

HANDBOOK FOR BOARD OF VISITORS



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Prison Visiting System in India

The prisons has remained as a closed institution for a very long period of time. Due to the deterrent philosophy of punishment more emphasis within the prisons was on punishment for the violation of prison rules and regulations. However, this punishment assumed ugly face and the prisoners were subjected to inhuman treatment within the prison and thus resulted into gross human rights violation. Once, the prisoners are confined to the prisons they come under the direct control of prison staff and indirect control of the State. The State is duty bound to provide basic needs i.e., healthy food, hygienic conditions, proper sanitation, medical facilities, proper classification of the prisoners. Unhygienic conditions provide breeding ground for the communicable diseases. Inappropriate medical care results even into the death of the inmates. The prison buildings need proper maintenance by the prison staff. Improper construction, lack of basic amenities like per square area for each prisoner, and disproportionate number of toilets in comparison to the prison population, unhygienic toilets etc., adds on to the sufferings of the inmates. Unaccountability on the part of the prison officials/state, inaccessibility of the outside community to the prisons and the inherent closed nature of the prisons institutions leads to lack of accountability is matter of violation of human rights of the prisoners. To prevent the human rights violation in the prisons and for the betterment of the infrastructure facilities need was felt for a system that can take care of prisons and the prisoners. The Prison Visiting System has found mention in the Model Prison Manual and the laws of various States and its basic function is to give feed back to the Government about the prevailing conditions of the prisons and the prisoners. This unit in the subsequent heading will discuss about this system in detail.

International Instruments

- ***The United National Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules)***

The primary instrument on penal reform seeks inspection of prisons in Rule 83, 84 and 85. It seeks a two-fold system of internal and external inspection to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures with a view to bringing about the objectives of penal and correctional services and that of rights of prisoners are protected. It hands over the authority to the inspectors to freely choose which prisons to visit and make unannounced visits at their own initiative. It calls for qualified and competent inspectors and a balanced gender representation. Every visit must be followed by a written report and seek implementation.

- ***United Nation Rules for the Treatment of Women Prisoners and Non-custodial for Women Offenders (Bangkok Rules)***

A Supplementing instrument focusing on treatment of women prisoners calls for inspection under Rule 25. It calls for independent and competent authorities to investigate any claims of abuse of women prisoners and seeks the inclusion of women in monitoring and visiting Boards. Further, it prioritises the principle of confidentiality and urges protection measures to be put in place in case retaliation by authorities.

- ***The United Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)***

The central instrument on prohibition and prevention of torture by states recognises the importance of monitoring places of article 17. It calls for an independent committee consisting of experts to monitor the place of detention and seek reports on the compliance of the convention. The committee is created to act as a preventive measure against both physical and mental torture. India signed the UNCAT on 14th October 1997, however it has steered clear from ratification till date. Being a signatory does not bind

India to accept the convention. However, it is obliged to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty. This can only be achieved by strengthening the existing institutions.

Key Instruments in India

- The Constitution of India 1951
- The Prisons act 1894
- The Prisoners (Attendance in Courts) Act 1955
- The Repatriation of Prisoners Act 2003
- The Legal Services Authority Act 1987
- The Transfers of Prisoners Act 1950
- The Mental Healthcare Act 2017
- The Protection of Human Rights Act 1993
- Code of Criminal Procedure 1973
- State Prison Manuals

Legislative mandate on visitorial system

As Prisons is a state subject, every State Government has its own prison laws. Presently, the prisons are governed by Prisons Act of 1894. This Act does not contain any substantive provisions on prison visiting system. It empowers the State Governments to frame rules for the same.

Prisons Act, 1894

Traditionally, the prison visiting system mainly supervised prison administration and focused on the prison conditions. However, the prison visiting system remained dysfunctional initially in most of the states due to unawareness regarding the potential of this system and also the closed nature of the prison institution where there was no chance of outsiders to look into it. The deterrent philosophy of punishment further restricted the chances of growth of prison visiting system. Other reasons for the ineffective working of the prison visiting system were

meagre knowledge on the part of general public regarding its important function, uninformed prison staff, improper finances for training, etc.

Then the need for non-Government intervention in prisons was recognized in 1894 when the Prisons Act 1894 accepted that a system of Prison Visitors would be of value in providing humanitarian aid to prison inmates secluded from the society. The Prisons Act of 1894 for the first time envisaged for visitors of prison under sub clause (25) of Section 59. These provisions empower the state Government to make rules concerning visitors of prison. Thereafter, the first comprehensive work of studying prison conditions and of making remarkably suitable recommendations for the reformation of both prisons and prisoners was done by the Indian Jails Committee, 1919-20 appointed on the 28th day of April, 1919 under the chairmanship of Sir Alexander G. Cardew. This Committee devoted a whole chapter (Chapter XXVIII) to the improvement in the system of Visitors of Prisons. The Indian Jail Committee Report 1919-20 favoured the external supervision of prisons and it specifically wrote that “The plan of appointing persons, official and non-official, to serve as visitors to jails seems to us to form a very valuable part of the Indian system of jail administration. In the first place, it ensures the existence of a body of free and unbiased observers, whose visits serve as a guarantee to the Government and to the public, that the rules of the Prisons Act and Prison Manuals are duly observed, and that abuses, if they were to spring up, would be speedily brought to light. In this respect the Indian system is, we think, superior to that followed in other countries where the visitors become a part of the prison organization, with definite powers and duties, and so become identified with the prison administration. In India, they remain impartial and independent. In the second place, the existence of non-official visitors is especially valuable as supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners. It is of great importance to create such an interest in the public mind and the appointment of non-officials is one of the best methods of promoting this end”.

The sub clause (25) of Section 59 provides that the State Government may make rules consistent with the Prisons Act 1894 for the appointment and the guidance of visitors of the prison. In furtherance of the powers conferred by aforesaid section various states in India has framed rules and regulation for the prison visiting system.

In the year 1970 Model Prison Manual was drafted for the guidance of the States in legislating the prison laws. Chapter VI of the Model Prison Manual contained provisions regarding the same. It provides that a Board of Visitors shall be constituted for Central/District prisons. Chairman of the Board should be the District Magistrate and so far as other members are concerned the same are stated as follows: the Sessions Judge, two members of the legislature, the District Superintendent of Police, the Civil Surgeon who is not a Medical Officer of the institution, Executive Engineer, the District Education Officer, the District Agriculture Officer, the Public Health Officer and two lady members.

Model Prison Manual, 1970

The Model Prison Manual of 1970 has discussed about visitorial system in chapter VI. It specifies the functions of the Board of Visitors, to visit the institution periodically, to attend to the requests of the inmates pertaining to their care and welfare, to help the administration in correctional matters and to enter in the visitor's book remarks about the visit to the institution. The list of persons to be nominated on the Board of Visitors is to be forwarded to Government by the Inspector General in consultation with the District Magistrate. The Non-Official Visitors shall be nominated on the Board. All nominations shall be notified in the State Gazette. The Non-Official Visitors shall be nominated for 2 years. A pamphlet of instructions regarding visits should be supplied to each visitor on his/her first appointment. The Chairman of the Board shall fix the schedule of visits. The Board shall visit the institution once in every quarter. Chairman shall visit the institution once a fortnight in addition to his quarterly visit. He shall visit the institution on working days and during usual working hours. Visitors are not authorized to visit the institution after locking up hours and on holidays. A visitor shall sign in the gate register on arrival and departure. State Government is further empowered to issue instructions for the guidance of such visitors. Non-official women visitors shall visit only the women's yards. They shall not enter the male yards of the institution unless necessary. Visitor shall be escorted by guard. The Chairman of the Board shall enter remarks in the visitor book at the time of quarterly visit when a visitor individually visits the institution, he shall also enter his remarks in the visitors' book. Secrecy to be maintained about the remarks neither these are communicated to

prisoners nor visitor is authorized to publish it in the press or otherwise. The Superintendent shall immediately forward to the Inspector General a copy of the remarks made in the visitor's book. If Inspector General passes any order on such remark then the same should be communicated to the Chairman or to the visitor. The Model Prison Manual is silent about the objectives of visitorial system and the functions that are specified are sketchy in nature.

The provisions of Model Prison Manual of 1970 were not adopted. However, the State Governments in exercise of the power conferred under section 59 (25) of the Prisons Act has formulated rules and regulations for the Prison Visitors and the need for National Model Prison Manual has been recognized

Timeline of Evolution of Prison Visiting System in India

- 1836- First Reform Committee - Recommended periodic Inspections of the jail to ensure no epidemic spreads and prisoners are properly vaccinated
- 1894 - Prisons Act -Incorporated section 59(25) obliging States to make rules on 'appointment and guidance of visitors'
- 1919 - Cardew Committee- Valued the existence of Non-official visitors as supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners.
- 1965 – Ranchod vs. State of M.P - A prisoner had died due to intentional carelessness of the jail doctors. Emphasized on the preventive function of NOV's and held that if they had acquainted themselves with the prisoner's problems and made efforts for amelioration, probably this situation would have never arose.
- 1980- Sunil Batra vs. Delhi administration- Emphasized on vesting visitorial powers to people from varied social backgrounds and judicial officers to ensure an instant administration grievance redressal mechanism to protect the rights of prisoners.
- Model Prison Manual, 1970, 2003. 2016
- 2011- MHA Advisory – Guidelines on Appointment and Working of Non-Official Visitors of Prisons.

Court Judgments related to the Visiting System

- 1981 – Rakesh Kaushik vs. BL Vig, Superintendent Central Jail, and New Delhi – Highlighted the visitorial functions of a sessions Judge. His duty is to acquaint himself with conditions of tension, the internal violence and prisoners’ grievances enquire into those aspects with a view to suggest remedial action.
- 1983 - Mulla Committee - Included prisoner welfare and care, jail administration into the purview and duties of visitors and also emphasized on gender balance of the Board of visitors.
- 1984 – Madhukar Bhagwan Jambhale v State of Maharashtra & Ors – Held that judges are invigilators and enforcers of Constitutionality and of a grim microcosm called prison. Therefore, a continuing institutional responsibility vests in them to monitor the incarceration process and prevent security ‘excesses’.
- 1986 - Sheela Barse & And vs Union of India & Ors - Held that the purpose of appointing visitors is to ensure that the provisions in the Manual are strictly complied so far as the convicts and the under –trial prisoners detained in jail are concerned.
- 1988 – Sanjay Suri vs. Delhi Administration, Delhi & Anr –Recommended cross sections of society in the Board of Visitor; people with good background, social activists, and people connected with the news media, lady social worker, jurist, retired public officers from the judiciary as also the Executive. The Sessions Judge should be given an acknowledged position as a visitor and his visits should not be routine ones. Full care should be taken by him to have a real picture of the defects in the administration qua the resident prisoners and under trials.
- 1997 - Rama Murthy v State of Karnataka - Advised to the visitors that inspections must be made on the shortest notice so that the reality becomes known. Fair inquiry into the complaints must be called and full assurance must be made to the prisoners that he/she would suffer any evil consequence for lodging a complaint
- 1999 - Rasikbhai Ramsingh Rana vs State of Gujarat - Termed Board of Visitors a "practicable formula bearing in mind the humanistic approach", “an effective administrative solution” and something further concrete in the nature of a

permanent workable arrangement.. to constantly monitor the unfailing effective implementation of the arrangements.

- *(2003 – Model Prison Manual- Included redressal of individual prisoner’s grievances into the function of NOV’s)
- 2005 – Sitaben Govabhai Desai (Rabari) v State of Gujarat - Ordered not only periodic checks by Judicial Officers to ensure observation of the rules with regards to maintenance of jails and conditions of prisoners.
- 2010 - Master Jithu vs State of Tamil Nadu - Held that the power of Chief Judicial Magistrates and Sessions Judges to make surprise visits must be used to ensure that juveniles are not being kept with adult accused persons
- 2010 – Maja Daruwala vs. State of Maharashtra- Ordered immediate Constitution of BOVs and mostly inspection after the inhuman conditions of sub-jails were brought to the attention of the court. Emphasized on inclusion of NGOs and social activists in the board.
- *(2011 - MHA Advisory No. F. N. 16014/4/2005-PR - Guidelines on appointment and working of Non-official visitors for prisons)
- 2015 - Suo Moto vs. State of Rajasthan - Ordered immediate appointment of NOV’s and Constitution of BOVs to ensure regular reporting of the prison conditions.

Visitorial system in India

The evolution of the present prison visiting system in India has its own history and it has been explained briefly. Hence to sum up, it is a mechanism provided in the manual whereby the persons are appointed by the Government to visit prisons regularly for the supervision of the overall conditions of the prison and prisoners and to monitor the human rights situation therein. The Prison Visiting System is essential to bring to the notice of the Government the deficiencies in the working of the prison system and human rights violations of the prisoners. This system can also help prison administration in securing the cooperation of the community (NGOs, etc) outside the prison in bringing upliftment of the neglected masses of human beings inside the prison. They can also assist and prepare the society in shedding off their negative prejudices for

young offenders who make mistakes in haste and thus confined to the prison. The judiciary has recognized the importance of the prison visitors. In *Sunil Batra Vs. Delhi Administration*, the Supreme Court expressed the view that the Board of Visitors comes handy for the protection of the rights of prisoners. The various State Governments have framed rules for the appointment of Prison Visitors. Most of the States have appointed official and non-official visitors. The present provisions for official and nonofficial visitors in Prison Manuals of various states are the result of this sub-section (25) of section 59 of The Prisons Act of 1894.

Board of visitors

To coordinate the efforts of the official and non-official visitors, there is provision for the establishment of a ‘Board of Visitors’ for each jail. Thus, the Board of Visitors is the collective voice of both official and non-official prison visitors. In 1983, the Mulla Committee Report recommended that ‘A Board of Visitors should be constituted for each central and district prison consisting of: Chairman – the District and Sessions Judge; and Members: 2 members of the state legislature, District Magistrate, District Superintendent of Police, Civil Surgeon, Executive Engineer of Public Works Department, District Education Officer, District Public Health Officer, District Agriculture Officer, 2 lady social workers. The Model Prison Manual, 2003 also recommends a similar constitution of the Board of Visitors as given in the Mulla Committee Report. The frequency of Prison visits by the Board of Visitors also differs from state to state.

Categories of Prison Visitors

Official Visitors

Persons who become visitors to a prison by the virtue of the Government office they hold at that point in time are called official visitors. These Government offices such as the judiciary, police, department of public health, social welfare, education, employment, industries, factories, agriculture have a stake in the management of prison and treatment of prisoners.

Non-Official Visitors

Lay people from the local society who have an interest in the welfare of prisoners and administration of prison are appointed as NOV. Ideally, they should be doctors, psychiatrist, psychologist, lawyers, members of the bar, journalist, social workers, members of the Red Cross, retired Government officers and retired judges so that they can assist the prisoner and prison administration effectively.

Ex-Officio Non-Official Visitors

Persons who are elected by the voters as their representatives are the members of autonomous statutory bodies which are created to protect the rights of vulnerable groups are called Ex-Officio Non-Official Visitors. Such persons may be the Ministers, Members of the Legislative Assembly, Parliament, Nagar Panchayats and Municipalities, heads and members of Human Rights Commission and Women Commission, Minorities Commission, etc.

The function of Board of Visitors as gathered from different committee reports and state prison manuals include:

- Visiting the prison central/district/sub jail and ensure that care and welfare of the inmates are properly attended to.
- Attending to request of inmates.
- Making recommendations about the redressal of grievances and complaints of prisoners about living conditions in prisons.
- Helping prison administration in the development of correctional programmes.
- Monitoring the correctional work in the prison, with special attention to the degree and quality of training and the effectiveness of infrastructure/ facilities in the prison.
- Suggesting new avenues leading to improvement in correctional work.
- Going into individual or collective grievances of the prisoners and providing redressal in consultation with the prison authorities.

- Attending to the quality and quantity of prison diet, condition of the kitchen and hospital management, medical treatment of the prisoners, sanitary arrangements, and aspects of vocational trainings, literacy programmes, and library facilities for the prisoners.
- Regulating periodic prison visits by official and non-official visitors through the 'roster of visitors'
- Ensuring at least one visit to the prison per month by an agency other than the officials of the department.
- Involving all persons nominated as official or non-official visitors and to give each one of them some occasion to visit the prison and
- Providing a forum to discuss the problems of prisons and prisoners outside the interventions of the prison department.

Term of office and removal of non-official visitors. –

- The term of office of non-official visitors shall be two years.
- The State Government may at any time without assignment of any reasons therefore remove any non-official visitor, from the list of visitors and intimation thereof given to the Inspector General and the Superintendent of the jail concerned.
- The State Government may also on the recommendation of the Collector or District Magistrate at any time direct that any non-official visitor shall not visit the prison for a specified period, if it is satisfied, that he is not using his visit for a bona fide purpose or is using it for the furtherance of an unlawful or undesirable object.

Roster for monthly visits. –

The [Collector and District Magistrate of the District] shall cause the names of non-official visitors for prison situated in their [districts] who are not debarred from visiting a prison under sub-rules (b) and (c) of the preceding rule, to be placed on a roster and shall invite such visitors to make monthly inspections of the prisons of which they have been appointed visitors by turns, in accordance with that roster. A visitor who is, for any reason, prevented from visiting the prison according to his turn in the roster may visit it in another month, provided that he

informs the Superintendent beforehand of his intention to do so. A non-official visitor may visit the prison at any other time only with general or special permission of the District Magistrate.

Duration of visits. –

A non-official visitor shall not visit the prison at any time after 4 p.m. and before sunrise and shall not remain inside the prison for more than two hours at each visit as a prolonged stay is likely to hamper the jail staff in their work. Non-official visitors are requested to avoid visiting the prison after 2 p.m. as such visits are likely to interfere with the locking up.

Duties of Visitors. –

- It is the duty of a visitor to satisfy himself/herself about the law and rules regulating the management of prisons and prisoners are duly carried out in the prison, and visit all parts of the prison and to hear out any complaints that any prisoner may make to him. He may for this purpose talk to any prisoner out of the hearing but in the full sight of the officer accompanying him. Such conversations with prisoners shall not exceed twenty minutes in all during a visit.
- An official or non-official visitor may call for all books, papers and record other than those of a confidential nature which are connected with the administration of any department of the prison.
- No visitor may issue any order or instruction to any subordinate jail officer.
- The officer accompanying every visitor whether official or nonofficial shall inform him before entering the cook house that no portion of the prisoners ration shall be touched, but he can taste the food if he so desires.
- Non-official visitors may not visit prisoners on hunger strike or prisoners who are ill and not allowed to be interviewed on medical grounds or those detained under the preventive
- A non-official lady visitor shall confine her visits only to the female section of the jail and shall not enter the male portion of the jail except when it is necessary to pass through it to reach the female ward.

- Non-official or official visitors shall not, without the previous sanction of the Superintendent, hold conversation with any under-trial who may happen to be his client or relation.

Inspection notes by Visitors. –

- There shall be only one visitor's books for the use of official or non-official visitors. The book shall on no account be removed from the jail premises.
- Every visitor shall, after he has completed the visit to the jail; record in the Visitors' Book prescribed by section 12 of the Prisons Act, 1894 the date and hour of his visit, and may enter therein any remarks or suggestions he may wish to make with regard to the internal arrangements of the jail or the state of discipline maintained therein. But when a visitor considers that the sanctioned system of the jail administration needs policy level intervention, he shall refer his opinion separately to the Inspector- General and shall not discuss the subject in the visitors' book. Entries in the visitors' book shall be made in the visitors' own hand writing.
- The remarks recorded by the visitor in the visitors' book shall be treated confidential and shall not be communicated to the prisoners or to anyone outside the jail. A visitor, so long as he retains his official connections with the jail, is precluded from giving publicity in the press or otherwise to matters connected with its administration.
- Should there be any complaints 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 who is responsible for everything that occurs in his jail. It is also open to the visitor if he so desires. To make a representation on the matter to the Government.
- The remarks recorded by a visitor in the visitor's book should include any complaint made to him by a prisoner which in his opinion deserves notice. When the Superintendent is of opinion that a prisoner has made a groundless complaint to a visitor and should be punished he shall record a brief statement of the facts and note what punishment he proposes to award and send it to the visitor who if he dissents from the conclusion of the

Superintendent, may request that the case be submitted to the Inspector-General for orders. A copy of the Inspector-Generals' order will be communicated to the visitor who may then, if he thinks fit, refer the matter to the Government regarding the case.

Action on remarks of visitors

- The Superintendent shall at once forward a copy of the inspection notes recorded by visitors in the visitors book through the District Magistrate and the [Collector and District Magistrate of the District] to the Inspector-General who may if in his opinion it is necessary, forward the correspondence for the information and orders of the Government. A copy of orders (if any) of Government or the Inspector-General, shall be forwarded to the visitor through the Superintendent of the jail.
- The Superintendent of the jail shall cause these orders to be copied into the visitors' book for the information of the visitors.

STEPS INVOLVED IN A PRISON VISIT

Before a Prison Visit

To get the most out of a prison visit, it is important to prepare beforehand. The prison visitor should be himself/herself thoroughly prepared before every prison visit. While preparing oneself, the following can be kept in mind:

- **Collect available information:**
The prison visitor should try and collect all available information for the prison to be visited. This can be done by either summarising information obtained during earlier visits, or researching other sources such as newspaper reports and the internet. Communicating with lawyers in the locality could also be a reliable source of information. Recent incidents or known problems of the prison could provide valuable information to keep note of.

- Know the facts, rules and other relevant legal provisions:

Facts such as the number of total inmates, percentage of under-trial prisoners, number of female inmates, etc. for that particular prison as well as their condition is useful information about which a prison visitor should be aware. In addition, the prison visitors should find out the authorities directly responsible and the authorities to whom they can report. Knowledge of relevant rules and legal provisions pertaining to prison conditions and prisoners' rights would benefit the prison visitor in getting more out of their prison visit. Some sources of information could be the State Prison Manual: where available, the state legislation on prisons; Supreme Court judgements; High Court judgements and the guidelines issued by the National Human Rights Commission (NHRC) would be available.

- Define objectives for the visit:

The number of issues and concerns within a prison can be numerous. Therefore, defining specific objectives beforehand would assist the prison visitors in coming to concrete conclusions regarding the prison conditions. For instance, objectives may include a general evaluation of the conditions of detention, a follow-up visit to check on specific aspects of imprisonment, a follow-up on individual cases or complaints, etc. Preparing a check list for quick reference in line with the objectives could be a useful tip to obtain the desired results from the prison visit.

- Team visits:

Where a team is visiting, it would be advantageous if the team members would identify any one team member to head the team. This person would then divide the tasks amongst the members. Each member would then share information with the other team members. Once the objectives have been discussed and the other details of the visit have been worked out, the team should prepare a check-list of the prison conditions as a means of guaranteeing standardised collection of information. This would help in compiling and documenting information after the prison visit.

During Prison Visit

Monitoring prison conditions is a sensitive task and requires great attention to be paid to every minuscule detail of the visit. During the visit, a prison visitor must remember to respect all internal regulations of the jail. They should refrain from requesting any special dispensation from the prison staff. Respect for the staff and for those incarcerated is also an important point to remember when conducting a visit. Prison visitors should refrain from adopting the native approach of seeing things in terms of the good guy, i.e. prisoners and the bad guys, i.e. prison staff.

A prison visit can be conducted as follows:

Initial talk with the Superintendent/Jailor

The first visit to a prison should begin with a meeting with the officer in charge of the prison. This talk is the first step in establishing a dialogue with the prison authorities. During the conversation the prison visitor can:

- Introduce himself/herself and other members of the team (if present)
- Explain the objectives and duration of the visit
- Request information about the place of detention
- Ask for the opinion of the Superintendent/ jailor on the conditions of imprisonment and any other aspect
- Fix a meeting to talk about the results of the visit.

Visit the Prison Premises

If it is the first visit, it is particularly important to see all the areas of the prison. All prison visitors should be acquainted with the layout of the prison premises. It would be helpful if this is done with the Superintendent/Jailor or any other official who is able to provide useful

information about the premises. The visit would help prison visitor gain a first impression of the atmosphere in the prison. The visitor can locate the prisoners' living area as, kitchen, bathing area as, leisure space areas, workshops fields etc. the visitors can also get an overview of the services rendered, such as health services, provisions for vocational training, legal aid services etc. A prison visitor can decide which areas to visit for all other subsequent visits depending up on the desired objectives. However, it would be advisable to render absolute priority to areas such as living barracks and the cells of the prisoners, provisions for hygiene, sanitation, food, health, etc.

Registers

Registers are an important source of information which reveals a good deal about the living conditions of prisons and the efficacy of the prison administration. Depending on the State Prison Manuals, there can be different kinds of registers for instance, the Maharashtra Jail Manual mentions 52 records that must be kept and maintained by the prison officials. These registers are required to be completed on a routine basis by the prison staff. If there is any irregularity in completing them, it is reflection of mismanagement by the prison staff.

Interview the prisoners in private

Building confidence amongst prisoners is an important aspect which a prison visitor should work on. To facilitate this it is important for visitors to interact with prisoners during the visit. This can be done either in a group or individually. Group talk makes it possible to obtain general information and grievance about the prison. However, it would not be advisable to discuss sensitive issues such as relations with the staff or disciplinary questions in a group. Individual talks provide more substantive information on prison conditions and the actual facts prison management. Treatment by the prison staff, facilities and conditions of services are issues which can be discussed with the prisoners, individually. Usually a prison escort is present. But it is not necessary that s/he always be in earshot of the prison visitor and the prisoner. This visitor should gather only relevant information which is necessary to assess the prison conditions. Efforts should be made to prevent the interview from resembling an interrogation.

Talk to other prison staff

During the prison visit, the visitor should meet prison staff from all departments within the prison and talk to them, as casual conversations can, over a period of time, help establish constructive working relations.

Making notes in the Visitors' Book

An undocumented prison visit is as good as no visit at all. Therefore, it is important that once the prison visit is made, the prison visitors should prepare notes. This would enable the Superintendent, the Inspector General of Prisons and the Government to take necessary steps to address any issue raised by the visitor.

Concluding talk with the Superintendent/Jailor

It is important to formally end the prison visit by letting the Superintendent /Jailor know of the Visitor's observations and communicate a summary of the visit. Any recommendations that the prison visitor wants to suggest can be discussed with the Superintendent at the final stage.

After a Prison Visit

Follow-up

Simply writing notes in the prison Visitors' Book or maintaining their own records is not enough. In course of subsequent visits, a prison visitor should insist on checking the progress made on the notes and suggestions laid down earlier while following up on the progress, it would be fruitful to invite collaboration to speed up the process. Yet, being persistent is also necessary and a prison visitor should pursue the matter with higher officials,

if required. Being communicative, consistent, and firm about one's expectations can help ensure that the visitor's suggestions are taken seriously.

However, if the visitor feels that the orders issued are not being complied with and their notes are not being taken seriously, then the visitor must approach other agencies of the Government for intervention. Consequently, a visitor may approach the District Magistrate, the commissioner of the Division, the Sessions Judge, and the Chief Justice of the High court, the Inspector General or Director General of Prisons, the Jail Minister, the Principal Secretary (Jail) or the National and State Human Rights Commissions.

Before doing so, it is important that the prison visitor should determine the cause of inaction and identify the individual responsible for raising the problem. It is important to remember that certain systematic issues such as overcrowding and delay in trial, are beyond the control of prison officials. A prison visitor should also remember to inform the prison officials before informing any outside agency. This might itself lead to an expeditious response. If not, then the prison visitor should, without delay, contact the agency and officials mentioned above.

Conduction of a follow-up visit is a useful method to find out whether the visitor's suggestions have been implemented or not. Therefore, soon after the initial visit, the prison visitor may plan another visit after a few weeks. This will be a persuasive strategy to ensure that the prison administration implements the recommendations of the visitor. In addition, if other higher officials are involved in implementing the recommendations, a follow-up correspondence can also be an important and effective tool. Regular correspondence seeking updates on orders issued and work carried out are crucial.

Investigating of prisoners complaints.

When a prison visitor receives a complaint from a prisoner or a group of prisoners, they should not jump to a conclusion and rush to the prison officials or other agencies for its redressal. Instead a three- fold approach may be adopted to arrive at the truth.

- First, *interview the particular prisoner* or prisoners concerned, and find out the details of the matter.
- Second, *interview the authorities* to find out their positions on the prison system as a whole , conditions of imprisonment and problems encountered therefore
- Third, *form you own independent and impartial judgment* after gathering the full body of information.

Verification of facts

It is essential that all facts of the complaint are verified before responding to it. One should never reprimand the prison staff without verification of the complaint. This can hamper speedy redressal of problems and heighten the stress. Moreover, the investigations should be through so as to limit false complaints. False complaints often weaken the morale and spirit of prison officials and may also lead to problems of disorderliness and indiscipline among officials and inmates. Thus, a prison visitor should gather facts to determine the validity of a complaint. To carry this out, it is important to conduct interviews privately and extract as many substantiated details as possible. If an escort has been sent along, then the prisoner must be taken aside and spoken to, outside in private. If it seems inappropriate to interview the prisoner in the presence of the escort, then the prison visitor should devise a plan accordingly. The important facts to be gathered are:

- The exact date and time of the incident.
- Names of all the people involved including witnesses.
- The name of the person, who committed the act complained about, and the person's designation or position in the prison administration.
- Whether the act was carried out alone, in a group, or in collusion with other prisoners or officials.
- The motive as alleged by complainant.
- In addition, try and determine if there is corroboration for the prisoner's account by talking to multiple co- inmates and witnesses.

Interviews with the prisoner and prison staff should be completed on the same day. The prison visitor should be both persistent and meticulous about finding the facts to determine the jail staff's version of events through the same process described above. The complainant should be protected from being forced to change his/her statement. This can be done by letting all parties known that you have collected evidence from numerous sources and will follow the matter to a conclusion.

If after getting the facts verified from all sources and having logically mulled over them, the prison visitor concludes that the allegations are true, the visitor must approach the prison authorities. If they are not prepared to accept responsibility for the same, then approaching the District Magistrate or Sessions Judge should be considered. Once they have been informed, the prison visitor must ensure the safety of the prisoner. If necessary, a transfer to a safer prison can be recommended.

Where the complaint is of violence, the official records must be verified by himself/herself. The reasons cited for resorting to violence should be closely scrutinised. There is no justification for prison officer to unleash violence on anyone except in self-defence, when a riot breaks out or to control a prisoner who is bent upon attacking or injuring another prisoner.

Once all the facts pertaining to the complaint have been verified, the prison visitor should arrive at some conclusions. Depending on the nature of the complaint, the complainant should be encouraged to report the matter to the jail official who is immediately responsible for the welfare and discipline of prisoners. If there is a fear or suspicion that redress will not be forthcoming from that officer, then the visitor should encourage the prisoner to approach a higher official. A prisoner should also be encouraged to stand by his/her allegations.

As far as possible, prisoners' petty complaints such as verbal abuses should be sorted out among themselves. Prisoners should be encouraged to foster respect for each other. A prison is a highly charged and tense place; thus, efforts should be made to prevent small disputes blowing up into major problems.

Importance of ‘Visitor’s Notes’

To bring change in prison conditions it is important that visitors not only spell out the flaws but also attempt to find practical solutions. To this end, keeping accurate notes is an indispensable tool. The visitor’s notes help the prison visitor follow up on their recommendations. They are also invaluable for the prison administration and staff, as they may list out possible solutions to improve prison conditions and thus assist them in their work. Moreover, keeping notes reduces the possibility of overlaps in discussion on the same issues during each visit.

It is advisable for the prison visitors to maintain a personal record of every prison visit. This would help the prison visitors to keep track of suggestions made and would be a useful source of information for preparation for future visits. This record can also help the Government to evaluate the visitor’s performance at the end of the term. The following should be kept in mind while making visitor’s notes:

- Visitors must be regular in writing notes, jotting down specifics immediately, such as the time they arrived and the time they left the prison
- The notes in the visitors’ book should be made in his/her own handwriting
- An entry should be made every time a visit is conducted
- Notes should identify problems along with their actual causes and possible solutions.
- They should contain the name of particular prison officials to whom any suggestions or requests were made.
- They should also note any follow-up actions taken by the visitor and the prison authorities.
- The remark may include complaints made by the prisoner, which in his opinion deserve the notice of the Government.
- The visitor may also record any remarks or suggestions with regard to the internal arrangement of the jail or the state of discipline maintained therein.

- Notes should be comprehensive and focussed on target issues. They should avoid generic language and words that do not convey anything substantial about the prison conditions. For instance, a visitor should refrain from making a note such as “condition in prison was found to be ok”. This does not convey any specific information regarding the various areas relating to prisons such as food, living conditions, hygiene, clothing, water supply etc.

Visitor’s tasks

- Buildings: are the buildings safe? Do they need plastering, etc.?
- Overcrowding: if there is overcrowding, what arrangements are being made for prisoners’ safekeeping?
- Drainage: is the drainage system working well? If not, what are the defects? Are the drains cleaned periodically?
- Water supply: is water available in sufficient quantity? Is the mode of storing water safe?
- Water wells(if present); are the wells cleaned regularly
- Food: are the food items being stored properly? Are they of good quality?
- Weight and quality of vegetables: do the vegetables match the weight as given in the prescribed weight chart? Are they clean and of good quality? Is the quantity of food issued correct and properly cooked?
- Ration: are full ration available for all prisoners?
- Oil and condiments: are oil and condiments added to the curry in the presence of a responsible officer?
- Clothing: do prisoners have the prescribed quantity of clothing and bedding in their possession? Is the prescribed extra blanket issued during cold months? Are they in serviceable order? Is the bedding put out in sun every day or whenever possible?
- Bathing: Are the prisoners required to bath regularly?
- Labour: Is productive work available for labouring prisoners? Who checks the work done in the evening? Is the output of each convict properly recorded on the work tickets?

- Remission: Is ordinary remission for industry given with reference to the actual task performed? Are there any convicts who are not receiving remission for industry for failure to perform tasks? If so, have efforts been made to enforce work by means of punishment?
- Punishment: Is the ratio of punishments in the jail unduly high?
- Discipline: Are convicts regularly searched for contrabands? Are convicts prevented from wandering about? Are gangs of convicts marched in proper order?
- Habitual offenders: Are habitual offenders separated from others at night and is their separation from others by day carried out as far as possible?
- Under-trial Prisoner: Are there any under-trial prisoners who have been detained in jail unduly long?
- Mentally ill persons: Are there any mentally ill civil offenders in jail who have been detained under observation longer than the period allowed by law and if so, on whose warrant?
- Women prisoners: Are women prisoners thoroughly screened from the view of male prisoners?
- Adolescents: Are all adolescent prisoners of age 18 to 20 or 22 separated at night, both from juveniles and adults?
- Cells and solitary confinement: Are prisoners kept in solitary confinement as a matter of routine and administrative convenience? Are prisoners handcuffed and fettered for unduly long periods of time including at night?
- Appeals: Has there been any undue delay in forwarding appeals to courts, or in the receipts of courts order on appeals?
- Garden: Is the whole vegetable supply of the jail obtained from the jail garden? If not, can this be done?
- Medical health: Are doctors, nurses and compounders (both male and female) present in the jail?

National Human Rights Commission on Prison Visiting System

The National Human Rights Commission has intensified its efforts to improve the living conditions in jails and other institutions. The Chairperson of the National Human Rights Commission visits various prisons in the States and brings to the notice of the concerned authorities the loopholes in the prison administration and violation of the rights of the prisoners. One of the functions of the National Human Rights Commission is to visit, under intimation to the State Government, any jail or any other institution under the control of the State Government. The Member of the Commission and its officers visit prisons and suggest measures to improve conditions in them and to protect the human rights of prisoners.

The Model Prison Manual, 2016

Chapter XXIX ‘Board of Visitors’ has dealt with the subject matter in details, which is as follows.

CHAPTER XXIX BOARD OF VISITORS

29. 01 The State Government shall , by notification, constitute a Board of Visitors comprising Official and Non - official members at District and Sub - divisional level .

29.02 The task of the shall include :

- a) Monitoring the Correctional work in Prisons , with special attention to the degree and quality of training and the effectiveness of infrastructure / facilities in the Prisons .
- b) Suggesting new avenues leading to improvement in correctional work
- c) Going into individual or collective grievances of Prisoners and providing redressal in consultation with the Prison authorities

29.3 The Board of Visitors shall comprise the following official members :

- a) The District Judge at the District level, or the Sub - Divisional Judicial Magistrate exercising Jurisdiction, at Sub - Division level
- b) District Superintendent of Police

- c) The Chief Medical Officer of the Health Department , at the District level or the Sub - Divisional Medical Officer at Sub - Division level
- e) The Executive Engineer , PWD at the District level , or Assistant Engineer PWD at Sub - Divisional level
- f) The District Education Officer dealing with literacy programmes
- g) District Social Welfare Officer
- h) District Employment Officer
- i) District Agricultural Officer
- j) District Industrial Officer

The Board shall make at least one visit per quarter and for this purpose , presence of three members and the chairman shall constitute quorum

29.4 The Board of Visitors shall also comprise the following Non - Official Members :

- a) Three Members of the Legislative Assembly of the state of which one should be a woman
- b) A nominee of the State Human Rights Commission
- c) Two social workers of the District / Sub - Division; one of them shall be a woman having an interest in the administration of prisons and welfare of prisoners.

29.05 The District Judge shall be the Chairman of the Board of visitors at District level and the Sub - Divisional Judicial Magistrate shall be the Chairman at Sub - Division level . The Non - official visitors after their appointment must be sensitised and trained about their duties , roles and responsibilities .

29.06 The Board of Visitors shall meet in the office of the Superintendent of prisons at least once in every quarter.

29.07 The minute of every meeting of the Board of Visitors shall be recorded in the Visitors ' Minute Book , and the same shall be forwarded to the Inspector General of Prisons with comments of the Superintendent . A copy of the minutes shall also be dispatched to every member of the Board of Visitors . The Inspector General of Prisons shall place a copy of the minute of the last meeting / meetings of the Board of Visitor of all the prisons before the State Advisory Board .

29.8 When a non - official member of the Board of Visitors visits a prison he shall be accompanied by at least one more member (official or non - official) . The Chairman of the

Board of Visitors shall make a monthly roster of visits to be paid by the members of the Board to the Prison , in consultation with the Superintendent.

29.9 The roster shall be made in such a manner as will envisage at least one visit by a member in every month .

29.10 Every non - official visitor is expected to interest himself in the upkeep of prisoners and visit the prison of which he is a visitor , once a month , and oftener , if possible .

29.11 During visits , a Visitor (Member of the Board of Visitors) shall enjoy the right to converse secretly and separately with any prisoner who is willing to talk to the Visitor . However such separate interaction between a Visitor and a prisoner shall be held in a place within the prison well within sight of a prison officer . The Visitor , immediately after such conversation with a prisoner , shall inform the Chairman of the Board in writing about what transpired in the conversation with the prisoner . The Chairman , if he thinks it necessary , shall take up the matter with the Superintendent of Prison .

29.12 Any observations / comments made in the Visitors ' Minute Book , by any member of the Board , shall be forthwith brought to the notice of the Inspector General of Prisons by the Superintendent , along with his own comments . The copy of the same shall also be sent to the Visitor concerned and the Chairman of the Board of Visitors .

29.13 The Members of the Board of Visitors shall specially attend to the quality and quantity of Prison diet , condition of the kitchen and hospital , availability of medicines , hospital management , medical treatment of the prisoners , sanitary arrangements , aspects of vocational trainings , literacy program , and library facility for the prisoners .

29.14 The Superintendent shall present before the visiting member / members of the Board of Visitors any paper / document pertaining to correctional work , recreation and trainings of prisoners , prison diets / medicines , grievances of prisoners and follow redressal of such grievance , if it is sought by a visiting member of the Board.

29.15 The Superintendent shall not be bound to present any Register / Document / paper pertaining to financial accounts before a member of the Board of Visitors without written approval of the Inspector General of Prisons.

29.16 The Superintendent shall ensure that the prisoners lodging complaints with the visiting member / members of the Board of visitor do not subsequently fall prey to vendetta of the accused or prison staff complained against .

29.17 Following any such visits by member / members of the Board of Visitors , the Superintendent shall inform the Inspector General of Prison regarding the details of the visit .

29.18 For the purpose of a meeting of the Board of Visitors One official Visitor and two non - official Visitors shall form a quorum.

29.19 A Non - official Member of the Board of Visitors shall hold office for a period of two years from the date his appointment to the Board , and may be considered for reappointment .

29.20 The appointing authority may cancel the appointment of any non - official visitor for reasons to be recorded in writing . Removal of non - official visitors must not be arbitrary and should be based on a sound reasoning . In particular , any removal must be made after following principles of natural justice .

29.21 A non - official member of the Board of Visitors shall receive allowances as may be sanctioned by the government from time to time, for attending meetings of the Board of Visitors .

Duties of Visitors

29.22 All Visitors , official and non - official , at every visit shall :

- (a) examine the cooked food ;
- (b) inspect the barracks , wards , work - sheds and other buildings of the prison generally
- (c) ascertain whether considerations of health , cleanliness and security are attended to , whether proper management and discipline is maintained in every respect and whether any prisoner is illegally detained , or is detained for undue length of time while awaiting trial
- (d) examine prison registers and records , except secret records and records pertaining to accounts
- (e) hear and attend to all representation and petitions made by or on behalf of the prisoners
- (f) direct , if deemed advisable , that any such representation or petition be forwarded to the Government
- (g) suggest new avenues for improvement in correctional work

Note : A spare copy of the list of duties of the visitors will be kept at the main gate and handed over to a visitor on the occasion of his visit to the prison . Each non - official visitor will be supplied with a copy on his appointment .

Board of Visitors to Records Remarks

29.23 The Board of Visitors should record their remarks in the Visitors ' Book after every visit . A copy of these remarks shall be forwarded to the Inspector General who should pass such

orders as he think necessary. A copy of the Inspector General's order should be sent to the visitor concerned.

Visitors to be facilitated

29.24 The Board of Visitors shall be afforded every facility for observing the sta prison and the management thereof, and shall be allowed access , unde regulations , to all parts of the prison and every prisoner confined there shall ordinarily not visit high security areas unless the instructions in th are given by the Inspector General of Prisons .

29.25 The Board of Visitors should have the power to call for and inspect an other record , in the prison unless the Superintendent , for reasons to b in writing , declines on the grounds that its production is undesirable every visitor should have the right to see any prisoner and to put any him out of hearing of any prison officer .

29.26 Non - official visitors shall not visit prisoners who are not allowed to be on medical grounds .

29.27 Visits shall not ordinarily be made after prisoners have been locked and on prison holidays .

Visit of High Security Prison

District & Session Judge to Visit and Inspect Prisons

29.28 It shall be the duty of the District & Session Judge to visit and insp and other prisons and to satisfy himself that all rules , regulation orders made or issued to such prisons , are duly observed and enforced.

Record of Inspection

29.29 A record of the result of each visit and inspection made shall be Obe maintained by the Superintendent for this purpose .

District & Sessions Judge to Communicate only with the Superintendent of Prisons

29.30 The District & Sessions Judge shall not ordinarily address any communication or order to any officer of any prison below the Superintendent. All orders issued by the District & Sessions Judge shall be in writing.

29.31 The District & Session Judge's orders should ordinarily be issued in the form of an entry in the Visitor's Book. The judge is not required to interfere in matters of detail effecting management of a prison. He should refrain from any action which may tend to weaken the authority of the Superintendent over subordinate prison officers and prisoners.

29.32 If the District & Session Judge gives an order to which the Superintendent of Prison or his senior takes exception , the concerned office may represent the matter through the Inspector General (Prisons) to the State Government , but he shall forthwith obey any order which is not inconsistent with the Prison Act of the State , or any rule made there under , and does not involve any immediate risk or danger .

Date of Visit to be Recorded and Copy of Remarks to be sent to Certain Officers

29.33 Every Visitor shall , after he has completed his visit to the prison , record in the visitors ' book , the date and hour of his visit , and may enter therein any remarks or suggestions he may wish to make.

29.34 A copy of the remarks made by every Visitor , together with Superintendent's reply thereto , or the action taken by the Superintendent thereon , shall be forwarded to the Inspector General. In case the remarks relate to the long detention of an undertrial prisoner, a copy of such remark shall also be forwarded to the Sessions Judge.

Disposal of the Remarks Made by a Visitor

29.35 Any remarks made by a Visitor under the preceding section should be limited to a statement and fair criticism of actual facts , which may come to his knowledge , and to such suggestions , as he may desire the Superintendent or Inspector General to consider . Criticism should be confined to such aspects of the ordinary administration and management of the prison which , in the opinion of the visitor , can be improved . On no account the visitor should directly or indirectly reflect , either favourably or adversely , on the character or conduct of any of the prison staff . If the visitor wants to bring to notice the good or bad work of any prison official he should do so by a letter addressed to the Inspector General of Prisons.

29.36 The Inspector General of Prisons may pass orders on any remarks made by a Visitor , and shall , if any issue of importance requires the orders of the Government , forward such record to the State Government.

29.37 A copy of any order passed by the Inspector General , or by the State Government on any record made by a Visitor shall be communicated to the Visitor concerned through the Superintendent of Prison

Conclusion

The Prison Visiting System is a mechanism to supervise the overall prison administration and it also acts as a watchdog for the protection of the rights of the prisoners. The Prison Visiting System has the potential to act as an effective tool to involve the outside community and which further helps in the reintegration of the prisoners in the society. Presently, various State Prison Manuals have prescribed rules and regulations for the functioning of the Prison Visiting System. The power, functions and constitution of the Board of Visitors varies from State to State and hence lacks uniformity. The Judiciary has also recognized the importance of the Prison Visiting System in the protection of the rights of the prisoners and effective supervision of the prison administration. It further observed that this system has remained underutilized till now.

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