

## **NEN Offices**

### **Assam**

J N Borooah Lane, Jorpuhuri,  
Guwahati – 781001, Assam, India  
Telefax: +91-361-2631582  
Tel: +91-361-2603833  
E-mail: [assamnen@yahoo.co.uk](mailto:assamnen@yahoo.co.uk)

### **Meghalaya**

Beam's End Cottage,  
Springside, Jinkieng, Nongthymmai,  
Shillong – 793014, Meghalaya, India  
Tel: +91-364-2520750  
Telefax: +91-364-2521221  
E-mail: [meghalaya@northeastnetwork.org](mailto:meghalaya@northeastnetwork.org)

### **Nagaland**

NEN Resource Centre  
Chizami-797102, Phek District  
Nagaland, India  
Tel: +91-094366 07403  
Telefax: +91-3865-281063  
E-mail: [nchizami@yahoo.co.uk](mailto:nchizami@yahoo.co.uk)

### **New Delhi**

267-A, Gulmohar Avenue  
Jamia Nagar, New Delhi-110025, India  
Telefax: +91-11-26312355  
E-mail: [delhi@northeastnetwork.org](mailto:delhi@northeastnetwork.org)

[www.northeastnetwork.org](http://www.northeastnetwork.org)

Contact us: [nen@northeastnetwork.org](mailto:nen@northeastnetwork.org)



**NORTH EAST NETWORK**

## **A LIFE BEHIND BARS**

### **An Exploratory Study of female prisoners in Central Jails of Assam**

A Report by  
North East Network

2009



A LIFE BEHIND BARS : An Exploratory Study of female  
prisoners in Central Jails of Assam (2010)

North East Network  
Guwahati, Assam

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# A LIFE BEHIND BARS

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Central Jails of Assam

By  
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2009

Research Team:  
Anurita P Hazarika, Sheetal Sharma & Sreekala MG



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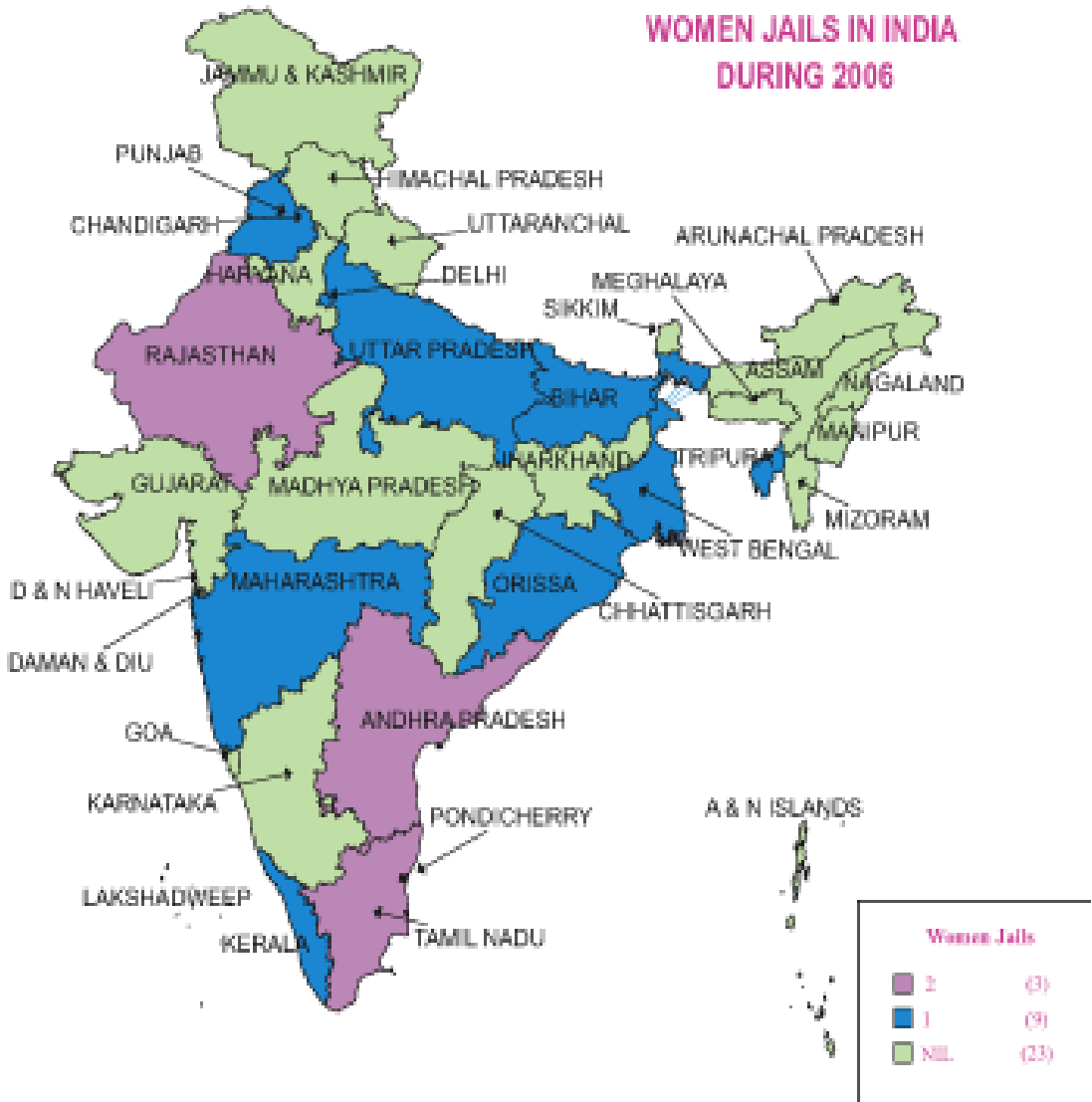
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NEN hopes that the recommendations contained within this report will be considered seriously so that the lives of the women in prisons in Assam can be lived with dignity.

## WOMEN JAILS IN INDIA DURING 2006



Source: [ncrb.nic.in/PSI2005/PMAP2005.pdf](http://ncrb.nic.in/PSI2005/PMAP2005.pdf)



## I. INTRODUCTION

“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

*[Article Ten, United Nations International Covenant on Civil and Political Rights]*

Prisons<sup>1</sup> in India often exist as an appalling picture of alienation from international human rights. Inhumane conditions intensify the impact of confinement. It could be seen as a product of faulty government policies and a lack of transparency. Figures collated at National Human Rights Commission confirm complaints surpassing a figure of 70,000. While 40 percent of the complaints are focused on the police, violations of human rights inside jail comes a close second.<sup>2</sup> Of course, there have been moments when jail officials were held accountable for their acts of omission and commission.<sup>3</sup> Nevertheless, human rights violations committed against prisoners in India often take place with impunity. Non-compliance with international standards remains common.<sup>4</sup> Female prisoner's<sup>5</sup> rights are arguably dealt an even greater blow, with their gender-specific needs usually being overlooked. Totalling approximately half a million women in prisons around the world, female prisoners constitute four to five percent of the world's total prison population.<sup>6</sup> Within India there are 16 women's prisons (dated 31 December 2007); with women comprising 4.1 percent of the total prison population.<sup>7</sup> Moreover, whilst a Directive issued by the National Commission for Women recommends the requirement for at least one women's prison in each state within the country,<sup>8</sup> Assam remains without one. As a result, within Assam, female prisoners continue to be accommodated in mixed prisons, usually managed by all-male officers.

### Female prisoners - A Background

Female prisoners have two grounds upon which their confinement and their resulting treatment hinges. First, their status as a criminal or as an accused, as in the case of remand or under-trial; and secondly, their status as a women. This is further aggravated by the fact that many female prisoners have committed petty, non-violent offences, or have been complicit or an accomplice to more serious crime or they come from impoverished and marginalised sections of society. They have a background often impacted by physical and emotional abuse, and they have a higher incidence of mental health problems.

Women's imprisonment is closely related to poverty, both as a reason for their offences and also because they may not be able to afford legal services or pay fines or bail. Female

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1 Section 3 of 'The Prisons Act, 1894' provides definition of prison.

2 India: Whether Human Rights of Prisoners Stand Suspended ? ; <http://www.sacw.net/article1134.html> (accessed on 15 February 2010)

3 In an important write up 'Walls Not A Prison Make' Editor at large of 'Tehelka' Mr Ajit Sahi provides details of a case where 'Terror accused dare to take on their brutal jailers – and win' (Vol 6, Issue 35, Dated September 05, 2009).

4 Article 10: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

5 We have used the term female prisoners in this report. In some places the term women in prison, women inmates are also used.

6 "Health in prison: looking after women in a man's world" ; <http://www.icrc.org/web/eng/siteeng0.nsf/html/women-health-prison-interview-020309>, (accessed on 19 October 2009).

7 "Prison Brief for India; [http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb\\_country.php?country=94](http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_country.php?country=94) (accessed on 15 February, 2010).

8 "Coming soon: a prison for women, by women" in The Times of India 16 June 2009.

prisoners are often primary or sole carers and their incarceration can have a devastating effect on their family, particularly on young children.<sup>9</sup> Women's experience of the criminal justice system, including prison, is significantly different from men's so it is important that the systems under which women are held, respond to women's specific needs. Although women are a minority of the prison population, they should have equal access to services and facilities. Bias can be reflected at every stage of a woman's experience of the criminal justice system: for example, women who report domestic violence may be ignored or further abused by the police; conditions for women in pre-trial detention are often worse than the sentenced prisoners;<sup>10</sup> and women may face harsher sentences because of perceptions that only "bad" women commit criminal offences. Moreover, women's ethnicity, nationality or sexuality can add to their disadvantage.

Under international standards, detention pending trial is a measure of last resort and is only permitted under certain conditions, for example when there is a risk of the suspect failing to appear for trial or interfering with witnesses, evidence or other trial processes, or committing further offences and there is no alternative way that the risk can be addressed other than detention.<sup>11</sup> Law and policy may not provide alternatives to imprisonment. Certain categories of offence or offender may be denied bail. Usually, this is for serious offences, but most women are accused of petty non-violent offences which should not require pre-trial detention. Added to this, many women may not have access to the finances required to access bail. Faced with the inevitability of detention, abuses faced both during pre-trial detention and upon sentencing leave women vulnerable to an array of physical and mental health problems. It is frequently reported that women in prison are vulnerable to abuses, particularly sexual abuse. Such treatment violates the international prohibition on torture and cruel, inhuman or degrading treatment or punishment. Both the occurrence of the abuse and its prohibition, stem from the fact that female prisoners are under the control of prison guards and are powerless.<sup>12</sup>

The power imbalance between the guards and the guarded, regardless of the professionalism and commitment or the indiscipline and cruelty of the prison staff, gives rise to abuse. The provision of a full and effective system of prison inspection and oversight backed by an independent and confidential complaints system is essential in preventing violence and abuse. Another area of significant concern relates to the victims of trafficking or those women left shelter-less by family members and who remain confined to prison on false charges, and who have long passed the required period of imprisonment for the charges, or simply in remand without charge. In the North East region of India, prisoners from Arunachal Pradesh had been held indefinitely in prisons in Assam, until Arunachal Pradesh opened its first state jail on 3 November 2009.<sup>13</sup>

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9 Penal Reform International "Women in prison: incarcerated in a man's world" at <http://www.penalreform.org/penal-reform-briefing-no.3-women-in-prison.html> (last accessed on 2 March 2010).

10 L Townhead, "Pre-Trial Detention of Women and its Impact on their Children" Quaker United Nations Office, Geneva, 2007.

11 See for example rule 6 of the UN Standard Minimum Rules for Non-Custodial Measures (the *Tokyo Rules*).

12 Refer to the UN Minimum Rules for the Treatment of Prisoners for standards for women prisoners.

13 'Arunachal to have its first jail on Tuesday', *The Hindu* 1 November, 2009.

Prison reforms are gaining ground in many parts of the country, but Assam is setting a slow pace in the reformation trend. While Prison Manuals from Andhra Pradesh and Maharashtra were amended during 1979, Assam jails still function in accordance with the Assam Jail Manual prepared during 1934. Lack of gender sensitivity is clearly reflected in the Manual, where the term 'he' has been used in reference to both women and men. There is no separate fund allocation for women or for the gendered needs of women.

As on 30 September 2009, the prison population in Assam was 8951, as opposed to the official capacity of 6862.<sup>14</sup> Overcrowding is one of the main concerns leading to various problems such as poor hygiene and health issues, sanitary problems and improper living conditions. Such issues demand immediate up-gradation. The Committee on Economic, Social and Cultural Rights (ESCR): India in its Concluding Observations (2008) No. 75, recommended the state party to improve the living conditions in prisons and comply with the Article 12 of the Covenant, which guarantees respect for the right to mental and physical health of all prisoners.<sup>15</sup> Furthermore, with India being a party to the Convention on the Elimination of Discrimination against Women (CEDAW), demands that the State should ensure compliance with Article 12 of the Convention is considered equally for pregnant and lactating mothers residing in prisons.<sup>16</sup>

Specific standards that recognise the special needs and circumstances of female prisoners are included in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (the need for specific measures to protect the rights and special status of women, especially pregnant women and nursing mothers). The Standard Minimum Rules for the Treatment of Offenders state that female prisoners should be separated from male prisoners and supervised by female officers. It also requires the provision of special accommodation for all necessary pre-natal and post-natal care and treatment and recommends standards for accommodation of, personal hygiene and clothing and bedding. Rehabilitation and reintegration also remain as integral factors, which require adequate attention within the prison system in Assam. Currently, a one-time grant of Rs 10,000 is provided to those serving life sentences under the rehabilitation scheme of the State government.<sup>17</sup> At a minimum, women should have equal access to educational and training facilities as men, and these should be designed to equip them for release. Post release, women are deeply affected by a variety of factors, including stigma and discrimination. Concerted efforts by policy makers, the Prison department and the civil society are needed for mainstreaming reform within Assam.

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14 See Annexure 7, table 2.

15 Concluding Observations of the Committee on Economic, Social and Cultural Rights: India <http://www2.ohchr.org/english/bodies/cescr/cescrs40.htm>, accessed on 15 February, 2010.

16 Article 12 of CEDAW- States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

17 Dispur plan for lifers' kin, The Assam Tribune, 15 May, 2009.

## II. OBJECTIVES OF THE STUDY

The study on condition of women in prisons was undertaken with the aim to explore the living conditions of female prisoners in Assam. It is the duty of the state to provide due benefits to female prisoners.<sup>18</sup> NEN has not come across any previous study or exploratory research work pertaining to female prisoners in Jails within Assam. NEN undertook this study with the objective of examining the following:

- The ground realities on living conditions of female prisoners in four jails of Assam;
- Areas of discrimination/gaps in relation to health and other basic facilities available to the female prisoners; and
- The barriers/gaps in the existing prison system that bar women from exercising their entitlements and access to justice.

### A. Methodology

This study is based on primary and secondary data. Permission was obtained from the Office of the Inspector General of Prisons, Assam, to visit the jails in order to interview female prisoners. Formal contact was established with the Jail Superintendent/Jailor, with interviews being conducted with female prisoners via a set of guiding questions. All of the women who participated in this study were advised in advance that their participation in this research would in no way have an impact on either the duration or length of their sentences. All of the women who participated and were interviewed, gave their consent for the use of their responses to questions to be utilised within NEN's publication of findings. In total, 30 female prisoners were interviewed for the purpose of this study.

Out of six Central Jails in Assam, four were selected due to proximity and research time limits; these included the Guwahati, Nagaon, Jorhat and Tezpur Central Jails. The respondents for this study were the female prisoners resident in these jails. Judgmental sampling<sup>19</sup> method was used to select respondents so as to bring into purview the specific needs of different categories of female prisoners. We were allowed access to the women's *history tickets*<sup>20</sup> to ensure that the respondents were selected on the basis of identified criteria, such as the nature of the crime, prison term, and age. The research also included respondents suffering from any form of disability, residing with their children or having any specific need or requirement. The sample size for the interview was 30 prisoners. Interviews were taken with pre-set guiding questions<sup>21</sup> on a one-to-one basis. The interview schedule consisted of open-ended questions so that the respondents could express their views freely. Respondents<sup>22</sup> also included jail doctors and the Jail Superintendent/Jailor of each jail.

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18 Modernisation of prisons, <http://mha.nic.in/pdfs/Modprison.pdf>, accessed on 15 February, 2010.

19 <http://www.experiment-resources.com/judgmental-sampling.html>, accessed on 15 February 2010.

20 Section 3 of The Prisons Act, 1984 defines "History-ticket" as the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules they are under.

21 See Annexure 1 for Guiding Questions.

22 See Annexure 7 table 4 for the number of respondents interviewed.

Apart from Jail inmates and officials, unstructured style of interview was used to explore the roles and responsibilities of various concerned departments, such as the Assam Human Rights Commission and the Office of the Director of Social Welfare, Assam. NEN contacted the Prison Ministry of India, an organisation based in Guwahati, which is an initiative of the Salesian Mission working for the welfare of the prisoners through correctional programmes, to learn about any existing work on female prisoners in Assam. For the study to be more qualitative, informal discussions and observations were also undertaken. Only a little secondary information was collected through media clippings<sup>23</sup> on news pertaining to jails in Assam. However, intensive literature review was made by the research team on subjects including prison conditions in India and health in prisons, along with ESCR and CEDAW Concluding Observations for India.<sup>24</sup> Case study analysis was undertaken within the CEDAW framework, using the principles of non-discrimination, substantive equality and state obligation. Recommendations were drawn both from observations of the prison environment, female prisoners inputs, and international minimum standards.

**B. Timeline: The primary data collection was conducted between March and September 2009.**

**C. Definitions: The following definitions apply in this study :**

Foreign National Prisoner: a person who is neither a legal citizen nor a permanent resident of the country in which he or she is being held in prison.

Girl: a female person younger than 18 years of age.

Older woman: a female person 50 years or older.

Prison/Jail: a place of compulsory detention in which people are confined while on remand awaiting trial, on trial or for punishment following conviction for a criminal offence (not including police cells).

Prisoner/Inmate: a person held in prison, awaiting trial or serving a prison sentence.

Woman in prison/ female prisoner: a female person of at least 18 years old, held in prison, awaiting trial or serving a prison sentence.

Women's health: a state of "complete mental, physical, spiritual and social well-being" for all female infants, girls and women regardless of age, socio-economic class, race, ethnicity and geographical location.

**D. Limitations**

The report should be read with the research limitations in mind. The study environment was challenging both due to the restrictive conditions and confines faced by female prisoners, as well as the presence of prison staff. The information was drawn from a relatively small

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<sup>23</sup> See Annexure 2 for media clippings.

<sup>24</sup> See References for literature reviewed.

population, which may not necessarily be representative of the entire female prison population in Assam. Permission from the IG (Prisons) allowed NEN to visit the six Central Jails of which NEN covered four. Central Jails in Assam may not inevitably reflect the conditions of female prisoners residing in district jails (18 district jails) and in the special jail in Nagaon and the sub-jail in Haflong. Security was cited as a reason for not allowing the research to include interviews with the female prisoners charged and sentenced under the National Security Act and Terrorist & Disruptive Activities (Prevention) Act.

Interviews with the female prisoners were conducted during the time between the midday meal, served between 10-11am, and the evening meal, served at 4pm. The interviews took place in the prison administrative offices. This is also the time that visiting hour takes place and when under-trial prisoners depart for court. In the midst of all these activities, the prison atmosphere was not felt to be entirely conducive for interviewing. Jail authorities were present throughout the interview process, except in the Jorhat Central Jail. Moreover, as the researchers were not permitted to interview the respondents in private, information on the prison conditions that were shared by respondents is expected to be downplayed rather than a full and honest account. In this regard, the respondents appeared cautious to give full and open accounts of both prison conditions and their individual experiences. This affected the interview process and many queries were left unanswered. The information shared by the respondents regarding prison facilities such as medical facilities, food, water etc., could not be physically verified as the researcher was allowed only one visit to the female ward of the jails. As a result, NEN was unable to corroborate information provided by the respondents.

Existing data on status of female prisoners in Assam remains inaccessible. Very few organisations or researchers have examined the status of female prisoners or the conditions in which they are held from a rights perspective in the northeast region of India. The NEN study being an exploratory one is qualitative in nature and devoid of statistical data.

## **E. Brief background of the field areas**

NEN selected four Central Jails, namely, Guwahati, Jorhat, Nagaon and Tezpur for its study.

**1. Guwahati:** Guwahati is the capital city of the State. Located in the heart of the city, the exterior of the jail is an imposing piece of colonial British architecture. It is situated on 69 *bighas*<sup>25</sup> of land. Established in 1881 as a district jail, its recognition as Central Jail on 19 September 2002, did not bring any noticeable change to the dilapidated condition of the jail interior. With the only “super speciality hospital” in the state, Gauhati Medical College and Hospital (GMCH), being located in Guwahati, Central Jail also confines prisoners from other jails in Assam seeking specialized medical treatment. Burgeoning referrals from other jails adds to the problem of overcrowding, which in itself is already an existing concern within Guwahati Central Jail.

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25 1 Bigha is roughly 17452.00 square feet or 1/3 of an acre.

2. *Jorhat*: Once the centre of the anti-British struggle in Assam, Jorhat is around 290 kilometres from the State capital. There are two jails in Jorhat, one is the Central Jail and the other is Open Air Jail. Established in 1911, many revolutionaries of Assam were jailed at Jorhat Central jail during the freedom movement. The vocational cane and bamboo unit of the Jail has been revamped into a full-fledged cottage industry with the assistance from District Rural Development Agency (DRDA). It has paved the way for progress for the male convict prisoners. The Open Air Jail of Jorhat is only one of its kinds in Assam. This type of jail has no system of day lock up and there is liberty for the male prisoners to move and work on their own. They can also stay with their families.

3. *Nagaon*: Nagaon is located 120 kilometres from Guwahati. Nagaon has two jails, one is the Central Jail and the other one is the Special Jail. The Special Jail is meant for “hardcore criminals”,<sup>26</sup> but the general prisoner population also stay there due to overcrowding in other jails. Established in the year 1950, Nagaon Central Jail covers an area of 36 *bighas* and 4 *kathas*.<sup>27</sup> The local residents of Nagaon call the jail *Miya*<sup>28</sup> Jail, because of its large population of the Muslim minority community Locals are also lodged in this jail

4. *Tezpur*: 180 kilometres from Guwahati is the heritage city of Tezpur. Tezpur Central Jail was established in the year 1846. It was the first jail in Assam. The total jail compound covers an area of 92 *bighas*, including the quarters and the campus. The only Mental Hospital of the state is located in Tezpur. Tezpur jail houses referrals from other prisons in need of mental health treatment.

5. *General Setting of the jails*: A more or less similar setting has been viewed in the four jails selected for the study. Crossing the colossal iron gates guarded by security officials, one will come across the administrative office. Crowds of visitors of the prisoners wait outside the administrative office to have a quick chat with their friends/relatives resident inside. There is no room specifically allocated for prison visits and the administrative office acts as a contact point. There are meshed windows in the office where the prisoners gather. Their visitors stand outside, approximately at a one-metre distance from the office. While the visiting hour continues, the jail staffs continue their daily chores. Time allotted for visitors is between 10am and 3pm. There is one window in particular for the female prisoners, but given the fact that the space is comparatively less for the male prisoners, they also swarm into this window, which limits scope for female prisoners to interact with their visitors. All of the jails have three to four windows for visitors, with Nagaon Central Jail having only a single window for both male and female prisoners. Visitors of prisoners serving death sentences, life sentences or those having special permissions are allowed to enter inside the office.

The administrative office leads to the prison premises, which covers a big area. The central area allocated for male prisoners have areas of cultivable lands with surrounding greenery, assorted barracks for prisoners to stay and different facilities including a kitchen, hospital,

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26 The word ‘hardcore’ is used in prison settings in Assam for prisoners committing hard crimes like murder, engaged in militancy etc.

27 1 Katha= 720.0460829493088 square feet.

28 A derogatory term used in Assam to denote Bangladeshi Muslim migrants.

school, and craft unit. At one end of the men’s allocated area is another block, which is intended for female prisoners. The men’s area has specialised units, such as a kitchen, special room for aged prisoners, playground and a hospital. Food is prepared by the male prisoners and distributed to the female ward at designated hours. There are also separate units for education, cane and bamboo and weaving in the male campus. There is a utility shop that sells tea, biscuits, betel nut and other essentials to the male prisoners. At one corner of the men’s area, there are what was referred to as *condemn*<sup>29</sup> cells with iron bars, which were used as torture cells during the colonial period. Whilst presently not in use, these are allegedly sometimes used to serve as isolation chambers for tuberculosis patients.

Of the four central jails visited, only Guwahati Central Jail has a woman in the post of Assistant Jailer. Posts of warder, weaving instructor and guarding staff of the female wing are occupied by women. There is no provision in place that a concerned official can act as a redress mechanism for female prisoners and provide necessary recommendations for their well-being. A jail official advised that they “are so busy in their manual work” that they “seldom get time to see the *history ticket* of the prisoners”. One official complained that due to frequent transfers, they find it difficult to render services to the fullest.

#### Total Prison Population at the time of jail visit

Name of the Jail	Actual capacity		No of inmates at the time of visit	
	Male	Female	Male	Female
Guwahati Central Jail (as on 4 August 2009)	462	45	819	35
Jorhat Central Jail (as on 8 September 2009)	646	24	528	24
Nagaon Central Jail (as on 25 July 2009)	346	7	448	33
Tezpur Central Jail (as on 2 June 2009)	725	22	541	23

<sup>29</sup> A term used by the jail official.



### **III. HUMAN RIGHTS CONTEXT**

Women constitute a special group within prisons because of their sex. Although the characteristics and corresponding requirements of female prisoners can vary considerably between countries, several factors are common to most. These include mental disorders, sexual and physical abuse and violence before or in prison, the neglect of gender-specific health care needs and additional issues related to the women's responsibility for children and families. Unlike prisoners throughout the world, women prisoners in Assam face specific deprivations arising directly from their imprisonment. When examined from a gender perspective, many of the critical problems remain unresolved.

Women's rights while in prison are the same as men's rights, however, women seldom have equal access to these rights. As prison systems have been primarily designed for men, who comprise more than 95 percent of the prison population in most countries, prison policies and procedures often do not address women's health needs. Data on the health of women in prison and the health care provided for them are rare, because most prison data are not gender specific. The health status of prisoners is generally much poorer than that of the general population, and women's health needs can be seriously neglected in a male-dominated prison system. Many women in prisons have a background of physical and sexual abuse and of alcohol and drug dependence. Many may not have received adequate health care before incarceration. Mental illness is often both a cause and a consequence of imprisonment and the rates of self-harm and suicide are noticeably higher among female than among male prisoners. Moreover, it is often ignored that imprisoning women has greater social cost to family and community than does imprisoning most men prisoners. Family breakdown, long-term problems among children taken into care and a loss of community spirit and cohesion can push the social costs of women's imprisonment considerably higher than for men's imprisonment.

#### **A. Human rights standards and international conventions**

“The concept of equality means much more than treating all persons in the same way. Equal treatment of persons in unequal situations will operate to perpetuate rather than eradicate injustice.”

*(Office of the United Nations High Commissioner for Human Rights, 1994)*

The rights guaranteed in international human rights treaties apply equally to women and men. The Universal Declaration of Human Rights (United Nations, 1948) advises that the state may only limit the exercise of a person's rights and freedoms – including the rights and freedoms of a person who is a prisoner – “for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”. The main United Nations standard relating to the human rights of women, providing the basis for realising equality between women and men, is the Convention on the Elimination of All Forms of Discrimination against Women (United Nations, 1979). In Article 2, the States Parties:

“[...] condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women

and, to this end, undertake:

(a) to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;

(b) to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

(f) to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; and

(g) to repeal all national penal provisions which constitute discrimination against women.”

There are also specific standards and provisions that recognize the special needs and circumstances of female prisoners. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>30</sup> recognises the need for specific measures to protect the rights and special status of women, especially pregnant women and nursing mothers. Rules No. 23 and 53 of the Standard Minimum Rules for the Treatment of Offenders<sup>31</sup> state that female prisoners should be separated from male prisoners and supervised by female officers. It also requires the provision of special accommodation for all necessary pre-natal and post-natal care and treatment. The main international standards relating to the protection of the human rights of prisoners and to ensure that prisoners’ treatment aims to facilitate their social reintegration include:

- the United Nations Standard Minimum Rules for the Treatment of Prisoners (United Nations, 1955);

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30 UN (1988)

31 UN (1955)

- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;
- the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (United Nations, 1988);
- the Basic Principles for the Treatment of Prisoners (United Nations, 1990);
- the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2004).
- the 2006 European Prison Rules (Council of Europe, 2006); and
- the European Parliament (2008) resolution on the particular situation of women in prison and the impact of the imprisonment of parents on social and family life.

These standards constitute the fundamental principles, which are valid in all systems and prisons worldwide and apply to all prisoners, without discrimination.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (United Nations, 1955), the first legal instrument in the vast body of standards and norms in crime prevention and criminal justice, was adopted in 1955. Since then, the organization has developed a set of basic principles covering such areas as the independence of the judiciary, protection of victims, alternatives to imprisonment, police use of force, mutual legal assistance and extradition. More than 100 countries worldwide have relied on these standards and norms in writing their national laws and policies in crime prevention and criminal justice. Given the vast differences in legal, social and economic conditions worldwide, it is not possible to apply all the provisions everywhere, all the time. However, they represent the minimum conditions which are accepted as suitable by the United Nations.<sup>32</sup>

The United Nations Standard Minimum Rules for the Treatment of Prisoners and other standards prohibit discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>33</sup> Principle 5 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (United Nations, 1988) states:

“Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.”

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<sup>32</sup> UNODC promotes and monitors the use of existing standards and norms. This is done through advisory services and technical assistance, training seminars and expert group meetings. UNODC has also developed a number of tools and handbooks to assist states in implementing UN standards and norms.

<sup>33</sup> To learn more about UN standards and norms, as well as to download UNODC tools and handbooks, please visit [www.unodc.org/criminal\\_justice.html](http://www.unodc.org/criminal_justice.html)

This makes clear that special measures to address the particular needs of women in prison are not discriminatory in themselves.

The Kyiv Declaration on Women's Health in Prison<sup>34</sup> was another important step towards greater recognition of gender-specific health-care needs in prison. The principles and recommendations of the Kyiv Declaration on Women's Health in Prison are important steps towards improving health systems and addressing the health needs of women involved in the criminal justice system [Refer to the Appendix for a copy of the Standards of the Kyiv Declaration].

## **B. Constitutional and Statutory Rights of Prisoners in India & its Implementation in Assam**

Prisoners' rights is an area of constitutional law that is often overlooked. The Constitution of India upholds a defendant's right to a constitutional and statutory right of appeal. Some of their rights, based on Article 14 and 21 of the Constitution, include: Right against solitary confinement [Sunil Batra – I 1978 (4) SSC 494]; Right against iron fetters on the legs [Charles Shobraj 1978(4) SSC 104]; Right against handcuffing (Prem Shanker Shukla 1980 3 SSC526); 4. Right against custodial violence (Sheela Barse 1983 2 SSC 96); Delayed Execution of death Sentence (Vaheeswaran 1983 2 SSC 68); Custodial Death (1995 4 SSC 262; D.K. Basu 1997 1 SCC 416); and Medical aid hygienic living conditions, clean drinking water and food.

Various pieces of legislation govern the prison system in India. Most of these are archaic, drafted during the British colonial period. The Prisons Act 1894 provides a set of rules for the regulation of prisons and The Prisoners Act 1900 consolidates the law relating to Prisoners confined by order of a Court. There are specific Acts, such as the Prisoners [Attendance in Courts] Act [1955] and Transfer of Prisoners Act [1950], which cover court procedures and transfer issues.

Although the *Justice Mulla Committee Report on Prison Reforms (1982-83)*, and the *Justice Krishna Iyer Committee on Women Prisoners (1986-87)*, recommended a reformatory approach to prison functioning,<sup>35</sup> little has been achieved. Aside from national policies and legislation, every State and Union Territory has its own Jail manual<sup>36</sup> wherein guidance for prison management is provided. Prisoners in an Indian jail are registered as one of three types of inmate: - (a) convicts; (b) under trials; and (c) detainees under preventive laws. The Duggal Committee Report, 1997, which considered the question of classification of prisoners into class "b" and "c" on the basis of social and economic background including the lifestyle, suggested that this practice, being violative of the equality clause, must cease. However, the main if not sole beneficiaries of the Duggal Report were the prisoners in Delhi jails where prisoners have been accorded uniformity of treatment. In many other States, such

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34 [http://www.unodc.org/documents/commissions/CND-Session51/Declaration\\_Kyiv\\_Women\\_60s\\_health\\_in\\_Prison.pdf](http://www.unodc.org/documents/commissions/CND-Session51/Declaration_Kyiv_Women_60s_health_in_Prison.pdf)

35 "Prison Conditions in India" Article; Kamayani Bali- Mahabal, Human Rights Law Network; New Delhi; 23 February 2000 at <http://www.geocities.com/indianfascism/fascism/prison.htm> (last accessed on 29 April 2009).

36 Section 59 of The Prisons Act, 1894.

classification still exists as the old and archaic Jail Manuals are still in vogue.

The National Police Commission (1977-80) suggested certain amendments in the substantive and procedural law to curb delay both at the investigation and trial stage and also to eliminate custodial violence. It also recommended periodic visits to the police lock-ups so as to prevent violence in the police lock-ups. The All India Committee on Jail Reforms (1980—83) under the Chairmanship of justice A.N.Mulla made startling observations:

“Overcrowded prisons, the prolonged detention of under trial prisoners, unsatisfactory living condition and allegations of indifferent and even inhuman behaviour by prison staff had repeatedly attracted the attention of critics over the years. Unfortunately, little has changed. There have been no worthwhile reforms affecting the basic issues of relevance to prison administration in India.

On inspection carried out by Mr. B.L. Joshi, a member of the Commission in Sub-jails at Sohjat, Jaitaran, Pali and other places in Rajasthan, it was noted that single female prisoners are retained in the jails. There was no female warden or warder either. Therefore, for all practical purposes, their detention becomes a “compulsive solitary confinement” exposing them to the many dangers including the danger of sexual abuse. The recommendations of the All India Committee on Jail Reforms (1980-83), headed by Justice A.N. Mulla, were as follows:<sup>37</sup>

“Prior to the release of woman convicts proper pre-release preparations as recommended in chapter XXII on After-care, Rehabilitation and Follow –up of this Report should be made by Lady Assistant Superintendent of the prison with the help of voluntary agencies, if any, and the Department of Social Welfare/Directorate of Woman Welfare. Avenues for the settlement of marriage of woman prisoners willing to get married after their release may also be explored. Assistance of the social welfare agencies in the government sector and voluntary sector may be transferred to social Welfare Institutions run by the Department of Social Welfare. They should as far as possible be escorted by women guards in plain clothes.

Voluntary women organisations should be encouraged to work in collaboration with the government agencies to organise release on bail projects, Rescue Homes and After-care Homes for woman offenders and ex-prisoners. State Government should support such schemes financially. [...]

There should be a woman’s non-official organisation at the national level to attend to the following:-

- a) Revision of legislation in respect of woman prisoners;
- b) Establishment of homes for released woman prisoners;

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37 (Reference Chapter XXII on After-care, Rehabilitation and Follow-up in this Report.).

- c) Action against atrocities committed against woman in prisons;
- d) Reintegration of ex-woman prisoners into the family and community;
- e) Supply of free legal aid [...]; and
- f) Welfare of prisoner's family. [...]"

This was followed by the National Expert Committee on Women prisoners (1987), under the Chairmanship of Justice V.R.Krishna Iyer, which also made wide ranging recommendations concerning female prisoners. There was also the Report of the Group of Officers on Prison Administration (Chaired by Shri R.V.Kapur). Recommendations made in all these Reports remain to be implemented. The Supreme Court of India had laid down special arrangements to underline gender-specific needs and rights of female prisoners and their children.<sup>38</sup> However, the recommendations in the Judgement of *R D Upadhyay V. State of AP & Others* remain to be implemented across the country. In the meantime, the Working Group on "Empowerment of Women" for the Eleventh Five Year Plan has advised that the specific needs of female prisoners should be taken into account within prison reform programmes.<sup>39</sup> Although the agenda of the Working Group's Eleventh Plan proposes to establish e-courts and video-conferencing facilities in courts and jails,<sup>40</sup> the Government of Assam remains trapped in basic infrastructure. It is pitiable to say that after a reassessment carried out by Ministry of Home Affairs; Assam was marked as one of the worst prison reform performers.<sup>41</sup>

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<sup>38</sup> *R D Upadhyay V. State of AP & Others* cited in "Civil Society Capacity Building Programme Report" CHRI, February 24-27, 2009.

<sup>39</sup> Report of the working group on empowerment of women for the XI plan, Ministry of Women and Child Development, Government of India at [http://planningcommission.gov.in/aboutus/committee/wrkgrp11/wg11\\_rpwoman.pdf](http://planningcommission.gov.in/aboutus/committee/wrkgrp11/wg11_rpwoman.pdf)

<sup>40</sup> Eleventh Five Year Plan 2007-12, Volume I, Inclusive Growth, Planning Commission, Government of India. 2008

<sup>41</sup> Assam lags behind in prison reforms, *The Telegraph*, April 28, 2008.

## IV. FINDINGS OF THE STUDY

### A. Summary of Findings - Overview

A large part of the problem with Assam's prison system is the largely defunct and inaccessible nature of the state mechanisms put in place to run the prisons and safeguard the rights of the people in them. The Prison Welfare Department under the Directorate of Social Welfare, Assam, is lying in a dysfunctional state since 1990. Due to a severe resource crunch, improvements to the department remain largely inactive. Their areas of operation are the lower Assam districts. Very recently, the department has implemented the family assistance programme sponsored by the Office of the Inspector General of Prisons, Assam. Their requests for grants to undertake prison visitations and introduce crèche facilities have subsequently failed. Moreover, the Assam Human Rights Commission which is responsible for intervening in cases of prisoner's rights violation faces financial constraints that are a major barrier in discharging the Commission's duties.

The Chief Judicial Magistrate (CJM) acts as a visitor and has the right to intervene in prison functioning and suggest changes which are at his/her discretion. Camp courts<sup>42</sup> are presided by the CJM where bail petitions are considered. The CJM also grants release on Personal Bond to prisoners in detention for lengthy periods, dependent upon good behaviour. Upon receipt of written complaints, action is reportedly taken. Complaints in matters related to availability of buckets, water supply, food quality and quantity are very common. A recommendation made by the CJM, Kamrup<sup>43</sup>, for Guwahati Central Jail was to introduce crèche facility for children of prisoners. However, it has yet to materialise.

The Assam State Commission for Women (ASCW) is mandated to inspect jails and take note of the condition of female prisoners and provide recommendations as per section 10 (K) of the National Commission for Women Act, 1990. However, the visits have been few and far between and reportedly have not observed any rights violation within the jails. An official of the commission recommended for providing proper education facilities to children of prisoners residing in prison. Moreover, there are no Swadhar<sup>44</sup> Homes in Assam that cater to the social rehabilitation of female prisoners. With stigma being a major issue, many of the women's friends and family may reject them. Social reintegration requires adequate funding and appropriate planning is one of the key areas that require immediate attention.

Jail officials were reportedly unmotivated as a result of the difficult conditions and in the absence of a full fledged prison infrastructure. Frequent prisoner transfer reportedly hampers their work. In case of complaints, prison officers reportedly face the risk of remote area postings. In addition most of the prisons had low number of female officers within the

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42 Sessions held within the jail campus headed by the Chief Judicial Magistrate.

43 Robin Phukan, LL.M, AJS. Interviewed on 9 June, 2009.

44 *The Swadhar Scheme*: A Government of India Scheme for Women in Difficult Circumstances. These are women who are without any social/ economic support from family/relatives such as (i) Deserted Widows (ii) Female prisoners released from jail (iii) Women survivors of natural disaster (iv) Trafficked women/girls rescued or runaway from brothels or other places, (v) Women victims of terrorist/extremist violence (vi) Mentally challenged women (vii) Women with HIV/AIDS (viii) similarly placed women in difficult situations .

women's prison sections. In Guwahati Central Jail there were 12 women staff in the capacity of assistant jailor, yoga instructor, school teacher, warder and guarding staff. Whereas in jails of Nagaon, Jorhat and Tezpur, there were four female staff in the posts of warder, guarding staff and weaving instructor. All these posts are confined to female wing.

Beyond the sad state of Assam's prison infrastructure, the women within the prisons face many problems; some of which are the result of their lives prior to imprisonment. Out of the 30 female prisoners interviewed, 20 of them had been imprisoned on charges related to murder or attempt to murder. Of these 20 cases, eight were cases of wives murdering their husbands and two were cases where girls had murdered their uncles. All cases involved women who had either survived domestic violence, had been deserted by their husband, and were financially weak and/or involved in an abusive relationship. Cases relating to murder and trafficking were also common. Many of the male counterparts involved in trafficking, had fled the crime scene leaving the women who may or may not have initiated the crime to take the blame.

The study also attempts to outline the issues around access to justice for women charged with crimes within Assam. There appeared to be a failure of justice particularly with regard to appropriate and adequate investigation of cases and representation. Some of the women in the prison appeared to have been arrested for no fault of theirs, being circumstances of false charges or being wrongly implicated. The study also highlighted that some of the problems that the women face are the direct result of imprisonment. Deteriorating health conditions, psychological/emotional problems, and disparities in facilities were revealed. A few women appear to face additional discrimination in the form of derogatory remarks passed on them in one of the prisons. Prison staff's use of "name-calling" as a means to demoralise female prisoners appeared to be a frequent occurrence in that jail. Five of the women prisoners belonging to specific ethnic and minority linguistic groups mentioned that since they do not speak Assamese and jail officials do not understand their language resulting in difficulty in communicating their requirements.

Whilst overcrowding in the female prison wards did not appear to be an issue of concern in most of the jails, the question arises whether the space allotted for the female prisoners is satisfactory. The Nagaon Central jail has little space for female prisoners to move around. In Jorhat Central jail, the weaving activities are halted during overcrowding and when the unit is used as an additional holding facility for female prisoners. Privacy is eroded by crowded conditions in the shared housing units. In Guwahati Central Jail, it was noticed that there was no door in the bathroom. Clothing is provided only to convicted prisoners, whereas Rule 392 of the Assam Jail Manual states about the requirement for the provision of clothing to under-trial inmates who cannot afford their own. There were no facilities for counselling or rehabilitation. More seriously, Assam prison's non-compliance with the juvenile legislation is violative of its human rights obligations, specifically the rights of the child. Furthermore, female prisoners did not appear well-informed of their right of remission (parole dates), aside from the punitive perspective. According to Rule 331 of Assam Jail Manual, ordinary remission is awarded two days per month for good conduct and being in compliance with prison regulations. Remission is provided by the Chief Judicial Magistrate, Jail Superintendent



and on National Days. Whilst most of the prisoners were unaware of the number of days considered under the remission system, they were aware that their jail terms would increase if they fight with other inmates, show hostility to the prison staff or do not adhere to the prison rules. Perhaps the comment of one of the women interviewed revealed both the level of ignorance around remission as well as the resultant anxiety, where the respondent stated that she had agreed to participate in the research in the hope that it might add to her remission.

## V. ASSAM'S PRISONS - FEMALE PRISONERS - SYSTEMIC FAILURES

The facilities maintained for female prisoners are unsatisfactory, insufficient and in violation of the Minimum International Standards for Prisons let alone Standards for Female prisoners. Four overriding issues were identified and analysed on the basis of systemic violations observed within the site visits in the four jails in Assam. These include failures in the provision of health care, legal aid and access to justice, inadequate facilities for female prisoners, along with inappropriate conditions and arrangements regarding the transfer of female prisoners and the detention of girls (juveniles) and facilities for older women inmates and other vulnerable groups within the female prison population.

### A. Access to Justice: Provision of Legal aid

The right to legal aid<sup>45</sup> in India is provided for under the Constitution and under the Legal Services Authority Act, 1987. However, there are large numbers of prisoners languishing in jails without due process. And, it is women in custody that constitute the major victims of judicial arrears. In all the four jails visited by NEN, it was evident that inadequate legal aid led to a gamut of disadvantages. Lengthy and drawn out court procedures not only impact the ability of alleged offenders to access justice, but have additional mental, physical and financial implications. As the majority population of the jail comes from deprived sections of society, they are reliant upon the provision of free legal aid.

Most [10 out of 16 under trial prisoners] of the female prisoners interviewed were unaware of legal proceedings attached to their cases. Under-trial female prisoners informed of their inability to represent themselves and their inability to obtain effective representation for their hearings. They advised generally that they had been in attendance at the hearings associated with their alleged offences, but that the right to a defence was not effectively provided. During the trials, the women were asked to place their attendance signature. They would then reportedly have to wait a lengthy period of time, after which they would be informed of the next scheduled date for a hearing. Approximately 10 of the interviewed under-trial inmates stated that that they were not aware of their case proceedings and had never met with or spoken to a lawyer regarding their case.

In Assam, depending on the nature and gravity of the case, bail<sup>46</sup> is furnished to the accused with pre-requisite conditions. Bail bonds can be either personal bond<sup>47</sup> or a surety bond.<sup>48</sup> The Supreme Court of India Judgments have made the bailing process very flexible but disadvantaged women in prisons have not been able to access bail easily. Financial constraints and inability to produce surety are barriers in accessing such a facility:

*"Myself and two others were arrested on charges of using my house as a brothel. The*

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<sup>45</sup> Article 39A of the Indian Constitution directs the state to provide free legal aid.

<sup>46</sup> Conditional release from jail by paying cash or on surety bond to make sure that the person will appear in court whenever summoned until his/her case is completed.

<sup>47</sup> Release made on one's own bond with a fix bail amount.

<sup>48</sup> Bail provided on the ground that the surety will take full responsibility for the accused to appear in court whenever required.

*other two [were] released on bail. My parents are very poor and they cannot afford to pay Rs. 3000 to bail me out.” [Pearl (name changed), Central Jail, Guwahati]*

There are many landmark Judgments paving the way for timely trials and effective legal aid for prisoners. However, a gap exists when it comes to accessibility and affordability. There are mechanisms in place such as camp courts and *Jail-adalats*<sup>49</sup> for timely trial of prisoners. But questions have been raised on their functioning. *Lok adalats*, which are designed to solve petty offences, are not organised at regular intervals.

The Supreme Court of India has also imposed restrictions on the use of handcuffs and other restraints,<sup>50</sup> but the violation of the right to life and liberty continues. Non-observance of Rule 322 of the Assam Jail Manual<sup>51</sup> was found in some cases. Whilst few of the women interviewed advised that they were handcuffed while going to court, one woman had allegedly been handcuffed while going to hospital for treatment. Unnecessary handcuffing, as stated by female prisoners, stigmatises and further discriminates them:

*“Even after staying three years in Jail, I was handcuffed twice while visiting civil hospital. I felt ostracized in the hospital because of handcuffs and so I refused further treatment. Only after my firm oppositions, handcuffs were not put on me thereafter. [...]*

*I know that I have taken law in my hands but there should be some kind of intervention by the state and other agencies to help distressed women like me. Assam State Commission for Women visited us in 2003 and a human rights organisation from Assam visited us in 2005. They assured to help me for early release but I have heard nothing from them yet.” [Rina (name changed), Central jail, Jorhat]*

More seriously, non-compliance with the juvenile legislation is a severe form of child rights violation [1]. The Juvenile Justice Act 2000 states that any child<sup>52</sup> accused of offence or having conflict with law is not to be kept in jail, but in observation homes or special homes.<sup>53</sup> Nevertheless, many juveniles fall prey to the corruption prevalent in the criminal justice system. Loopholes exist when it comes to noting the age of prisoners by police officials responsible for preparing the case history. In many cases, in order to avoid legalities associated with juvenile cases, actual age is altered to 18 years or above. Inevitably, the life of such juveniles is ruined and leaves them more vulnerable to emotional and psychological harm:

*“The police asked me and my sister to change our ages to 19 and 20 so that we can stay with our sister-in-law in the same jail.” [Bithika (name changed), Central Jail, Jorhat]*

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49 Under Section 19 of Legal Services Authorities Act, 1987 Lok adalats are organised by Central, State, District and Taluka Legal Services Authority and presided over by sitting or retired judicial officer and other persons of repute appointed by the state government in consultation with the Chief Justice of High Court.

50 Refer to judgement- *Prem Kumar Shukla V Delhi Administration*.

51 Rule 322: Handcuff shall be imposed on females only when there is likelihood of women seriously injuring herself or others, and then for not more than 72 hours at limit.

52 Article 1 of Convention on Rights of Child defines child as any human being below the age of 18 years.

53 Juvenile Justice (Care and Protection of Children) Act, 2000.

Lack of effective monitoring mechanisms enhances the irregularities of police at the *thana*<sup>54</sup> level. Whether it be complainants or the defendant, there remains non-accessibility to procedural laws at the *thana* level. A juvenile prisoner, 14 year old Gitika, interviewed in Jorhat Central Jail was accused of murdering her uncle who had allegedly raped her. She was charged under section 302 and 34 of IPC.<sup>55</sup> Under the name of an intervention carried out on a rape victim, the juvenile inmate was taken to a government hospital where a few questions were posed by the doctor and no medical examinations were conducted. Privacy was not maintained in the court room during her rape testimony.

In another case, Zulfia and her sister had been arrested on false charges of kidnapping a young woman. Zulfia felt that they were accused of the charge on the basis that her husband had previously been imprisoned in a case of trafficking. She also mentioned that he had even tried to force her into sex work but she managed to escape from him. Zulfia also said that the young woman she had allegedly kidnapped(false charges) returned home on her own later, while she and her sister were still imprisoned.

Police investigation and arrest on false grounds appeared to be a recurrent allegation, as reported by fourteen of the women we interviewed. One woman was accused of committing theft in her workplace. When she asked for evidence of the theft, the police reportedly replied that “*sniffer dogs*” would be used. However, the police search dogs were not used and the girl was arrested without evidence. Her house was searched by the police after her arrest but no evidence was found. Such cases demonstrate that the police appear to have little interest or impetus to effectively investigate allegations surrounding women and girls from disadvantaged backgrounds. Also the woman was kept in police custody for one whole night without the presence of any female police personnel. In three cases, it was found that the procedural requirements for arrest had not been followed<sup>56</sup>. Though the arrests by the police were made within the stipulated time between 6am to 6pm, there was no presence of women officers during the arrest. One respondent, Rupa, advised that she had been verbally abused, slapped and beaten by the police during her interrogation. The police had also allegedly made her walk outside the police station where her photographs were taken in public view.

## **B. Right to Family: Challenges around Location and Transfer of Female prisoners**

Women in Assam are often incarcerated miles from their homes and families – they lose their communities, and their relationships with their children/families, spouses and friends. Their mental health is affected in the process. Children and families remain an important part of women’s lives, even while imprisoned. In NEN’s study, the research team came across six women who were transferred during their incarceration. Often the reason cited was overcrowding.

In Assam, there is no separate jail for female prisoners. This is mainly due to systemic lack

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54 Lay term used to denote police stations or out posts at local level.

55 Section 302 of Indian Penal Code (IPC), 1860 -Punishment for murder. Section 34- Acts done by several person in furtherance of common intention

56 See Annexure 5 for NHRC guidelines regarding arrest

of gender sensitivity as well as the failure of prison management and policy makers to make interventions on behalf of female prisoners, be it about health or any other requirements. Gender and socio-cultural specific problems of women offenders are not considered appropriately. There is a lack of an individual assessment mechanism to identify the special requirements of female prisoners. One example is the entitlement of women to general visiting hours as per jail rules. Because prisons are overcrowded, there is always a rush amongst the prisoners, jostling for space to interact with their visitors. As a result, the scope and space for female prisoners' entitlement is limited practically being housed in male prisons. Those female prisoners, twenty of them, who mentioned "depression", and the adverse affects upon their health are reportedly either dismissed or do not receive appropriate treatment. This is despite the fact that there are doctors on call in some jails to treat depression and that there is referral services to district hospitals as and when required.

Prison officials do not take into account "anxiety" and "emotional distress" as a health concern. The effects are multidimensional. NEN came across twenty cases where women were observed facing acute emotional distress once distanced from family, children relatives, friends and other visitors, in some cases leading to symptoms of anxiety. In Nagaon jail, three women used the term "extreme tension" to explain their anxiety over their children, spouses, parents and other family members. Moreover, once transferred out of their community, city or region, there is no one to formally represent them to ensure surety bond. NEN came across five instances where *lifers*<sup>57</sup> were unable to avail leave entitlements, because they did not have family or a representative present to sign the surety bond. Moreover, delays in police procedures also deterred some of the above from availing leave.

*"My worry centres on my 20 year old daughter who is staying alone at home. I have no news of her for long. My shift to Nagaon Central Jail has restricted my family members from visiting me due to distance problem." [Himani (name changed), Central jail, Nagaon]*

More concerning were the two cases where the family had not been officially informed of the transfer by the jail authority. Inmates from the same family are separated leading to further concerns over separation and subsequent reunification with their family. Normal family lives are destabilised. In one case, transfer led to the separation of a mother and her daughter who were previously lodged in the same jail. Health treatments are also disrupted as the women are shifted from one jail to another:

*"My father, brother and sister are staying in Dibrugarh Central Jail. I was shifted to Jorhat jail and my mother to Nagaon jail in the early part of 2009. I am very much concerned for my ailing mother. Also we cannot avail leave as all of us are in prison and we have none to sign our surety bond." [Bithika (name changed), Central Jail, Jorhat]*

The NEN team also met eight women prisoners who were never visited by their family members.

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57 Convicted prisoners serving life term imprisonment.

## **C. The Right to a Dignified Life in Prison - Provision of Appropriate Facilities**

In addition to some of the systemic failures around access to justice and human rights, NEN's Prison Study in Assam also identified areas of discrimination in matters related to the provision of facilities and opportunities offered within the prisons for female prisoners. These facilities or rather, the lack thereof, range from recreational, vocational, educational and economic/financial opportunities, to special facilities and arrangements for vulnerable/special needs groups. Prisons remain dominated by policies and services targeted for male offenders. Programmes are crime specific or term-of-prison specific; not gender specific to the requirements and needs of women. Moreover, there are highly gendered roles for male and female convicts. While men have a series of activities to keep them busy, women tend to have comparatively less options. Gender biases in the Jail Manual are not questioned. Female prisoners being fewer in number, the government refrains from investing in their needs. This contributes to the violation of the right for a life of dignity for all female prisoners.

### **1. Vulnerable/Special Needs Groups:**

#### **(a) Children of women in prison**

Concern about women in prison must be broadened to include the children of women in prison. United Nations General Assembly 2003 resolution A/RES/58/183 on human rights in the administration of justice invited "governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote increased attention to the issue of women in prison, including the children of women in prison, with a view to identifying the key problems and ways in which they can be addressed ...".

Most women in prison are mothers and usually the primary or sole carer for their children. Research from many countries has shown that, when fathers are imprisoned, the mother usually continues to care for the children. However, when a mother is imprisoned, the father often does not continue to care for the children, resulting in large numbers of children being institutionalized (United Nations Office on Drugs and Crime, 2008). In many countries, babies born to women in prison stay in prison with their mother and very young children may accompany their mothers into prison. In the prisons in Assam, facilities to ensure the safety, health and development of a child were lacking or inadequate. Many women, five of them, had small children with them, whilst steps had been taken to bring about the introduction of crèches into the prisons, such as in the case where the CJM Kamrup had recommended one for Guwahati Central Jail, the failure to implement and operationalise such recommendations and initiatives represent both the lack of regard to these women, but also that of their children - who may be confined with them or outside the prison and unable to have regular contact with their mothers. Studies (United Nations Office on Drugs and Crime, 2008) have shown that young children who are forcibly separated from their mothers experience long-term developmental and emotional harm. Both allowing children to live in prison and separating children from their mothers pose difficult problems and dilemmas. In all decisions made concerning a child of a woman in prison, the best interests of the child must be the primary consideration. The prison policies should promote and facilitate the participation of children in the decision-making, duly considering their age. The children who live in prison

should lead lives of at least as good quality as the life they would have lived outside prison. Facilities should always include good nutrition, decent playing areas and, where appropriate, kindergarten facilities are available. The best interests of the children should be the primary consideration at all times. Arrangements should be made for children residing in prisons to leave at any time if this is considered to be in the best interests of the child.

### **(b) Girls in prison**

Since girls in the juvenile justice system may be easily overlooked because they represent only a small group, special attention must be devoted to the particular needs of girls. Because of their small numbers in the prisons in Assam, girls (interviewed one girl) were accommodated in the same sections as adult women in the prison. Moreover, their right to an age-appropriate and fair hearing, right to legal representation and their status as minors were all disregarded and constitute a systemic failure of justice and violation of the rights of the child in both the Assam Judicial and Penal systems. International standards state that girls and adult women in prison should be imprisoned separately. However, if separate imprisonment would lead to fewer opportunities for education than if they are imprisoned together, safeguards should be put in place so that girls do not mix with women with serious long-term criminal histories.

### **(c) Older women in prison**

Older women (older than 50 years) in prisons in Assam represent another small proportion of the overall female prison population in the state. Out of the thirty women interviewed, four were older women. However, their imprisonment poses particular issues, such as the possibility of compassionate release and special (health) requirements. As a minority within a minority, the special needs of older women in prisons in Assam appeared to be rarely considered separately. There was also evidence of differential treatment. In the Central Jail in Guwahati, there was a separate place for older male prisoners to rest and also for the purposes of medical treatment for all men. In the case of female prisoners, older female prisoners who lack physical mobility have no separate spaces/units/facilities. There is generally very limited mobility within the prison campus as women's units are located within the general prison. By the act of omission in not providing separate prisons for female prisoners within Assam, the rights of older female prisoners, and other special needs groups, are violated. This is especially the case in regard to older prisoners who may need greater and often more specific health care than younger prisoners. Furthermore, they can have special requirements regarding physical problems and limitations, which if not considered within prison infrastructure and services, can impact their ability to access the most basic requirements.

## **2. Facilities: Rehabilitation and Release:**

### **(a) Recreation Facilities**

Beyond the special requirements of vulnerable groups, the bare basic minimum standards required for all inmates is either inadequate or lacking. For example, while there is ample opportunity for outdoor games and exercises such as cricket, volley ball, football, etc. for male prisoners, because there is no separate jail for women there is not enough space to allow them to undertake physical activity. There is some, albeit limited, scope for creative

expression such as poetry, story-writing, etc. However, interest in sports or outdoor games or reading as a hobby are not considered “appropriate” for female prisoners. The recreation facilities available to the female prisoners is therefore limited to indoor games, television, competitions and functions during local festivals and national days. The jail library and utility shop are located in the men’s ward. In fact, the shop is usually managed by male prisoners. Although, the library can be accessed by the female inmates, few do so due to its location in the male ward.

### **(b) Vocational and Educational Facilities**

Vocational trainings imparted in the jails of Assam are negligible if compared with Tihar prison in New Delhi.<sup>58</sup> Tihar prison has a jail factory, which manufactures items ranging from pottery, bakery products, weaves, furniture to soap etc. This initiative has not only been led to reform the prisoners, but also to pave the way for successful rehabilitation. However, for women in jails within Assam, vocational training is restricted to weaving. In lieu of works carried out by convicts, remuneration is paid on a daily basis and it accounts to Rs18 for skilled labour and Rs12 for non-skilled labour. This money is deposited in their jail bank accounts.

Stereotypical societal gender norms related to roles and responsibility extend to women in prisons as well. Women are not seen as bread earners. As a result, their livelihood options are limited. For example, women lack the opportunity to start small enterprise unlike male prisoners. There is provision of looms for weaving as per requirements. However, the products are mostly to meet in-house requirements such as jail uniforms, linen, etc. Likewise with sewing machines and sewing kits, which are provided to learn sewing and mend clothes. There is no sustainable plan included within these short term activities. All the 14 convicted prisoner interviewed were aware that they will be provided with small sums of money for their needs. However, eight of them were unaware that the money came from the daily wage they earned for the cleaning and weaving work in the prison premises and that it was being deposited in their jail accounts.

Two of the women interviewed seemed unmotivated by the stereotypical roles they are given, including cleaning, sweeping, fetching water, etc. on a regular basis. They advised that they yearn to be engaged in more constructive activities on a regular basis. Opportunities to intellectually engage as observed for the male prisoners who assist in jail administration, is not allowed for female prisoners. In the context of engaging female prisoners in administrative work as done in the case male convicted prisoners, one of the Assistant Jailors of Guwahati Central Jail mentioned that, ‘The environment is not safe for women to work as their security can not be ensured in the prison set up.’ This is a clear example of women being subjected to protectionist approaches by the authorities which in turn deny them their right to equal opportunity. In addition, Rule 354 of the Assam Jail Manual mentions that ‘female convicts shall not be eligible for promotion beyond the grade of convict overseer’. In addition, unlike male prisoners, there is no school for female prisoners. Education is, however, imparted via other means for those who wish to learn. Inmates can enrol for a

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<sup>58</sup> Central Jail located in Delhi and is known to be one of the largest prisons in the world.



correspondence course under Indira Gandhi National Open University (IGNOU) and Krishna Kanta Handique State Open University (KKHSOU). However, only one of the 30 women interviewed was enrolled under KKHSOU. An organisation, Prison Ministry of India, imparts spoken English lessons to inmates in the jails of Diphu, Dibrugarh, Guwahati, Goalpara and Tezpur. As advised by one of their staff members, the NGO staffs are permitted to visit the Guwahati Jail once a month. However, intervention by NGOs and other civil society organizations has been negligible and confined to activities including TB and HIV/AIDS screening, and organising correctional programmes within the paradigms of spiritual and value based education.

### **(c) Release Facilities**

It is also important to note that many women and girls have no place to stay upon their release. A legal rights activist in Assam advised that even if legal rights organisations assist female prisoners in obtaining bail, the step thereafter, to provide her with a place of temporary residence remains a challenge. Frequently, released female prisoners have no acquaintances, families or friends that are willing to accept them upon release. The shortage of shelter homes to temporarily released women prisoners in Assam and the pathetic condition of the already existing homes is a major hindrance in the rehabilitation process of these women. The five Swadhar homes in Assam currently house victims of trafficking.

### **D. Right to Health - Provision of Healthcare Services and Medical Treatment**

The deficits and omissions of the judicial and penal system in Assam, and many of the gender inequalities mentioned within it, have given rise to unequal access to health care within the Assam prison system.<sup>59</sup> They have also no doubt contributed to many health issues suffered by all the thirty female prisoners interviewed.

In Assam, women in jails are affected by inadequate health services and appalling living conditions, which further aggravates the situation of confinement. Women's reproductive health rights do not appear to be of concern to Assam's prison management. The hospital based inside the Central Jails of Guwahati, Jorhat, Nagaon, and Tezpur, are located in the male ward. There is not a separate hospital for female prisoners nor are there separate wards or rooms for them in the hospital. In all of the jails observed within the ambit of this study, it was found that an extra room in the female section of the prison acts as a doctor's examination room for female patients. The room does not have a bed. The female prisoners are taken to the jail hospital only when saline is prescribed. The doctor's chamber in the jail hospitals does not have the required basic infrastructure to perform examinations on female patients.

The hospital in the Central Jail, Guwahati, presents a pitiable look with walls, beds, mattresses and equipment in a dilapidated condition. Rule 669 of Assam Jail Manual states that the walls of hospital "shall be scraped and white washed once in six months", however, this is not followed by the administration. Against a population of 854 (dated 04 August 2009), there

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59 Women's health, Booklet 3, National coordination Committee, Jan Swasthya Abhiyan.

was one doctor, one laboratory technician, one radiographer, one ANM (Auxiliary Nurse's Midwife) and one pharmacist. One post of doctor was lying vacant. There was no refrigerator in the hospital to store medicines, which are kept in the staff quarters. Overcrowding is a major problem and directly connected to the health of prisoners. As mentioned by the Jail doctor,<sup>60</sup> diseases like scabies and dermatitis are very common amongst the prisoners. Due to unhygienic living conditions and contaminated water, dysentery and diarrhoea are also issues of concern. In cases like measles, mumps or other infectious diseases, there is a separate isolation ward for male patients. Female patients do not have any such provision. They are attended by the doctor every alternate day in the prison section for women.

The hospital of Central Jail, Tezpur, has one doctor, a nurse and a pharmacist (dated 25 July 2009). Apart from the prison hospital, which can accommodate 14 beds, there was a TB ward and an isolation ward for mentally ill prisoners. Both these wards are exclusively for the male prisoners. There was an ECG and X-ray machine, but these were outdated, corroded and no longer in use. The post of radiographer was lying vacant. Accompanied by nurse and warder, the doctor visits the female prison section thrice a week.

Against the total population of 481 (on 25 July 2009), the hospital of Tezpur Central Jail had one medical and health officer and one pharmacist.<sup>61</sup> There was no refrigerator to store medicines and no laboratory facility for blood screening. The Jail doctor visited the female prison section when health related complaints were put forward by female prisoners. There is a 'case specialty ward'<sup>62</sup> in the women's section for examining female patients. Although poor facilities in these jail hospitals are affecting all prisoners, the worst sufferers are the female prisoners. Health care in the prison hospital facilities do not address their specific health needs. With no specialised treatment and a lack of hospital facilities for female prisoners, referrals to the district Government hospital is the only alternative. This approach delays the treatment process. Rights of female prisoners are impacted as they cannot avail minimum health care facilities within the prison. The doctor of Central Jail, Guwahati, mentioned that the biggest hindrance in referrals is the indifferent attitude of the Police Department, which is responsible for providing security escorts to patients. The Police cite a lack of manpower as a reason for the delays. Due to poor interdepartmental cooperation, there is a large backlog of referrals, which takes a long time to clear. As a result, patients cannot avail the services in Gauhati Medical College and Hospital on the day they are referred. The process at times gets delayed by one week. It takes almost one month for one patient to finally complete all investigations, which one of the prison doctors mentioned increases the likelihood of fatalities amongst prison patients, but also in terms of contagious diseases, other inmates as well.

Health screenings at the time of admission of prisoners to the jails include only an external examination. National Human Rights Commission (NHRC) has laid down certain instructions to be followed regarding Prisoners health Care, but the same has not been found to be executed in the jails of Assam. Also NHRC has set a proforma for health screening of prisoners on

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60 Dr M.N Gogoi, Medical and Health Officer(class 1), Central Jail, Guwahati.

61 As of July 25, 2009.

62 Dr Dipen Kumar Sharma, Medical & Health Officer(class 1), Central Jail, Nagaon.

admission to Jail but it was found that health screenings at the time of admission of prisoners to the jails include only an external examination.<sup>63</sup> The Jailor<sup>64</sup> of Tezpur Central Jail shared that voluntary organisations at times organise camps for TB and HIV/AIDS screening. Doctors advised that depression, diabetes, gastritis, fever, aches and pains were amongst the ailments reported by the female prisoners. Whilst there is a separate diet chart for nursing mothers, it is inadequate in reality. Complaints and anxiety regarding food quantity and quality had been raised by a few mothers residing with their children in jails:

*“Apart from the regular food provided to all prisoners, my added meal consists of few pieces of bread and a glass of milk in the morning. Inadequate food and lack of mobility is affecting my health.” [Meena (name changed), four months pregnant Central Jail, Jorhat]*

Reproductive health needs was not a matter of concern for the jail officials as was evident from the twenty one female prisoners who shared that during menstruation they have to either use cloth pads and reuse them, while a few were reliant upon family members to procure sanitary napkins. Six out of thirty women interviewed shared that they were suffering from white discharge, lower abdominal pain, breast lump, genital itching:

*“I use torn ‘chadars’, bed-sheets or any rag as sanitary napkin and reuse it after washing” [Beena (name changed), Central Jail, Tezpur]*

*“I buy sanitary pads from the money sent from my home.” [Queenie (name changed), Central jail, Guwahati]*

*“During menstruation, I use old clothes as napkins and reuse it by washing. Last six months, I have been suffering from white discharge but feel shy to tell it to doctor.” [Bithika (name changed), Central Jail, Jorhat]*

Deteriorating mental health was reported amongst twenty out of the thirty female prisoners who were interviewed. It is a matter of alarm that mental health needs are not considered as important as physical ailments and treated under one condition referred to as “minor depression”. One of the Jail Superintendents interviewed advised that two prisoners going through “a phase of depression” were “counselled” by him. This instance is indicative of both the levels of understanding and the nature of response deemed appropriate and available to female prisoners. There is only one Government run mental hospital in the State and patients suffering from severe mental problems are transferred to Central Jail, Tezpur. If the cases require serious intervention and continuous observation, they are then recommended for treatment to the Mental Hospital. Such cases usually involve inmates suffering from schizophrenia, psychosis, or anxiety.<sup>65</sup> Cases of depression and anxiety amongst the female

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63 See Annexure 6 for instruction issued by NHRC regarding health care of prisoners.

64 Gobindo Malakar, Jailor, Tezpur Central jail.

65 Dr Mrinal Kr Tamuly , Medical & Health Officer (1), Central Jail, Tezpur.

prisoners go unnoticed due to the fact that such mental health problems are often seen as common problems cropping out of imprisonment. However, mental health concerns such as anxiety and depression can be pre-conditions for more serious mental health deterioration and can be the result of episodes of violence within the familial relationships, or by the imprisonment itself. Twenty respondents accounted cases of depression due to separation from their families. Five mothers residing with their children expressed concern regarding bringing up them up within the jail:

*“I am suffering from ‘tension fever’. Though the Jail doctor provides me with tablets, the fever appears again and again.” [Nazmine (name changed), Central Jail, Nagaon]*

*“It is very difficult to bring up children inside the prison. No toys are provided. No facilities are provided to them.” [Zulfia (name changed), Central Jail, Nagaon]*

*“Gogona (name changed) is on medication since a year for her impaired mental health. She has no idea of her whereabouts. She has sleeping disorder and some kind of personality disorder also.” [Head Warder of Central Jail, Tezpur on Gogona]*

## VI. CONCLUSION

“What a state of society is that which knows of no better instrument for its own defence than the hangman, and which proclaims . . . its own brutality as eternal law? . . . Is there not a necessity for deeply reflecting upon an alteration of the system that breeds these crimes, instead of glorifying the hangman who executes a lot of criminals to make room only for the supply of new ones?”

[Karl Marx, 1853]

International law requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and that the penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation.<sup>66</sup> This imposes on states a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty, and complements the ban on torture or other cruel, inhuman or degrading treatment or punishment. Prisoners may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. These provisions are enforced by the *Convention on the Elimination of All Forms of Discrimination against Women*. The *UN Declaration on the Elimination of Violence against Women* states that violence against women includes physical, sexual or psychological violence, perpetuated or condoned by the State. However, the evidence is clear, consistent and compelling: the current arrangements in criminal justice systems for dealing with women offenders fail to meet basic needs and are far short of what is required by human rights, by accepted international recommendations and by social justice. Although imprisonment is justified and appropriate for a small number of women offenders, too many are wrongly and inappropriately imprisoned. Imprisonment is a serious sanction, with loss of liberty too often meaning loss of other rights; these losses are particularly damaging for women and children.

Women inmates in India make up approximately 4.1 percent of the entire prison population. In Assam, women inmates constitute 4.2 percent of the state’s prison population. Although women generally constitute between two and nine percent of prison populations throughout the world, rates of female imprisonment are growing significantly. Women are usually imprisoned for petty and non-violent crimes and often come from socially disadvantaged communities. Because fewer women are in prison than men, there are fewer prisons for women. Consequently, women are often imprisoned far away from their homes and families, causing serious problems in the attempt to preserve strong family ties. Their imprisonment far away from home also seriously challenges the women’s resettlement after release.<sup>67</sup>

In the prisons that were included within this study, NEN found that prison policies often overlook the special needs of women. Women, especially mothers, in prison have special physical, vocational, social and psychological needs.<sup>68</sup> Women’s health needs may be

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<sup>66</sup> Article 10(1) and 10(3) of the *International Covenant on Civil and Political Rights*

<sup>67</sup> United Nations Office on Drugs and Crime, 2008.

<sup>68</sup> Penal Reform International, “Health in Prisons: realising the right to health” London, 2007; World Health Organisation Europe, “Prison Health

seriously neglected in a male-dominated prison system.<sup>69</sup> Women in prison have higher levels of depression, anxiety, phobias, and suicide compared to the general population and male prisoners. They are in general also vulnerable to abuse and violence including rape, inappropriate surveillance and strip searches. Compounding the difficulty of addressing this problem is the lack of data and research about women's health status while in prison. Health systems must include penitentiary health policies that integrate women's health needs in all phases of planning and implementation.

This must be considered against a social background in which gender sensitivity is largely lacking. Within Assam, a gender-sensitive criminal justice system is an essential first step to ensure that all stages of the criminal justice system take into account gender-specific needs and circumstances. The human rights of women and of their children must remain dominant; principles of equivalence and of appropriateness of facilities and services must be recognized.<sup>70</sup> Furthermore, in deciding what can, should and must be done, several important principles should be emphasized and followed. Imprisonment of women should be considered only as a last resort when all other alternatives are unavailable or are unsuitable. This applies even more so to pregnant women and to women with children. Women need to be considered holistically in the context of their offending and their social situation. Health service provision and programming should specifically address mental illness as being essential to any prison health care system. The best interest of the children must be the main and determining factor. The greater social costs to the community and the potential for long-term damage must be understood and accepted. Decisions on the best interests of a child should be based on appropriate advice from a recognized source independent of the courts and prison services. Needs vary significantly among different groups of women; factors such as pregnancy, having responsibility for children, young or old age, dependence problems, histories of violence and/or abuse and others must be important considerations in plans for these women. The impact of separation from family and community as well as the inevitable legal and security processes involved can severely harm a woman's mental health, emotional well-being, self-esteem and social and life skills and abilities to varying extents. This is true for everyone compulsorily deprived of liberty, but especially for women. Any individual confinement plan must include careful, comprehensive and detailed screening, including socioeconomic and educational background, health and trauma histories, current health status and an assessment of skills held or required so that the individual needs are determined and can be suitably addressed. Although rigid policies should be avoided, given the variation in individual needs in a changing world, the underlying importance of human rights should pervade all thinking and all policy development for everyone in compulsory detention.

Furthermore, beyond non-adherence to international standards, Assam's prisons are not in accordance with the national standards implemented for prison reform. In this regard, any

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as part of Public Health", Moscow Declaration, 24 October 2003.

69 J. Palmer, "Special requirements for female prisoners" in *Health in Prisons: a WHO guide to the essentials in prison health*, WHO, Geneva, 2007.

70 Kyiv Declaration on Women's Health in Prison.

call for action related to women's health and prisons should best be seen as a whole under the following characteristics:

- A gender-sensitive criminal justice system is an essential first step to ensure that all stages of the criminal justice process take into account gender-specific needs and circumstances.
- A gender-sensitive prison policy has to be developed for every prison system to meet the basic health and welfare needs of women in prison.
- The human rights of women and of their children must always be dominant; principles of equivalence and of appropriateness of facility and health care must be recognized. The needs of any child involved must be dominant.
- Specialist health care must be provided: for instance, for mental health, including help with a legacy of abuse; for HIV, hepatitis C, tuberculosis and other infectious diseases; for drug and alcohol dependence; for learning disabilities; and for reproductive health.
- Pre-release preparations must be planned and provided to ensure continuity of care, and access to health and other services after release must be a clear part of the programme preparing for release. Pre-release planning is a complex challenging issue, due to out-of-area imprisonment, and time for the preparations may be lacking, especially if sentences are short. Nevertheless, the challenges are likely to be well rewarded with considerably improved resettlement, reduced social costs and reduced re-offending.

## **Study Recommendations**

General Recommendations for necessary steps for the promotion and protection of the female prisoners rights in Assam's Prisons, include:

*General Provisions for Prisons in Assam:*

- Amendment of Assam Jail Manual.
- Enactment of a Jail Act for Assam
- All prisoners should have the right of access to legal aid in the absence of being able to afford representation.
- The State Prison department and the respective prisons should adhere to the recommendations of the Jail reform committee, Supreme Court guidelines and international covenants/conventions.
- The Juvenile Justice (Care and Protection of Children) Rules and Convention on the Rights of the Child, 1989 should be strictly adhered to.
- The provision of a full, effective and responsive gender-sensitive system of prison inspection and oversight backed by an independent and confidential complaints system.

- All prisons should have regular inspection visits, which document standards of sanitation, hygiene, provision of facilities, medical care and the situation of prisoners. Such visits should include consultations with prisoners.
- All prisoner's should be informed of their rights and their right of complaint, along with the contact details and procedures for complaint mechanisms.
- All prisoner's should be allowed regular contact with lawyers/legal aid and updated on the status of their case and their right of appeal.
- Bail amount should be based on the economic condition of the prisoner.
- Schooling should be compulsory for all underage and illiterate prisoners.
- At least one medical officer with expertise in psychiatry and/or psychology should be available within each prison.
- Special consideration for early release or reduction of jail term should be made for those prisoners with disabilities and long-term chronic or terminal illnesses.
- Access to free phone calls for contacting legal service providers should be made available to all inmates.
- Translated versions of legal materials in local languages/dialects should be disseminated to all prisoners and alternative arrangements for illiterate prisoners.
- Special visiting areas and timings.
- Inmate's family should be informed at least 30 days prior to the transfer of prisoners.
- Provide all inmates with information and updates of their income and expenditure statements.
- A mental health regime/policy should be framed wherein there are timely visits of counsellors/psychologists and psychiatrists to all prisoners.
- Medical complaints and issues should be responded to in a timely and effective manner.
- Special incentives should be provided to doctors serving in jail.
- Regular quality checks on food and water should be conducted.

*Provisions Specific to Female prisoners in Assam:*

- Special and separate jail for female prisoners should be provided.
- Women should be jailed as a last resort and alternative measures should be considered, such as bail, ahead of confinement.
- Jail staff and medical personnel should be sensitised for dealing with the needs and potential issues of female prisoners, including instances or circumstances related to violence or abuse.
- Full-time female doctors should be appointed and mandatory regulations must be



made for timely and regular visits of gynaecologists and paediatric specialist to all female prisoners.

- Special pregnancy management services should be provided in order to ensure for safe motherhood. Provision for all necessary pre-natal and post-natal care and treatment should be available.
- Along with quality care and facilities for children residing with their mother in prison, crèche facility should be introduced
- Alternative arrangements or special provisions for children whose mothers are in prison should be coordinated between the different ministries to ensure the rights of the child, including adequate visitation rights with their mother.
- Handcuffing or restraint of female prisoners should be used as a last resort.
- Expand the use of parole and early release especially for those female prisoners with distinctive health needs
- Swadhar Homes should be activated to provide shelter to female prisoners' at the completion of their terms, should there be a need.
- Female prisoners should be lodged in home town jails or nearby jails so that their children, family, relatives, friends have access.
- Female Prisoners not to be shifted to another jail until all medical investigations and treatments are completed.
- Regular updates of female prisoners should be provided to family/visitors especially when shifted to other jails.
- Identify vocational programmes for women through consultation with women's groups working on prison issues.
- Training for jobs not traditionally held by women or encourage education for female prisoners so that they can get better (quality) skill training
- Employment and vocational training provided to female prisoners should include a variety of skills which will be of value to them upon their return to the community.
- Outdoor recreation facilities, equal access to library and utility centres should be provided.
- Older female prisoners and other vulnerable groups should be provided with adequate facilities to meet their basic needs and requirements.
- Personal hygiene kits including soap, oil, sanitary pads, etc must be provided on a regular basis and in sufficient quantity to both inmates and under-trial female prisoners.

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### **Solution Exchange for the Gender Community**

Consolidated Reply to the Query: **Rehabilitation of Women Prisoners in Trichy - Advice; Referrals**

Compiled by Malika Basu, Resource Person and Dhivya David, Research Associate with additional inputs from Dr. Murali Karnam, Prison Expert and Human Rights Activist

Issue Date: 18 June 2009

<http://www.solutionexchange-un.net.in/gender/cr/cr-se-gen-18060901.pdf>

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**[www.ohchr.org](http://www.ohchr.org)**

**[www.un.org](http://www.un.org)**

## VIII. ANNEXURES

### Annexure 1

#### Media clippings

Assistant Jailor of Barpeta district jail was accused of rape and a case has been registered against him under section 376 of the IPC. The incident occurred while the victim approached the official at his residence in regard to some jail formalities of her husband whose term was about to end. No comments were made by the Jail Superintendent and the Jailor.

*Source: The Assam Tribune, 14 September 2009*

Three personnel of Morigaon police were suspended after an under trial prisoner of Morigaon district jail escaped from the court lock up. He was brought to court for hearing. This was the third incident of prisoner fleeing in 3 years.

*Source: The Telegraph, 7 July 2009*

An application has been filed by a relative of the only prisoner serving death sentence in Guwahati Central jail to the Home and Political Department at Dispur. The application requests the department to help him and his co-prisoners to make public appeal through media for securing positive nod from the President of India over his mercy petition.

*Source: The Assam Tribune, 10 June 2009*

Pending non-bailable warrants in the state are indicators of poor performance and loopholes within the law enforcing agencies. Of the total 8,000 non-bailable warrants of arrests pending with the Assam police, 2123 were issued in connection with crimes committed within the jurisdiction of the city police.

*Source: The Assam Tribune, 30 May 2009*

Assam will set up a prison exclusively for the militants following the model of the prison at Guantanamo Bay in Cuba. The prison which will have modern facilities is expected to help the prisoners in the rehabilitation process.

*Source: The Telegraph, 21 May 2009*

Assam Government is ready with a scheme which is to provide financial assistance to those families whose breadwinners are serving life sentences in prisons across the state. The scheme would be launched as soon as the model code of conduct for the Lok Sabha polls was lifted.

*Source: The Telegraph, 16 May 2009*

Government of Assam will soon finalise a master plan to improve health care facilities in the Jails. The 3 government hospitals of the state to have a 3 member board which will recommend whether a person in judicial custody requires hospital treatment or not. Also the doctors need to visit jails regularly to check up inmates. These suggestions were put forward by Assam health minister Himanta Biswa Sarma after a criminal had escaped when brought to Gauhati Medical College Hospital(GMCH) for treatment.

Source: Sakaal Times, 26 December 2008

For the first time in the State, 18 inmates pursuing 6 months course under Krishna Kanta Handique Open University appeared in a 2 day examination held in the campus of Guwahati Central jail.

*Source: The Assam Tribune, 10 July 2008*

Assam is among one of the worst performers in utilisation of the allocated funds meant to construct new prisons. It has utilized only 38% of its Rs 39.2 crore allocated fund. Home minister Shivraj Patil has given negative indication on amending directives principles of state policy to give more rights to prisoners.

*Source: The Telegraph, 28 April 2008*

## **Annexure 2**

### **UN International Minimum Standards for the Treatment of Prisoners**

The United Nations Standard Minimum Rules for the Treatment of Prisoners set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions. Among other measures, it provides for the following:

#### **Rules for general application**

##### *Separation of inmates according to categories*

There shall be separation between juveniles and adults, civil and criminal offenders, untried and convicted prisoners. As far as possible, men and women shall be detained in separate institutions.

##### *Accommodation*

Cells for individuals shall not be used to accommodate more than one person overnight. Communal cells shall only house prisoners who have been carefully selected to share them. All facilities shall meet the requirements regarding health, heating, ventilation, floor space, sanitary facilities and lighting.

##### *Education and recreation*

Further education shall be provided to all prisoners. Schooling of illiterates and young prisoners shall be compulsory. As far as possible, the schooling shall be in accordance with the country's educational system so that prisoners can continue their studies without difficulty after being released. Additionally, recreational and cultural activities like sports, music and other hobbies shall be available to all prisoners.

##### *Medical services*

At least one qualified medical officer who also has some knowledge of psychiatry shall be available in each institution. Sick prisoners who need special treatment shall be transferred to a civil hospital. In women's institutions there shall be special provision for pre- and post-natal treatment.

#### **Rules applicable to prisoners under sentence**

##### *General provisions*

The purpose and justification of a sentence of imprisonment or a similar measure is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure that upon the offender's return to society he/she is willing and able to lead a law-abiding and self-supporting life. To this end, the institution shall utilize appropriate and available remedial, educational, moral and spiritual forms of assistance.

### *Classification and individualization*

Prisoners shall be divided into classes in order to facilitate their treatment with a view to their social rehabilitation. Those who may be a bad influence on others shall be separated from the general population.

### *Treatment*

Prisoners' social and criminal history, personal temperament, and physical and mental capacities shall be taken into account. The treatment shall encourage their self-respect and develop their sense of responsibility.

### *Work*

Prisoners under sentence shall be required to work, but this work must not cause distress. The daily and weekly working hours shall be set according to local rules, leave one rest day a week and sufficient time for education and other activities. Work is to be remunerated equitably and prisoners shall have the right to spend part of their earnings on approved articles and to send money home. Vocational training shall be provided for prisoners able to profit from it and especially for young prisoners.

## **Alternatives to imprisonment**

International instruments on crime prevention and criminal justice also call for examining alternatives to incarceration. If they are planned and used appropriately, these non-custodial measures reduce human rights violations, save resources and are generally more effective than imprisonment in reducing recidivism. Fines, community service, probation, house arrest and other non-custodial measures enable the authorities to adjust penal sanctions to the needs of the individual offender in a manner proportionate to the offence committed.

Another option is to resort to restorative justice programmes under which the victim, offender and other people in the community help to find negotiated solutions. The process emphasizes relationship building and reconciliation. The outcome may include reparation, restitution and community services.<sup>71</sup>

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<sup>71</sup> To learn more about UN standards and norms, as well as to download UNODC tools and handbooks, please visit [www.unodc.org/criminal\\_justice.html](http://www.unodc.org/criminal_justice.html)



## Annexure 3

### **Kyiv Declaration on Women's Health in Prison: correcting gender inequity in prison health (2009)**

The Kyiv Declaration on Women's Health in Prison<sup>72</sup> is an important step towards greater recognition of gender-specific health-care needs in prison. The principles and recommendations of the Kyiv Declaration on Women's Health in Prison are important steps towards improving health systems and addressing the health needs of women involved in the criminal justice system.

As women in prison are frequently victims of physical and sexual abuse, prison authorities and custodial staff should promote their dignity and safety and protect women in prison from bullying and abuse of any type. Male custodial officers should not be responsible for the direct supervision of women. They should never have routine physical contact with them, or have access to living and bathroom areas.

The prison environment does not always take into account the specific needs of women. This includes the need for adequate nutrition, health and exercise for pregnant women and greater hygiene requirements due to menstruation such as the availability of regular showers and sanitary items that are free of charge and may be disposed of properly.

- Mental illnesses, including drug problems and trauma, are infrequently addressed. There are shortcomings in recognized standards of evidence-based treatment such as substitution therapy, psychotherapy, counselling, training, peer support and harm-reduction measures.
- There are often deficiencies in the provision of training provided to prison staff. Gender-sensitive training and training on the specific health needs of women in prison should be widely available in all systems.

The underlying importance of human rights should underpin all thinking and all policy development for all those in compulsory detention.

4.2 The **important principles** that should be followed in deciding what should be done to improve current practice should include the following:

- **Pre-trial detention and imprisonment** should be used as a last resort in the cases of women who have committed non-violent offences and who do not pose risk to the society. The imprisonment of pregnant women and women with young children should be reduced to a minimum and only considered when all other alternatives are found to be unavailable or are unsuitable.

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72 [http://www.unodc.org/documents/commissions/CND-Session51/Declaration\\_Kyiv\\_Women\\_60s\\_health\\_in\\_Prison.pdf](http://www.unodc.org/documents/commissions/CND-Session51/Declaration_Kyiv_Women_60s_health_in_Prison.pdf)

All policies affecting women in the criminal justice system must recognize the gender-specific needs of women and the significant variation in need that can exist between different groups of women.

- Health service provision and programming should specifically address mental illness, in particular substance use disorders and post-traumatic stress disorder. This is essential to any prison health care system.
- If children are involved, the best interest of the children must be the main and determining factor in decisions regarding women's imprisonment, including putting the needs of the children first when considering whether and for how long the children should stay with their mother in prison.
- Health service provision in prison must recognize women's gender-specific health care needs and should be individualized, framed and delivered in a holistic and humane manner.

Key services to be provided should include:

- comprehensive and detailed screening when first admitted to prison and regularly throughout their stay; this should cover socio-economic and educational background, health and trauma histories, current health status and an assessment of skills held or required;
- an individualized care, treatment and development plan, to be prepared by joint effort between different health care providers and all other staff likely to be involved in a woman's care and custody in consultation with the women themselves;
- primary health care services provided in the prison, which are outlined to the woman during the important induction period; her rights to access, including emergency access, to confidentiality, to privacy and to health information and promotion activities, should be made clear, preferably by means of an easily understandable written pamphlet; specialist health care, which is readily provided and adjusted to meet the needs of women, such as for mental health, including help with a legacy of abuse and post-traumatic stress disorder; chronic health conditions, HIV and AIDS including counselling and support, hepatitis, tuberculosis and other infectious diseases; drug and alcohol dependence; learning disabilities; and reproductive health, with access to specialist health care being explained to the woman in prison when discussing her individual care plan; and
- pre-release preparations that are adequately planned and provided in order to ensure continuity of care and access to health and other services after release; health and social care cannot be provided in isolation from community services; just as health and nursing staff must maintain professional contacts with their peer groups, so must all services within prisons have good links to the equivalent services in the community.

The above services and approaches are likely to succeed only if the role of governments, policy-makers and senior management is understood, accepted and applied. In broad terms, this requires:

- that the criminal justice system be seen to be serving the interests of women in their care, so that gender-specific health and other needs are readily met and easily accessed;
- that every prison that is required to house women prisoners have a written policy showing that the practices in that prison are sensitive to the special needs of women and that the staff have undergone gender-sensitive training; and
- that where and whenever children are involved, their needs and best interests be clearly seen as the first and main consideration in what is provided for them.

*WHO guidelines on HIV infection and AIDS in prisons* (WHO, 1993) contain recommendations specific to women in prison. The WHO minimum standards for tuberculosis control programmes are reflected in the *WHO status paper on prisons and tuberculosis* (WHO Regional Office for Europe, 2007c)

## **Annexure 4**

### **NHRC GUIDELINES REGARDING ARREST**

#### **ARREST**

- As a rule use of force should be avoided while effecting arrest. However, in case of forcible resistance to arrest, minimum force to overcome such resistance may be used. However, care must be taken to ensure that injuries to the person being arrested, visible or otherwise, is avoided.
- The dignity of the person being arrested should be protected. Public display or parading of the person arrested should not be permitted at any cost.
- Searches of the person arrested must be done with due respect to the dignity of the person, without force or aggression and with care for the person's right to privacy. Searches of women should only be made by other women with strict regard to decency. [S.51(2) Cr.PC.]
- The use of handcuffs or leg chains should be avoided and if at all, it should be resorted to strictly in accordance with the law repeatedly explained and mandated in judgement of the Supreme Court in Prem Shanker Shukla v. Delhi Administration [(1980) 3 SCC 526] and Citizen for Democracy v. State of Assam [(1995) 3 SCC 743].
- As far as is practicable women police officers should be associated where the person or persons being arrested are women. The arrest of women between sunset and sunrise should be avoided.
- Where children or juveniles are sought to be arrested, no force or beatings should be administered under any circumstances. Police Officers, may for this purpose, associate respectable citizens so that the children or juveniles are not terrorised and minimal coercion is used.
- Where the arrest is without a warrant, the person arrested has to be immediately informed of the grounds of arrest in a language which he or she understands. Again, for this purpose, the police, if necessary may take the help of respectable citizens. These grounds must have already been recorded in writing in police records. The person arrested should be shown the written reasons as well and also given a copy on demand. [S.50(1) Cr.PC.]
- The arrested person can, on a request made by him or her, demand that a friend, relative or other person known to him be informed of the fact of his arrest and the place of his detention. The police should record in a register the name of the person so informed. [Joginder Kumar's case (supra)].
- If a person is arrested for a bailable offence, the police officer should inform him
- of his entitlement to be released on bail so that he may arrange for sureties. [S.50(2) Cr.PC.] Apart from informing the person arrested of the above rights, the police should also inform him of his right to consult and be defended by a lawyer of his choice. He

should also be informed that he is entitled to free legal aid at state expense [D.K. Basu's case (1997) 1 SCC].

- When the person arrested is brought to the police station, he should, if he makes a request in this regard, be given prompt medical assistance. He must be informed of this right. Where the police officer finds that the arrested person is in a condition where he is unable to make such request but is in need of medical help, he should promptly arrange for the same. This must also be recorded contemporaneously in a register. The female requesting for medical help should be examined only by a female registered medical practitioner. (S.53 Cr.PC.)
- Information regarding the arrest and the place of detention should be communicated by the police officer affecting the arrest without any delay to the police Control Room and District / State Headquarters. There must be a monitoring mechanism working round the clock.
- As soon as the person is arrested, police officer affecting the arrest shall make a mention of the existence or non-existence of any injury(s) on the person of the arrestee in the register of arrest. If any injuries are found on the person of the arrestee, full description and other particulars as to the manner in which the injuries were caused should be mentioned in the register, which entry shall also be signed by the police officer and the arrestee. At the time of release of the arrestee, a certificate to the above effect under the signature of the police officer shall be issued to the arrestee.
- If the arrestee has been remanded to police custody under the orders of the court, the arrestee should be subjected to medical examination by a trained Medical Officer every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. At the time of his release from the police custody, the arrestee shall be got medically examined and a certificate shall be issued to him stating therein the factual position of the existence or nonexistence of any injuries on his person.

Source: <http://nhrc.nic.in/Documents/sec-3.pdf>

## Annexure 5



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**Letter to all IG (Prisons)/Chief Secretaries of States/Administrators of Union Territories regarding Prisoners Health Care-periodical medical examination of undertrials/convicted prisoners in the Jail.**

**Lakshmi Singh**  
Joint Secretary

**राष्ट्रीय मानव अधिकार आयोग**  
**National Human Rights Commission**

D.O.No.4/3/99-PRP & P  
11 February, 1999

Dear

**Subject:** - Prisoners' health care-periodical medical examination of undertrials/ convicted prisoners in various jails in the country.

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The Commission has taken note of the disturbing trends in the spread of contagious diseases in the prisons. One of the sample-studies conducted by the Commission indicated that nearly seventy-nine percent of deaths in judicial custody (other than those attributable to custodial violence) were as a result of infection of Tuberculosis. These statistics may not be of universal validity, yet what was poignant and pathetic was that in many cases, even at the very first medical attention afforded to the prisoners the tubercular infection had gone beyond the point of return for the prisoners. The over-crowding in the jails has been an aggravating factor in the spread of contagion.

One of the remedial measures is to ensure that all the prison inmates have periodic medical check-up particularly for their susceptibilities to infectious diseases and the first step in that direction would necessarily be the initial medical examination of all the prison inmates either by the prison and Government doctors and in the case of paucity or inadequacy of such services, by enlisting the services of voluntary organizations and professional guilds such as the Indian Medical Association. Whatever be the sources from which such medical help is drawn, it is imperative that the State Governments and the authorities incharge of prison administration in the States should immediately take-up and ensure the medical examination of all the prison inmates; and where health problems are detected to afford timely and effective medical treatment.

Kindly find enclosed proceedings of the meeting of the Commission held on 22.1.99 which also include a proforma for health screening of prisoners on admission to jail. The Commission accordingly requires that all State Governments and prison administrators should ensure medical examination of all the prison inmates in accordance with the attached proforma. The Commission further requires that such medical examination shall be taken-up forthwith and monthly reports of the progress be communicated to the Commission.

With regards,

Yours sincerely,  
Sd/-  
**(Lakshmi Singh)**

To  
Chief Secretaries of all Sates/UTs.



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## PROFORMA FOR HEALTH SCREENING OF PRISONERS ON ADMISSION TO JAIL

Case No.....  
Name ..... Age ..... Sex..... Thumb impression .....  
Father's/Husband's Name.....Occupation .....  
Date & Time of admission in the prison.....  
Identification marks.....

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### Previous History of illness

Are you suffering from any disease? Yes/No

If so, the name of the disease :

Are you now taking medicines for the same?

Are you suffering from cough that has lasted for 3 weeks or more Yes/No

History of drug abuse, if any:

Any information the prisoner may volunteer:

Physical examination:

Height.... cms. weight..... kg Last menstruation period .....

1. Paller : YES/NO                      2. Lymph Node enlargement: YES/NO

3. Clubbing: YES/NO                    4. Cyanosis: YES/NO

5. Icterus: YES/NO                    6. Injury, if any.....

4. Blood test for Hepatitis/STD including HIV, (with the informed consent of the prisoner whenever required by law)

5. Any other .....

### Systemic Examination

1. Nervous System

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2. Cardio Vascular System
3. Respiratory System
4. Eye, ENT
5. Gastro Intestinal system abdomen
6. Teeth & Gum
7. Urinal System

The medical examination and investigations were conducted with the consent of the prisoner after explaining to him/her that it was necessary for diagnosis and treatment of the disease from which he/she may be suffering.

Date of commencement of medical investigation

Date of completion of medical investigation

Medical officer



## Annexure 6

Table 1: WOMEN JAILS IN INDIA DURING 2006

STATES / UTs	NO. OF JAILS
Andhra Pradesh	2
Arunachal Pradesh	0
Assam	0
Bihar	1
Chhattisgarh	0
Goa	0
Gujarat	0
Haryana	0
Himachal Pradesh	0
Jammu & Kashmir	0
Jharkhand	0
Karnataka	0
Kerala	1
Madhya Pradesh	0
Maharashtra	1
Manipur	0
Meghalaya	0
Mizoram	0
Nagaland	0
Orissa	1
Punjab	1
Rajasthan	2
Sikkim	0
Tamil Nadu	2
Tripura	1
Uttaranchal	0
Uttar Pradesh	1
West Bengal	1
A & N Islands	0
Chandigarh	0
D & N Haveli	0
Daman & Diu	0
Delhi	1
Lakshadweep	0
Pondicherry	0
Total	15

Source: [ncrb.nic.in/PSI2005/PMAP2005.pdf](http://ncrb.nic.in/PSI2005/PMAP2005.pdf)

**Table 2: TOTAL NUMBER OF INMATES IN THE PRISONS OF ASSAM AS ON 30 SEPTEMBER 2009**

Name of the Jail	Actual capacity		Total population	
	Male	Female	Male	Female
Guwahati Central Jail	462	45	876	72
Tezpur Central Jail	725	22	555	23
Silchar Central jail	402	27	481	10
Dibrugarh Central Jail	666	14	963	43
Jorhat Central Jail	646	24	528	25
Nagaon Central Jail	346	7	300	23
Nalbari district Jail	142	13	239	9
Barpeta district Jail	93	45	312	24
Kokrajhar district Jail	200	25	217	9
Dhubri district Jail	188	3	284	9
Goalpara district Jail	335	15	264	3
Mangaldoi district Jail	160	12	367	12
Hailakandi district Jail	54	4	113	2
Karimganj district Jail	110	4	285	13
N.Lakhimpur district Jail	108	11	335	6
Sivasagar district Jail	146	8	536	20
Golaghat district Jail	115	33	263	18
Majuli district Jail	45	10	20	0
Abhyapuri district Jail	41	11	89	3
Diphu district Jail	250	10	378	21
Hamren district Jail	30	10	28	2
Biswanath Chariali district Jail	74	20	204	7
Dhemaji district Jail	80	10	171	4
Morigaon district Jail	120	12	196	3
Nagaon Special jail	360	12	279	14
Open Air Jail, Jorhat	100	Nil	37	0
Haflong Sub-Jail	24	8	57	1
Tinsukia district Jail	335	40	168	0
Sonari district Jail	40	10	30	0
<b>Total</b>	<b>6397</b>	<b>465</b>	<b>8575</b>	<b>376</b>

(Source: Office of the Inspector General of Prisons, Assam)

**Table 3: CATEGORY OF PRISONERS IN JAILS OF ASSAM (AS ON 30 SEPTEMBER 2009)**

Name of the Jail	Convict		Under-trial		NSA		Detention other than NSA		Civil		Children of prisoners		Total Population	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Guwahati Central Jail	228	4	646	63	1						1	5	876	72
Tezpur Central Jail	192	5	360	16	3	0						2	555	23
Silchar Central jail	203	5	276	5	1	1	1				0	0	481	10
Dibrugarh Central Jail	331	10	627	28	1	1			1		3	4	963	43
Jorhat Central Jail	312	9	214	15							2	1	528	25
Nagaon Central Jail	90	6	209	15							1	2	300	23
Nalbari district Jail	78	4	161	3							0	2	239	9
Barpeta district Jail	124	3	184	17							4	4	312	24
Kokrajhar district Jail	75	4	140	4							2	1	217	9
Dhubri district Jail	72	1	211	7							1	1	284	9
Goalpara district Jail	81	1	183	2							0	0	264	3
Mangaldoi district Jail	127	4	239	7							1	1	367	12
Hailakandi district Jail	56	2	57	0									113	2
Karimganj district Jail	144	5	141	6							0	2	285	13
N.Lakhimpur district Jail	177	4	158	2							0	0	335	6
Sivasagar district Jail	164	5	372	14							0	1	536	20
Golaghat district Jail	91	3	172	15							0	0	263	18
Majuli district Jail	12	0	8	0							0	0	20	0
Abhayapuri district Jail	26	1	63	2							0	0	89	3
Diphu district Jail	73	5	305	15							0	1	378	21
Hamren district Jail	5	0	23	2							0	0	28	2
Biswanath Chariali district Jail	97	2	107	3							0	2	204	7
Dhemaji district Jail	78	2	93	1							0	1	171	4
Morigaon district Jail	106	1	90	2							0	0	196	3
Nagaon Special jail	63	2	216	12							0	0	279	14
Open Air Jail, Jorhat	37	Nil	-	-							0	0	37	
Haflong Sub-Jail	1	0	56	1							0	0	57	1
Tinsukia district Jail	143	0	25	0							0	0	168	0
Sonari district Jail	30	0	0	0							0	0	30	0
<b>Total</b>	<b>3216</b>	<b>88</b>	<b>5336</b>	<b>257</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>15</b>	<b>30</b>	<b>8575</b>	<b>376</b>

**Table 4: TOTAL RESPONDENTS INTERVIEWED**

Name of the Prison	Women in Prisons	Jail Superintendent/ Jailor	Doctor
Central Jail, Guwahati	10	1	1
Central Jail, Tezpur	5	1	1
Central Jail, Nagaon	7	1	1
Central Jail, Jorhat	8	1	1

**Table 5: Guwahati Central Jail  
Profiles of 30 Respondents**

SI no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment
1	Lata	19	Not known	Married and desolated by husband	2	Homemaker	Under trial prisoner (UTP)	u/s 372 IPC	Selling minor for the purpose of prostitution	
2	Pearl (disabled)	18	Class VI	Married and desolated by husband	-	Brothel keeper	UTP	u/s 3/4/5 ITP Act	Keeping a brothel or allowing any premise to be used as a brothel/ Living on the earnings of prostitution/procuring, inducing or taking persons for prostitution	
3	Puii	21	Class X	Single	-	Sales girl	UTP	u/s 380 IPC	Theft in dwelling house, etc	
4	Mainaw	25	Class X	Single	-	Member of a banned militant /underground organisation	UTP	u/s-120 B/ 121A/312/ 307/323 IPC	Punishment of criminal conspiracy/ waging, or attempting to wage war, or abetting waging of war, against the Govt. of India/ causing miscarriage/ Attempt to murder/ punishment for voluntarily causing hurt	
5	Queenie	40	BA	Widow	-	Homemaker	Convict	302/34/201 IPC	Punishment for murder/ Acts done by several person in furtherance of common intention/ causing disappearance of evidence of offence, or giving false information to screen offender.	Rigorous imprisonment for life(RIL) and fine of Rs 2000

SI no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment
6	Begum	50	Illiterate	Married	-	Cultivator	Convict	436/323/149 /436 IPC	Mischief by fire or explosive substance with intent to destroy house, etc/ Punishment for voluntarily causing hurt/ Every member of unlawful assembly guilty of offence committed in prosecution of common object	RI(Rigorous imprisonment) for 10 years
7	Durga	20	BA,LLB	Married		Lawyer	Convict	302/34 IPC	Punishment for murder/ Acts done by several person in furtherance of common intention	RI for life
8	Rupa	50	Not known	Widow	-	Homemaker	UTP	u/s 302 /201 IPC	Punishment for murder/ causing disappearance of evidence of offence, or giving false information to screen offender	
9	Kunti	28	Class X	Single	-	Domestic help	UTP	u/s 457 /380 IPC	Lurking house trespass or house-breaking by night in order to commit offence punishable with imprisonment/ Theft in dwelling house, etc	
10	Mary	32	Class VII	Widow	1	Homemaker	UTP	u/s 302	Punishment for murder	

**Jorhat Central Jail**

SI no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment
1	Rina	42	class XII	Widow	-	Teacher	Convict	u/s 302/34 IPC	Punishment for murder/ Acts done by several person in furtherance of common intention	RIL and fine of Rs 1000
2	Meena	20	Class IX	Married	Pregnant	Homemaker	UTP	u/s-302/34 IPC	Punishment for murder/ Acts done by several person in furtherance of common intention	
3	Poonam	28	Illiterate	Widow	1	Tea garden labourer	UTP	u/s 302/201/34 IPC	Punishment for murder/ Causing disappearance of evidence of offence, or giving false information to screen offender/Acts done by several person in furtherance of common intention	
4	Gitika	14	IV	Single	-	Unemployed	UTP	u/s 302/34 IPC	Punishment for murder / Acts done by several person in furtherance of common intention	

SI no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment
5	Munmi	34	Illiterate	Married	1	Homemaker	UJP	u/s 302/201 IPC	Punishment for murder / causing disappearance of evidence of offence, or giving false information to screen offender	
6	Laxmi	49	Illiterate	Married	-	Tea garden labour	Convict	u/s147 /448 /302 IPC	Punishment for rioting/ Punishment for house trespass/Punishment for murder	RIL/ RI for 1 yr/RI for 1 yr
7	Jamuna	34	Illiterate	Widow	-	Tea garden labour	Convict	U8/s 302 IPC	Crime: Punishment for murder	RIL & Fine of Rs 2000
8	Bitthika	24	Illiterate	Single	-	Daily wage labourer	Convict	u/s 145/ 302/323/144 IPC	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse/ Punishment for murder/Punishment for voluntarily causing hurt/ Every member of unlawful assembly guilty of offence committed in prosecution of common object	RI for life & Fine Rs 500



### Nagaon Central Jail

Sl no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment and Fine <sup>1</sup>
1	Himani	51	Illiterate	Widow	-	Tea garden labourer	Convict	u/s147/148 /302 IPC	Punishment for rioting/ Rioting, armed with deadly weapon/ Punishment for murder	RI for life/RP for 1 year/RI for 1 year
2	Reshma	45	Illiterate	Married	-	Homemaker	Convict	u/s 302 IPC	Punishment for murder	RIL
3	Maya	35	V	Married and desolated by husband	-	Drug peddler	Convict	u/s-20(B) NDPS Act	Carrying cannabis in public transport	RI for 10 years & fine of Rs 1 lakh.
4	Nazmine	25	X	Single	-	Unemployed	Convict	u/s 326 IPC	Voluntary causing grievous hurt by dangerous weapon	RI for 3 years, fine of Rs 1000
5	Binie	40	X	Widow	-	Homemaker	UTP	u/s 120(B)/121(A)/122 IPC u/s 25(1) (a) Arms Act	Punishment of criminal conspiracy/ conspiracy to commit offences punishable by section 121/ collecting arms etc, with intention of waging war against the Government of India	
6	Zulfia	20	IV	Married and desolated by husband	2	Homemaker	UTP	u/s 364(A)/34 IPC	Kidnapping for ransom etc/ Acts done by several person in furtherance of common intention	

Sl no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment and Fine <sup>1</sup>
7	Salema	51	Illiterate	Married	-	Daily wage labourer	UTP	u/s-498(A)/34 IPC	Husband or relative of a husband of a woman subjecting her to cruelty/ Acts done by several person in furtherance of common intention	

### Tezpur Central Jail

Sl no	Names (changed)	Age	Educational background	Whether married or not	No. of children living in prison	Occupation prior to imprisonment	Type of case	Legal sections under which booked	Case background	Punishment
1	Beena	42	IX	Widow	-	Weaver	Convict	u/s 302 IPC	Punishment for murder	RIL & fine Rs 3000
2	Joymoti	30	V	Widow	-	Homemaker	Convict	u/s 304 Part I IPC	Culpable homicide not amounting to murder	RI for 7 years and fine Rs 1000
3	Junu	27	III	Widow	-	Daily wage labor	UTP	u/s 302 IPC	Punishment for murder	
4	Birina	40	V	Married	-	Homemaker	UTP	u/s 302 IPC	Punishment for murder	
5	Gogona	32	Not known	Not known	-	Not known	Convict	u/s 307 IPC	Attempt to murder	RI for 7 years & fine Rs1000

1. Inability to pay fine leads to extension of prison term depending on each case.