars, and its implications are too obvious and too serious to neglect. Yet the phenomenon has remained unresolved for more than a hundred years. The government claims overcrowding in Karnataka prisons to be around 41 per cent.<sup>6</sup> The real picture, however, emerges only if we break down the deceptive averages. Bangalore Central Prison, authorised to hold 2,100 prisoners, actually holds 4,800. It is overcrowded by 128 per cent and the picture is no different in other prisons. However, just comparing the authorised capacity of each prison with the total number of inmates cannot reflect the intensity of stress that the inmates experience.

Several factors determine the level of overcrowding in prisons: in terms of prison administration; and in several prisons many barracks remain closed because they are unsuitable for habitation. This is common in the Central Prisons of Bellary, Bijapur, Gulbarga and Mysore. It makes the actual availability of space significantly less than the figures suggested by the government.<sup>7</sup> In some prisons, more prisoners than the entire prison is authorised to accommodate are dumped into one or two barracks or cells owing to a lack of sufficient guarding staff. This was witnessed in the prisons of Madikeri, Gadag and Hubli.

<sup>4</sup> In all the prisons CHRI visited, there were three to five undertrials who had already completed three to 18 months in these cells.

<sup>5</sup> See Annexure three : CHRI's letter to the Additional Director General of Prisons dated 15 February 2007.

<sup>6</sup> As on 15 January 2008, the authorised capacity was 9,311, whereas there were 13,118 prisoners housed in the prison resulting in overcrowding by an average of 41 per cent. Source: Department of Prisons, Karnataka Government.

<sup>7</sup> Karnataka Prisons Profile 2007: Source: <http://www.karnataka-prisons.org/reforms/profile1.htm>.

It is not uncommon in these prisons to find some barracks more heavily crammed than others because most overcrowded barracks house the poorer and voiceless inmates, while less crowded barracks are reserved for the influential and affluent. This is also the policy for rewarding convict watchmen, who help the authorities to run the administration smoothly. The result is that the poor bear the brunt of overcrowding.

The problem of crime and conviction rates rising with the growing population, while the number of facilities for incarceration remains the same, has also contributed to the overload on prisons. The construction of more prisons may be a temporary answer to the problem but that is not a long-term solution. There is also a lack of a proper exit policy for long-term, sentenced inmates.<sup>8</sup> Karnataka, after Jharkhand and Chhattisgarh, has the largest number of lifers (66 per cent) among the convicts, which is 10 per cent more than the national average.<sup>9</sup> In other states, notably Kerala, the rate is only 38 per cent.

The unaffordable bail system and the way it is implemented by the judiciary also contribute to the overfilling of the prisons.<sup>10</sup> The judiciary's reluctance to invoke non-institutional measures of probation, reprimand or fine to deal with offenders, and its unwillingness to deal strictly with the police when making unnecessary arrests, delaying charge sheets and failing to produce the accused and witnesses before the courts add to the problems.

While the construction of new jails for future requirements is important, the above factors should first be comprehensively addressed. Yet, any attempt to deal with the failings of the criminal justice system are absent, though the union government has, for the past five years, emphasised on the construction of more prisons and the renovation of existing ones.<sup>11</sup>

## KARNATAKA PRISON MANUAL STANDARDS

Section 5 of the Karnataka Prisons Act, 1963 provides for the separation of different categories of inmates. Section 63(h) of the Act also authorises the government to make rules for the classification of inmates and for the construction of different wards. Chapter 46 of the Karnataka Prison Manual deals with the standards of accommodation for each category of prisoner.

Rule 902 of the manual provides for 50 square feet of ground space and 700 cubic feet of breathing space per prisoner in the barrack or cell. It also mandates that every barrack or cell should have a plate inscribed indicating the cubic feet and the number of prisoners it is capable of accommodating. In practice, any display is rare,<sup>12</sup> and only the actual and authorised capacities are shown.

In 1983, the All India Prison Reforms Commission (the Mulla Committee) suggested that sleeping berths in association barracks and dormitories should be 6.5 feet x 2.5 feet and one foot in height.<sup>13</sup> The Model Prison

<sup>8</sup> There is no streamlined system of premature release of convicts sentenced for life. Since prisons figure in the State List (List II) in the Seventh Schedule of the Constitution, each state follows different policies of premature release for lifers. This has been a controversy before the Supreme Court for the past two years. (*R. Chandrasekhar Reddy v. Government of AP*, Cr WP 100/2007.)

<sup>9</sup> As on December 2005. Source: National Crime Records Bureau, Ministry of Home Affairs, New Delhi.

<sup>10</sup> The government has been reluctant to acknowledge this problem in the Draft National Prison Policy prepared by the Bureau of Police Research and Development, which was under consideration at the time of writing this report. See page 129.

<sup>11</sup> Under the modernisation scheme of prisons, the union government made Rs. 1,800 crores available to states during 2002-07 and Rs. 3,600 crores for the period 2008-13.

<sup>12</sup> Of the 40 prisons visited we have not come across these details except at the *taluka* Sub-Jail Tarikeri of Chikmagalur district. Established in 1900, it has the details inscribed: 'Male ward 3: Superficial area 200 sq ft; cubical capacity 2800 cu ft; No. of prisoners: 4.'

<sup>13</sup> Recommendation No. 5.8.11.

Manual of 2003 recommends 3.71 square metres (39.9 square feet) of ground area should be allotted to every prisoner for dormitories/barracks in addition to 15.83 cubic metres of air space and 1.12 square metres of lateral ventilation.<sup>14</sup> The construction of sleeping berths as suggested by the Mulla Committee is uniformly opposed by prison administrators across the country as the raised berths create problems for overcrowded barracks and restrict the total numbers of prisoners that can be housed. As a result, raised sleeping berths are not found in the newly constructed prisons in Bangalore.

The central government had sanctioned Rs. 21.51 crores for the construction of 11 new prisons in Karnataka. Of the seven newly constructed prisons in the state, only three are functioning; and the opening of the other four is uncertain due to lack of staff and suitable quarters for them.

The government claims that all new prisons are constructed in accordance with the standards outlined in the Model Prison Manual of 2003. However, the measurements in Tumkur District Prison, which opened in April 2008, do not support this assertion.

The prison is meant to house 320 inmates. The following details show whether the existing facilities are adequate to accommodate the authorised number of prisoners:

### *Tumkur District Headquarters: Sub-Jail Standards*

	<b>Model Prison Manual Standards (Per Inmate)</b>	<b>Tumkur Prison Standards (Per Inmate)</b>
	<b>Sleeping barracks</b>	<b>Status Report</b>
1.	3.71 sq. metres of ground area.	2.25 sq metres of ground area.
2.	One barrack should accommodate only 20 prisoners. <sup>15</sup>	35 prisoners housed.
3.	A plate indicating the authorised capacity along with the number of inmates housed must be available.	No plate is attached.
4.	The minimum height of the roof should not be less than 10 feet.	The height is 16 feet.
5.	Floor must be cemented.	Yes, it is made of concrete.
6.	All barracks must be provided with verandas not less than 2 metres in width. (This area could be used for sleeping by petty offenders.) <sup>16</sup>	Yes, it has two metres of veranda.
7.	A standard grated window of 7 feet x 3.5 feet.	The barracks have much wider grated windows which provide plenty of light and air. But windows near the roof are big enough and without any cover that lets in rainwater. The walls already indicate signs of seepage.

*Table Contd...*

<sup>14</sup> Page 10.

<sup>15</sup> Page 9.

<sup>16</sup> Point 2.11.5, Model Prison Manual, 2003.\*

8.	Ventilation per head should be half a window of the above dimensions (1 square metre).	Standard maintained.
9.	Doors, windows and ventilators should be made of iron.	Yes, only iron is used.
10.	The iron bars should be 25 mm in diameter.	The bars conform to the specifications.
11.	Clear distance between two bars should be 7.5 cms.	Yes, it is.
12.	A barrack should have only one door measuring 2.2 metres x 1 metre.	Yes, it is.
13.	Sleeping berth 2 x 0.75 metres with a height of 0.45 metres.	No sleeping berths constructed.
14.	A fixed or inbuilt shelf for each prisoner.	No shelves built. The result is ugly holes in the walls, with hanging bags and ropes criss-crossing the barrack.
15.	Sufficient artificial light for reading in the night.	Sufficient artificial light with 4 fans.
16.	One water closet or toilet per 10 prisoners.	One toilet for 17 prisoners.
17.	One day-toilet per 6 prisoners.	One toilet for 14 prisoners.
18.	Sanitary flush latrines.	Toilets available, but without flush.
19.	Partition of latrines should be high enough to provide reasonable degree of privacy.	The partitions are two feet high.
20.	Glazed tiled walls in latrines.	Walls are tiled up to 3.5-4 feet.
<b>Cells</b>		
1.	8.92 square metres of ground area (per inmate).	8.58 square metres (holding 3 inmates).
2.	Cells to have attached yards with sufficient air and ventilation.	No attached yards.
3.	Cells with flush latrines.	Latrines without flush.
4.	One covered cubicle for bathing to be provided per 10 prisoners.	One bathing room for every 17 inmates
5.	135 litres of water for every prisoner:	At present around 53 litres of water per prisoner is provided. (The strength was 226 inmates as on 20 May 2008. There are 6 tanks with a total capacity of 6,000 litres They are filled twice a day. For the authorised capacity of 320 inmates there should be an overhead tank with a capacity of 43,200 litres of water.
6.	Independent stand by arrangement for water supply.	There is only ground water source available with one bore well working twelve hours per day.
7.	Rainwater harvesting system and recycling of water.	No rainwater harvesting system in the prison.
8.	Centrally located kitchen.	Yes.

Table Contd...

9.	Fly-proof wire mesh with automatic doors and windows .	No fly-proof mesh doors.
10.	Utensils made of appropriate metals.	Stainless steel utensils are used.
11.	Provision for covered dinning space.	No covered dinning space.
12.	Two shifts for workers.	Yes.
13.	Walls of kitchen with glazed tiles.	No.
14.	The capacity should not exceed 300 inmates per barrack.	Capacity is 320.
15.	Average land per inmate within the four walls of the prison should be not less than 83.61 square metres or 62.70 square metres where land is scarce.	Average area available is 101 square metres.
16.	Barracks or offices should not be within 5 metres of perimeter wall.	The norm is followed.
17.	Hospital should be located close to the main gate.	The hospital is not too far.
18.	The hospital should be able to accommodate 5 per cent of the authorised capacity of the prison.	The hospital is a room without beds or a place for the doctor to sit.

A close observation of the standards followed in practice reveals that it is the security concerns that inform the construction and management of prisons. However the construction is done at the cost of providing for a decent living. The responsibility for constructing prisons is entrusted to the Police Housing Corporation, which does not appear to adhere to the standards laid down by prison reformers. Nor does the Prison Department show any interest in insisting on following the standards in newly constructed prisons.

### *Prison Hygiene*

Lack of hygiene is one of the most pressing problems created by overcrowding in Karnataka’s prisons. Since the existing prisons do not conform to the appropriate standards structurally, they are not able to provide acceptable conditions even where the prisons are not overcrowded. Yet, for years, those prisons have been housing double the number of prisoners they should accommodate. Not a single prison can claim that it has sufficient water for daily use as given in the prison manual. The inadequacy of facilities and the level of overcrowding mean that in the prisons of Madikeri, Bidar, Gulbarga, Bellary and Bangalore, about 75 inmates are forced to use a single toilet on any given day.

While the Model Prison Manual specifies one toilet for every seven inmates, in most of the recently constructed prisons, there are just two toilets for use by 60 inmates during the night. In several prisons, even day-time toilets outside the barracks are insufficient. Though there is ample space available, adequate toilets are not constructed. In most prisons both ground and municipal water for drinking is extremely scarce. As a result, the toilets both inside and outside the barracks are filthy. In many prisons the inmates cannot bathe for weeks and even months. Till as recently as September 2007, there was no provision of either toothpowder or bath soap for the inmates.<sup>17</sup> This is nothing short of gross indifference to the rights of prisoners who suffer at the hands

<sup>17</sup> Each prisoner is entitled to receive 50 grams of toothpowder at the cost of Rs. 12 and 150 grams of bathing soap at the cost of Rs. 17 per month. The government issued an order on 5 September 2007. The expenditure per year works out to Rs. 43, 05,108 per year.

of their caretakers. Inmates being locked up for 23 hours a day in these conditions due to shortage of staff who can monitor them means long lock-up hours, which further suggests that cells and barracks stink of sweat. The situation is made worse with unwashed and half-dried clothes hanging all over the barracks without access to fresh air and sunlight. Algae float in the water tanks because no cleaning or maintenance of such facilities takes place for months.

Such is the situation of neglect in these prisons where, ironically, huge reserves of manpower remain idle for months and years together. The drive to get anything done through various departments that are responsible for controlling and managing the inmates, or to undertake any useful activity to improve prison conditions among the prison officials is extremely low. Even for minor essential repairs and constructions of day toilets, sewerage and drainage the prison department looks helpless and waits for days without end for directions from either the prison headquarters or the Public Works Department to carry out repairs. The lowest priority accorded to prisons in allocating resources by various departments and the government explains the situation.

One of the primary reasons for the overwhelming lack of hygiene is the non-performance of duty by the Public Works Department. On the pretext of lack of sufficient funds, the prisons are not given regular whitewash, and the drainage and sewerage works are kept pending for years. Though prisons need to be whitewashed once a year, the Central Prisons at Bellary and Dharwad have been waiting for a clean-up since 2003. The construction of bathrooms, underground drainage and water tanks with a storage capacity of 90,000 litres have been pending in Belgaum Prison since 2005. The situation is more or less the same throughout the state. The prison officers say that negligence of the Public Works Department has increased of late as a result of the government's decision to entrust the responsibility of constructing new prisons – under the first phase of the modernisation scheme – to the Police Housing Corporation.

### *Bangalore Central Prison*

The prison constructed in 1997, accommodates more than double its authorised capacity.

Inside the gate that leads to the barracks, inmates sell eggs, cigarettes, pens, soaps, notebooks and eatables in small baskets at three to five times the market price.

At the time of visiting the prison, we noticed that Room No. 1 in Undertrial Barrack 4, which is authorised to accommodate 25 inmates, housed 91 prisoners.<sup>18</sup> Those 91 inmates shared two toilets at night and 375 inmates were forced to share three day toilets, with running water for only an hour a day. The intolerable stench from the barrack is hardly a surprise. Except for one or two privileged rooms, most of those in the barrack resembled the pictures above. In each barrack, one or two of the poorest inmates without any money, cleaned the toilets for a few rupees. Phenol is supplied once a week to clean the barracks though the inmates complain that this is insufficient. Clothes and bags hang at every corner of the wall. Strings to mosquito nets run from every corner of the barrack. Though well ventilated and with sufficient numbers of fans and lights, the barracks with damp floors, dirty bathrooms, peeling roofs, dark corners (a sign of unauthorised and illegal cooking) with garbage and stained walls that haven't been whitewashed for the past three years, can terrorise a casual visitor or a new entrant with the images of a walled slum.

Of course there are some privileged rooms with walls painted in light blue, holding pleasant paintings, clean toilets and tanks full of water. The inmates of these barracks, however, collectively pay for their 24 hours water supply and other facilities. Well fed and built, clean shaven and relaxed, the inmates play chess and

<sup>18</sup> On 18 January 2008.

other indoor games in these not so overcrowded rooms. This distorts the overall picture of overcrowding in the prison. Inmates from the other barracks recorded that the moneyed prisoners could afford anything and everything.

### *Prison Diet*

The Government of Karnataka provides two kinds of diet to everyone lodged in the prisons. Though people consume rice across the state, wheat is the staple diet in north India, and *ragi* (millet) in the south. Hence, a combination of both rice with wheat and rice with *ragi* are provided. Till recently, undertrial prisoners in the state were allowed to procure their own rations and they occasionally cooked food from private sources, albeit subject to certain restrictions.<sup>19</sup> However this was prohibited in 2007 by an executive order on discovery of poisoned provisions which were being supplied to eliminate rival gangs in the prison.<sup>20</sup>

In every prison that CHRI visited, we heard complaints from inmates about the quality of food. Even those in Bangalore Central Prison where the diet is supplemented by the Akshaya Patra Foundation of the International Sri Krishna Consciousness (ISKON), complained about the monotony of the diet.

Except in the prisons of Karwar, Shimoga and Bangalore, chapattis made of wheat are usually dried in open spaces and hung from the window grills. The dried bread is then used as fuel for cooking which is prohibited, of course, but the practice continues. This clandestine cooking often results in the barracks getting stained with thick black soot, giving the cells a dirty look.

As in other parts of India, breakfast, lunch and dinner are served at 7 and 11 a.m. and 4 p.m. respectively; meaning the inmates are forced to consume food provided at short intervals and then go without any thing to eat between 4 p.m. and 7 a.m. This, combined with the poor quality of victuals, often leads to large numbers of inmates, especially in the central prisons, to form groups in order to build fireplaces and use steel glasses and utensils to cook or to simply reheat the food or to add spices to make it more palatable. The spices and other ingredients are procured from the prison canteens or stores or from outside. More influential inmates are able to prepare a diet of their liking in the prison kitchen itself. In Gulbarga and Bellary, inmates openly cooked food all over the prison. In Dharwad, inmates cooked their food in the central kitchen with articles procured from the prison. When this was drawn to their attention, the prison staff casually and sympathetically referred to the abnormal diet timings and the monotony of prison food as reasons for not objecting to such practices.

Other than the questionable legality of these practices, another important issue needs to be addressed here, and that is corruption. The corruption endemic in prisons means that inmates pay for everything they receive and can obtain anything for a price. The administration is more than willing to pay attention to the needs of these prisoners because there's some gain for them. Secondly, if a sizeable section refrains from taking the ration allocated to them and procures food from other sources, it helps the prison staff "save" money and ration. Thirdly, and most importantly, the majority of the inmates dependent on prison diet are the ultimate losers. They are the poor, the voiceless and hapless inmates who starve owing to the inferior quality of their diet and suffer from ill health because of illegal cooking done in closed and overcrowded barracks causing suffocation and respiratory problems in more than 20 per cent of the prisoners.<sup>21</sup>

<sup>19</sup> Rule 715, Karnataka Prison Manual, 1978.

<sup>20</sup> See Annexure 1: Circular No. J2/CR-12/2007 dated 22 June 2007 from the office of the Additional Director General of Police and Inspector General of Prisons, Bangalore.

<sup>21</sup> Dr. Chetan, Prison Medical Officer, Bellary Central Prison.

Even though cooking inside a barrack creates a divide among those who break rules, but eat better, and those who adhere to the rules and starve; the prisoners who cooked inside the barracks complained about the quality of the rotis and said they were only good for fuel. Such has been the quality of food!

It is easy to conclude that the prisoners' ability to pay determines their living conditions inside a jail, thus reinforcing the social divide among the "haves" and "have-nots" instead of erasing social inequality. Thus, improving the quality of food and preventing the illegal practices of prison officers should be addressed on a priority basis by the government.<sup>22</sup>

### *ISKCON Diet: An Experiment*

Rampant corruption and collusion make it next to impossible to ensure reasonable quality of food for every inmate as a matter of right.

On an experimental basis responsibility for providing food and a reasonable diet to the inmates of Bangalore Central Prison was entrusted to a private enterprise, the Akshaya Patra Foundation of ISKCON, Bangalore. Introduced in June 2007, the experiment termed "outsourcing of diet", is the first of its kind in the country. The memorandum of understanding states that the Foundation will provide two hot plates for lunch and dinner and the government will pay the Foundation a certain fixed rate for the diet of each prisoner. The government at present directly provides only breakfast, non-vegetarian food to supplement the ISKCON provisions, and any medical diet needed in cases of sick prisoners.

The innovative experiment – a brainchild of the Head of Department Mr. S. T. Ramesh received wide accolades attracting the attention of both the national media and the inmates of other prisons. As a result, the government is in the process of initiating similar schemes in five other central prisons in the state.

In 2007, the government also introduced seven varieties of breakfasts per week,<sup>23</sup> which helps to break the monotony of the morning diet. Both the inmates and the prison personnel welcomed this long-awaited change. The ISKON project has helped promote the idea that the diet of inmates, although being partially addressed, is an important human right, which makes life inside a prison a little more tolerable. In fact, the objective of ensuring a reasonable quality of food to prisoners is a historical departure from the conservative understanding that prison diet should be monotonous and minimal in quality.<sup>24</sup>

The government's interest in managing prisons is at present minimal and unlikely to change drastically in the near future. The experiment offers an opportunity for the government to shun its obligation to meet the inmates' standard of living. What are its implications in the long run? For the moment the Foundation has undertaken the task without any religious strings attached. But if it begins preaching or proselytising, what moral authority will the state have to oppose it? What happens if organisations from different sects and faiths come forward with a similar gesture? With the prisoners' diet dependent on private charity, if the Foundation fails to mobilise sufficient funds and cannot continue the programme, who will ensure that the quality of food is maintained? What about the inmates of district and sub-jails? Can the state implement two parallel kinds of dietary scales? Is there a danger of this experiment moving gradually towards the privatisation of prisons?

<sup>22</sup> See Annexure III: CHRI's letter addressed to the Additional Director General of Prisons, Bangalore.

<sup>23</sup> Office of the Additional Director General of Police and Inspector General of Prisons Circular No. ADM2 – Breakfast 2007-08 dated 18 May 2007.

<sup>24</sup> The scale of prison diet was constructed and organised during the early nineteenth century by the colonial regime as a primary deterrent against the influx of the poor into prison. Only the All India Commission on Prison Reforms of 1980-83 recognised the monotony of prison diet as an additional ingredient of punishment, and recommended changes to introduce variety in food. Most of the states are yet to think of devising a policy along those lines.

As of now, the Foundation's diet costs more per capita than the government allocates. It mobilises the funds for the project from private sources, so it is unclear how long the Foundation will be able to continue this enterprise.

### *Water Facilities*

The government spent Rs. 91 lakhs between 2003 and 2007 supplying water and sanitation facilities for the prisons of Bijapur, Gulbarga, Belgaum, Bellary, Shimoga, Raichur, Hassan, Bailahongala, CR Nagar, Shorapur, Gokak and Kumta. This work was entrusted to the Public Works Department which claims the work was complete by the end of 2007.

The availability of sufficient and clean water is a lifeline for a place accommodating a large number of people and especially when it is a closed institution like a prison. It not only determines the levels of personal hygiene, but also controls waterborne diseases and contamination. While many of the small prisons in the state do not have severe water problems, larger prisons such as Bijapur, Gulbarga, Shimoga, Hassan and Raichur continue to operate without adequate water supply.

Officially, there is no shortage of water in Bangalore Central Prison. Yet the discriminatory supply and diversion of water indicate that some barracks are denied water where unhygienic conditions prevail. The Model Prison Manual specifies that 135 litres of water are required for each prisoner.

Water problems range from lack of clean drinking water to inadequate water for bathing and toilets. As a result, the prisons are extremely dirty with very little water. Since early 2007, Gulbarga Central Prison has suffered water shortages because Larson and Toubro cut off their supply to prisons while laying water pipes in the town. Water to the prison is now supplied by tankers. The district administration did not take any precautionary measures to handle the situation, which is another reflection of the fact that prisons are not a priority.

Similarly, Bijapur Central Prison does not have adequate water for bathing or for use in the toilets. The consequent condition of the toilets including those in the barracks and the kitchens is nauseating. Water problem in summer is acute in Bidar, Madikeri, Sagar and Gadag jails with Gadag getting the least supply of drinking water.

In summer, the municipality supplies water once a fortnight but there is no adequate means of storing it. The prisoners often complain about the purity of the drinking water, stinking and clogged toilets, unhygienic kitchens, dirty cells and barracks, all of which result from insufficient water.

Raichur prison has good drinking water facilities as water purifiers have been installed by NGOs, but there is still not enough ground water for usage and storage. In most prisons other than Belgaum, Bellary and Tumkur, the water is not tested. In Belgaum, Bellary and Tumkur there is a practice of purifying water, but this is not done regularly.

### *Health Care in Prisons*

For a person entering a prison for the first time, the experience can be horifying. The closed walls, the cramped living space, the unpleasant memories of ill-treatment at the hands of the police, the ostracising glances from bystanders, and anxieties about leaving home haunt every prisoner for the first few days. Nowhere are trained psychiatric counsellors more in demand than in the closed settings of a prison. While it may not be possible to

appoint psychiatrists in all the prisons of the state, at least all the seven central prisons should be prioritised. But the government has sanctioned just two posts – one at the Bangalore Central Prison and the other at Belgaum. While the post in Bangalore has always been filled, the one in Belgaum has been lying vacant for the last five years. The absolute dearth of trained counsellors speaks volumes of the negligent attitude towards the mental health of prisoners. The general lack of nutrition or physical exercise, the excessive lock-up hours due to lack of staff, heavy smoking and widespread anxiety among the prisoners, illegal cooking inside the barracks, and unhygienic living conditions in general, all take a heavy toll on the physical and psychological health of the prisoners.

Lack of sufficient medical staff is one of most important issues facing the state's prisons. The government formally sanctioned 83 posts for medical staff to cater to the needs of more than 12,000 prisoners. This would amount to one medical personnel for every 144 inmates, but only 42 per cent of the total sanctioned force is currently working with the rest of the posts remaining unfilled. Most of the doctors available are in the central prisons with the exception of prisons in Bidar and Shimoga. In general, there is no resident doctor in a district prison. Instead, these prisons are managed by visiting doctors and paramedical staff.

In the Raichur District Prison, no doctors have been appointed since 2000. Instead, the pharmacist from the district hospital visits the prison three times a week. Similarly, in Mangalore District Prison no doctor has ever been on visits after the demise of the previous serving doctor in September 2007. In such cases, the norm is two doctors from the district hospital will visit the prison twice a week. However, prisoners in Kolar and Chikmagalur complained that doctors from the local hospitals rarely visited them. In those prisons where doctors do visit, prisoners have to wait in long queues to get treatment. The lack of timely health care was one of the most common concerns recorded from prisoners across the state.

The Department of Medical Health deutes medical staff to prisons for three-year periods. The allocation of doctors to prisons is again low on their priority list and for doctors, like the vast majority of the public in general, prisons are not preferred places of work. In fact, being stationed in a particular region is more a matter of personal interest rather than a professional decision. Compounding an already lackadaisical attitude towards offenders, doctors and medical staff do not receive any encouragement or incentives from the government to choose this job. In addition, lack of professional independence given to the doctors in a prison set-up, especially when they are working under prison officials, contributes to their disinterest in their work.

Medical Staff on Deputation				
S.No	Designation	Sanctioned Strength	Working Strength	Vacancies as on 31 October 2007
1	Assistant Surgeons	18	13	5
2	Psychiatrists	2	2	-
3	Matron, Male Nurse	5	1	4
4	Junior Lab Technician	6	3	3
5	Pharmacist	17	12	5
6	X-ray Technician	4	3	1

Posts Recruited by the Prison Department				
S.No	Designation	Sanctioned Strength	Working Strength	Vacancies as on 31 October 2007
1	Warder – Nursing	20	-	20
2	Nursing Orderly	3	3	-
3	Ward Boy	8	1	7
4	X-ray Attendant	4	0	4
	<b>Total</b>	<b>87</b>	<b>38</b>	<b>49</b>

The absence of a doctor in any prison means there is no health screening or medical examination of prisoners on admission. Even in those prisons that do have doctors, health screenings at admission are either insignificant or absent. This is in part due to a lack of adequate staff, and gross negligence. In 1999, the National Human Rights Commission developed a health screening format to be adopted by all prisons in the state. A decade has gone by and the format has yet to reach the prisons, with medical officers completely oblivious of the NHRC format.

One of the most striking and positive features of these prisons, however, is that they do have ambulances for use in emergencies. Interestingly, the prisons in Karnataka have recorded consistently less deaths compared to other states.

Number of Deaths in the Prisons of Karnataka	
Year	No of Deaths
2001-02	43
2002-03	49
2003-04	55
2004-05	51
2005-06	23
2006-07	61
2007-08	40

It was observed that prison clinics need considerable improvement in terms of their equipment and staffing. Most of them, especially those in district jails, do not have X-ray machines or other equipments to carry out the most basic health check-ups. In the central prisons of Gulbarga, Belgaum and Bellary, fresh bed sheets and even proper beds are difficult to find. The prison hospital at Belgaum, in particular, had no proper toilets and the rooms were filthy, with insects crawling on the roofs and walls.

### *Medical Escort*

One major problem highlighted by the prisoners was they were not sent to hospitals outside the prison when they fell seriously ill. Doctors at Bangalore and Dharwad Central Prisons pointed to the lack of police escort as one of the reasons for not being able to offer speedy transfers outside hospitals. In Kolar and Chikmagalur

jails, patients were taken to hospitals outside the prison only on Saturdays and Sundays because there was no demand for court escorts on weekends.

On the other hand, prisoners repeatedly mentioned that a visit to a hospital outside the prison was if the sickness was not serious and if one could afford it. This was a complaint heard especially from the prisoners of the central prisons in Bellary, Belgaum, and Mangalore. On the day of our visit, we found an undertrial resting peacefully in Bellary District Hospital. He belonged to a group of influential political activists and had managed his way out of the prison even though he was mildly ill. He told us that he couldn't adjust to life in the prison and so got himself admitted to the district hospital.

Chaining prisoners to hospital beds night and day in district hospitals is a common feature in every district, despite the Supreme Court having explicitly rejected the practice of using fetters.<sup>25</sup>

When it comes to *taluka* prisons the situation is even graver because there are no permanent doctors appointed for those prisons and the doctors who are expected to visit, seldom do. The superintendents in charge of these prisons maintain a small stock of medicines which they provide to prisoners as and when needed. In cases of serious ailments the inmates are taken to the neighbouring taluka hospital by the prison staff themselves.

### Medication

Some of the most common diseases in the prisons are related to respiratory tract infections and lung problems. Apart from the overcrowding and the consequent lack of space and fresh air in the barracks, unauthorised cooking by prisoners creates suffocating conditions within the enclosures. Prison doctors admit this problem with an air of helplessness because they are unable to exercise their professional independence to challenge such accepted prison practices.

Another phenomenon that plagues the system is the extensive use of sedatives among prisoners that are supplied by the prison dispensaries. This practice seems to exist in Belgaum, Bangalore, Bellary, Gulbarga and Dharwad prisons. Prison doctors refer to high rates of depression and insomnia amongst prisoners as a reason for the excessive use of sedatives. In addition, the prisoners of Mysore and Bangalore prisons complained of sedatives being readily available at a price.<sup>26</sup> These could be some of the reasons for the high intake of sedatives in prisons in Karnataka.

Further, the absence of official medical personnel in the prisons forces prison officers who have no knowledge of drugs, to procure emergency medication and supply them to prisoners. In Belgaum Central Prison, a doctor among the prisoners complained that the medicines supplied to him were outdated and that better medicines were available for the same ailment in the market.

Another concern that prisoners expressed was that doctors are too casual and indifferent in their examinations. This is more so where women doctors are posted in male prisons. Complaints against doctors to the prison headquarters by prisoners' family members are not uncommon.

It is also important to note that women prisoners' access to doctors is far less than that of male prisoners. Except in cases of emergencies, when they are taken to the prison clinic with sufficient security staff, the women in most of the prisons have to wait for doctors to visit them. This happens twice a week. We gathered

<sup>25</sup> *Sunil Batra 1978 4 SCC 494 and Prem Shankar Shukla vs. Delhi Administration 1980 Cri LJ 930*

<sup>26</sup> For instance in Bangalore, one Alprazolam tablet costs Rs. 10.

that there was a demand for a woman gynaecologist as well, especially in the Bangalore Central Prison.<sup>27</sup> While there's little to say about the health and hygiene of female inmates, we learnt that they were provided with sanitary napkins and other toiletries on a regular basis along with hot water in most prison facilities.

### DOCTORS VERSES PRISON STAFF

In Gulbarga Central Prison the prison doctor, Dr. Chandrakant was attacked by one of the prisoners, leaving him hospitalised for one month. The doctor recorded that the attack was deliberate and carried out at the behest of prison officers following serious differences with the prison staff over the way the prison was being administered. The doctor had opposed what he saw as maladministration by the authorities and suffered the consequences. He alleges that a proper inquiry into the attack was never conducted and prison officers behind the conspiracy were able to effectively manipulate the police. Prison officers maintained absolute silence on this issue. We don't know where the truth lies, but the incident indicates a clear divide between the two important sections of the prison department, and that conditions are not conducive to the efficient management of prisons.

### LACK OF ESCORTS FOR AILING PRISONERS

Dr. Chetan is a young doctor working in Bellary Central Prison. He says the prison was the least sought after place of work for doctors. He stated that around 15-20 per cent of first-time offenders need the most counselling. According to him, more than 50 per cent of the inmates use narcotics and especially on Sundays, in the absence of most of the staff, they consume alcohol too. He admits there are instances of death due to lack of timely police escorts pointing to a death in 2005 as a result of the non-availability of an escort. He also pointed out that there was no explanation provided by the District Armed Reserve for their failure to send escorts on time.

## UNDERTRIAL PRISONERS

Undertrial prisoners,<sup>28</sup> as in every state in the country constitute the largest section in the prisons of Karnataka. Karnataka is one of the 11 states recording higher numbers of undertrials than the national average.<sup>29</sup>

The law of the land presumes these prisoners to be innocent until prove guilty in a court of law. They are entitled to legal representation at the expense of the government.<sup>30</sup> The Supreme Court of India considers speedy trial a fundamental right inherent in Article 21 of the Constitution, which ensures the right to life and liberty.<sup>31</sup> However, in practice, the lack of legal representation and years of delay in the prosecution of cases amount to denial of justice with the accused languishing in jail as a victim of neglect by the judiciary.

<sup>27</sup> No prison has a women gynecologist, except Belgaum Central Prison.

<sup>28</sup> The term includes pre-trial detainees, detainees of COFEPOSA, NDPS, TADA, Goonda Act and also civil prisoners.

<sup>29</sup> While the national average of undertrials has been 65 per cent for the past few years, it is 70.5 per cent as on 15 November 2007 in Karnataka.

<sup>30</sup> *Hussainara Khatoon IV AIR 1980 1 SCC 98.*

<sup>31</sup> *Hussainara Khatoon and Others (1) vs. Home Secretary, State of Bihar (1980 1 SCC 81).*

### *Escorting the Accused to Court*

Once lodged in the prison every accused person is required to be produced before the court once a fortnight for a review of the progress of the case and record requests made for extended detention. The Criminal Procedure Code (CrPC)<sup>32</sup> limits the remand detention to a maximum of 15 days by the magistrate who extends the remand period in the presence of the prisoner. This section renders "continued detention beyond the fifteen day limit without a review being conducted in the presence of the prisoner" as illegal;

167(2) The magistrate...may...from time to time, authorise the detention of the accused..., a term not exceeding fifteen days in the whole;

167(2)(b) No magistrate shall authorise detention in any custody under this Section unless the accused is brought before him.

The magistrate is to enquire whether the accused has legal representation and if not, provide one at the state's cost. The presence of the accused person is necessary to facilitate judicial review of the progress of the case, supervision of the health of the accused, and the decision on the need for further confinement. Timely presentation of the accused before the magistrate is vital both to the progress of the case and to avoid unnecessary and prolonged confinement. This process assumes all the more significance as those accused held behind bars are, legally speaking, innocent.

Yet the lack of available police escort to take the accused to court sees many prisoners held beyond the legal limit of detention with continuous extension of remand in their absence. This is one of the major problems across India, but it is particularly grave in Karnataka.

Every prison requires a police guard to escort the accused to the courts, either in the same town where the prison is located, the same or another district or state, or to the hospital in cases of serious illness. In all districts the District Armed Reserve (DAR), which provides manpower for security purposes of different kinds, is also responsible for providing escorts to prisons. In 2005 and 2006, the prisons of Karnataka, other than the Central Prison at Bangalore, recorded between 87.61 per cent and 97 per cent of the accused being produced before the courts. Take for instance the case of Bijapur:

Percentage of Accused Produced before the Courts in Bijapur in 2005 and 2006			
Year	Local Court	Within District Courts	Outside District Court
2005	97	78	73
2006	92	79	89

Although this should be looked upon as a positive trend, there are a handful of accused prisoners from different states lodged in Karnataka prisons, who face the brunt of inadequate escorts because whatever is available is reserved for prisoners whose cases are in courts close by.

<sup>32</sup> Section 167.

**CASE STUDY: Ms. Lalithamma was illegally detained from 23 June 2008 when the period of her detention was further extended in her absence due to lack of escort.**

Name:	Lalithamma, W/o Durgappa Korcher, UT 3997
Age:	45 years
Arrested on:	8 June 2008
Accused of:	Ticketless travel in train
Produced before:	Judicial Magistrate of First Class IV, Belgaum,
Lodged in:	Belgaum Central Prison
Produced before Magistrate:	9 June 2008
Escort absent on:	1) 23 June 08 2) 7 July 08 3) 21 July 08

Visits to local courts are always given priority in the allocation of police escorts. While this meets the needs of the maximum number of accused, escort to courts in other districts gets neglected the most, resulting in those accused languishing longer than the others.

The DAR is also more considerate to requests for court escorts than hospital escorts as the escorting of an accused to a distant hospital is more complicated. If the specialist hospital does not have a prison ward, the escorting constables have to stay and watch the patient without any help or facilities being provided to them. The police are also quick to believe that it is often only a handful of powerful prisoners who exploit a hospital stay in order to escape prison life.

### WHO SHOULD ESCORT THE ACCUSED TO THE COURT?

The primary responsibility of escorting the accused to court rests with the City or District Armed Reserve Force. In the past, the force had never been able to meet the requirements of prisons completely, and this was a major complaint from the Prison Department. The courts issued "show cause" notices against the officers of the Prison Department who did not produce the prisoners on time. With mounting pressure on the prison officers to act as escorts, the department brought the issue to the notice of the High Court in 1993. The Court issued a general circular to all the presiding officers of the Court directing that police escort be provided by the police force of the concerned police station where the accused was arrested, in case the City or the District Armed Reserve failed to do so.<sup>33</sup> Since then, police from the concerned station have met a large portion of the escort requirements of the state. If this was not the case, the situation would have been far worse.

In early 2002, efforts were made to improve the performance of the designated armed reserve forces. A contingent of DAR forces was maintained under the direct control of the central prisons. However, prison

<sup>33</sup> General Circular No. 11/1993 (LCA. 1/478/93), dated 21 July 1993, High Court of Karnataka.

personnel say that it became impossible for them to control the force as it comprised only of those who were punished for indiscipline, under performance, drunkenness or accusations of moral and legal turpitude, and that they would resort to all sorts of illegal relations with the accused while escorting them. As discipline became impossible and the force failed to perform the required tasks, finally the Prison Department surrendered the force to its parent department in 2005. Consequently, the problem is back to where it was prior to 2002, and the accused continue to suffer.

Though prison officers make some effort to address the problem, there is a tendency among them to not give due attention to such situations. This tendency is guided by the fact that because nothing appears to happen in courts other than the extension of remand, the prison officers can afford to take as much time as they want to arrange for escorts and do the required paperwork for production of prisoners in courts. All this results in massive overstay in prisons. This partly explains the widespread support for videoconferencing as a mode of speedy delivery of justice.

### *Police Escort in Bangalore Central Prison*

The problem in Bangalore assumes even graver proportions. As the largest prison in the country with more than 4,800 inmates against its authorised capacity of 2,100, it holds 36 per cent of the total prisoners in the state. The undertrial prisoners constitute 69 per cent of the total prisoners (3,263 of 4,729).<sup>34</sup> Every day 350 to 400 undertrials have to be produced in various courts. Depending on the number of undertrials escorted at a time and the number of courts to be visited, it requires at least 250 to 350 armed constables to escort them. And this number increases if small groups of accused persons are to be produced at different courts on the same day.

At present, the escort requirements of the prison are to be met from the 5,000 police personnel of the City Armed Reserve (CAR). Before 2001, when the prison strength was around 2,100, CAR allocated just 60 constables for escort duty. In August 1999 alone, inmates missed 5,909 court hearings.<sup>35</sup> After serious allegations of insensitivity on the part of the government towards the plight of the confined, 226 constables were earmarked in 2001. Since then the allocation has remained the same, though the number of inmates has doubled. The escort requirements could still be met if the full contingent (226 constables) was made available in practice, but this has never happened. Instead, around 20 to 30 constables on an average are made available and on some days there's no provision at all.

In reality, CAR provides less than 5 per cent of the escort needs. As a result, the courts are increasingly being petitioned to direct the concerned local police stations to arrange escorts. We were told that around 40 per cent of the requirement is now being met by the concerned police stations and through videoconferencing. Despite these attempts, in November 2007, the number of court hearings missed was 3,119. On 15 December 2007, only 69 of the 293 inmates scheduled to be taken to court were produced for their hearing.

<sup>34</sup> As on 9 January 2008.

<sup>35</sup> *The Hindu*, 30 June.

Monthly Percentage of Undertrials Produced at Court from Bangalore Central Prisons in 2007						
Month of Year 2007	Sessions Courts	City Courts	Courts within District	Courts outside District	Total Produced	CAR Production
January	42.16	48.10	38.07	40.24	44.68	26.11
February	39.47	26.76	47.34	27.27	33.62	18.26
March	70.96	62.64	40.86	32.00	64.90	32.29
April	23.66	57.08	42.26	33.51	43.46	11.40
May	74.62	40.69	39.26	32.88	61.22	26.55
June	61.91	62.32	72.51	68.28	68.37	26.16
July	67.32	70.61	97.06	96.20	65.69	27.29
August	74.99	89.60	100.00	100.00	65.19	18.72
September	74.72	86.96	61.00	72.92	69.46	18.93
October	29.77	84.83	68.79	57.48	65.53	12.10
November	32.25	74.29	76.19	72.51	61.70	9.37
December	48.19	41.50	36.86	25.26	43.46	14.40
<b>Total</b>					<b>61.95</b>	<b>23.5</b>

The above table indicates that the escort needs met by CAR in a month ranges from 9 per cent to 27 per cent. On an average, it is able to meet less than a quarter of the total need. This is the situation at the macro level. A micro analysis gives a much clearer picture of the problem.

Data on Undertrial prisoners produced in Court from Bangalore Central Prisons in June 2008											
Date June 2008	Total UTPs to be Produced Before the Court	NO. of UTPs Escorted by City Armed Reserve (CAR)		NO. of UTPs Escorted by Police from Area of Crime		NO. of UTs Produced Through video conferencing		Total NO. of UTPs Produced		Total NO. of UTPs Who have Missed Court Hearings	
		%		%		%		%		%	
2	332	0	0	39	11	99	29	138	42	194	58.0
3	273	41	15.4	36	13	65	23	142	53	131	47.0
4	294	24	8.2	21	7	78	26	123	42	171	58.0
5	226	28	11.3	40	17	52	23	120	54	106	46.0
6	314	25	8.0	48	15	93	29	166	53	148	47.0
7	245	6	2.4	35	14	67	27	108	45	137	55.0

Table Contd...

9	271	8	2.9	43	15.9	59	21.5	110	40.5	161	59.5
10	418	23	5.5	85	20.0	109	26.0	217	51.9	201	48.1
11	356	18	5.0	77	21.5	95	26.5	190	53.4	166	46.6
12	310	24	7.7	47	15.0	88	28.0	159	51.3	151	48.7
13	325	23	7.0	43	13.0	84	25.0	150	46.2	175	53.8
16	407	0	0	51	12.0	89	21.0	140	35	267	65.0
17	359	4	1.1	45	12.0	98	27	147	41	212	59.0
18	390	1	0.3	51	13	133	34	185	48	205	52.0
19	301	0	0	57	18	98	32	155	52	146	48
20	395	1	0.3	77	19	120	30	198	51	197	49
21	236	0	0	48	20	82	34	130	56	106	44
23	321	3	0.9	57	17	54	16	114	36	207	64
24	359	3	0.8	77	21	105	29	185	52	174	48
25	312	0	0	40	12	82	26	122	40	190	60
26	249	0	0	56	22	23	09	79	32	170	68
27	294	0	0	63	15	121	41	164	56	130	44
28	192	3	1.6	43	22	54	28	100	53	92	47
30	456	21	4.6	93	20	00	00	114	25	342	75
<b>Total</b>	<b>7655</b>	<b>256</b>	<b>3.3</b>	<b>1272</b>	<b>16.6</b>	<b>1948</b>	<b>25.0</b>	<b>3476</b>	<b>45.5</b>	<b>4179</b>	<b>54.5</b>

While the armed reserve, which is the agency primarily responsible for escorting is handling only 3.3 per cent of the requirement; 25 per cent of the accused are produced through videoconferencing, while 17 per cent of the required escort is provided by the local police. Data points to an increasing reliance on the electronic mode of production but its efficacy in addressing the spirit of the law is doubtful. On the whole, only half the total number of accused persons due to appear before the courts are produced, leaving the count of missed court hearings at 4,179 per month. This amounts to each of the 3,200 or so undertrial prisoners held in Bangalore missing at least one hearing a month.

The statistics, however, do not reflect some of the graver problems that exist. Prisoners allege that the scant escort made available by CAR gives scope to the prison authorities to exercise their arbitrary discretion as to who will get priority for court visits, a discretion that is subject to all sorts of illegal influences. Tejamul, aged 30, has visited the court only three times in six months. Zaffrul, an undertrial has been to court six times in three years. Abdul Rehman, aged 17 from Assam, has not gone to court even once in four months. Chikkamma, another undertrial prisoner, who is in the prison along with four other members of her family, including a one-year-old child, has visited the court just four times in nine months. The huge variation in court attendance points to shady practices in escort allocation, while undertrials trapped in the adjournments of hearings without being produced before the courts continue to live in darkness.

The net result of missing court hearings on a regular basis is reflected in the increasing numbers of accused locked behind bars for months and years. The following table shows the trend in delayed court visits:

Statement Showing the Period-Wise Detention of Undertrial Prisoners in Bangalore Central Prison															
As On	6 Months to 1 Year		1-2 Years		2-3 Years		3-4 Years		4-5 Years		5 Years and Over		Grand Total		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	Total
30 June															
2006	802	65	371	2	105	5	93	0	47	0	20	0	1438	72	1510
15 Oct															
2007	1006	32	561	18	109	3	51	0	24	0	12	3	1763	56	1819

These innocent people waiting for their fate to be decided are punished even before their trial begins or concludes.

The Inspector General of Prisons at the time of writing this report recorded that the escort availability could be improved considerably if the spillage of staff on VIP security was cut down. Misplaced priorities and the fire-fighting approach of the government are also partially responsible for the above situation.

The reality is that in most states, the police believe that all the accused are criminals and holding them for longer periods irrespective of establishing guilt in court or not, is required to maintain law and order. They also believe that the escort problem is a non-issue and that the media and human rights groups make too much noise about it. The deployment of police for the day-to-day management of the city and the security of VIPs is, they feel, more important than prisoner escort. Those who do not care to provide the escort do not seem to realise that it directly impacts on law and order and shakes the faith of the public in the criminal justice system.

After booking a case, and investigating and filing the charge sheet, if the accused is not produced for trial due to lack of escort, the consequent delay results in acquittal in most cases because witnesses do not turn up for hearings. This is one reason for the low conviction rate in India, which further affects the public's confidence in the legal system.

### *How Dates of Hearing are Extended*

It is not just the response of the police department on escorting undertrials, the judiciary is equally complacent. In June 2008, various courts extended the remand of 330 accused without them being produced before the magistrate. This is usually done through radio messages given by prison authorities from local police stations. The courts rarely take notice of the failings of the police in not producing the accused. It casually extends dates and shifts the next hearing to a much later date wherever the escort problem is severe.

The custody of thousands of undertrials is routinely extended by the judiciary simply on the basis of radio messages. This has continued for years without any solutions being offered by the government or the penal

system. The media occasionally makes some noise about the plight of these innocent people languishing in jails, but the judiciary rarely reacts to them.

In September 2007, after a media report on these problems was flashed as front page news,<sup>36</sup> the Karnataka State Legal Services Authority (KLSLA), which was informed of the gravity of the problem by CHR suddenly woke up and sent a letter to the Home Secretary in which it said: "A duty is cast on the State to provide enough City Armed Reserve personnel to take all undertrials to court. If the undertrial is not produced before the court for want of an escort, his fundamental right is being violated."

### *A typical letter format to seek an extension of remand for undertrial prisoners*

T.P. Message

7 January 2008

To,  
The Magistrate  
Addl Chief Judicial Magistrate (JMFC)  
Maddur

From  
Superintendent, District HQ Sub-Jail  
Mandya

I submit to state that the UT prisoner, Balakrishna Hosur has not been produced on 7 January 2008 due to non-availability of police escort. Hence I request the honourable court to intimate the next date of hearing.

Sign

Supdt

To the T.P. Operator O/o Superintendent of Police, Mandya district to flash the message

## LEGAL AID AND OVERSTAYS

Access to justice for all is unimaginable without access to free legal aid by the weaker sections of society. The fundamental source of the legal aid concept, Article 39-A was inserted in the Constitution through the 42nd Amendment. The article mandates the state to promote justice on the grounds of equal opportunity and provide free legal aid to "ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities". In *Hussainara Khatoon vs. State of Bihar*,<sup>37</sup> the apex court read the right to legal aid as implicit in Article 21 of the Constitution. The Court, shocked by the fact that undertrials were

<sup>36</sup> "Undertrials from Bangalore Central Prison are not produced before courts due to lack of escort." Reported in *The Hindu*, page 1, dated 25 December 2007.

<sup>37</sup> (1980) 1 SCC 81.

linguishing in the prisons of Bihar for years without legal representation, declared: "There can be no doubt that speedy trial, and by speedy trial, we mean reasonably expeditious trial is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21."

The court pointed out that Article 39-A emphasised that free legal service was an inalienable element of "reasonable, fair and just" procedure and that therefore the right to free legal services was implicit in the guarantee of Article 21. It described legal aid as "the delivery system of social justice". It also expressed the hope that every state government would provide legal aid to avoid derailment of the spirit of Article 21. In another case,<sup>38</sup> the court stated that free legal aid at the cost of the state is a fundamental right of the accused and "implicit in the requirement of reasonable, fair and just procedure prescribed by Article 21". Justice Krishna Iyer, in yet another case<sup>39</sup> declared that if a prisoner is unable to exercise his constitutional and statutory right for want of legal assistance, the Court, under Articles 142, 21 and 39-A of the Constitution has the power to assign counsel for rendering complete justice. While explaining the rationale for legal aid he said: "[T]he spiritual essence of a legal aid movement consists of investing law with a human soul. Its constitutional core is the provision of equal legal service as much to the weak as to the strong and affluent, and the dispensation of social justice through the legal order. The political thrust of the movement is that if legality lets down the masses and protects, in actual working, only the upper bracket, anti-law will become a way of life of the numerous poor, the people being prone to seek justice in the streets in preference to the law in the courts."

Following these pronouncements by the apex court, the Government of India passed the Legal Services Authority Act in 1986. The Government of Karnataka, like other states, also formulated rules for the implementation of the Act. The rules mandate district legal services authorities to seek from the jail authorities, information of those indigent convicts and undertrial prisoners in need of legal representation and the list of accused in compoundable cases which could be disposed under Lok Adalats, if organised in prisons regularly. It also recognises the need to appoint conciliators and legal advisors to help the poorer prisoners in legal aid and awareness programmes.

The reality is that in every prison there are hundreds of poor prisoners without legal representation. They have no clue about the status of their cases, they are not aware of their entitlement for legal representation or advice, and neither are they informed of it. They look puzzled when told they are entitled to free legal representation at the expense of the state. About 74 per cent of the 144 prisoners interviewed said they had heard of legal aid from the senior inmates. There is no evidence of attempts to provide informed and involved legal aid to prisoners. There are no law officers appointed, no legal aid forms available with the prison authorities, no maintenance of the records of applicants or their replies from the courts. The Central Prisons of Bangalore, Gulbarga, Belgaum and Bijapur, and the District Jails of Raichur, Chikmagalur, Tumkur and Mandya are the only prisons offering any semblance of legal aid activities, though without much impact.

Prison officials admit that prisoners have no faith in the efficacy of the legal aid system. Neither do the personnel. In a survey conducted by CHRI, 23 per cent of the prisoners said they were not aware of visits from any legal services authority; 49 per cent held that rarely did the representatives of the district legal services authority visit the prison; and 28 per cent said that the magistrate visited the prison between once a month and once in three months.

Almost all the prisons we visited had legal aid boxes installed by the District Legal Services Authority. The Judicial Magistrate, First Class, or the Chief Judicial Magistrate, who visits once a month, opens the complaint

<sup>38</sup> *Suk Das vs. Union Territory of Arunachal Pradesh* (1986) 2 SCC 401.

<sup>39</sup> *M.H. Hoskot vs. State of Maharashtra* (1978) 3 SCC 544.

boxes. The visitors' notes show that they visit mostly during the evening hours for a few minutes, pay attention to the presence of juveniles and mentally ill prisoners and record the same. Prisoners said that they stopped depositing any requests or complaints as they were never addressed.

## JAIL ADALATS

There are large numbers of undertrial prisoners accused of petty offences in Karnataka jails. Implicated in compoundable offences under the Indian Penal Code, the Gambling Act and the Excise Act, they remain in jail beyond the period they would have been reasonably sentenced to, on conviction. This is usually either for want of resources to furnish bail or for want of adequate legal aid. Criminal trials in the courts take considerable time, not commencing for as long as three to four years after the accused is remanded to prison.

In pursuance of orders<sup>40</sup> by the Supreme Court of India, in the case, *R. D. Upadhyay vs. State of Andhra Pradesh & others*, the central government wrote to all the state governments and union territory administrations to take urgent, necessary steps for the expeditious disposal of cases of undertrials who are languishing in various jails across the country. It strongly recommended that jail adalats be held frequently in all the jails to ensure early disposal of the cases of those undertrials willing to plead guilty. Since 2003, the Chief Justices' Conference has repeatedly emphasised the importance of jail adalats to address the pendency of cases before courts and relieve prisons of overcrowding. As recently as 2006, the Supreme Court constituted an "Arrears Committee" to look into pendency of cases before the courts, also reiterating the importance of organising jail adalats regularly.

Scant and scattered data indicates jail adalats' great potential to reduce overcrowding in prisons. Its effectiveness is beyond doubt. However, serious commitment from the judicial and prison officers and respect for the directions of the higher judiciary is paramount in making these courts effective.

**Jail Adalats Organised from April 2007 to March 2008 in Karnataka Prisons**

S.No	Name of Prison	No. of Cases Referred by the Prison	No. of Cases Disposed	No. of Accused Released or Benefited
1	Central Prison of Bangalore			
	1. On 8 September 2007	36	36	09
	2. On 29 September 2007	51	51	03
	3. On 6 October 2007	49	49	04
2	Central Prisons: Mysore, Dharwad, Belgaum, Bellary, Gulbarga, Bijapur	Nil	Nil	Nil
3	District Prisons: Shimoga, Raichur, Ramanagara, Kolar, Chitradurga, Chamarajanagar, Tumkur, Chikmagalur, Bidar, Madikeri, Hasan, Karwar	Nil	Nil	Nil

<sup>40</sup> Passed on 13 October 1999 and 7 December 1999.

The data available shows the seriousness with which the policy directions of the apex court were taken by the lower judiciary in Karnataka. The judiciary cannot escape its responsibility towards prisoners.

## WOMEN PRISONERS

Karnataka is one of the 17 states in the country without separate prisons for women. All categories of prisons and jails provide for separate enclosures in one corner of the prison. The small enclosures do not have much space to move during the day and there is little difference between the convicts and undertrials housed there.

Women constitute only 3.91 per cent of the total prison population of the state and there is more accommodation available for them than required. Yet they are faced with more problems than the male inmates. Dumped in one corner of the prison, they have no free access to the kitchen, visitors or the library, all of which are available to male inmates. The small number of women inmates also means that not all prisons house women prisoners, and they are often held far from home, affecting their right to family life since it is difficult for their families to visit. Their separation from families and children makes imprisonment more stressful for them. Due to a lack of female guards to accompany them, women prisoners are not produced at court on the required dates or as often as required, resulting in long delays in their trials.

There is no uniform policy for facilities for women inmates across the state. In Bellary and Raichur prisons, fans are not installed in the women's enclosure due to a "suicide risk", whereas, the same facilities are allowed in other prisons. For the same reason, in these two prison premises, the trees have been cut down, and the area is dry and barren.<sup>41</sup> In some prisons, women enjoy hot water facilities but the maintenance of solar installations is poor. However, the prisons of Bangalore, Chikmagalur, Tumkur and Belgaum have access to television programmes and other amenities. While the majority of central prisons emphasise on vocational needs of the male inmates, the women, other than in Bangalore, are hardly provided with any meaningful work.

While in most prisons the women occupy themselves with sifting the grain, the inmates of Bangalore Central Prison engage themselves in bread, incense and chalk-making and earn between Rs. 10 and Rs. 20 per day. They also have access to the kitchen and facilities for their children. While male inmates in all central prisons have access to dispensaries and doctors at all times during the day, female inmates are visited by doctors once a week. Among the 16 doctors working in the department, only one in Belgaum Central Prison is a gynaecologist with relevant experience to address the particular problems of women. All the special requirements of female prisoners are, in practice, subjected to the norm: "as far as possible or wherever it is possible or available".

## RELAXATION OF PAROLE CONDITIONS FOR CONVICTS

There are around 3,900 convicts in Karnataka prisons. Most of them are sentenced to seven or more years of imprisonment. While undergoing sentence, offenders can go on either ordinary leave or emergency leave (furlough and parole). These are the only means by which they can be in direct contact with their families and friends once a year. Otherwise, they are completely cut off from the outside world. Furlough and parole are for a period of 10 days and one month respectively. They are granted on conditions of inmates' good conduct, their ability to execute a bond with two satisfactory sureties for a sum of Rs. 3,000 each<sup>42</sup> and positive reports

<sup>41</sup> After CHRI's insistence, fans were installed in these two prisons.

<sup>42</sup> Rule 191(c) of the Karnataka Prison Rules, 1974.

from the police in their locality. The decision-making process in this regard is more decentralised and liberal than in Andhra Pradesh. The power to temporarily release prisoners is delegated to the Inspector General of Prisons thereby reducing one stage of decision-making.<sup>43</sup> Given the poor social credibility and economic means of most of the inmates, arranging even two sureties for Rs. 3,000 each is difficult, resulting in the inability to avail temporary liberty even by eligible inmates.

We came across cases who make regular use of this facility every year and those who have not availed it even once in ten years. This situation speaks volumes about the social and economic status of those in conflict with the law. In response to the situation, Mr. S. T. Ramesh, the then Head of Department, proposed that the government reduce the number of sureties required to one and the amount of money to Rs. 1,000. The government accepted and amended the rules.<sup>44</sup> This seems to have had a positive impact on the poorer prisoners and the number of parole users has gone up without any adverse effects.

Parole and Furlough Users		
Year	No. of Prisoners Released on Parole	No. of Prisoners Released on Furlough
2002-03	369	20
2003-04	371	26
2004-05	349	15
2005-06	243	14
2006-07	326	05
2007-08 (up to 28 November 2007)	399	Nil

In addition, a Bangalore-based non-governmental organisation, Janodaya has offered help to the poorest offenders to avail parole by depositing Rs. 10,000 as security on their behalf. Each time, ten inmates are able to go out on parole, and they return promptly without fail. The prison officers say that this has created a sense of responsibility among the inmates and voluntary groups in Belgaum, Bijapur, Mysore, Bellary, Dharwad and Gulbarga town, where central prisons exist. The liberalisation of the whole process appears to have brought immense relief to those who could not have made use of the parole facility earlier. This is one of the best practices yet to be emulated by other state governments and civil society groups.

## FACILITIES

### *Visitation Rights of Families of Prisoners*

District and central prisons are meant to confine people from two to three districts in the region. This means that families and friends of inmates have to travel long distances to meet their loved ones. Each visit costs them their daily wage, travel expenditure and time. The distance also means they have to travel one day in

<sup>43</sup> Government Notification No. HD 124 PRM 68 II dated 17 January 1974. In other states the decisions are taken by the Home Ministry after endorsement by the Head of the Prison Department.

<sup>44</sup> Government of Karnataka Notification No. HD 168 PRA 2006 dated 13 February 2007.

advance to reach the prison in time. At the time of the study, what greeted the visitors in most prisons was the lack of a reception area, or even just shade to protect them while waiting at the gates.<sup>45</sup>

There was no one to answer the visitors' queries, except the lone guard who would give a reckless and disdainful look, if questioned. At the jails without guards posted outside the entrance,<sup>46</sup> it is difficult for visitors to notify their presence or make their presence felt to the prison managers inside. Visitors are at the mercy of a prison guard who may occasionally peep out. None of the prisons CHRI visited had drinking water for visitors. This was made worse by the fact that most prisons are located outside the towns and the result is that visitors, especially women and children, face substantial hardships. There were no notice boards in front of the prisons in the local language about visiting hours, the duration or number of persons allowed per visit, the number of visits allowed in a month, timings for interviews or whom to contact during an emergency. In the few prisons where there were notice boards, the information provided was inadequate, perfunctory and did not reflect the standards provided in the prison manual.

The Karnataka Prison Manual allows, as a matter of right, six visitors at a time for 45-minute interviews.<sup>47</sup> Neither were the inmates aware of this nor do the prison managers care to follow it. In practice, in most prisons, around two to three visitors were allowed for only ten minutes at the gate.

Those who can pay have no restrictions of any sort with regard to the timing, duration, frequency or place of interview, with some even held in the Superintendent's office. Charging visitors to meet their loved ones in the prison is completely unethical, illegal and unjustifiable. This state of affairs is almost institutionalised in all the prisons in the state, which create hardships for those who cannot afford the "privilege". This results in their rightful visits being severely restricted and practically denied. Visitation rights have no meaning if there are no mechanisms to remedy their denial.

There are of course structural limitations, such as lack of appropriate places<sup>48</sup> to conduct interviews and manage overcrowding, which make administering the interviews according to the rules, difficult for the prison personnel. But many of the malpractices observed have nothing to do with such structural limitations. Several of the illegal practices could be curtailed, where visitors could be duly informed of their entitlements. It is an open secret that the management of visitors at interviews is one of the four most "profitable" activities of prison management,<sup>49</sup> for which prison officers vie with one another to be in charge.

Visitors should therefore be notified of their rights and of the prison rules; cautioned against illegal practices and the consequences thereof; be provided with information by the appropriate authorities; and told whom to turn to in case of difficulty. This would be a low cost and effective solution that could have a dramatic impact on the people's visitation rights. CHRI requested the Head of the Department to ensure that notice boards with all relevant information were installed both inside and outside the prisons across the state.<sup>50</sup> After circulars issued to this effect,<sup>51</sup> we learnt that most of the prisons have since installed boards with detailed information. This may at least encourage visitors to challenge the wrong doings of the prison administrators, if nothing else.

<sup>45</sup> Prisons at Mysore, Dharwad and Shimoga are exceptions to this scenario.

<sup>46</sup> "What happens between the main gate and the gate that leads inside should be visible" says the All India Prison Reforms Commission, 1980-83.

<sup>47</sup> Rule 603 and 601 respectively.

<sup>48</sup> For instance, prisons at Bidar, Karwar, Kolar, Tumkur (old), Aresikeri, Sagar, Tarekeri and Tiptur do not have proper interview rooms. Visitors are allowed to have interactions with inmates at the main gate for five to ten minutes.

<sup>49</sup> The other three sections are ration, executive, and stores. Jailors are given charge of these sections.

<sup>50</sup> See Annexure II: Circular No.: ADM2:INTERVIEW:CR-147/2007-08 dated 18 March 2008.

<sup>51</sup> Ibid.

### *Telephone Facilities Provided to Prisoners*

Under the conditions described above, the incarcerated, along with their right to liberty forgo their right to effectively communicate with the outside world. After the revolution in communication technology, telephones can no longer be considered a luxury, but an essential and easy means of communication. Given the security concerns involved in the prison setting, this can be an effective means of communication between prisoners and their families. This understanding is not new and already forms the basis to resort to videoconferencing between the courts and prisons. However, the very same state governments which are enthusiastic about the technology in the form of videoconferencing are not willing to consider extending telephone facilities to the prisoners. And the media, often interested in stories of smuggled mobile phones by gangsters for criminal purposes, does not contribute enough towards improving communication.

However the Government of Karnataka to its credit has for the first time in the country introduced telephone facilities for prisoners.<sup>52</sup> The facility was first introduced in Bangalore Central Prison in April 2007, and after its success, was extended to all the other six central prisons in the state. BSNL installed ten telephone booths in Bangalore, where prisoners were allowed to purchase Indian telephone cards worth Rs. 100. They can make three calls per week with a maximum call time of five minutes each. Note that there is no way for them to be able to receive calls. Calls get automatically disconnected after five minutes and all calls are digitally recorded. For this purpose, digital recorders are attached to each phone terminal. The recorded conversation is transferred to the computer system, and if inmates are found to misuse the facility for illegal activities they are barred from using it, and appropriate action is taken against them.

Although at present only a small percentage of prisoners (less than ten per cent) are able to use the facility, it has proved very useful, especially to undertrial prisoners pursuing their cases with their legal representatives and others concerned. It also reduces the problems of visitors travelling long distances, bribing officials, and waiting endlessly outside the prison with no one to give them any information. This facility, in addition to regular interviews, has given great relief to poor prisoners, as it is both cheap and effective. It has decreased the frequency of visitors, saving their time, energy and money spent on commuting. It also saves manpower for handling interviews.

Most importantly, it ensures the continuity of family contact and that with the outside world, which is crucial for prisoners' reformation and rehabilitation. This initiative has seen the inmates maintain contact with the outside world for the first time in Indian prison history.

## **PRISON SECURITY**

Civil society is haunted by images of serious offenders behind bars. Prison administrators and policymakers always pitch the concern of prison security against the importance of prisoners' rights and welfare. No policy document on prison ends without tightening control over living conditions of inmates and emphasising the priority of security in prison management.

There are several areas in which security can be prioritised. Guards are required both inside and outside every prison. External security is usually provided by armed guards from the Armed Reserve Force in town and internal security is taken care of by the prison's warder group. The sanctioned strength of the warders is 1,066,<sup>53</sup> though 15 per cent of the posts have lain vacant for years. If the retirements and dismissals are taken into account, the total number of vacancies for warders comes to 716 for 2008.

<sup>52</sup> Report on Working of Prison Department 2008, Achievements and Innovations, Government of Karnataka. See - 'Telephone Facility to the inmates of all Central Prisons'. [http://www.mysore.nic.in/dept\\_prison.htm](http://www.mysore.nic.in/dept_prison.htm)

<sup>53</sup> As on 15 February 2008: NOTE submitted to the Advisor to the Governor, Karnataka by Additional Director General and Inspector General of Prisons.

However, at the time of writing, the government had sanctioned only 68 posts. As a result, most of the new prisons constructed under the modernisation scheme remain unopened. The irony is that while prisoners are inhumanly crammed into the existing prisons, the new prisons remain unoccupied due to lack of staff. Further, time is needed to train and induct new recruits, which means a year's delay is inevitable in operationalising any new contingent. Therefore, the government should have the estimate of its staff requirement at least one year in advance of the completion of any prison construction. It is important to note here that the staff crisis will get worse, when in a year or two, many of the senior prison officers are due to retire, leaving the prisons grossly under-staffed and without adequate experience and training.

What are the implications of the lack of adequate security staff for the management of prisons? While the main gate of the prison is the most important area of security, of the 84 functioning prisons, only seven large institutions – the central prisons – have police guards with guns at the main gate. In almost all other prisons, the inner gates are staffed by convicts. Inmates operate even the main gates in the smaller prisons. However, it must be noted that this has not posed any security threats so far.

Inmates are involved in office work, monitoring interviews, cooking, store management and canteen work, to name a few. The staff says that only the help from the inmates allows them to run the prison on a skeleton force. Otherwise, it is impossible to run the prisons without inmates in central security areas.

Another important area of security is between the barracks and the perimeter wall. Prison staff hardly ever man these areas. Wherever there is a shortage of more than 15 per cent of the total strength, inmates are locked up for long hours and their visitation rights are restricted to a considerable extent, making any collective or meaningful activity impossible. In such situations, inmates are let out of the barracks only to cook, dine and wash.

The shortage of manpower has consequences for the working staff too. They end up working long, harsh hours. Not a single prison officer recorded that they were happy or satisfied with their career. One prison officer having been in service for 30 years had started counting down to his retirement like the convicts count their days of sentence. This inevitably impacts their treatment of the inmates, their approach to the management, and the transparency of the institution. They feel stressed and insecure, suspicious of most of the inmates and trust few of their colleagues.

Despite this precarious situation, escapes from prisons are negligible and most escapees are recaptured.

Escapes from the Prisons of Karnataka	
Year	Escapes
2001-02	16
2002-03	28
2003-04	26
2004-05	22
2005-06	20
2006-07	29
2007-08 up to (23 November 2007)	32

The fact is that half the inmates are illiterate, comprise the poorest of the poor and are from agricultural and rural backgrounds. About 95 per cent are first-time offenders involved in individual and familial disputes and the number of inmates with organised criminal backgrounds is negligible.<sup>54</sup> Most prison officers, including young women and the most corrupt ones walk freely inside, commanding the inmates. They are the ones who tend to exaggerate security concerns out of proportion. This is primarily because they have no understanding of the correctional or reformative aspect of prison nor do they have any training in prison management. In fact, nothing happens inside the prison without the collusion of the staff. All the horror stories emanating from prisons indicate only the staffs' collective and individual underperformance, their failure in their duties or their connivance. It is for this reason that they want to run prisons as closed institutions away from public scrutiny. This takes care of the mismanagement, corruption and authoritarianism of the reformers. The unquestioning acceptance of this approach results in the sub-human conditions forced on the inmates and the collapse of the image of the "reformer" permanently.

**CASE STUDY: *A juvenile named Raju was kept in fetters in the Raipur District Prison (as on 2 June 2008)***

- Name: Raju
- Age: 18 years
- Accused of: Stealing a CD player but it was recovered by Devdurga Police, Raichur district
- Court: JMFC II (fast track court) of Raichur
- Remanded to: Raichur District Prison
- One of the 54 inmates in Barrack No. 2
- Date of Remand: 13 June 2008
- One of the 51 undertrial prisoners in Barrack No. 2
- He completed 20 days with his feet chained
- First time accused
- No legal representation
- The boy tied his own handkerchief under the handcuff to protect his skin from abrasions. He says he is not able to walk or go to the lavatory. He could not stand for even a few minutes.
- He attended court on 27 June 2008 but he did not complain to the Magistrate about the chaining.
- No order received from the Magistrate to apply restraints.
- No reasons or justifications were found in the punishment book. There are no entries for the year 2008.
- The Prison Superintendent says: The boy is dangerous and that it is visible in his face. He has kept him in fetters on the basis of an unwritten advisory note from the police about an attempt to escape from police custody at Devdurg. He said that handcuffs were never applied to the boy's legs earlier. The boy's good behaviour will be reviewed after one or two weeks.

CHRI brought this instance to the notice of the government and requested them to take appropriate action against the Prison Superintendent, Krishna Naik. The result was that the superintendent was forced to go on compulsory leave for a few days and was reinstated later.

<sup>54</sup> Unlike the West, India does not have high security prisons for persons involved in organised and violent crimes for profit. They are allotted one or two barracks, which barely separates them from other inmates.

### *What Happened in Tumkur*

On the night of 12 July 2007, eight undertrial prisoners escaped from the District Headquarter Sub-Jail of Tumkur using iron handles from buckets to dig a hole through the damp wall of the toilet in the barrack. The jail does not have a perimeter wall and the building was not meant to be used as a jail, in any case. Within hours of the jailbreak three of the accused were caught. This was the fourth escape from the same prison within a year. The next day the prison department chief, Inspector General of Prisons, S. T. Ramesh visited the sub-jail and recorded the following comments:

The entire episode can be traced to the collapse of day-to-day administration in the prison. There are serious complaints of free access to "anja", cooking fuel like charcoal, grains, chicken, mutton, etc. Cooking is going on in all the barracks. Corruption is rampant. The Assistant Superintendent, Mallesha panicked on seeing the escape and lost his presence of mind. He is totally inactive, cowardly and has no control over subordinates. There were warning signals a few months ago that prisoners may escape using the same M.O. but this warning was not heeded. Also, when admitting prisoners into the jails, not much attention is paid to segregate them suitably. Marginal criminals are clubbed with notorious ones. The entire responsibility for the escape rests on the Assistant Superintendent, Mallesha.

Immediate action should be taken to shift to the new jail premises and the old one should be kept under lock and key.

Signed  
S.T. Ramesh  
13 June 2007

After the visit the IG sent a report to the government providing the reasons that led to the escape. He recommended that appropriate action be taken against the Assistant Superintendent responsible for the incident. Despite the report and recommendation for punishment, the government rewarded the Assistant Superintendent with a promotion within a month and posted him to a large central prison as the Superintendent. Observers in the department say that Mallesha belongs to the politically influential community of Lingayats and could influence the government through a politically powerful religious matha (Jagadguru Swamy Siddalingeswara Matha).

How can anyone expect better prisons from a society in which the axis of caste, religion and political interest encourage corruption and mismanagement? As of now, it appears that this is the only (undeclared) policy that the governing class offers for the management of reformative institutions.

## **PRISON LABOUR AND WAGES**

In the prisons of Karnataka, both convicts and undertrial prisoners are employed in various kinds of activities. Convicts are engaged in industry and factories such as handlooms and textile work, tailoring and carpentry, producing tents, footwear, soft toys and carpets. Women are employed in embroidery, baking, knitting, fabric painting, and chalk and incense making. Prisoners from agricultural backgrounds are involved and trained in modern techniques of agriculture, horticulture, sericulture, sheep rearing, dairy farming, the manufacture of organic manure and cultivating seedlings. Only convicts involved in these trades are paid wages. The undertrials cannot be employed unless they voluntarily ask for it, and those sentenced to simple imprisonment should

not be forced to work. Only those sentenced to rigorous imprisonment should be made to work and be given wages. The inmates work in the factory from 7.30 a.m. to 11.00 a.m. and from 12.00 p.m. to 4.30 p.m. They are all paid Rs. 10 per day.<sup>55</sup>

The Actual Number of Prisoners Employed in Prison Industries								
Name of the Institution (Central Prisons)	Total No. of Convicts*	No. of Inmates Sentenced to Rigorous Imprisonment (RIs) *	No. of RIs Employed in Trades		No. of RIs Employed in Prison Maintenance		Total No. of RIs Employed	
				%		%		%
Gulbarga	356	339	55	16	104	30	159	46
Belgaum	476	414	339	81	75+65*	19*	414	100
Dharwad	142	106	00	00	28	26	28	28
Bijapur	233	227	48	21	54	23	102	44
Bellary	293	270	38	14	116	42.9	154	57
Total	1500	1356	480	33	377	27	857	63

\* Only 75 in this list are sentenced to rigorous imprisonment and the rest are either simple imprisonment or undertrials.

From the above data, it is clear that only 33 per cent of the convicts sentenced to rigorous imprisonment are engaged in any skilled trade, though the rehabilitative value of the work that is provided and the subsequent employability of these prisoners in the job market are doubtful. The data also shows that in the prisons of Gulbarga, Dharwad, Bijapur and Bellary there are more prisoners employed in prison maintenance units than with any skilled work. This cannot, by any measure, be said to be reformatory in nature. This conforms to the general scenario across the state and the country and indicates the hollowness of the state's claim of running a reformatory programme for the offenders.

Most of the instructors training inmates in the different trades are drawn from the prison department or the agriculture/industrial/education departments. They come to the prisons on deputation for a period of two to three years. However, those departments also give the lowest priority to allocating staff to prisons, and prison officers say the instructors are not interested in working with the inmates. In Bellary Central Prison, the posts of instructors, teachers, veterinary and livestock instructors have been vacant for five to ten years. Similarly, the post of agriculture officer has been vacant since 1997. The shortage of trained staff indicates that only one-third of the convicts are engaged in purposeful employment.

<sup>55</sup> Hanumanthappa, one of five instructors presently working in Gulbarga Central Prison.

### The Number of Vocational Instructors' Posts Vacant in Prison Industries as of March 2008

Name of the Post	Sanctioned Strength	Working Strength	Vacancies
Chief instructor	1	1	
Instructor Grade I	15	15	
Instructor Grade II	28	3	25
Electrician	2		2
Mechanic	1	1	
Cart Man	1		1
Blacksmith	1		1
Assistant Agriculture Officer	3		3
Assistant Horticulture Officer	1		1
Press Foreman	1	1	
Drawing Teacher	1		1
Assistant Foreman	2	1	1
Teacher	34	22	12
Agriculture Instructor	6	2	4
Vet-cum-livestock instructor	3	2	1
Compositor	1		1
Machine Minder	1		1
<b>Total</b>	<b>102</b>	<b>48</b>	<b>54</b>

Chapter 20 of the Prison Manual mandates that all inmates who work in essential service units such as water supply, sanitation, hygiene, stores, laundry, plumbing, etc. and all those who work in inmate service units such as the kitchen, hospital, night patrol and teaching, should be paid. The first three months of sentence are considered training after which time they are eligible for wages. However, the Prison Manual terms these wages "incentives", saying that inmates have no right to wages, but are eligible only for incentives. These wages/incentives fall far below the minimum wage rates – below which labour could be considered "bonded" or "forced", so the Manual terms them "incentives".

Nevertheless, the Manual makes clear that every inmate working in the kitchen, garden or barracks should be paid. Inmates are eligible for these wages/incentives even for work done on a holiday or Sunday. The wages/incentives payable should be drawn regularly every month from the sanctioned budget and credited to the inmates' accounts, which should be notified to the prisoners under their signature. The Manual does not specify the amount to be paid but classifies labour into skilled and unskilled. The Manual presumes that only the sentenced inmates are employed in all prisons.

At the time of our visit, not only the inmates, but even the instructors were unaware of the categorisation of prison labour and the wages fixed for each category. The inmates looked confused when asked which category of labour they belonged to. All they knew was they were paid Rs. 10 per day.<sup>56</sup>

In practice, in all the prisons, including the central ones with large sections of convicts, a sizeable number of undertrials are also employed in the essential and maintenance units of the prison department. Having them engaged in the kitchens of every prison is the norm, as no cooks are appointed by the government; despite recommendations by the Justice Mulla Commission and the Karnataka Prison Manual (Rule 376) mandating that one inmate for every 25 prisoners shall be appointed as a cook. The kitchens in all the district prisons, district headquarter and *taluka* sub-jails are completely managed by undertrials since these jails do not house convicts, and more so, because of the severe shortage of staff. None of them, however, are paid by the government.

The Supreme Court of India, while disposing a string of petitions on the question of the minimum wages paid to prisoners and the applicability of Article 23 of the Constitution (the right against forced labour) in 1998<sup>57</sup> made it clear that subjecting prisoners to hard labour would not violate Article 23 even without adequate wages being paid. At the same time, however, it also maintained that the Constitution did not bar a state from granting, by appropriate legislation, wages to prisoners subject to hard labour. The Court ruled that prisoners could be paid equitable wages and ordered all state governments to form wage fixation bodies and frame a law for the payment of compensation to the victims of crime from the wages of the prisoner. In the meanwhile, the states were to fix the interim wage rates. Though the primary argument before the Court was about the right to appropriate wages to be paid to convicts subject to hard labour, the Court also, as a passing remark, found nothing uncivilised or unsocial in deduction of the cost of maintenance from the prisoners' wages.

Average Cost of Prisoners Since 1999					
Year	Average No. of Convicts	Average No. of Undertrials	Average Cost per Prisoner per Annum (In Rupees)	Average Administrative Cost per Prisoner per Day* (In Rupees)	Average Cost for Food per Day per Prisoner (In Rupees)
1999-2000	1440	7242	23931.12	65.56	16.75
2000-01	1623	7787	24399.00	66.84	19.37
2001-02	1782	7646	26546.25	72.72	18.21
2002-03	2179	8159	27280.00	74.74	16.47
2003-04	2547	8101	46615.55	127.71	16.47
2004-05	3245	8145	46037.65	126.13	15.32
2005-06	3905	7995	37538.99	102.84	23.10
2006-07	3778	8368	32,298.42	88.48	23.23

\*The average administrative cost includes the prisoner's diet, clothing and bedding, and medical expenses.

<sup>56</sup> Till 1999 they were paid Rs. 6 and Rs. 4 for skilled and semi-skilled labour. And those working in open-air prisons were paid Rs. 10.

<sup>57</sup> W.A. No. 308/1986 (W.A 12223/1984) *State of Gujarat and another vs. High Court of Gujarat*: Supreme Court, date of judgement: 24 September 1998.

In pursuance of the directions issued by the Supreme Court, the Government of Karnataka enhanced the wage rates paid to unskilled, skilled and highly skilled prisoners to Rs. 35, Rs. 40 and Rs. 45 respectively pending the decision of the wage fixation body.<sup>58</sup> The government, however, also started deducting Rs. 25 per day from the wages of every convict as maintenance costs.<sup>59</sup> Given that the average per capita maintenance cost for 2005, 2006 and 2007 is around Rs. 100 per day, the amount deducted by the Government of Karnataka appears somewhat arbitrary. There is no sound justification for the policy and it only reflects the mean attitude of the government towards offenders who are effectively slaves of the state without the right to adequate wages for their labour.

## PRISON MONITORING

### *Board of Visitors (BOVs)*

Chapter XXV of the Karnataka Prison Rules, 1974 and Chapter XXXIII of the Karnataka Prison Manual, 1978 provide for prison visitors and the establishment of Boards of Visitors. Rule 187(2)(c) of the Rules (1964) mandate the appointment of six non-official visitors to each central and three to each district prison for a term of two years. The non-official visitors, along with district officials from the district judiciary, police, health, industries, and engineering and public instruction departments constitute the boards of visitors, which are headed by deputy commissioners. The members of the boards are to inspect the prisons, examine their conditions, hear and attend to all the presentations from prisoners and personnel and suggest remedial measures to the concerned departments to take follow-up actions. Rule 625(iii) of the Manual mandates the deputy commissioners of the districts to call meetings of the Board of Visitors every quarter in January, April, July and October to address the problems faced by the prisons.

The prison visiting system is designed to ensure that there is access for some independent persons of the community. It provides channels for complaint and redressal and an independent group of people to monitor the functioning of prisons to bring some relief to the lives of both the prisoners and the administrators. It is a mechanism that has the potential to involve other departments of the government and civil society organisations such as NGOs, to address the problems faced by the prison staff as well as the prisoners.

In Karnataka, the undertrial population constitutes nearly 70 per cent of the total prisoners. Almost all the prisons are overcrowded, leading to the sharing of inadequate space and resources intended for only half the population housed. Regular appointments of non-official visitors and the proper functioning of the Board of Visitors would surely ease the stress on the functioning of the Prison Department. But the study undertaken, suggests that the government is not interested in making the system of prison visitors functional. Instead, the mechanism is subject to political influences every time the government changes. Every new government orders the superintendents of the prisons to secure the resignations of those non-official visitors appointed by the previous government.<sup>60</sup>

<sup>58</sup> Government of Karnataka, G.O No. HD 37 PRA 96 dated 22 January 1999.

<sup>59</sup> Though the average per capita cost for instance in Karnataka is Rs. 100 per day, Rs. 100 is the tri-annual average of per capita maintenance costs for 2005, 2006 and 2007.

<sup>60</sup> Letter No.CS416/2006 dated: 7 February 2006 from the Office of the Chief Secretary, Government of Karnataka addressed to the Inspector General of Prisons.

According to the rules, all the 19 large prisons – including the seven central prisons and 12 district jails – are to have non-official visitors in place. But as on 1 August 2007 non-official visitors were appointed only at the District Prison of Mangalore. Deputy Commissioners of the districts give no priority to the appointment of non-official visitors, and if they are appointed, there is considerable delay in action. On average, the government takes between two to four years to appoint non-official visitors. In most prisons the records of appointed visitors are not maintained, and those that are on record seldom provide any concrete information. The prison officers say that they stopped pressing the deputy commissioners to appoint visitors after the process got heavily politicised.

The Board of Visitors are to meet once every quarter. Of the 19 prisons located in the district headquarters, only eight could provide some evidence of having called meetings of the Board of Visitors between 2005 and 2006.

S.No	Name of Prison	BOV Last Called Between 2005 and 2006
1	Belgaum Central Prison	13 January 2005
2	Bellary Central Prison	29 September 2006
3	Raichur District Prison	22 June 2006
4	Bijapur Central Prison	6 February 2006
5	Bidar District Prison	13 September 2006
6	Mangalore District Prison	22 November 2006
7	Madikeri District Prison	11 August 2005
8	Shimoga District Prison	25 August 2005

From the data available it appears that the Boards of Visitors meet once in two or three years. It is clear that the deputy commissioners attach the lowest priority to the task of activating the boards, and their meetings do not involve the non-official visitors seriously. The Director of Public Instruction or his nominee, the Director of Industries and Commerce, and the District Surgeon rarely visit the prisons in their jurisdictions, despite being required to do so under the rules. As a result, a large number of posts, e.g. of trade instructors, teachers and doctors are left vacant in the prisons, which in turn hampers the reformatory activities conducted in them. No prison in the state, other than Bijapur Central Prison displays the names or contact details of its official and non-official visitors at the entrance, though it is mandated by Rule 267 of the Prison Manual.

From the prison visitors notes it appears that very few visitors, official or non-official, take their role in the reformation of prisons, seriously. Very few write detailed notes on the conditions of prisons in the Prison Visitors' Book.

### *Proceedings of the Board of Visitors*

To understand the importance of the meetings of the Board of Visitors, the proceedings of one such meeting from the Central Prison at Bijapur is attached. The last Board of Visitors' meeting was held on 6 February 2003. It was attended only by the official visitors, as no non-official visitors were in place at that time. The proceedings of that meeting were as follows:

1. Steps should be taken to provide better escort facilities to produce prisoners in court on time.
2. Drinking water should be supplied to the prison on alternate days instead of once every four days and this should be conveyed to the city corporation.
3. The District Collector promised that he would take measures to ensure that the furniture made by the prisoners is purchased by other government offices.
4. The Lions Club and the Rotary Club should be called on to provide television sets and sports kits for the recreation of the prisoners. Steps should be taken by the Superintendent to provide a cable network in the prison.
5. Notice boards providing the names of the members of the Board of Visitors including the non-official visitors should be put up in the prison.

The prison officials say that some of these recommendations were implemented. The inmates were provided some recreation through the involvement of NGOs and the prison industry got more work orders from government offices. This resulted in increased work and earnings for the inmates. However, after the meeting, the BOV could not convince the successive deputy commissioners of the district to convene further meetings.

The last board meeting in the District Prison in Raichur was held on 22 June 2006. The term of non-official visitors appointed on 7 June 2003 was for a period of two years, but it expired by the time CHRI conducted its visit. No attempt was made to nominate replacements after the terms expired. However, when the Board held its meeting, it was attended by the Deputy Commissioner, the District Sessions Judge, the District Security Officer, District Medical Officer, Deputy Director of Public Education Department, District Surgeon and a representative from the Public Works Department, and they decided:

1. To improve the health facilities by asking two doctors from the district hospital to visit twice a week and sign in the register.
2. To make use of steam wherever possible to save LPG, and to improve the bread-making equipment.
3. To lay tiles in the kitchen.
4. To build fresh roads leading to the newly constructed staff quarters.
5. To prevent land encroachment at the *taluka* sub-jail at Manvi, build a new compound wall and use the funds allocated for such renovations.
6. To ask the city corporation to demolish the construction of walls and roofs built with support from the prison walls by outsiders.

7. For the sake of prison security and the convenience of the prisoners a court should be built within the premises of the prison.
8. To carry out farming with help from the Forest Department on the uncultivated land inside the prisons.

Prison officers say that some of these decisions were implemented and conditions improved. But after that there was no regular review or monitoring of the performance of any work by the different departments. For instance, the visits by doctors and officials from the Public Works Department deteriorated, resulting in new problems.

In Raichur, there were ten accused inmates who were remanded by the Executive Magistrate under Section 110<sup>61</sup> of the CrPC for want of executing bonds with sureties. As a matter of routine, all run-away youths and rag pickers are remanded to prison by the police, leaving them to rot for months. Prison officers say that at any time there are at least ten such accused inside, without any hope of early release. The failure of the Board to meet regularly negates the powers of the Deputy Commissioner and the Executive Magistrate to review such cases and give appropriate orders.

## RECOMMENDATIONS

The proper functioning of the prison visiting system is one of the most critical components of prison reforms. A society that believes in the principle of the residuary rights of prisoners and their imprisonment only as a step to their rehabilitation in wider society should have a functioning system of community involvement in the management of prisons. This not only enables the institutions to mobilise the resources to honour the principle, but also facilitates their transparency and ensures adherence to rules.

A vast amount of human and material resources are required to make life in confinement, at the very least, tolerable, if not meaningful. In developed countries, governments create almost miniature worlds geared towards providing nearly every need of the inmates.

As things stand in India, prisons scarcely have any resources at their disposal. They depend on other agencies of government to meet the basic needs of the inmates. Hierarchically placed low in the system of governance, the prisons themselves cannot command the resources that are at their disposal. Hence the law provides for a system of prison visitors and for Boards of Visitors headed by deputy commissioners, who, as heads of their respective district administrations, command substantial resources.

1. There is need to dispense with the practice of securing resignations from the non-official visitors to prisons every time the government changes. All visitors appointed should be allowed to complete their terms in office.
2. The process of appointing non-official visitors to all the prisons needs to be taken up immediately and seriously by the government.

<sup>61</sup> "When \*[an Executive Magistrate] receives information that there is within his local jurisdiction a person who is so desperate and dangerous as to render his being at large without security hazardous to the community, such magistrate may, ...require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period, not exceeding three years, as the magistrate thinks fit."

3. The government needs to review the functioning of the Boards of Visitors to prisons and take appropriate steps to revive, rejuvenate and carry forward prison reforms.
4. It is important to select public-spirited persons of integrity, interested in prison reforms work and in the rehabilitation of offenders, preferably with experience in the fields of education, medicine and/or social reforms with proof of involvement in community work as potential candidates as non-official visitors.
5. Non-official visitors need to be appointed to all categories of prisons and jails including District Headquarter sub-jails and Special sub-jails.
6. CHRI requests the government to direct all Deputy Commissioners to:
  - a. Call for meetings of Boards of Visitors regularly every quarter.
  - b. Start the selection process for non-official visitors three months before the expiry of the term of existing panels of visitors and avoid time gaps between appointments.
  - c. Draw up a larger list of potential candidates, procure letters of intent and consent, prepare a panel from the list and forward the same to the government.
  - d. Ensure that the appointments are communicated to non-official visitors through the prison superintendents soon after their appointment and maintain records of their acceptance.
  - e. Supply prison-visiting guidelines to all official and non-official visitors and ensure that they are strictly adhered to during their visits and after.
  - f. Instruct all the visitors to record a detailed note of all their remarks, suggestions and complaints on the living conditions in the prison visitors' book after every visit as is mandatory according to Section 12 of the Prisons Act, 1894.
  - g. Instruct all prison superintendents that complete contact details of all the visitors must be displayed inside and outside the prison premises in accordance with the Prison Manual, Rule 627 and the Right to Information Act, 2005.
  - h. Instruct prison superintendents to make arrangements for all visitors to interact with prisoners in a free and fair atmosphere.
  - i. Instruct prison superintendents to forward all the prison visitors' notes with their administrative position on the implementation of each suggestion to the Inspector General of Prisons as well as all the concerned ex-officio visitors including the deputy commissioners as provided in Rule 188(5) of the Prison Rules, 1974.
  - j. Instruct prison superintendents to fix the dates of, and agenda for, the meetings of the Board of Visitors in advance and inform all the visitors accordingly.
  - k. Delegate the power to chair the meetings of the boards to the officer next in rank, if not able to do so themselves.
  - l. Ensure that the visitors' notes are discussed at the board meetings along with the action taken and the report and recommendations of the official and non-official visitors.

- m. Ensure that an adequate number of visits are made by visitors, review their performance at the board meetings and issue suitable instructions and guidance to all the visitors to perform their duties with due diligence.
- n. Communicate all the minutes of board meetings to: the Prison Headquarters; the Home Department; the State Human Rights Commission; and the State Legal Service Authority for further instructions.
- o. Consider instituting public recognition or awards for the performance of demonstrably excellent services as visitors to prisons.
- p. Perform the key role in selecting non-official visitors and ensuring their involvement in board meetings with due diligence and preside over prison reforms at the district level.

**ANNEXURE I****GOVERNEMENT OF KARNATAKA  
(PRISON DEPARTMENT)**

No. :ADM2:FOOD/CR-146/2007-08

Additional Director General of Police  
And Inspector General of Prisons, Karnataka  
No. 4, Sheshadri Road, Bangalore-560 009  
Date: 18/03/2008**CIRCULAR****Subject: Implementation of the suggestions given by Commonwealth Human Rights Initiative, New Delhi****Reference: 1) Office No. J2/CR-12/2007, Date:22/06/2007****2) Letter, dated 15/02/2008 from the Director, Commonwealth Human Rights Initiative, New Delhi**

With reference to the above mentioned subject, the letter referred to and in the context of the study undertaken by Commonwealth Human Rights Initiative, New Delhi who visited 38 prisons in different parts of Karnataka, it has been brought to my notice that in all Central and District Prisons (except Shimoga and Karwar) many prisoners have been provided for cooking their own food. It has been on the extremes in Dharwad. The following points were also brought to my notice. Gulburga, Bellary

1. Rotis cooked for consumption by prisoners have been dried and used as fuel for cooking in the prisons.
2. Procuring cooking articles from the prison canteen/outside and then cooking food using fuel is very common.
3. Food is cooked without the permission of the prison authorities inside the barracks after lock-up.
4. As the prisons are overcrowded cooking inside the barracks leads to breathlessness in prisoners and further leads to ill health and sickness such as bronchial asthma.
5. The reason given by prisoners for using cooked rotis as fuel is their poor quality.
6. When asked about this problem to the prison authorities they spoke about the odd timings at which food is distributed that is some time before lock-up and they said that this leads to food becoming cold at the time of actual consumption.
7. Altogether, they suggest some appropriate measures to address such problems.

They suggested apt measures to be implemented in the letter. They reported that there is no change in the behaviour of either the prisoners or the prison staff/authorities. Even when there are prisons rules and regulations and various directives and orders they have not been followed which reflects the irresponsible behaviour of the prison staff/authorities. It is shameful for the prison department to request for suggestions and guidelines from other institutions.

In this context the following directives should be strictly followed. The prison rules and regulation must be strictly observed.

- 1) A committee is going to be appointed to inspect the state prison barracks without prior intimation after lock-up. This committee can visit any prison any time for surprise inspection, and therefore the prison authorities are expected to be alert. In case there are shortcomings or limitations, there will be disciplinary action taken against not only the higher authorities but also the concerned lower staff of the prison.
- 2) If the articles used in the kitchen in making rotis are below the expected standards the committee will again take disciplinary action against the concerned authorities.
- 3) No prisoner shall be allowed to get food articles from outside. Only fruits and bakery products shall be allowed inside. Steps should be taken to make the food cooked inside the kitchen tasty so that it will prevent prisoners from procuring food from outside and cooking food inside the barracks.

## ANNEXURE II

GOVERNEMENT OF KARNATAKA  
(PRISON DEPARTMENT)

No. :ADM2:INTERVIEW:CR-147/2007-08

Additional Director General of Police  
And Inspector General of Prisons, Karnataka  
No. 4, Sheshadri Road, Bangalore-560 009  
Date: 18/03/2008

## CIRCULAR

**Subject: Implementation of the suggestions given by Commonwealth Human Rights Initiative, New Delhi**

With reference to the above mentioned subject and in the context of the study undertaken by Commonwealth Human Rights Initiative, New Delhi who visited several prisons in different parts of Karnataka and who have reported and suggested several measures to improve the basic requirements in the visitors rooms and putting up of notice boards to keep the visitors informed.

They have reported about the absence of notice boards mentioning the number of times of visits, the number of visitors that can visit at one time, for how much time they can visit and if they have complaints whom should they complain to. They have also reported about absence of basic facilities for visitors such as drinking water, waiting room/shed, etc.

As there are rules and regulations concerning the above mentioned in the Prison Manual of Karnataka and as they have to be implemented, and also keeping in mind the suggestions by the resource persons undertaking the present study it is ordered that basic facilities should be made available to the visitors and a notice board displaying the points mentioned bellow should be displayed inside the prison for the prisoners and outside the prison for the sake of the visitors.

- 1) The timings of the visits (KPM 1978, rule no.596).
- 2) The maximum time allotted per visit (KPM 1978, rule no.601) (As there is overcrowding and as there are number of visitors, in Bangalore Central Prison the maximum time allotted per visit shall be ten minutes).
- 3) The maximum number of visitors that can visit a prisoner in one visit (KPM 1978, rule no.603).
- 4) In one month maximum how many times can one visit a prisoner (KPM 1978, rule no.592).
- 5) Articles banned and permitted at the time of visits to be given to the prisoners in brief.
- 6) In case the visitors have to complain regarding anything related to the visits whom should they approach, his/her name, designation, address, phone no., etc., should be displayed. In addition to the above, the names and addresses of the following higher authorities should be displayed.
  - a) Deputy Inspector General I, Central Office, Bangalore
  - b) Deputy Inspector General II, Central Office, Bangalore
  - c) Additional Director General of Police and Inspector General of Prisons, Karnataka
  - d) State Human Rights Commission
  - e) Lokayuktha Office

- 7) As mentioned in the letter No. R S : CR-40:2005, dated 01/10/2005 from this office, the appointed titled Public Information Officer under Central Government's Right to Information Act should make a list of all the public holidays on which there won't be interviews allowed for the whole year in brief.
- 8) All the complaints received from the visitors should be given to the chief officer of the prison, the Deputy Inspector General of Prisons and the Inspector General of Prisons.
- 9) All the information that would benefit the general public.

All the above mentioned points should be a part of the notice board that shall be put up inside and outside the prison and immediate steps not surpassing 30.04.2008 should be taken in this direction.

Once the circular has been received by the prison authorities, a letter confirming the same should be sent.

Additional Director General of Police  
and Inspector General of Prisons, Karnataka

To the Chief Superintendents/Superintendents of all prisons for further action

Copy to:

- 1) Deputy Inspector General I, Head Office, Bangalore
- 2) Deputy Inspector General II, Head Office, Bangalore
- 3) Gazetted Manager, Head Office, Bangalore
- 4) Related Departments/Department Officers

## ANNEXURE III

## LETTER TO THE ADDL. DIRECTOR GENERAL OF PRISONS

New Delhi

15-2-2008

To  
 Shri S.T. Ramesh, IPS,  
 Additional Director General of Police &  
 Inspector General of Prisons  
 Government of Karnataka  
 Bangalore

Dear Sir,

**Sub: Report on the functioning of *taluka* Sub-Jails  
 Under control of Revenue Department**

This is with regard to the permission granted to the Commonwealth Human Rights Initiative, New Delhi for conducting a study on prison conditions in Karnataka in June 2007. As we informed you in our proposal, CHRI's research team began field visits in the second week of August 2007 and the process is nearing completion. We visited 38 custodial institutions of various types so far and are in the process of preparing the first draft of the report which, we hope, will be submitted to you soon. Meanwhile we thought it appropriate to bring to your notice some of the most urgent issues pertaining to the sub-jails functioning under the control of the Revenue Department.

As part of our study we visited 12 of these 28 *taluka* sub-jails. We are aware of the proposal pending with the government for take-over of these jails by the Prisons Department. Before that happens, however, we feel that these jails require your urgent attention. We urge you sir, to see that the remand and undertrial prisoners in these jails get treatment which is at least on par with those in jails and prisons under the control of the Prisons Department. We have prepared a small interim report on the issues that need urgent attention and are enclosing the same for your kind perusal.

We also feel that the officers in charge of these lock-ups should be provided some orientation on the management of these institutions. In case this responsibility is given to us in consultation with the Revenue Department, we shall take up this work in association with officers of the Prison Department.

Hoping to hear from you, and with thanks

Yours truly,



Maja Daruwala  
 Director

Dr. Murali Karnam

Enclosed: The Report on Sub-Jails

Address for Communication

Dr Murali Karnam  
 Consultant, P1, Rathnanidhi Towers  
 Snehapuri Colony, Nacharam  
 Hyderabad, AP 500076  
 Phone: 09866479775, 040-27158832

## ANNEXURE IV

### ADDITIONAL DIRECTOR GENERAL AND INSPECTOR GENERAL OF PRISONS, KARNATAKA

**Subject: Making drinking water available to the visitors of prisoners as suggested by Commonwealth Human Rights Initiative, New Delhi**

**Reference: Letter from Commonwealth Human Rights Initiative, New Delhi dated 06/03/2008**

**PROPOSAL:**

In the context of the study undertaken by Commonwealth Human Rights Initiative, New Delhi who visited several prisons in different parts of Karnataka and have brought to the notice that there isn't drinking water facility to the visitors of prisoners and to take steps in those directions.

Even when there are rules and regulations in the Prison Manual concerning the provision of basic facilities to the visitors of prisoners there haven't been enough of actions taken by the prisons in this direction. It is in this context and for providing drinking water to the visitors the following orders are issued.

**Order No.ADM2:Visitors:CR-147:2007-08, Date: 18-03-2008**

- 1) In the central prisons of Karnataka near the visitors' rooms water coolers should be installed immediately (Along with the coolers there should be a glass/cup tied to a chain).
- 2) In the District headquarter prisons and the District prisons of Karnataka water coolers should be kept near the visitors' rooms (Along with the filters there should be a glass/cup tied to a chain).

The above mentioned coolers and filters should be bought by inviting quotations from various competitive dealers and wholesalers. It should be bought from a dealer whoever offers the best (cheapest) offer in a transparent manner. If the price at which it is bought exceeds the reasonable price then the prison chief shall be held responsible.

Actions taken in this direction should be directed immediately

Additional Director General of Police  
and  
Inspector General of Prisons, Karnataka

To the Chief Superintendents/Superintendents, \_\_\_\_\_ for further action.

Copy to:

- 1) Deputy Inspector General I, Head Office, Bangalore
- 2) Deputy Inspector General II, Head Office, Bangalore
- 3) Gazetted Manager, Head Office, Bangalore
- 4) Related Departments/Department Officers

## ANNEXURE V

### GUIDELINES FOR PRISON VISITORS

#### 1. Buildings

Are buildings secure and in good repair? Is the actual useable accommodation sufficient for the average prison population? Is the segregation of different categories of offenders, and of the sick from the 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 a year does 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 the drainage and sewerage system of the prison in a satisfactory state? Have all conservancy toilets changed to the flush system? Is the flush system functioning? Is there sufficient supply of water to run the system in order? Is bio-degradable material clogging 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 storeroom and elsewhere properly kept and in good conditions? Are cooking utensils sufficient, clean and useable? Is the kitchen properly ventilated, clean, safe and well kept? Are rations issued in accordance with the prescribe 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? Are they 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 the 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 the rules? Are all punishments properly recorded? Are all procedures of enquiry followed before determining the prison offence and punishments for inmates?

### 11. Undertrial Prisoners

Is the Undertrial Prisoners Review Committee performing its functions with prescribed periodicity? Are cases of UTs scanned in accordance with court rulings? Is free legal aid accessible to deserving prisoners? Is there a proper facility for undertrial 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 21 sent to the Borstal School of Nizamabad?

### 13. Medical Care

Is a medical professional readily available on call for the care of the 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 the services of women medical professionals 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 the 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 the completion of seven 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 the attention of the National or State Human Rights Commissions? Is there any ostensible situation that may lead to the possibility of general or specific violation of such rights of persons in custody?

**17. Rehabilitation Programmes**

Are programmes of academic, vocational education taken up in the prison? Are services of credible voluntary organisations taken for the purpose? Are open camps being used 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-governmental 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?

## ANNEXURE VI

### DRAFT OF PROPOSED AMENDMENTS TO RULES 186 AND 187 OF KARNATAKA PRISON RULES 1974 (CHAPTER XXV ON PRISON VISITORS)

#### Appointment and Guidance of Prison Visitors

##### 1. Ex-officio Visitors:

(A) The following shall be ex-officio visitors of all the prisons and sub-jails in the state:

- (i) Chairperson and Members of National and State Commissions for Women
- (ii) Chairman and Member Secretary of State Legal Services Authority
- (iii) Chairperson of Karnataka Human Rights Commission
- (iv) Commissioner of Juvenile Welfare and Correctional Services
- (v) Director of Women and Child Welfare
- (vi) IG of Police (CAR/DAR)
- (vii) Director of Industries
- (viii) Director of Medical and Health Services
- (ix) Director of Technical Education
- (x) Commissioner of Agriculture
- (xi) Members of the Legislative Assembly, and those nominated by the Governor under Article 171 (3) (e) of the Constitution of India shall be ex-officio non-official visitors

(B) The following office bearers shall be ex-officio visitors of all the prisons and sub-jails falling within their jurisdiction.

- (i) District Sessions Judge, Additional Sessions Judge, Chief Metropolitan Magistrate
- (ii) Chairperson, District Legal Aid Authority
- (iii) District Magistrate and Deputy Commissioner
- (iv) Superintendent of Police
- (v) District Surgeon and Medical Officer
- (vi) District Industries Officer
- (vii) District Probation Officer

- (viii) District Education officer (dealing with adult education)
- (ix) Chief Health and Sanitary Inspector

## 2. Visits by Official Visitors:

The number of visits to be paid by official visitors in the year shall be unlimited but it shall not be less than four.

## 3. The Appointment of Non-Official Visitors:

- (i) The government shall appoint non-official visitors for all prisons including sub-jails in the state.
- (ii) There shall generally be eight non-official visitors for each Central Prison and for each District Jail and for each District HQ Sub-Jail there shall be four non-official visitors. This includes two lady non-official visitors for each Central Prison and one for each District Jail.
- (iii) The government will appoint non-official visitors to all the prisons and jails on the recommendation of the Deputy Commissioner of the concerned districts.
- (iv) The non-official visitors shall be drawn from the social service sector, criminal justice system, educational institutions, medical field, industries and so on.
- (v) The Dy Commissioner shall, through his own sources, draw a list of potential candidates for appointment as non-official visitors of prisons, and send them letters of intent and soliciting their consent.
- (vi) These panels shall be forwarded directly to the Home Department for the consideration and final decision of the government.

## 4. The Term of Office and Removal of Non-official Visitors:

- (i) Every non-official visitor shall be appointed for a period of three years, and shall be eligible for reappointment on the expiry of each term of office. Non-official visitors shall not be entitled to any daily allowance, but conveyance allowance shall be paid for every visit to jail.
- (ii) Nothing in these rules shall affect the powers of the government to appoint, re-appoint or revoke the appointment at any time of any person, official or non-official, as a visitor of any jail.
- (iii) The Dy Commissioner shall take steps to process the panel of potential non-official visitors three months in advance of the expiry of term of non-official visitors in place.

## 5. Training of Non-official Visitors:

Non-official visitors shall be imparted an orientation training of two or three days on all aspects of their assignment within one month of their appointment. Training of non-official visitors shall, inter alia, cover subjects, namely, use of social resources for correctional work and conservation of human rights in custodial institutions.

**6. Roster for Monthly Visits:**

- (i). Within 30 days of the appointment of non-official visitors for various jails in a district, the Dy Commissioner shall call a meeting of all such non-official visitors and in consultation with them, cause their names to be displayed on a roster of visits for each prison or sub-jail.
- (ii). It shall be the duty of the DC to arrange the roster for weekly visits to the jail so as to give each visitor, official, non-official and ex-officio non-official, notice to visit the jail in the coming week. There shall not be a fixed day of the week for these visits, but the visitor shall be left free to visit the jail on any working day that suits him.
- (iii). Nothing in these rules shall prevent visitors visiting the jails on dates other than those fixed by the Chairperson of the Board, but the visit should be on any working day and during the normal working hours of the institution.
- (iv). A visitor who is, for any reason, is unable to visit 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 prison in advance of his intention to do so.
- (v). Any non-official visitor who fails to visit for a period of two months shall be regarded as having vacated the office and a substitute arrangement shall be made.

**7. Introduction of Non-official Visitors to the Staff and Inmates:**

- (i) On receipt of information that non-official visitors have been appointed, the Superintendent of the prison shall address a letter to all the non-official visitors, inviting them on a particular day for a formal introduction with the staff and inmates.
- (ii) After a formal introduction, non-official visitors shall not expect any call or invitation from the OIC of the prison for further visits.
- (iii) Non-official visitors shall generally visit prisons during the day between unlocking and locking-up time.

**8. Visitor to be Accompanied by Jail Staff:**

- (i) The Superintendent shall arrange that every visitor to the prison is accompanied by a responsible officer.
- (ii) The visitors shall talk to the inmates at the distance out of hearing but in a full sight of the officer accompanying them.

**9. Names of Visitors to be Displayed:**

The Superintendent shall fix a board at the jail gate on which the names of all the visitors, official and non-official, as well as the roster for non-official visitors prepared by the DC, shall be noted. A list of names and addresses together with the phone numbers of all the visitors shall be displayed at prominent places within and at the place of interviews for prisoners and their visitors.

**10. Duties of Visitors:**

- (i) It is the duty of a visitor to satisfy himself\herself that the law, rules and regulations in the management of prison 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 the prisoners may make to him or her.
- (ii) A list of questions indicating some of the points to which a visitor may direct his or her inquiries is appended to these rules.
- (iii) An official or non-official visitor may call for all books, papers and records other than those of confidential nature, which are connected with the administration of any department of the prison.
- (iv) No visitor may issue any order or instruction to any subordinate jail officer.
- (v) Non-official visitors may not visit prisoners who are not allowed to be interviewed on medical grounds.

**11. Visitors' Book and Visiting Notes:**

- (i) 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 Superintendent.
- (ii) Every visitor shall, after he\she has completed the visit to jail, record in the visitors' book the date and hour of his\her visit, and may enter therein any remarks or suggestions he\she may wish to make with regard to the internal arrangement the jail or the state of discipline maintained therein. Entries shall be made in the visitors' own handwriting.
- (iii) Every visit by a non-official or official visitors or a group of visitors shall (as soon as possible, but not later than 7 days) be followed by a visiting notes on every point observed. 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.
- (iv) The remarks recorded by the visitor in the visitors' book shall be treated as confidential and shall not be communicated to the prisoners or any one outside the jail.
- (v) The superintendent shall, within 3 days of the receipt of the visiting note, forward a copy of visiting note with his comments on each point and the administrative position with regard to the implementation of any suggestions made, to the Inspector General of Prisons.

**12. Processing of Visiting Notes:**

- (i) 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 1. Action taken on all reasonable suggestions falling within the administrative and financial powers of the Head of the Department; 2. Reference made to the administrative department in the government on all reasonable suggestions not within the powers of Head of the Department, and 3. Reasons for disagreement on suggestions found unreasonable or not practical.

- (ii) The Superintendent of the Jail shall forward a copy of the orders from the Inspector General or the government, if any, to the visitor.
- (iii) The Superintendent shall cause these orders to be copied in brief in the visitors' book for the information of the visitors.
- (iv) Non-official visitors shall have the prerogative of writing directly to the Home Department of the government on issues they think proper.
- (v) Non-official visitors 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 violations, to the National or State Commissions for Women and Human Rights Commissions.

### 13. Complaints of Prisoners:

- (i) 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.
- (ii) 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. The visitor shall check and cross check each complaint with other prisoners and he shall satisfy himself that prima facie the complaint is true before recording it in the visitors' book.
- (iii) A complaint proved groundless later shall not attract any punishment to the prisoner who made the complaint.

### 14. Monitoring of Visits and Action Taken on Visiting Notes:

Monitoring of visits of both official and non-official visitors and 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 the concerned District Magistrate by the Office of the IG of Prisons.

### 15. Board of Visitors:

- (i) The official, non-official and ex-officio visitors to all the prisons in the district shall constitute a Board of Visitors, of which the Deputy Commissioner or his nominee, shall be the ex-officio chairperson.
- (ii) Official and non-official visitors shall jointly visit the prisons in the district at least once a quarter.
- (iii) Official and non-official visitors shall pay special attention to prisoners on hunger strike and other such prisoners segregated on disciplinary grounds.
- (iv) There shall also be a quarterly meeting of the Board of Visitors on such day as the Chairperson may determine, which shall be attended by the official and non-official visitors, and officers in charge of all the prisons in the district.
- (v) The District Sessions Judge, the Chairperson of the District Legal Aid Committee and the Superintendent of Police may depute on this Board a surrogate, not below next in command.

- (vi) One of the main functions of the Board of Visitors, apart from attending to the requests of the inmates and making observations on "points to be noted by the visitors" mentioned in these rules, shall be to advise and help the prison administration in the development of correctional programmes by using social resources and mobilising support from outside agencies.
- (vii) A visiting note on all aspects of prison management enumerated in the rules on "points to be noted by the visitors" shall be drawn by the District Magistrate and sent to the Superintendent of the concerned jail within seven days of the visit. The officer in charge of the jail shall forward this note, with comments on possible implementation of each point raised, to the IG of Prisons within the next seven days.
- (viii) The position regarding implementation or otherwise on each point raised or recommendation made in the note shall (after obtaining instructions from the Prison Headquarters where necessary) be communicated by the officer in charge of the jail to the Chairperson of the Board, with a copy each to the members, within three months of the visit, so that the Board has a clear picture of the progress on previous notes before the next visit.
- (ix) In case the Chairperson of the Board has reason to believe that any point raised has been met with undue delay or by an evasive reply, he shall communicate directly with the IG of Prisons or the Home Secretary.

#### 16. One State-Level Meeting:

One state-level meeting of official and non-official visitors of all District and Central Prisons shall be held every year. This shall be chaired by the Home Minister and attended by one non-official visitor from each District and Central Prison, superintendents of all the District and Central prisons and officials of the Home Department and Prisons Department. An agenda of prison improvement based on the visiting notes of various official and non-official visitors shall be prepared by the Home Department and circulated in advance for discussions at the meeting.

#### 17. General Instructions and Directive Principles:

- (i) When official and non-official visitors are not on visit, inmates shall, at their own cost, be allowed to make submissions to them regarding their needs by writing letters.
- (ii) Once in six months, non-official visitors shall be asked to make an objective assessment on various aspects of the management of the prison for which they have been appointed. A format on which such an assessment can be done should be developed.
- (iii) The government should institute some kind of public recognition or reward for non-official visitors of prisons for performing demonstrably excellent services in promoting correctional work.
- (iv) The most important prerequisite of successful social interventions in prisons is a positive relationship between prison visitors and prison staff. While it is expected of non-official visitors 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 with non-official visitors.

## ANNEXURE VII

## LIST OF PRISONS VISITED IN KARNATAKA

<b>Central Prisons: 7</b>	Bangalore, Bijapur, Belgaum, Bellary, Dharwad, Gulbarga and Mysore
<b>District Jails: 7</b>	Mangalore, Madikeri, Raichur, Karwar, Bidar, Shimoga and Tumkur,
<b>District Headquarters</b>	
<b>Sub-Jails: 4</b>	Hassan, Mandya, Chikmagalur, Kolar
<b>Taluka Sub-Jails: 21</b>	Athani, Hukeri, Chikodi (Belgaum Dist) Tarikeri (Chickmagalur), Arisikeri (Hassan Dist), Siggaom, Ranibennur, Haveri, Hubli, Gadag and Ron (Dharwad) Kumta, Batkal, Honnavar, Haliyala and Ankola, ( Karwar district) Tiptur (Tumkur Dist), Sagar (Shimoga Dist), Hukeri (Haveri Dist) Lingusugur, Manvi (Raichur),
<b>Total: 39 prisons</b>	



## CHRI PROGRAMMES

CHRI's work is based on the belief that for human rights, genuine democracy and development to become a reality in people's lives, there must be high standards and functional mechanisms for accountability and participation within the Commonwealth and its member countries. Accordingly, in addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice. It does this through research, publications, workshops, information dissemination and advocacy.

### HUMAN RIGHTS ADVOCACY

CHRI makes regular submissions to official Commonwealth bodies and member governments. CHRI periodically conducts fact-finding missions and since 1995, has sent missions to Nigeria, Zambia, Fiji Islands and Sierra Leone. CHRI also coordinates the Commonwealth Human Rights Network, which brings together diverse groups to build their collective power to advocate for human rights. CHRI's Media Unit ensures that human rights issues are in the public consciousness.

### ACCESS TO INFORMATION

CHRI catalyses civil society and governments to take action, acts as a hub of technical expertise in support of strong legislation and assists partners with implementation of good practice. CHRI works collaboratively with local groups and officials, building government and civil society capacity as well as advocating with policy makers. CHRI is active in South Asia, most recently supporting the successful campaign for a national law in India; provides legal drafting support and inputs in Africa; and in the Pacific, works with regional and national organisations to catalyse interest in access legislation.

### ACCESS TO JUSTICE

**Police Reforms:** In too many countries the police are seen as oppressive instruments of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractice. A major area is focused on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.



**COMMONWEALTH HUMAN RIGHTS INITIATIVE**

B-117, Second Floor, Sarvodaya Enclave, New Delhi - 110 017 INDIA

Tel: +91-11-43180200 Fax: +91-11-2686-4688

E-mail: [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org)