



Maharashtra State Human rights Commision

Fact finding report
promoting , monitoring and upholding human rights for
marginalized sections of the society in Maharashtra
2023

In collaboration with



School of Law and Constitutional Governance - Tata Institute of Social Sciences,
Mumbai.

Fact finding report: promoting , monitoring and upholding human rights for
marginalized sections of the society in Maharashtra

Prepared under the guidance of

Maharashtra State Human Rights Commission (MSHRC), Mumbai

School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS),
Mumbai

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We express our gratitude to Shri M. A. Sayeed, Member, MSHRC, for motivating us, guiding us and giving us the opportunity of being part of the various visits. His support and encouragement helped us in our visits immensely.

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We express our heartfelt gratitude to all the Government Authorities, Institutions for giving us the opportunity to visit these places. We also extend our appreciation to the team of MSHRC for their support and help for all the work in the Commission.

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This report is the culmination of the team efforts by students under the guidance of faculty supervisors for consideration and necessary action.

MSHRC Officials and TISS-LLM Students Team.

PREFACE

This is a compilation of “Fact Finding Field Visit Reports for Monitoring & Promoting Human Rights for Marginalized Sections of Society in Maharashtra” and the work done by the students of School of Law Rights and Constitutional Governance (SLRCG) at the Tata Institute of Social Sciences (TISS) in the Maharashtra State Human Rights Commission (MSHRC) which is an outcome of a month-long clinical legal fieldwork programme at the Commission in March 2023. As a part of the one-year LLM Programme of Masters in Law in Access to Justice at the SLRCG, TISS, Mumbai. The mandate of this field visit report was set forth under the Memorandum of Understanding between the Maharashtra State Human Rights Commission - MSHRC and the School of Law, Rights and Constitutional Governance, TISS, Mumbai.

The purpose of the fact-finding field visit has been mainly to understand the status of the implementation of human rights of marginalized sections of society, including the persons with mental disabilities, the children having hearing impairments and persons with other disabilities. The visit also comprised the visit to The District Legal Services Authority (DLSA), Mumbai, The Office of Legal Aid Defence Council System (LADCS) under the DLSA, Mumbai to understand the functioning of the legal aid being provided to the citizens in the City of Mumbai, the Nashik Central Prison to understand the issues faced by the prison officials and staffs, the Regional Mental Hospital, Thane to measure the level of human rights violations in the hospital, The Nakoda Karn Bdahir Vidyalaya, Kalayan to see how the best practices adopted in the special school can help the children with hearing impairment to overcome the limitations of disability. The objective is to seek better implementation of various landmark judgments of the Hon’ble Supreme Court, High Courts, guidelines, directions, schemes, and committee reports of the Government Authorities, Statutory Bodies, and Independent Human Rights Institutions as well as Central and Maharashtra State Human Rights Commission. Hon’ble Chairperson Justice K. K. Tated, Shri. M. A. Sayeed and Shri. B. D. More, the Members, Dr. Swarupa Dholam, the Registrar- Legal Wing, Nutan Bhosale, Asst Registrar, Dr. Ravindra Shisve, Special IGP and In-Charge Secretary continuously encouraged the students for these visits. The students of TISS-SLRCG successfully completed these field visits under the supervision of Prof. (Dr)Arvind Tiwari Dean, faculty mentor, Dr. Devakumar Jacob, Assistant Professor, TISS, Mumbai

The students undertook the following activities during the month-long fieldwork:

The preparation of Annual General Report for the financial year 2021-22 and 2022-23 was mainly to understand the working of the Commission. Through the Annual General Report, major information about the work like the number of complaints filed in the Commission for that particular year, the number of suo moto cases taken up and various such statistical information is compiled to get an understanding of the annual work.

The mapping of suo-moto cases (pending and decided) and the mapping of recommendations by the Commission was to understand the process of these cases from their inception till their current status.

The field visit to Regional Mental Hospital, Thane, presents an overview of the living condition of the mentally ill patients in terms of the infrastructure of the Hospital, the staff, various occupational therapy provided at the Hospital and the general observation of the place and whether the condition of the patients and their access to various facilities were according to the provisions of the Mental Healthcare Act, 2017.

The field visit to District Legal Services Authority (DLSA), Mumbai, presents the working of DLSA according to the provisions of The Legal Services Authorities Act, 1987. The information and valuable lessons shared by Hon'ble Principal Judge, Mumbai City Civil and Sessions Court and the Secretary of DLSA formed a crucial part of the visit.

The field visit to Central Jail, Nashik, Maharashtra, primarily focuses on the issues and difficulties faced by the Prison Officials but also covers the observation and learning about the prisoners as well and deals with whether the Prison is being governed by the rules mentioned under the Prison Manuals.

The field visit to Shree Nakoda Karna Badhir Vidyalaya, Kalyan, Maharashtra, presents the best practices adopted by the institution in rendering quality education to the needed hearing-impaired

and mute students. The visit reveals the conditions of the students and how they are enjoying their rights as per The Rights of Persons with Disabilities Act, 2016.

The visit to Governor's House, Maharashtra, presents the volunteer work done by the students under the guidance of the Registrar, MSHRC.

The constant support of the Maharashtra State Human Rights Commission has been fruitful in organizing the field visits and in facilitating interactions with the above-mentioned stakeholders. The continued guidance and monitoring by faculties of TISS, School of Law Rights, and Constitutional Governance has been very significant in comprehensively bringing out the report.

The fact-finding field visits demonstrate the significant role of MSHRC in promoting and protecting the human rights of vulnerable sections of society and in strengthening the legal compliances by Government Institutions across the State of Maharashtra. This fieldwork through fact-finding field visits brings transformative learning and develops sensitization on the human and legal rights of marginalized sections of society. Indeed, TISS-LLM students acquired vast field experience which will strengthen their careers in the legal profession.



TATA INSTITUTE OF SOCIAL SCIENCES
SCHOOL OF LAW, RIGHTS AND CONSTITUTIONAL
GOVERNANCE



Title: Visit To Regional Mental Hospital, Thane

Date of Visit: 18th march 2023

Visiting team :Dr. Swarupa Dholam (Fieldwork Agency Supervisor) Registrar, Maharashtra
State Human Rights Commission

Smt. Nutan Tanjirao Bhosale, Assistant Registrar, Maharashtra State Human
Rights Commission

Venue	Regional Mental Hospital, Dharamveer Nagar, Thane, Maharashtra
Submitted to	Dr. Swarupa Dholam (Fieldwork Agency Supervisor) <i>Registrar, Maharashtra State Human Rights Commission</i>
Guided by	Hon'ble Justice K.K. Tated (<i>Chairperson, Maharashtra State Human Rights Commission</i>) Shri M. A. Sayeed (Member, <i>Maharashtra State Human Rights Commission</i>) Shri B. D. More (Member, <i>Maharashtra State Human Rights Commission</i>) Dr. Arvind Tiwari (<i>Dean, SLRCG, TISS, Mumbai.</i>) Dr. Devakumar Jacob (Fieldwork Coordinator)
Submitted by	Students of SLRCG, TISS, Mumbai

VISIT TO REGIONAL MENTAL HOSPITAL, THANE

CHAPTER-1 INTRODUCTION

“Without health life is not life; it is only a state of languor and suffering- an image of death”
- Buddha

On 18th March 2023 at 10:30 AM, a team of Maharashtra State Human Rights Commission (MSHRC) officials, along with students of the School of Law, Rights & Constitutional Governance from Tata Institute of Social Sciences, visited The Regional Mental Hospital, Thane.

Shree Mahavir Jain Hospital & Shri Pratap J. Asha Cardiac Centre, in collaboration with Maharashtra State Human Rights Commission and Regional Mental Hospital, Thane (W), organized a Neuro Physician Consultation Camp on the same day. The event was held at the hospital and cardiac center and was attended by Mr. Deepak Bheda, the Chairman of Jain International Trade Organization (JITO) Thane, and Mr. Mahendra Jain, the Managing Trustee of JITO. The camp provided individuals with the opportunity to consult with expert neuro physicians and receive the best medical advice for any neurological conditions they were experiencing. The event was a great success, and the attendees were very pleased with the high-quality medical advice and care they received at the camp.

The hospital is known to be one of the oldest and most prestigious mental health institutions in Thane, run by the Maharashtra State Government. The purpose of the visit was to inspect and assess the human rights and living conditions of the patients, as granted under section 29 (c) and section 12 (c) of the Protection of Human Rights Act, 1993.

During the visit, the team accessed the premises and discovered the alarming conditions in which the patients were living. They observed broken beams and staircase, leaking ceilings, cracked tiles on the floor and on the side walls, and uncontrolled fungal growth. The visit aimed to identify areas that need improvement and to ensure that the patients' rights and well-being are upheld as per the provisions of the law.

People experiencing mental health problems often face difficulties that are different from those faced by other people. Although appropriate and timely treatment might help them to lessen the concerns, they may continue to experience some difficulties in certain areas of life. With the advent of the new generation of antipsychotics, very few of them may need institutional care.

In India after the introduction of the Mental Health Care Bill, 2013 (now known as the Mental Health Care Act, 2017). However, numerous adjustments are necessary for the practice level (the practice of mental health professionals) as well as with regard to innovations that are necessary for service delivery as part of compliance with the Act in order to implement the provisions contained in the Act. The Mental Health Care Act of 2017 promotes community-based or at-home treatment services and takes a rights-based approach.

Mental illness has been defined under various Indian statutes. Mental illness under the Mental Healthcare Act, 2017 means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behavior, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterized by sub-normality of intelligence.¹ The Indian Lunacy Act defined —Lunatic, as an idiot or person of unsound mind.² The Hindu Marriage Act defines the expression 'mental disorder' as mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia.³ 'Mental illness' is defined under the Persons with Disabilities Act, 2016, as any mental disorder other than mental retardation.⁴ 'Mentally ill Person' defined under the Mental Health Act, Section 2(l), as a person who is in need of treatment by reason of any mental disorder other than mental retardation.⁵

¹ Section 2(s), The Mental Healthcare Act, 2017.

² Section 3(5), The Indian Lunacy Act, 1912.

³ Section 13(1), Explanation (a), The Hindu Marriage Act, 1955.

⁴ Section 2(q), The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, See Dr. S. K. Awasthi and R. P Kataria, Law Relating to Protection of Human Rights 115 (2000).

⁵ M.L. Bhargava, Guide to Medical Laws: Containing 37 Acts, Rules and Regulations 107 (2008)

CHAPTER 2

DETAILS OF THE VISIT

2.1 Objectives

The objectives are as follows -

- I. To assess the living conditions of the Mental Hospital Inmates with respect to their Human Rights.
- II. To recognize the difficulties encountered by the mental healthcare providers with respect to inadequate resources and to identify strategies to overcome them.
- III. To demonstrate the knowledge and understanding of providing a safe and conducive environment for the mental health patients. It involves recognizing the importance of providing a safe environment.

2.2 Mandate

The mandate of any visit of the Maharashtra State Human Rights Commission flows from Section 12 of the Protection of Human Rights Act, 1993. Section 12 of the Act provides for functions of the Commission. Section 12 (c) states the Commission shall *“visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government”*

As the Regional Mental Hospital is an institution which is under the control of the State Government, it becomes one of the functions of Maharashtra State Human Rights Commission to visit such institutions and observe the living conditions. Section 12 (c) also provides that the Commission can make recommendations to the Government after any such visit.

2.3 Rationale

One of the rationale behind the visit was to organize the Neuro Physician Consultation Camp in the Regional Mental Hospital for the patients there. Another rationale for the visit was to observe the living conditions of patients of mental illness. Persons with mental illness are often stigmatized and marginalized, leading to their mistreatment and neglect. The visit by the Maharashtra State Human Rights Commission officials and the students aimed at assessing the conditions of the patients, identifying any violations of their human rights, and making recommendations for improvement. Such visits are necessary to ensure that mental health institutions are providing adequate care and treatment to patients, and that their basic human rights are being respected and upheld.

2.4 Methodology

The research methodology adopted to conduct this research was qualitative, descriptive and exploratory in nature.

It is qualitative in nature because it allows the researcher to collect rich, detailed data. It includes participant observation, in depth interviews and focus group discussions. This helped to gain a deeper understanding of the social and environmental context in which the phenomenon being studied occurs.

It is descriptive in nature because it aims to describe the characteristics of a particular population, settings or phenomenon. It involves a range of data collection methods, including surveys, questionnaires and observational techniques. Further it helped to generate a comprehensive understanding of the phenomenon being studied and provide insights into potential causes and contributing factors.

It is exploratory research because it has helped to identify the key issues and challenges facing the population being studied, as well as the potential solutions and opportunities for improvement.

2.5 Situation of Monitoring Area

The Regional Mental Hospital in Thane, located in the Indian state of Maharashtra, is a government-run mental health institution that provides care and treatment for individuals suffering from various mental illnesses. It was established in 1925, the hospital has been offering psychiatric services for almost a century.

It plays a crucial role in promoting mental health and well-being in the region and is an essential institution for individuals and families struggling with mental illness.

CHAPTER-3

LEGISLATIVE/LEGAL REGIME

3.1 International Legal Framework for Protection of Rights of Mentally Ill Persons

Persons with mental health illness are exposed to a range of human rights violations, which can occur inside institutions, through inadequate and harmful care and treatment, but also outside, with people experiencing a limitation to the exercise of civil liberties and rights to employment, education and housing. International human rights instruments are important in the context of mental health because they are the only source of law that legitimizes international scrutiny of mental health policies and practices within a sovereign country and also because they provide fundamental protections that can not be taken away by the ordinary political process. international and regional systems have addressed the human rights of persons with mental illnesses through treaties, declarations and thematic resolutions. Among these instruments is the Universal Declaration for Human Rights (1948), followed by two core UN Human Rights Conventions adopted in 1966, which are the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966). Although these are not legally binding instruments, they establish a fundamental set of human rights that applies to all nations, setting up that people with mental illnesses are protected by human rights law by virtue of their basic humanity. In April 2000, the UN Human Rights Commission adopted resolution 2000/51 urging Governments to fully cover the question of the human rights of persons with disabilities. The UN General Assembly adopted in 2006 the Convention on the Rights of Persons with Disabilities (CRPD), intended to protect the rights of persons with disabilities, including those with mental disabilities. The CRPD provides a “framework for ensuring that mental health laws fully recognize the rights of those with mental illness”.

3.1.1 Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care

The United Nation General Assembly has adopted the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care on 17th December 1991 Vide General Assembly Regulation 46/119. It provides 25 Principles to ensure that the person with Mental Illness is being given proper care and treatment. He/she is not being discriminated against nor

being subjected to social or economic exclusion. It has specific provisions to promote the rights of mentally ill persons, such as informed consent, standards of basic health and social care as per the needs of the patients. Principle 6 safeguards the privacy and confidentiality of persons suffering from mental illness. Principle 9 provides that the treatment for Mental Illness should be provided in the least restrictive environment appropriate to the patient's health needs and the need to protect the safety of others. Principle 10 provides that medication shall meet the best health needs of the patients and shall be given to the patients only for therapeutic or diagnostic purposes. It shall never be given as a form of punishment or for the convenience of others.

Other International Conventions are UN Declaration on the Rights of Mentally Retarded Persons (1971) the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991), the Standard Rules for Equalization of Opportunities for Persons with Disabilities (1993), the Declaration of Madrid (1996) and other standards such as WHO's Mental Health Care Law: ten basic principles and WHO Guidelines for the Promotion of Human Rights of Persons with Mental Disorders (1996).

3.1.2 International Legal Framework Towards Mentally Challenged Persons

International human rights instruments are significant in the context of mental health because they are the only legal framework that justifies international scrutiny of national mental health policies and practices and because they offer fundamental protections that cannot be altered by conventional political processes. Human rights and mental health are intricately intertwined. These are complementary strategies for enhancing human potential. Since only individuals who can operate at a reasonable level can participate in political and social life, some level of mental health is essential for human rights. Human rights, on the other hand, are crucial for mental health because they grant protection from injury or restraint as well as the ability to form and express opinions that are crucial for mental health.⁶

⁶ Gostin, Lawrence & Gable, Lance. The Human Rights of Persons with Mental Disabilities: a global perspective on the application of human rights principles to Mental Health. Maryland Law Review, 20-121 (2004) [hereinafter Gostin & Lance, The Human Rights of Persons with Mental Disabilities].

A universal respect for and observance of human rights and fundamental freedoms for all people without discrimination are important, according to the United Nations Charter. The Universal Declaration of Human Rights, the United Nations Charter, international human rights agreements, and other relevant human rights documents serve as the foundation for the rights of people with disabilities. According to all international treaties, people with disabilities have the right to exercise their civil, political, social, economic, and cultural rights on an equal basis with others. The complete inclusion of people with disabilities helps society since their unique contributions improve all facets of life, and this is essential to achieving both individual and societal progress for a society that is inclusive of people with and without disabilities.⁷

3.1.3 The United Nations Charter, 1945

The preamble of the United Nations (UN) Charter expresses the international community's commitment to upholding fundamental human rights and recognizing the value and dignity of every individual. A key objective of the UN is to foster cooperation among nations in promoting and ensuring respect for human rights and freedoms for all individuals, without discrimination. In addition, the UN seeks to promote higher standards of living, full employment, and social and economic progress and development, while also advocating for universal respect and observance of human rights and freedoms. Ratified in 1945 as a binding treaty, the Charter obligates member states to uphold the rights of all people, regardless of their race, gender, ethnicity, or religion.⁸ India, an original signatory to the Declaration by the United Nations and a participant in the United Nations Conference of International Organization in 1945, is a founding member of the UN and remains a strong supporter of its principles and goals. India has played a significant role in advancing the objectives of the Charter and supporting the development of the UN's specialized programs and agencies.⁹

⁷ UN, —Human Rights of Persons with Disabilities, available at: <http://www.ohchr.org/EN/Issues/Disability/Pages/DisabilityIndex.aspx>

⁸ Lawrence O. Gostin and Lance Gable, —The Human Rights of Persons with Mental Disabilities: A Global Perspective on the Application of Human Rights Principles to Mental Health, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1435443

⁹ Ministry of External Affairs, Government of India, —India and the United Nations, available at: <http://www.mea.gov.in/india-and-the-united-nations.htm>

3.1.4 Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in 1948, recognizes the inherent dignity and equal and inalienable rights of all members of the human family as the foundation of freedom, justice, and peace in the world. The UDHR recognizes the right to health as a fundamental human right and includes the right to mental health and well-being as a part of this broader right to health.¹⁰

In particular, Article 25 of the UDHR states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control."

This article includes mental health care as an essential part of medical care, highlighting the importance of ensuring that individuals have access to appropriate mental health services and support.

Additionally, the UDHR emphasizes the importance of ensuring that individuals are not subject to torture or cruel, inhuman or degrading treatment or punishment. This includes recognizing the importance of protecting the rights and dignity of individuals who receive care in mental health institutions.

In particular, Article 5 of the UDHR states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." This article applies to all individuals, including those who receive care in mental health institutions. Mental health institutions are expected to uphold the rights and dignity of their patients and provide care and treatment in a humane and compassionate manner.

¹⁰ D .Nagaraj & Pratima Murthy, "Mental Health Care and Human Rights" 1st ed., (National Human Rights Commission,2008), p.17

Overall, the UDHR highlights the importance of recognizing and protecting the rights of individuals with mental health conditions and ensuring that they have access to appropriate care and support. It emphasizes the importance of treating individuals with mental health conditions with dignity and respect and ensuring that they are not subject to cruel or degrading treatment or punishment.

3.1.5 International Covenant on Civil and Political Rights (ICCPR), 1966

The International Covenant on Civil and Political Rights (ICCPR) is a treaty adopted by the United Nations General Assembly in 1966. It outlines the civil and political rights that all individuals are entitled to, including those related to mental health and mental health institutions.

Article 7 of the ICCPR states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." This includes individuals with mental health conditions who are receiving treatment in mental health institutions. Such institutions are required to provide humane treatment and respect the dignity of patients.

Article 9 of the ICCPR outlines the right to liberty and security of person. This includes individuals with mental health conditions who are receiving treatment in mental health institutions. Patients have the right to be free from arbitrary detention and to have access to legal recourse if they feel that their rights have been violated.

Article 17 of the ICCPR states that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence." This includes individuals with mental health conditions who are receiving treatment in mental health institutions. Patients have the right to privacy and confidentiality, and any intrusion into their private life must be justified by law and necessary for the protection of their health or the health of others.

Overall, the ICCPR recognizes the importance of protecting the human rights of all individuals, including those with mental health conditions who are receiving treatment in mental health institutions. It sets standards for the treatment of patients and requires that their dignity and rights be respected at all times.

3.1.6 International Covenant on Economic Social and Cultural Rights (ICESCR), 1966

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) was adopted by the United Nations General Assembly in 1966 and entered into force in 1976. It recognizes the right to the highest attainable standard of physical and mental health and obliges state parties to take steps for the prevention, treatment, and control of epidemic, endemic, occupational, and other diseases.

Regarding mental health and mental health institutions rights, the ICESCR recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This includes access to mental health care, as well as the right to appropriate facilities for the treatment of mental illness.

The Covenant also requires state parties to take steps to prevent, treat, and control epidemic and other diseases and to create conditions that ensure medical service and attention to all in the event of sickness. This includes the provision of mental health services in the community, as well as inpatient care for those who require it. The ICESCR also requires state parties to take steps to prevent and treat substance abuse and to promote mental health education and awareness.

In terms of mental health institutions rights, the ICESCR recognizes the right of everyone to enjoy just and favorable conditions of work, which includes mental health professionals. It also requires state parties to ensure that patients in mental health institutions are treated with humanity and respect for their dignity, that they have access to legal and medical assistance, and that they are protected from cruel, inhuman, or degrading treatment. The Covenant also requires state parties to ensure that patients in mental health institutions have the right to communicate with and receive visits from their family members and legal representatives.

3.1.7 Disability – Specific Instruments before the Convention on Rights of Persons with Disability and Declaration on the Rights of Mentally Retarded Persons (MR Declaration), 1971

The Declaration on the Rights of Mentally Retarded Persons (MR Declaration) was adopted by the United Nations General Assembly in 1971, before the Convention on the Rights of Persons

with Disabilities. The MR Declaration aimed to ensure that mentally retarded persons could enjoy their human rights and fundamental freedoms on an equal basis with others.

The MR Declaration recognized the right of mentally retarded persons to appropriate medical, psychological, and social treatment and care, and emphasized that this care should be provided in a way that promotes their dignity, individuality, and the fullest possible integration into society. It also recognized the right of mentally retarded persons to receive education and training, and to have access to vocational guidance and placement services.

With regard to mental health institutions, the MR Declaration recognized the importance of ensuring that institutionalized mentally retarded persons receive proper care and treatment, and that they are protected from exploitation, abuse, and neglect. It also recognized the right of mentally retarded persons to be visited by family and friends, and to maintain their personal relationships while in an institution.

Overall, the MR Declaration contributed to the recognition of the rights of persons with disabilities, including those with mental disabilities, and provided a framework for the development of further instruments, including the Convention on the Rights of Persons with Disabilities.

3.2 Constitutional Law And Persons With Mental Illness

The Constitution of India mandates an inclusive society for all, including persons with disabilities, and ensures equality, freedom, justice, and dignity for all individuals. The Constitution guarantees all human and fundamental rights to citizens of India, including mentally ill people. The Constitution makers and different governments showed concern for the disabled by making provisions scattered throughout the Constitution. The Ministry of Welfare is the nodal Ministry for the welfare of the disabled. The Preamble, Article 14, Article 15, Article 16, and Article 21 are fundamental rights that pertain to socially, economically and educationally backward classes of people. Still, they do not specifically mention people with mental illness. The Directive Principles of State Policy guide governments to achieve social and economic equality and justice. The State shall strive to promote the welfare of the people, minimize inequalities in income, distribute ownership and control of the material resources of the community, secure the right to work, education, and public assistance, and promote the educational and economic interests of weaker

sections of society. These principles can be used to undo injustice and step-motherly treatment towards the disabled.

Following are the provisions that have been and could be used to improve the lives of disabled people:

- (a) The Preamble promises justice, social, economic, and political to all citizens of India, along with liberty of thought, expression, belief, faith, and worship, equality of status and opportunity, and fraternity that assures the dignity of every individual.
- (b) Article 14 ensures that the State shall not deny equality before the law or the equal protection of laws to any person within the territory of India.
- (c) Article 15 states that the State can make special provisions for the advancement of socially and educationally backward classes of citizens without violating Article 15.
- (d) Article 16 allows the State to reserve appointments or posts in favor of any backward class of citizens that is not adequately represented in the services under the State.
- (e) Article 21 guarantees that no individual shall be deprived of his life or personal liberty except according to a procedure established by law.

3.3 Legislations in India Providing Special Care and Protection to the Person with Mental Illness

The laws relating to Persons with Mental Illness are mostly driven by British influence and they are in the process of revision to commensurate with the provisions of United Nations Convention on the Rights to Persons with Disabilities, 2006. The civic nature of contractual rights of the persons with mental illness is provided in the Indian Contract Act (ICA), 1872. As per Section 12 of the ICA, 1872, a person who is capable to understand the terms of contract and forming a rational judgment as to its effects on him is a person of sound mind and can enter into a contract, while a person who is incapable of understanding the terms of a contract and forming a rational judgment can not enter into a valid contract.

The laws relating to marriage and divorce provided in the Hindu Marriage Act, 1955, the Special Marriage Act, 1954, the Christian marriage and divorce law under Indian Divorce Act, and the

Muslim Personal Law makes a person of unsound mind unfit for marriage. All marriages which are solemnized with a person of unsound mind are voidable in nature as envisaged by the above mentioned laws. However, the courts have time and again have interpreted the laws in the best interest of the person with mental illness and have ensured that the law is not being misused to harm the innocent persons.¹¹ A person of Unsound Mind is not disqualified from inheriting any property as per the Section 28 of the Hindu Succession Act, 1956, but he/she does not have testamentary rights, as per the Section 59 of the Indian Succession Act, 1954. A person of unsound mind can not execute a Will to transfer his/her property. The Indian Criminal Legal System does not impose any criminal liability on the person of Unsound mind. As per Section 84 of Indian Penal Code (IPC), 1860, nothing is an offense done by a person who by reason of unsound mind, was incapable of knowing the nature of the act, or to determine that the act is either wrong or contrary to law. The Code of Criminal Procedure through Chapter 25, Sections 328 to 330 provides a separate procedure for dealing with the accused of unsound mind.

3.4 The Mental Healthcare Act, 2017

Objectives of the Mental Healthcare Act, 2017

The purpose of the Act is to harmonize and align the country's current laws with the 2007 Convention on the Rights of Persons with Disabilities, which was ratified and signed by India on October 1, 2007, and which was adopted on December 13, 2006, at the United Nations headquarters in New York. The Convention entered into force on May 3, 2008. An Act to Provide for Mental Healthcare and Services for Persons with Mental Illness and to Protect, Promote, and Fulfill Their Rights During Delivery of Mental Healthcare and Services and for Matters Connected or Incidental Thereto.

Salient Features of the Mental Healthcare Act, 2017

a) The Mental Healthcare Act of 2017 defined "mental illness" as a major impairment of thinking, mood, perception, orientation, or memory that affects a person's conduct, judgment, or capacity to

¹¹ A.I.R. 1969 Guj-48 and 78 CLT 1994 561.

understand reality or meet the demands of everyday living. This definition does not include mental retardation, but it does include mental illnesses brought on by drug or alcohol misuse.¹²

b) A "Mental Health Establishment," as defined by the Act, is any medical facility (including Ayurveda, Yoga and Naturopathy, Unani, Siddha, and Homoeopathy establishments), which is wholly or partially dedicated to providing care, treatment, convalescence, and rehabilitation for people with mental illness. This term includes buildings that are owned or maintained by the federal, state, municipal governments, trusts, businesses, cooperative societies, and private persons or groups. Residential facilities where a person with a mental condition lives with family or friends are not included, nevertheless.¹³

c) The determination of mental illness will follow medical standards, whether nationally or internationally recognized, such as the International Classification of Disease of the World Health Organisation. It should not be based on political, economic, social, or cultural factors or a person's past treatment or hospitalization. Moreover, a determination of a person's mental illness does not imply that the person is of unsound mind.¹⁴

d) The Act presumes that all persons with mental illness can make treatment decisions. Patients and young people will receive information and support to decide about their treatment. Even if others perceive a person's decision regarding mental health care or treatment as inappropriate or wrong, it does not indicate a lack of capacity to make such decisions, as long as the person has the capacity to make them.¹⁵

e) Chapter III of the Act allows individuals to create an advance directive outlining their treatment preferences, such as how they want to be treated or not treated, in case they become unwell and lose capacity to make treatment decisions. These advance directives can be modified, revoked, or

¹² The Mental Healthcare Act 2017; The Act replaces the Mental Health Act (MHA) of 1987. It was published on 7th April 2017 in the Official Gazette of India. It provides for protection and restoration of property rights of mentally ill persons. The Act comprises 126 Sections and 16 Chapters.

¹³ Id. s. 2(s).

¹⁴ Id. s. 2(p).

¹⁵ Id. s. 4.

canceled at any time. For minors, a legal guardian can create an advance directive until the minor reaches the age of majority. The Central Mental Health Authority will periodically review the procedure for advance directives.¹⁶

f) Chapter IV provides that minors have the right to nominate a representative.¹⁷

g) Chapter V of the Act guarantees persons with mental illness the right to access mental health care and treatment from the government. Mental health services should be affordable, of good quality, available in sufficient quantity, geographically accessible, and provided without discrimination on any basis. Such services include acute mental healthcare services, half-way homes, sheltered accommodation, community and hospital-based rehabilitation, child mental health services, and old age mental health services. The appropriate government should integrate mental health services into general healthcare services at all levels.¹⁸

h) Persons with mental illness have the right to community living. The government should provide support, including legal aid, to enable a mentally ill person to live in their family home if living with family or relatives is not possible or if they have been abandoned.¹⁹

i) Every person with mental illness has the right to live with dignity and protection from cruel, inhuman, or degrading treatment. Mental health establishments should provide safe and hygienic environments, adequate sanitary conditions, recreational, educational and religious facilities, and privacy. Persons with mental illness should be given proper clothing to protect them from exposure.²⁰

j) The Act mandates that individuals with mental illness must be treated equally to those with physical illness. Generally, children under three years old of women receiving care, treatment or

¹⁶ Id. ss. 4., 5., 8(1), 11(4), 12

¹⁷ Id. s. 14

¹⁸ Id. ss. 18 (1)., 18 (2)., 18 (4), 18(5).

¹⁹ Id. s. 19.

²⁰ Id. s. 20

rehabilitation at a mental health establishment should not be separated from their mother during her stay at the facility. Insurers are required by law to provide medical insurance coverage for the treatment of mental illness on the same basis as coverage for physical illness.²¹

k) A person with mental illness and their chosen representative have the right to access information about the provisions of the Act, as well as other laws under which they have been admitted, their mental illness, and the proposed treatment plan.²²

l) Individuals with mental illness have the right to confidentiality under the Act, regarding their mental health, mental healthcare, treatment, and physical healthcare.²³

m) Persons with mental illness are entitled to free legal aid.²⁴

n) People with mental illness have the right to file a complaint if they are unsatisfied with the services provided at a mental health establishment. They can complain to the medical officer, the mental health professional in charge of the establishment, the concerned Board, or the State Authority.²⁵

o) The Act places an obligation on the government to create programs that promote mental health and prevent mental illness in the country. Additionally, the government must take measures to increase awareness about mental health and illness, and reduce stigma associated with mental illness.²⁶

p) The Act establishes the Central Mental Health Authority and State Mental Health Authority, which are responsible for the registration, development of quality and service norms, and supervision of mental health establishments under the control of the Central Government and the

²¹ Id. ss. 21(1), 21(2), 21(4)

²² Id. s. 22.

²³ Id. s. 23.

²⁴ Id. s. 27.

²⁵ Id. s. 28.

²⁶ Id. ss. 29, 30.

State Government, respectively. The Mental Health Review Boards are also established by the State Authority to register, review, alter, modify or cancel an advance directive, appoint a nominated representative, visit and inspect prisons or jails, and conduct inspections in mental health establishments.²⁷

q) Chapter XII of the Act provides guidelines for the admission, treatment, and discharge of individuals with mental illness. All admissions to mental health establishments should be independent, except in cases where supported admission is unavoidable. ElectroConvulsive Therapy (ECT) should only be performed with anesthesia on persons with mental illness, and not on minors. Psychosurgery should not be performed as a treatment for mental illness unless the individual on whom the surgery is being performed gives informed consent, and approval from the concerned Board is obtained.²⁸

r) Chapter XV of the Act addresses offenses and penalties. Those who operate mental health establishments without proper registration will be penalized with a fine of no less than 5,000 rupees, but up to 50,000 rupees for a first offense. For subsequent offenses, the fine will increase up to 2 lakh rupees and up to 5 lakh rupees for every subsequent offense. Any person who violates the provisions of this Act, rule or regulation may face imprisonment for a term that may extend to two years or a fine ranging from 50,000 rupees to 5 lakh rupees, or both. In case of a company committing an offense under this Act, every person who was responsible for the conduct of the business of the company at the time of the offense will also be held liable.²⁹

s) The Act presumes that individuals who attempt suicide due to mental illness are under severe stress, and thus provides them with treatment and rehabilitation. Therefore, they will be exempted from the provisions of Section 309 of the Indian Penal Code unless proven otherwise.³⁰

3.5 Government Regulation for Mentally Ill Persons

²⁷ Id. ss. 43, 55 73, 82.

²⁸ Id. ss. 85, 95, 96.

²⁹ Id. ss. 107.,108., 109.

³⁰ Id. s. 115

There are various schemes for the Mentally Ill Persons are as follows-

In India, the Mental Healthcare Act, 2017 is the primary legislation governing the treatment and care of mentally disabled patients and mental hospitals. The Act ensures that the rights of mentally disabled patients are protected, and they receive quality treatment and care in mental hospitals. Additionally, several policies and schemes have been introduced by the Indian government to provide support to mentally disabled patients and improve the quality of mental healthcare in the country.

The following are some of the key government regulations, policies, and schemes related to mentally disabled patients and mental hospitals in India:

The National Mental Health Program (NMHP): Launched in 1982, the NMHP is a flagship program of the Indian government that aims to provide affordable and accessible mental healthcare services to all. The program focuses on the prevention, treatment, and rehabilitation of mentally disabled patients, and it provides support to mental hospitals and mental health professionals.

Deen Dayal Upadhyaya Disability Pension Scheme: This scheme provides financial assistance to mentally disabled patients who are unable to earn a livelihood. The scheme provides a monthly pension to mentally disabled patients aged 18-64 years.

National Trust Act, 1999: This act aims to provide legal protection to mentally disabled patients and their families. The act provides for the creation of a National Trust that works towards the welfare of mentally disabled patients.

The Rights of Persons with Disabilities Act, 2016: This act replaces the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The act provides for the creation of a National and State Disability Rights Commission to protect the rights of persons with disabilities, including mentally disabled patients.

Maharashtra Mental Health Rules, 2018: These rules govern the treatment and care of mentally disabled patients in the state of Maharashtra. The rules provide for the registration of mental

hospitals and mental health professionals, the rights of mentally disabled patients, and the use of restraint and seclusion in mental hospitals.

The Rehabilitation Council of India Act, 1992: This act provides for the creation of a Rehabilitation Council of India that regulates the training and education of mental health professionals in the country.

Overall, the Indian government has introduced several regulations, policies, and schemes to improve the quality of mental healthcare services and support mentally disabled patients and their families. These initiatives aim to ensure that mentally disabled patients receive the necessary treatment and care and can lead a fulfilling life.

CHAPTER 4

FINDINGS AND INFERENCES

4.1 Welcome Event of the Camp

The Thane Regional Mental Hospital provides the State's most significant facilities for psychologically ill patients. It mainly focused on segregating the patients from the mainstream. Neuro Physician Consultation Camp was organized by Shree Mahavir Jain Hospital and Shri Prathap J Ashar Cardiac Centre in collaboration with Maharashtra State Human Rights Commission, Mumbai, and Regional Mental Hospital Thane.

The inaugural function of the camp was organized in the Manoranjan Community Hall. The programme was scheduled for 10.00 am. Justice K. K. Tated, Chairman MSHRC, Shri M. A. Sayeed, Member, Shri Bhagawanthrao D. More, Member, Dr Swarupa Dholam, Registrar MSHRC, attended the inaugural session. Other dignitaries like Mr Deepak Bheda, Chairman and Mr Mahendra Jain, Managing Trustee of Jain International Trade Organisation, also shared the dais. The inaugural session lasted for forty-five minutes, in which the lamp was lit, and the dignitaries gave felicitation addresses.

4.2 Findings

The observations made by the team of MSHRC including the students of TISS School of Law, Rights and Constitutional Governance came up with the following findings:

4.2.1 Wards

4.2.1.1 Number of Staff and Patients

Ward 13: 33 male patients (Epileptic patients)

Ward 14: 72 male patients (Chronic diseases patients)

Ward 17: 70 female patients

Ward 18: 8 female patients (TB patients)

Ward 17 A: 50 male patients (schizophrenic and epileptic ward)

Ward 17 B: 60 male patients

There were rusted sharp rods lying in the middle of the pathway which can be harmful to the patients as most of them do not have footwear on while walking.

4.2.1.2 Infrastructure

The first female ward was ward number 17, which was in a very bad condition. According to the staff the team interacted with, it was learned that it has been more than ten years since the walls were repaired or painted. The windows were rustic and there were rods peeking out from the walls because the plaster had fallen out. We also observed that some of the windows were broken and there were cracks all over the wall from the outside. The whole building looked like it could come down any minute.

From the inside, the condition of the infrastructure was inhabitable. The walls were damaged beyond recognition due to seepage of water. There were no doors or damaged doors inside the dormitory and the windows were in a similar condition as that of outside, damaged and rustic. The staircases had rustic rods coming out at random angles which can be very harmful if someone accidentally came into contact with it. The plaster was coming off from the walls, and the staircases were damaged as well, with gaps between them.

The female ward, ward number 15 was under renovation. Ward number 17 was crowded because Ward number 19 and 20 were in the state of collapsing, thus not fit for accommodation. Apart from this, there was a Sick Room, which was Ward number 12. This ward was comparatively in a better condition. The room was spacious, with cleaner beds and the door and windows in good condition. The floors, on the other hand, were not clean.

The male ward, Ward number 14, was overcrowded and had patients with chronic diseases. Ward number 13 patients had epileptic patients. There were CCTV cameras in the wards as well, whether they were working or not could not be confirmed. Both the wards were in a better condition infrastructure wise. Although the issue of cleanliness was there as well. Ward 19 (male ward) is a newly constructed ward. There were no patients shifted to the ward yet. The problem of water leakage was there in the newly constructed ward as well.

4.2.1.3 Dormitory

Ward number 17 (female ward) had 14 beds on the ground floor and the number of patients was 70. The conditions of the cots were fine. However, there were not enough beds for all the patients admitted. It was observed that most of the patients were lying on the floor, and as per information given by the staff, the reason for most of the patients lying on the floor was that they have a tendency to fall down while sleeping on beds. The first floor was occupied by the TB patients there eight patients in total and there were beds for all the patients, actually there were excess beds in the first floor which were not occupied, Further, the dormitories was filled with the stench of urine. When we visited the male ward, the situation was kind of similar as there no sufficient number of beds for all the patients and the patients were lying on the floor. In the Epileptic Center as well the number of patients was more than the number of beds available. We observed that the patients were sitting on the floor. It was also observed that most of the wards were uninhabitable and it was closed due to the same reason and owing to the same reason the patients in these wards were shifted to other wards resulting in overcrowding of those wards.

4.2.1.4 Toilets and Washrooms

In the Female ward no. 18, the conditions of the washrooms and toilets are pathetic as almost all are choked. The washrooms are without doors or with broken doors. The washrooms and toilets have broken windows, breaching the privacy and dignity of the inmates. There are no flushes in the washrooms. The washrooms do not have mugs. The walls are full of fungus and broken plasters. The conditions are so unhygienic that it is difficult to breathe.

4.2.1.5 Other Issues

a) Complaint to Public Works Department (PWD)-

The staff informed the fact finding team that they have several times made complaints to the PWD about the infrastructural condition of the Hospital but there has been no response from their side as till now no action has been taken by the authorities to improvise the situation.

b) Family Members

It is a common problem that family members of mental patients are sometimes reluctant to take their cured relatives back home. The reasons for this reluctance vary from family to family. As a

result, they may file delayed applications or refuse to take their family member home during peak months, such as exam periods or vacations, causing overcrowding and further strain on mental health institutions. It is important for mental health institutions to work with families to address their concerns and provide support to ensure that patients can be discharged safely and reintegrated into their communities. The researchers were requested to take necessary steps towards the process of returning the released, cured and rehabilitated patients to their respective guardians, thereby reducing the load on the hospital.

c) Lack of funds, which creates difficulty in traveling

Lack of funds can create significant difficulties in ensuring that mental patients can travel to their home districts and states. This issue becomes particularly challenging when patients are from different parts of the country and must travel long distances to return home. Often, mental health institutions lack the necessary funds to cover the cost of transportation, which can lead to delays in discharging patients and prolonging their stay in the hospital. This situation can also lead to overcrowding in the institution and increase the workload of staff members. Addressing the lack of funds in mental health institutions is crucial to ensure that patients can receive the care they need while minimizing the burden on mental health facilities. Without adequate funding, patients' rights to timely and efficient discharge and continuity of care are at risk.

d) Lack of privacy for female patients

In the Female ward, there is no privacy for the female inmates as the windows are broken with a lot of rust on it. The hall where the patients stay can be seen from the outside with little to no effort. This poses a huge privacy risk for mentally ill female patients who might not comprehend the seriousness of this issue.

4.3 Occupational Therapy

4.3.1 Occupational Therapy and Rehabilitation Centre (Male)

Predominant problems patients look at after completing a rehabilitation program are employment, self-care, and social interaction with family and friends. Hence the major aim of the rehabilitation centers is to instill confidence among the patients who are treated and to teach patients skills to

make a living at home easier after being discharged from the rehabilitation center. It was a three-storied building with occupants on the topmost floor. The centers were situated on the ground floor. The building was old and was less maintained. It was observed that the rehabilitation center seemed to be less used even though many pieces of equipment were installed as it was covered with rust and dust. Boards were demarcated in each room with specified name boards. But no occupants were found during the specific time.

- A. Carpentry section- It was observed that many carpentry tools and wood remains lying on the floor, which seemed to be rusted and unused for a long period of time. The area seemed like a dumping place for wrecked furniture.
- B. Computer Section- Three computers were provided to the male patients. It was informed that an internet connection would be installed very soon. Some patients are software professionals and engineers as patients, so they handle the computers and make others learn on Microsoft Word, excel, paint etc.
- C. Tailoring section- It was informed that there are patients who are aware of the tailoring skills. The hospital authority outsources tailors from outside to provide training to the patients. The uniforms worn by the patients are also being stitched in the tailoring section of the Rehabilitation centers.
- D. Physical rehabilitation section- Physical training equipment was installed in the room. It was observed that the pieces of equipment were not appropriately maintained.
- E. Occupational therapy- It was observed that among the other rehabilitation rooms, this room seemed to be occupied by the patients. Many indoor game equipment were kept inside the room for the patients. Paintings, artworks and other handicrafts made by the patients were showcased in the room.

It was observed that the toilets situated on the ground floor were poorly maintained. There was no running water available in two toilets among the three. It was not cleaned for a longer time. There

was no door for the two toilets, and chunks of concrete were falling off from the ceiling of the toilets.

4.3.2 Occupational Therapy Center (Female)

The primary goal of the occupational therapy center stood out to providing some form of employment to the patients so that they can support themselves after their release. It was observed that at one single time there was space for fifteen patients to work in the OT center and it was comparably smaller in size than its male counterpart. The activities were mainly female oriented and consisted of making paper flower bouquets, bracelets etc. as their therapy was job oriented, hence specific focus was put towards imparting basic marketing skills which will help the patients gain monetary support after their release from the hospital. The center was divided into sections:

- A. Female oriented activities: It was observed that mostly female oriented activities were taught here which involved paper flower making, bracelet and necklace making and many more. The area seemed full of dust. Basic marketing skills were also provided in this section.
- B. Computer Section: This section was available for patients who have some form of education. They were taught computer skills but internet connection is yet to be provided. Training on programmes such as Microsoft Word, Excel and Paint were provided to the patients.
- C. Physical Rehabilitation Section: In order to improve the cognition and vocational skills, physical therapy was provided. It was observed that the condition of the machines were not good and were not used frequently.
- D. Occupational Therapy Section: It was observed that providing therapeutic treatment is the main goal of this section. Here diagnosis is done to understand the physical ability of the patients. Further previous skills, literacy rate and coordination is also tested in this section.

CHAPTER 5

RECOMMENDATIONS AND CONCLUSION

5.1 Recommendations

Recommendations are put forth from the gathered observations from the field considering the provisions of the Mental Healthcare Act 2017.

- Better infrastructural facilities - In accordance with section 20 of the Mental Healthcare Act, 2017. It highlights that every person with mental illness shall have a right to live with dignity. Clause 2 of the provision also enumerates the right to live in a safe and hygienic environment, to have adequate sanitary conditions etc. It was observed that the conditions of some buildings were deteriorating, and even a running water supply was also not provided in the washrooms. Hence it is recommended to take appropriate steps to improve the infrastructural facilities considering safety and safeguarding the patients' rights.
- Instant measures to shift inmates from wards 17, 19, 20- It was observed that wards 17, 19, and 20 for the female patients were on the verge of collapse. Continuing to occupy the buildings has a greater chance of causing a threat to their life and well-being. It shall be recommended to take appropriate measures to transfer the inmates at the earliest before any such adversities are caused.
- Constitution of an inspection team- In order to draw out a proper understanding of the infrastructural establishments and the facilities provided to the patients, it is recommended to constitute a team in accordance with the state mental health authority under the purview of Section 45 of the Mental Healthcare Act, 2017. Inspections shall be carried out within a specific interval of time highlighting the human rights of patients, infrastructure, access to facilities, medical care etc. So as to take appropriate stringent measures and build the gap in providing proper healthcare facilities.
- Proper utilization of the rehabilitation facilities- From the observations, it can be analyzed that, the majority of the equipment in the occupational therapy and rehabilitation center seemed to be unattended for a longer period of time. As the majority of the equipment was partially or completely rusted and torn away. It is recommended to take measures to ensure that these facilities are utilized properly by the needed patients.

- Proper maintenance of the hospital compound- It was observed that there were numerous potholes, unattended drainage without proper covering and unpaved roads in the compound. It is very crucial to take into consideration as it invites higher chances of accidents. Hence it is recommended to take appropriate measures to maintain the compound properly so as to uphold the safety of the patients.

5.2 Conclusion

It is important to note that mental healthcare is an integral part of healthcare as a whole, and it is essential to provide patients with a safe and nurturing environment that promotes their well-being. Patients with mental illnesses require specialized care and attention, and it is the responsibility of the hospital authorities to ensure that they receive the best possible treatment and care.

The findings of this report are a reminder that there is a need to prioritize mental healthcare and to ensure that mental health facilities are adequately staffed and equipped to meet the needs of patients. Providing quality mental healthcare is not just the responsibility of the hospital authorities, but it is also the responsibility of the government and society as a whole.

In conclusion, the visit to The Regional Mental Hospital in Thane highlighted the urgent need for improvements in the infrastructural facilities, the instant measures to shift patients from deteriorating wards, the constitution of an inspection team, proper utilization of rehabilitation facilities, and proper maintenance of the hospital compound.

It was observed that patients were living in alarming conditions due to broken beams, leaking ceilings, cracked tiles, uncontrolled fungal growth, and lack of basic facilities such as running water in washrooms. The conditions of wards 17, 19, and 20 for female patients were on the verge of collapse, and it is recommended to shift the inmates at the earliest before any adversities are caused.

The constitution of an inspection team under the purview of the state mental health authority will ensure regular inspections of the facilities, which will help identify areas that need improvement

and uphold the human rights of patients. Proper utilization of rehabilitation facilities is necessary to provide patients with the best possible care and treatment.

In addition, maintaining the hospital compound properly is crucial to avoid accidents and ensure the safety of patients, visitors, and staff. It is essential to take appropriate steps to improve the infrastructural facilities considering safety and safeguarding the patients' rights to live with dignity in a safe and hygienic environment.

It is recommended that the hospital authorities take immediate steps to address the issues and ensure that patients receive the best possible care and treatment. The recommendations made are in line with the provisions of the Mental Healthcare Act 2017, and it is hoped that they will be implemented to improve the overall quality of care provided at the hospital. The mental health of individuals is an essential aspect of their overall health, and it is our collective responsibility to ensure that they receive the best possible care and treatment.

ANNEXURES

Annexure 1: Photographs

Wards (Inside)









Choked Toilet in Female ward no. 18



Broken window in Female ward number 18

Wards (Outside)









New Ward - not occupied



Occupational Therapy Center (Male)







Premises of the Hospital









**TATA INSTITUTE OF SOCIAL SCIENCES
SCHOOL OF LAW, RIGHTS AND CONSTITUTIONAL
GOVERNANCE**



Title: VISIT TO DISTRICT LEGAL SERVICES AUTHORITY, MUMBAI

Date of Visit: 21st March 2023

Venue: District legal Service Authority Public Works Department Office Building, 105, High court, Fort, Mumbai, Maharashtra 400032

Submitted to : Dr. Swarupa Dholam (Fieldwork Agency Supervisor) Registrar, Maharashtra State Human Rights Commission

Guided by: Hon'ble Justice K.K. Tated (Chairperson, Maharashtra State Human Rights Commission)

Shri M. A. Sayeed (Member, *Maharashtra State Human Rights Commission*)

Shri B. D. More (Member, *Maharashtra State Human Rights Commission*)

Dr. Arvind Tiwari (*Dean, SLRCG, TISS, Mumbai.*)

Dr. Devakumar Jacob (Fieldwork Coordinator)

Submitted by: Students of SLRCG, TISS, Mumbai

CHAPTER 1

INTRODUCTION TO THE VISIT

On 21st March, 2023, a team composed of the Registrar of Maharashtra State Human Rights Commission along with the students of School of Law Rights and Constitutional Governance, Tata Institute of Social Science, visited the District Legal Service Authority (DLSA), Mumbai.

Firstly we interacted with the Secretary of DLSA. He educated us about the Pre-Institution Mediation and Settlement scheme, and its scope and procedures. He also took us to the POCSO Court and explained to us about the proceedings of the court. During the DLSA visit we also got the opportunity to interact with the Hon'ble Principal Judge, Mumbai City Civil and Sessions Court Shri. A. A. Subrahmaniam, where he shared with us his valuable experience in the profession and he also enlightened us regarding the importance of being honest to the profession and to maintain a balance between profession and life.

Legal aid is the provision of free legal services to the poor and marginalized sections of society who cannot afford to pay for legal representation. In India, legal aid is a fundamental right guaranteed under Article 39A of the Constitution, which mandates the state to ensure that justice is not denied to anyone on the basis of economic or other disabilities.

The Legal Services Authorities Act, 1987, is the primary legislation governing legal aid in India. Under this Act, every state has established a State Legal Services Authority (SLSA) and every district has a District Legal Services Authority (DLSA). These authorities are responsible for providing legal aid to the needy, organizing legal aid camps and clinics, and creating legal awareness among the people.

Legal aid is provided in various forms, such as legal advice, representation in court, and assistance in the settlement of disputes through alternative dispute resolution mechanisms like mediation and conciliation. The beneficiaries of legal aid include the poor, women, children, members of scheduled castes and tribes, and other disadvantaged groups.

In addition to the SLSAs and DLSAs, several non-governmental organizations (NGOs) also provide legal aid services to the people. These NGOs work in collaboration with the government and other legal aid institutions to ensure that legal aid is accessible to all who need it.

District Legal Service Authority (DLSA) is a statutory body that was established under the Legal Services Authorities Act, 1987. It is responsible for providing legal services to the marginalized and underprivileged sections of the society, such as the poor, women, children, disabled, and other vulnerable groups. The DLSA is an essential institution in ensuring access to justice for all.

The primary role of the DLSA is to promote and provide legal aid and assistance to the needy people. It aims to ensure that no one is denied justice due to their inability to afford legal representation or other legal expenses. The DLSA provides free legal services to those who are eligible under the law. This includes legal advice, representation in court, and other legal aid services.

The DLSA also plays a crucial role in creating awareness about legal rights and duties among the people. It conducts legal awareness camps and programmes in rural and urban areas to educate people about their legal rights and how to exercise them. These programmes aim to empower people to take control of their legal matters and avoid exploitation or abuse. Another important function of the DLSA is to provide alternative dispute resolution mechanisms, such as mediation and arbitration, to resolve disputes outside the court. This helps in reducing the burden on the court system and provides a quick and effective solution to the parties involved.

The DLSA is headed by a District Judge and has a team of legal professionals, including lawyers, paralegals, and other support staff. It also collaborates with other legal aid institutions, such as the State Legal Services Authority and the National Legal Services Authority, to provide better services to the people.

CHAPTER 2

LEGAL FRAMEWORK OF DLSA

DLSA is formed under *Legal Services Authorities Act, 1987* to provide free and legal aid and services to the weaker sections of this society to make sure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Legal Services Authorities are statutory bodies that are formed or constituted in the various states of India by the *Legal Services Authorities Act, 1987*. Justice P.N. Bhagwati formed DLSA under the Legal Aid Committee formed in 1971.

Article 39-A of the Indian Constitution deals with the provision of providing free legal services to the citizens of India. The provision is applicable to the citizens if they are unable to bear the expenditure of the legal services. It also helps the defendant in a case by appointing a lawyer in order to act for him in legal aspects.

Section 2(a) of the Legal Services Authorities Act, 1987 states that the term ‘district authority’ means a District Legal Services Authority which is constituted under **Section 9** of the Act. The DLSA is a statutory body organized at the district levels in order to provide effective monitoring of legal aid programmes and their composition. The provisions related to DLSA are dealt with under **Section 9** and **Section 10** of the Act.

District Legal Services Authority is constituted in every District so that there must be proper implementation of Legal Aid Programmes and Schemes in the District.

2.1 Composition of DLSA

The composition of DLSA is mentioned in **Section 9(1)** of the *Legal Services Authorities Act, 1987*. It states that the DLSA is a body that shall be constituted by the State Government in consultation with the Chief Justice of the High Court. It shall be constituted in every District in the State in order to exercise the powers and perform the functions which are assigned under this Act.

Sub-section 2 of **Section 9** explains the members required for the functioning of DLSA. It provides that a District Authority requires the district judge as its chairman. It shall also consist

of such a number of other members who have the experience and qualifications as prescribed by the State Government. The members possessing such requirements may be nominated by the Government in consultation with the Chief Justice of the High Court.

Section 9(3) of the Act mentions that the State Authority shall appoint a person in consultation with the Chairman of the District Authority to exercise the powers and perform the functions under the Chairman as may be prescribed by him. The person to be appointed shall belong to the State Judicial Service not lower than rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority. Assistant Commissioner of the concerned District acts as the Member Secretary of the District Authority.

The number of officers and other employees may be appointed by the District Authority as the State Government prescribes to do. The appointment must be done in consultation with the Chief Justice of the High Court. Sub-section 5 of Section 9 of the Act has this explanation.

Current Composition of the Mumbai District Legal Services Authority

Chairperson – Principal Judge of the Bombay City Civil & Sessions Court

Secretary – Judicial Magistrate First Class, Senior Division

Administrative Staff – 15 (Contractual - 10, Permanent- 5)

2.2 Terms of Office of Members

Section 9(4) deals with the terms of office and it explains that the terms of office of members and the Secretary and other conditions in its relation to the District Authority may be determined by the regulations made by the State Authority in consultation with the Chief Justice of the High Court.

2.3 Activities

The DLSA is interested in the below-mentioned activities:

- DLSA helps in providing free and competent legal aid in the nature of counseling and legal advice as well as free legal services in the conduct of cases before Courts and Tribunals.
- It organizes regular Lok Adalats for the pending cases of all types every as well as special Lok Adalats for special categories of cases every month. The costs and delays are limited with the help of Lok Adalats and they also ensure speedy justice overcoming legal technicalities.
- The responsibilities of pre-litigation dispute resolution through a conciliation mechanism is also undertaken by the DLSA. It is done by establishing Permanent Lok Adalats in each district where the matters relating to Public Utility Services are taken up for settlement.
- DLSA is also engaged in spreading Legal Awareness among the public, targeting particularly the beneficiaries of social legislation and the public at large on various issues of legal importance.
- For rendering free legal aid to under trial prisoners whose cases are pending in the Courts, a special endeavor is made.
- Legal Literacy Classes in colleges, jails, and Legal Awareness programmes for women and children in need of care and protection are organized by DLSA.

2.4 Functions of District Authority

The functions of DLSA are provided in **Section 10** of the Legal Services Authorities Act, 1987. **Sub-section 1** mentions that every District Authority is bound to perform such functions of the State Authority in the District as may be stated by the State Authority. The following subsection explains that the District Authority may perform all or any one of the following functions:

- DLSA may coordinate with the activities of the Taluka Legal Services Committee and other legal services in the District.
- It may organize Lok Adalats within the Districts.
- It also performs such other functions as the State Authority may fix by regulations.

Section 11 provides for the functioning of DLSA in coordination with Central Authorities. It states that in the discharge of its functions under this Act, the District Authority shall act in

coordination with other governmental and non-governmental institutions, universities and others engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing.

2.5 Procedure for Legal Aid

The following procedure must be followed for getting legal aid and services. They are:

- A written application mentioning in brief the grievance or the cause for which legal aid is sought should be filed before the office of Chairman of DLSA.
- If an applicant is illiterate, the Secretary or an officer of the concerned Authority shall record his verbal submission and obtain his thumb impression or signature on the prescribed form available in the Office of the chairman of the DLSA.
- Execution of an affidavit by the applicant in the prescribed format as to his eligibility criteria for seeking legal aid.
- The secretary of DLSA may examine the applicant to verify the facts stated in the affidavit and for information necessary for deciding the eligibility criteria.
- The application shall be processed as early as possible.

CHAPTER 3

EXPERIENCE AND LEARNINGS OF SESSIONS COURT AND DLSA VISIT

The visit to DLSA (District Legal Services Authority) in Mumbai was a great learning experience. We all were interested in understanding India's legal aid system and the challenges marginalized communities face in accessing justice. Here are some of the experiences and learnings we gain from the visit to DLSA:

Legal Aid Programs: DLSA provides various legal aid programs and initiatives to ensure that justice is accessible to all, especially the poor and marginalized sections of society. During the visit, one can learn about legal aid programs such as legal awareness camps, Lok Adalats, legal aid clinics, and legal counseling.

Legal Empowerment: DLSA empowers individuals by providing them with the knowledge and resources to understand and access their legal rights. The organization conducts legal awareness programs in rural and urban areas, which can help individuals to be aware of their rights and responsibilities.

Challenges Faced by Marginalized Communities: DLSA primarily works towards providing legal aid to the marginalized sections of society, who often face various socio-economic and cultural barriers in accessing justice. During the visit, we gained an understanding of the challenges faced by these communities and how DLSA is working towards addressing them.

Role of Para-Legal Volunteers: Para-legal volunteers work with DLSA and provide legal aid services to the people. During the visit, we also learned about the role of para-legal volunteers and how they are trained to provide legal aid services.

Interaction with Legal Experts: During the visit to DLSA, we also got to interact with legal experts such as lawyers, judges, and legal aid providers, who shared their knowledge and experiences regarding the legal aid system in India.

While interacting with the Secretary of DLISA, we were briefed about the provision of Pre Institution Mediation and Settlement. The Commercial Courts, Commercial Division, Commercial Appellate Division of High Courts Act, 2015, was enacted in the year 2015 with the objective of achieving speedy adjudication of Commercial Disputes. Moreover, the Commercial Courts (Pre Institution Mediation and Settlement) Rules, 2018 were also framed in line with the aforesaid act for the purpose of resolving the matters relating to commercial disputes in an efficacious and expeditious manner. As per the said enactments, all disputes falling within the definition of “Commercial Dispute” under Section 2(1)(c) of the Commercial Courts Act, which are valued Rupees 3 Lakhs or more, shall not be instituted unless the plaintiff mandatorily exhausts the remedy of Pre-Institution Mediation, to be conducted by the Legal Services Institutions. Accordingly, the Legal Services Institutions are conducting Pre Institution Mediation in respect of Commercial Disputes across the country.

Section 12A of the aforesaid Act states as follows:

12A. Pre-Institution Mediation and Settlement—

(1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987), for the purposes of pre-institution mediation.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority authorized by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 (36 of 1963).

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996.

Process involved in PIMS

An application initiates the pre-mediation process to the Legal Services Authority in the specified form. Legal Services Authority keeps due regard to the territorial and pecuniary jurisdiction and the nature of the commercial dispute. A notice is issued to the opposite party in the specified form to appear, giving consent to participate in the mediation process. If no response is received from the opposite party, the Legal Services Authority issues a final notice. Suppose the notice is unacknowledged or the opposite party refuses to participate in the mediation process. In that case, the Legal Services Authority treats the mediation process as a non-starter, making a report and endorsing the same to the applicant and the opposite party. After receiving the notice, suppose the opposite party seeks further time for his appearance. In that case, the Legal Services Authority may fix an alternate date which has to be within ten days from the date of receiving such request. If the opposite party fails to appear then the Legal Services Authority shall treat the mediation process to be a non-starter and make a report on this behalf, and endorse the same to the applicant and the opposite party. If both parties to the commercial dispute appear before the Legal Services Authority and give consent to participate in the mediation process, then the Legal Services Authority assigns the commercial dispute to a Mediator and fixes a date for their appearance before the said Mediator.

Interacted with Adv Samyak Narayan Gimekar, Chief Legal Defense Counsel under the Legal Aid Defence Counsel Scheme 2022. In India, the Assigned Counsel System is currently used to provide legal aid. Legal Services Institutions assign cases to panel attorneys under the aforementioned method. These Panel attorneys, to whom cases are delegated, also maintain private practices; as a result, they do not solely focus on legal aid issues.

Overall, The visit to DLSA was a valuable learning experience for us, and we all are so interested in understanding the legal aid system and the challenges faced by marginalized communities in accessing justice. To provide strong and effective legal services to the society's weaker and marginalized groups, the system of court-based legal services needs to be reinforced. Several measures have been taken to accomplish this, including improving the structure and efficiency of monitoring and mentoring committees, upgrading front offices, and building the capacity of attorneys.

NALSA considered adopting another legal aid delivery-based model, the "Legal Aid Defense Counsel System," for providing legal aid in criminal matters on the lines of the public defender system as a pilot project for a period of two years in some districts in order to ascertain how successful and effective such changes in approach will be. The objective is to provide qualitative and competent legal services in criminal matters to all eligible persons. To manage and implement legal aid system in professional manner in criminal matters.

CHAPTER 4

MSHRC AND DLSA COLLABORATION - OPENING OF NEW LEGAL AID CLINIC IN MSHRC

Legal aid is a system of providing legal services to individuals who are unable to afford them. Legal aid typically includes services such as advice, representation, or education on the legal system, provided by qualified lawyers or legal organizations. The purpose of legal aid is to ensure that everyone, regardless of their financial situation, has access to justice. Legal aid is often provided to marginalized communities, such as the poor, homeless, refugees, or those who are facing discrimination. Legal aid can be provided through government programs, non-profit organizations, or volunteer lawyers.

On 23rd March 2023, a Sub-Urban Legal Service Authority was established in the Maharashtra State Human Rights Commission, Mumbai. The aim of establishing the new legal aid wing in the Commission is to provide free legal aid to the complainants in the MSHRC.

4.1 The Mandate for Providing Free Legal Aid

Article 11 of the Universal Declaration of Human Rights, 1948, says that each person has access to a fair trial, which includes adequate legal protections and the right to a lawyer. Lawyers, therefore, must be able to perform their professional functions freely, independently, and effectively.

Articles 14 and 22(1) require the State to guarantee equality before the law and a legal system that advances justice based on equal opportunity for all. Article 39-A, of the Constitution of India, inserted by the 42nd Constitutional Amendment Act, 1976, imposes a duty on the state to provide free legal aid to the needy (irrespective of him/her being accused or victim).

The Right to free legal aid has been recognised by the Hon'ble Supreme Court of India in various landmark judgements like *Hussainara Khatoon vs State of Bihar* (1979),¹ *M. H. Hoskot*

¹ *Hussainara Khatoon vs State of Bihar* (1979), SCR 3 (India)

vs State of Maharashtra (1978),² M.C. Mehta vs Union of India (1987),³ Olga Tellis vs Bombay Municipal Corporation (1985).⁴

4.2 Need for Free Legal Aid in the Commission

As per Regulation 26 of the Maharashtra State Human Rights Commission, (Procedure), Regulation, 2011, a person does not require an advocate to present their case in the Commission. He/She can present the case in the courts of the Commission on their own.

But, at times during many proceedings, it was felt that the complainants were not a person from a legal background, and they were unaware of the legal technicalities, legal jargon, and procedures involved in dealing with the case. would have established his claim better if the case had been presented by a person with legal knowledge. Sometimes complainants have requested to provide them with legal help so that they can know what other substantial and procedural remedies available to them. They can't afford an advocate due to the paucity of economic resources, especially for women and senior citizens.

The Commission accepts complaints against Public Officials, these officials are represented in the Commission through Advocates. Therefore, providing a legal aid lawyer to Complainant will ensure a fair representation, complying with the Principles of Natural Justice.

4.3 Benefits of Free Legal Aid

The establishment of a Sub-Urban Free Legal Service Authority in the Commission will be beneficial for the Complainant and the Commission also.

i. Reducing the Number of Vague Complaints: There are numerous complaints in which the complainants are not able to put up their complaints in a lucid manner, which will make their complaint tenable. Those complaints though prima facie give a sense that there is a case of human rights violation due to the unawareness of the complainant to put forth the complaint in a

² M. H. Hoskot vs State of Maharashtra (1978), SCR (1) 192

³ M.C. Mehta vs Union of India (1987), SCR 1086.

⁴ Olga Tellis vs Bombay Municipal Corporation (1985), AIR 180.

simple and legible format, the complaint is disposed of as vague. The availability of free - legal aid will help the complainant to put forth their complaint in understandable terms.

ii. Better Representation in the Court: The advocates engaged in the service of free legal aid will provide the complainants with fair and equal representation in the courts. As discussed earlier, the officials are presented through advocates but the complainant most often appears in person, thus they are not able to present their case in manner as a case is presented by an advocate. Sometimes, it becomes difficult for the Court also, to infer as to what the complainant wants to claim. Thus, providing free legal aid lawyers will ensure better representation to the complainants in the courts of the commission.

iii. Free Legal Advice to the Complainant: Apart from representing their case in the Commission, complainants also want to know more about their legal rights and other substantial and procedural remedies available to them pertaining to the matter in hand, but unable to get those due to paucity of economic resources. The free legal service will fulfill their requirements of getting legal advice.

iv. Promotes Access to Justice: Providing free legal aid to marginalized communities helps to increase access to justice. This is because many people in these communities may not have the resources to afford legal services. By providing free legal aid, these communities can receive the support they need to navigate the justice system and assert their rights.

v. Reduces Inequality: Providing free legal aid to marginalized communities helps to reduce inequality by ensuring that everyone has access to the same legal services regardless of their financial status. This helps to prevent discrimination and ensure that the legal system is fair and impartial.

vi. Increases Awareness of Rights: Providing free legal aid to marginalized communities also helps to increase awareness of their rights. This is because legal aid organizations often provide educational resources and workshops to these communities, educating them about their rights and how to assert them.

vii. Promotes Social Stability: Providing free legal aid to marginalized communities helps to promote social stability. When marginalized communities are able to assert their rights and receive fair treatment under the law, it helps to reduce tension and conflict and promotes a more peaceful and harmonious society.

viii. Supports Vulnerable Populations: Marginalized communities are often composed of vulnerable populations such as the elderly, disabled, women, children, and refugees. Providing free legal aid to these populations helps to ensure that they are not taken advantage of and that their rights are protected.

4.4 Composition of the Sub Urban Legal Service Authority, Mumbai

The Sub Urban Legal Service Authority, Mumbai, at the MSHRC is composed of one Secretary and five pro bono lawyers. Following are the details of the composition of Sub Urban Legal Service Authority:

D. V. Gowde, Advocate - Secretary

The Five Pro-Bono Lawyers

Sabnam Qazi, Advocate

Aillen Marquis, Advocate

Simran Chandani, Advocate

Pradnya Dhumkekar, Advocate

Vardan, Advocate

As decided by the Hon'ble Chairperson, the Court will refer the Cases to the Sub Urban Legal Service Authority, if it seems the case fit and proper for availing the services of free legal aid.

CHAPTER 5

CONCLUSION

Overall the visit to the District legal Service Authority was very informative and educative as we got to know how the Mumbai District Legal Service Authority has been instrumental in providing legal aid to needy and the poor. We learned about the Pre-Institution Mediation and settlement and how it is being done in reality. The secretary of the DLSA also educated us on the importance of exercising one's own rational mind to situations that the law fails to address.

The highlight of the visit was that we got the golden opportunity to have an audience with the Hon'ble Principal Judge and listen to his valuable words. The Hon'ble Principal Judge also made us understand the importance of thinking from the shoes of both the victim and the accused in order to deliver an unbiased and fair decision. He also told us about the importance of maintaining a proper work life balance.

Legal aid is a crucial component of the justice system in India. It helps to ensure that justice is accessible to all, particularly the poor and disadvantaged sections of society. The government and legal aid institutions must continue to work towards creating more awareness about legal aid and expanding its reach to ensure that justice is truly accessible to all in India. One of the major challenges in providing legal aid in India is the shortage of trained legal professionals and the lack of awareness among the people about their legal rights. To address these challenges, the government and legal aid institutions are taking various measures such as organizing legal literacy programmes, training programmes for legal professionals, and providing financial incentives to lawyers who take up legal aid cases. In conclusion, the District Legal Service Authority plays a vital role in ensuring access to justice for all, particularly the marginalized and vulnerable sections of society. Its efforts in providing legal aid, awareness, and alternative dispute resolution mechanisms have contributed significantly to making the legal system more inclusive and accessible. The DLSA is a crucial institution in promoting the rule of law and ensuring justice for all.

ANNEXURES

***(Fig 1.1, 1.2,1.3) Fieldwork Interns at MSHRC and LLM in Access to Justice students
Interacting with the Hon'ble Principal Judge, Mumbai City Civil and Sessions Court Shri. A.
A. Subrahmaniam***





(Fig:2) Students of LL.M. in Access to Justice programme of Tata Institute of Social Sciences, Mumbai, Interacting with the Secretary of DLSA, Mumbai regarding functioning and power of the DLSA.



**TATA INSTITUTE OF SOCIAL SCIENCES
SCHOOL OF LAW, RIGHTS AND CONSTITUTIONAL
GOVERNANCE**



Visiting Team: Dr. Devkumar Jacob, Assistant professor, SLRCG, TISS
Mr. Vijay Khare, Head Constable, Investigation Wing, Maharashtra State Human Rights Commission.

Title	Nashik Central Jail Visit Report
Date of Visit	29-03-2023
Venue	Nashik Road Central Jail, Nashik
Submitted to	Dr. Swarupa Dholam (Fieldwork Agency Supervisor) <i>Registrar, Maharashtra State Human Rights Commission</i>
Guided by	Dr. Arvind Tiwari (Dean, SLRCG, TISS, Mumbai.) Dr. Devakumar Jacob (Fieldwork Coordinator)
Submitted by	Students of SLRCG, TISS, Mumbai.

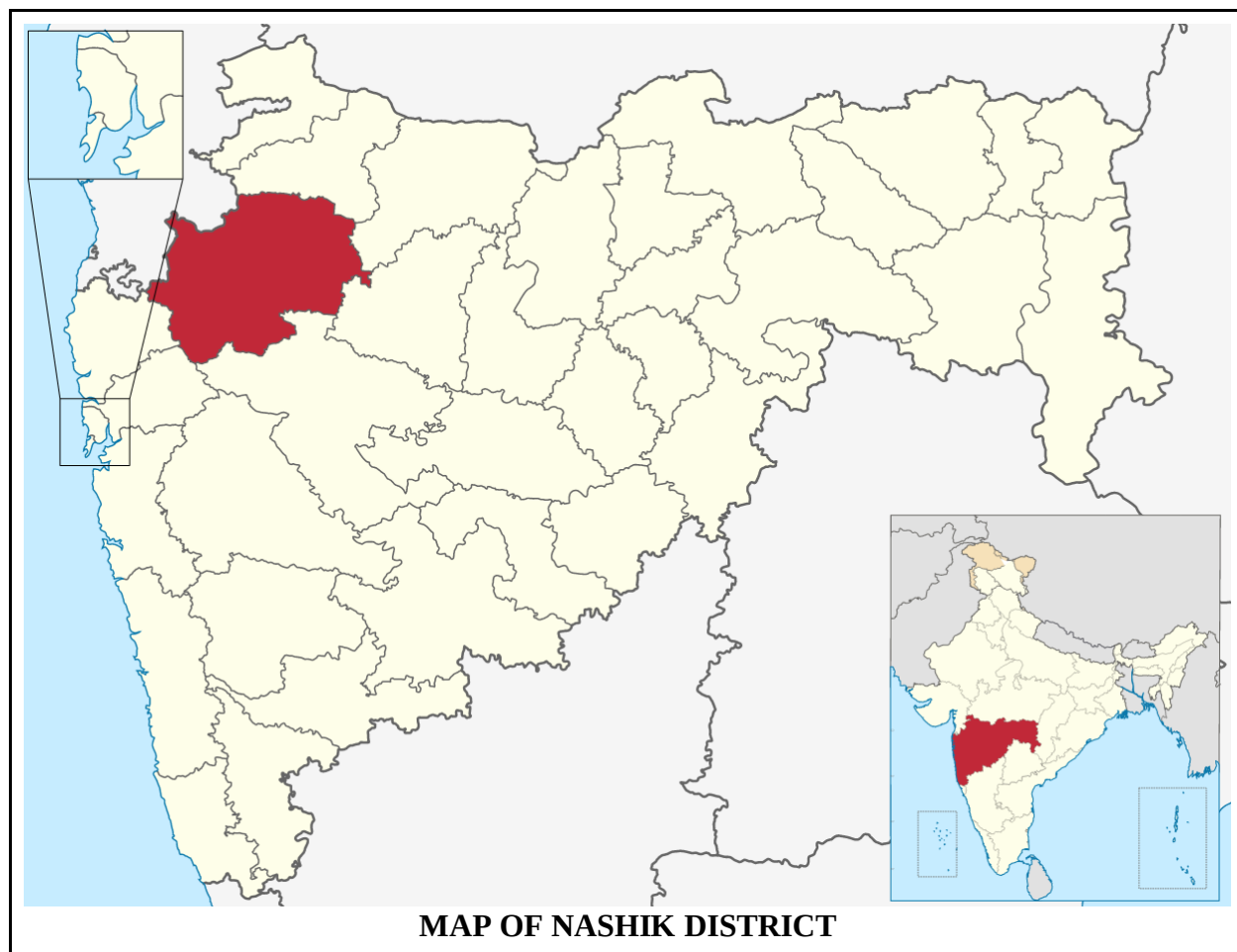
CHAPTER 1- INTRODUCTION

“No one truly knows a Nation until one has been inside its jail. A nation should not be judged by how it treats its highest citizens but its lowest ones.”

-Nelson Mandela

On 24th March 2023, a team of students from the School of Law, Rights and Constitutional Governance, (SLRCG) Tata Institute of Social Sciences, Mumbai. (TISS) attachment programme interns at Maharashtra State Human Rights Commission accompanied the fieldwork faculty coordinator Dr Devkumar Jacob, assistant Professor at SLRCG, TISS and Mr Vijay Khare Head Constable (Investigation wing MSHRC) visited Nashik Road Central Prison.

Nashik, the third largest city in Maharashtra, has its own mythological, historical, social and cultural importance, blessed with its beautiful extravaganza of greeneries. The city is situated on the banks of the Godavari River. Maharashtra has nine central prisons, 31 district prisons, 19 open prisons, an open colony and 172 sub-jails. Nashik Road Central Prison was built in 1927, well before the independence and many freedom fighters like Rev. Sane Guruji were detained in this prison in the year 1933. In this period, the remarkable poem “Khara to Ekachi Dharm” and the well-admired novel “Shamchi Aai” was written. The noble freedom fighter, Rev. Senapati Bapat, was also detained in this prison. In memory of these noble personalities, a monument is erected in those yards. Quoting the relevance of the prison from the pages of history, it has indefinite stories to narrate.



Object, Mandate & Research Methodology:

- The major focus of the visit Undertaken by the team from TISS and MSHRC was to identify the issues faced by the prison officials in the prisons . The visit was also made to understand whether the various rights provided to the prisons under the aegis of various statutory regimes and judicial precedents in India.
- The mandate of the visit: The mandate of the conducted visit was set forth by the Maharashtra State Human Rights Commission in pursuance of the Memorandum of Understanding with the School of Law, Rights and Constitutional Governance Tata Institute of Social Sciences, Mumbai, in March 2023.

- The study conducted by the team was exploratory in nature. The team drafted interview guides comprising semi-structured open-ended questions as their research tools. The research mainly focused on prison officials. The questions were structured in such a manner as it meant to highlight the major issues faced by the prison officials and covered questions with regard to the mental health of the officials as well. The questions also covered the details about the prisoners from the officials as well. It also considered their welfare, rehabilitation programmes, canteen provisions etc. With the aid of the prepared questionnaire, it was also intended to gather a detailed understanding of the prison system and the provisions available to the prisoners from the officials' point of view.

During the visit, the prison officers accompanied the students from the Tata Institute of Social Sciences to the various Barracks and places within the prison. The prison is built around 49 acres which the students got an opportunity to see. The team observed that the Nashik Road Central Prison was kept in a better condition compared with the other prisons situated in the State of Maharashtra. Although the team was not allowed to interact and see the premises where the prisoners were kept by the observations made by the team as per the premises visited. The prison was maintained in a clean, hygienic and orderly manner. The Prison officials accompanied the team to the rooms that were set up for the prisoners to indulge in revenue-generating activities such as sculpting, Soap making, Carpentry, repair works and spinning and weaving. The prisoners were actively involved in these activities and as per the information provided by the prison officials these activities in reality generated a considerable amount of revenue for the prisoners. The team also visited other places such as the Audio-Video conferencing room, the visiting room where the prisoners met with their families, the community kitchen, and the library where the prisoners were also taught computers. The females among the team also visited the female barrack and saw the condition of the premises, we also observed the various works done by the female prisoners such as making cylinder caps, tailoring etc.

Proactive Role of Samata Foundation

Samata Foundation is a Non-Governmental Organisation focusing to render its radical, innovative approaches for the reformation of prisoners. It is an organization of its own kind to collaborate with prison authorities and build a model for improving the quality of life for

prisoners and bailing deserving inmates, leading to transformation. They have introduced initiatives to bring remarkable behavioral change in prisoners after their release. It is to be highlighted that the contributions put forth by the foundation in the area of reformation is remarkable in nature. One drawback noticed was that this initiative is not available to female prisoners.

The protection of prison officials in India is primarily governed by the Prison Act, 1894, and the Prison Rules, 1959. These laws lay down provisions for the safety and security of prison officials and aim to create a safe working environment for them. Some of the key provisions for the protection of prison officials in India are:

- **Security arrangements:** Prisons are required to have adequate security arrangements in place to ensure the safety of prison officials. This includes the provision of security personnel, CCTV cameras, alarm systems, and other safety equipment.
- **Training:** Prison officials are provided with regular training on safety and security measures. This includes training on how to handle emergency situations, self-defense, and use of firearms.
- **Protective gear:** Prison officials are provided with protective gear such as helmets, bulletproof vests, and riot shields to protect them from physical harm during a riot or violent incident.
- **Medical facilities:** Prisons are required to have adequate medical facilities to provide timely medical care to prison officials in case of any injury or illness.
- **Legal protection:** Prison officials are provided legal protection against any assault or attack while performing their duty. Any act of violence against a prison official is considered a criminal offense and is punishable under the law.

The rights of prisoners in India are enshrined in various laws and regulations. These rights are aimed at ensuring that prisoners are treated humanely and with dignity. Here are some of the key rights of prisoners in India:

- **Right to be treated humanely:** Every prisoner has the right to be treated humanely and with dignity. This includes the right to basic necessities such as food, clothing, and shelter.
- **Right to medical care:** Every prisoner has the right to medical care. If a prisoner is ill, he or she must be provided with appropriate medical treatment.
- **Right to legal representation:** Every prisoner has the right to legal representation. This means that if a prisoner is accused of a crime, he or she has the right to a lawyer.
- **Right to communication:** Every prisoner has the right to communicate with his or her family and friends. This includes the right to receive and send letters.
- **Right to education:** Every prisoner has the right to education. This means that if a prisoner wishes to study, he or she should be provided with appropriate educational resources.
- **Right to religious freedom:** Every prisoner has the right to practice his or her religion. This means that if a prisoner wishes to pray or observe religious practices, he or she should be allowed to do so.
- **Right to work:** Every prisoner has the right to work. This means that if a prisoner wishes to work, he or she should be provided with appropriate work opportunities.

CHAPTER 2

BRIEF HISTORY OF THE PRISON

‘Nashik Road Madhyavarti Karagruh’ i.e. The **Nashik Central Jail**, also known as the Nashik Road Central Prison, is one of the oldest and largest prisons in Maharashtra, India. It is located in the Nashik district of Maharashtra and was established during the British Raj in 1871.

Establishment: The Nashik Central Jail was established in 1871 by the British colonial government. It was initially designed to accommodate 1000 inmates, but it has since undergone several expansions and renovations to increase its capacity.

Early years: During the early years of the jail, it housed primarily Indian political prisoners who were fighting for India's independence from British colonial rule. Many notable freedom fighters, such as Bal Gangadhar Tilak, Veer Savarkar, and Mahatma Gandhi, Sane Guruji & Acharya Vinoba Bhave were imprisoned here.

Post-independence: After India gained independence in 1947, the Nashik Central Jail continued to house criminals as well as political prisoners. In the 1970s and 1980s, the prison became notorious for its brutal treatment of inmates and human rights violations.

Modernization: In the early 2000s, the Maharashtra government initiated a series of reforms to modernize the Nashik Central Jail and improve conditions for inmates. These reforms included the construction of new buildings, the introduction of vocational training programs, and the installation of CCTV cameras.

In 2020, the Nashik Central Jail became the first prison in Maharashtra to set up a COVID-19 quarantine facility for inmates. The facility, which was set up in response to the COVID-19 pandemic, was equipped with medical facilities and trained staff to provide medical assistance to inmates who contracted the virus.

Today, the Nashik Central Jail continues to operate as a major correctional facility in Maharashtra, housing a mix of convicted criminals and undertrial prisoners.

Structure & Design of the Prison

- The prison covers an area of 78.47 hectares, of which 16.72 hectares is built-up area, 24.72 hectares is irrigated and 14.18 hectares are non-irrigated land. Also, there is 5.37 hectares of forest area, 17.48 hectares of staff housing and 5.37 hectares designated for parade grounds.
- The prison includes a sizable campus that houses office buildings, 48 barracks (13 small, 35 large), 330 Cells, a female ward, prison canteen, ration/clothing stores, a store for agricultural items, etc.
- The prison is organised into eight circles for administrative purposes, with circle number one housing the female ward with two barracks and three cells. 17 cells in Circle No. 2 are used to accommodate high security inmates. The canteen, hospital ward, and quarantine ward are all located in other rings. Circle no.7 has 12 barracks and Circle no.8 has 6 separate yards, each with 55 cells.

CHAPTER 3

LEGAL FRAMEWORK ON PRISON FOR PRISON STAFF

In India, ensuring security, discipline, and order in correctional facilities is the responsibility of the prison staff. Also, they are responsible for the care and welfare of prisoners while they are confined. The duties, rights, and welfare of jail employees are covered by a number of Indian laws.

The Prisons Act, 1894

Chapter II of the Act covers maintenance and officers of Prison¹. According to the Act, prison officers must be appointed, including the Superintendent, medical officer, Medical Subordinate, jailer, and other officers as deemed appropriate. The Inspector General, who will carry out duties as ordered by the State, will be in control of the prison. The state is required to make suitable preparations for the accommodation of the inmates inside the prison. The inspector general, acting under the direction of the State, must take the appropriate measures for the safe custody of inmates and the provision of temporary shelter in the event of a prison epidemic or in certain circumstances where the number of inmates increases.

Chapter III of the Act covers the responsibilities of the officers listed in Section 8 to 20. Officers of the prison shall be the Superintendent and jailer. All officers, including the jailor, must report to the Superintendent, who shall be succeeded by the jailer. In accordance with Inspector General's instructions, the Superintendent is responsible for maintaining records pertaining to prisoners, visitors, and accounts as well as things connected to discipline, spending, labour, and punishment. When it comes to sanitary conditions, health, treating inmates, reporting to the Superintendent about inmates who are critically ill, etc., the medical officer of the jail shall be under the superintendent's authority. In addition, the medical officer is required to keep a record of every detail, including the deceased prisoner's health, food, ailments, and date of death. The prison's jailer is required to always reside within the premises of the prison and shall not leave the prison without prior intimation. All records must be kept up to date, and the jailer is in charge

¹ Id. s. 4

of the prison and documents. Deputy or assistant jailor shall assist the jailor.² The Act also establishes positions for inmates, who will be referred to as convict prisoners, perform duties inside of prisons, and are regarded as public servants. Jail officers are expressly prohibited from conducting commercial activities on jail premises.³

Other legislations in India

The duties, rights, and welfare of prison staff in India are covered by laws in both the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC).

Duties of prison guards-

According to Section 166 of the IPC, a public employee who disregards their responsibility to prevent a disturbance of the peace may be penalised with any type of imprisonment for a time that may last up to six months, a fine, or both.

According to Section 223 of the Criminal Procedure Code, every person in charge of a jail is required to, among other things, see to it that the inmates in their care are treated humanely and that their health and wellbeing are protected.

The Model Prison Manual, 2016

It states that each jail must employ a staff welfare officer, whose job it is to advance the interests of the prison personnel. Among other things, the welfare officer's responsibilities include planning social and cultural events for the workers.

Delhi Prisons (Prisoners' Welfare Fund, Appeals, Petitions, Interviews and Communications) Rules, 1988

Rule 5 mandates the establishment of a welfare fund for the benefit of prison personnel. The money from the fund will be used to help the staff members pay for their children's education, medical care, and planning of recreational activities.

According to Rule 23, every member of the prison staff is in charge of maintaining the welfare and security of the inmates in their care.

² Id. ss. 8,9,10,11,12,13,14,15,16,17,18,19,20

³ Id. s.9

According to Rule 18, every prison employee is entitled to wages, leave, and pension benefits in accordance with the applicable service rules, as well as the uniform and equipment needed to carry out their duties, medical care, and damages to be compensated in the event that they are injured or dead while on the job.

CHAPTER 4

QUESTIONNAIRE WITH ANSWERS

Prison Statistic: Date: 24/03/2023

Prisons Capacity: 3208

Prisoners	Male	Female	Total
Prisoners Capacity	3118	90	3208
Transferred	43	0	43
Convicted	1301	29	1330
Undertrial	908	24	932
Foreigners	4	1	5
Abscond	64	1	65

For Prison Officials

1. What are the major issues faced by the Prison officials?

Understaffing was one of the major, and as informed, the only issue faced by the prison officials. As there were still a lot of vacant positions in the prison, for various designations, dearth of prison staff was the only issue. Understaffing was one of the major, and as informed, the only issue faced by the prison officials.

Another issue observed was the poor sanitation facility for female officers. There were no proper lights, the doors of the latrines could not be closed and taps were not functioning. Water was collected and kept in a large container and it was being used for sanitation purposes. One of the female officers said reports about the same have been sent and required repair work will be done soon.

The salaries of prison officials in Nashik Central Jail are inadequate, and this can lead to significant financial stress and strain on the officials. This can have a negative impact on

their mental health, as it can cause them to experience feelings of financial insecurity. In order to address this issue, the salaries of prison officials should be increased to a level that is sufficient to meet their basic needs.

The shortage in staff numbers can lead to an increase in workload and stress. This can have a detrimental impact on the mental health of prison officials, who may be forced to work long hours in order to keep up with their workload. In order to address this issue, the management of Nashik Central Jail should increase the number of prison officials, in order to ensure that all duties are adequately covered.

A good work culture is essential in order to ensure the welfare of prison officials. A good work culture should involve mutual respect, trust and communication between the management and the staff. The management should ensure that the staff are treated fairly, and that their opinions are valued and taken into account. In addition, the management should ensure that the staff are provided with an environment that is conducive to their welfare and wellbeing.

The lack of government housing for police officials in Nashik Central Jail has been a longstanding issue, creating numerous challenges for the officers who are responsible for maintaining security and order in the prison. Without access to affordable and adequate housing, many officers are forced to commute long distances from their homes, which can impact their job performance and wellbeing. Moreover, this issue can also contribute to a high turnover rate among officers, as they may choose to seek employment elsewhere due to the difficulty of finding suitable housing in the area. Given the critical role that these officers play in ensuring the safety of the prison and its inmates, it is important for the government to take action to address this housing shortage and provide appropriate accommodations for the officers serving in Nashik Central Jail

2. What are the major issues faced by the Prison officials while interfacing with prisoners?

There were not any major issues the prison officials faced while interfacing with the prisoners. It was informed that there are trivial fights but no serious or major problems are created by the prisoners.

3. Mental Health of the Prison Officials?

- a) What is the effect of the prison environment on their personal life?

One of the female police officers the team interacted with informed us that it is a bit stressful. Not because of the environment but because it gets hectic for them. They have to be on duty then go home and take care of home as well and if they have a family or small child/children, it gets more stressful.

- b) Do they have access to regular mental health checkups?

The prison officials told us that regular health camps are organized by various organizations which vary from eye check-up to mental health check-ups and various others. It was informed that there are no specific camps just for the prison officials but there are general camps for both prison officials and prisoners. It was also informed that they recently took part in one of such camps in the month of February.

The issue that needs to be addressed is the issue of mental health. Mental health is a major issue for prison officials, and inadequate mental health care can have a detrimental impact on their welfare. This can lead to feelings of depression and anxiety, as well as a decrease in productivity and morale. In order to address this issue, the management of Nashik Central Jail should ensure that mental health services are provided to all prison officials. Mental health services should include counselling, therapy and other forms of mental health support in order to ensure that the mental health of the officials is adequately addressed.

4. How many complaints / notices have been received by the Jail Superintendent from MSHRCs and NHRC in the last three years and action taken report?

5. How many Prison Officials are there at present?

- a) Male: 164
b) Female: 39

6. Are all the sanctioned posts filled?

No, there are a total of 203 Prison Officials out of the sanctioned post of 245.

7. What is the Prison Officials to Prisoners ratio?

There are a total of 203 Prison Officials and there are 3208 prisoners (3118 males and 90 females). Thus for every official there are 16 prisoners.

8. What are the duty hours of the Prison Officials? How many off days do they get?

It was informed that every prison official has to do their duty for 8 hours but they often work longer hours. They only get half of a Sunday off and they can take up to 12 days of casual leaves apart from sick leaves.

9. What is the composition and structure of the prison?

The prison is spread out in 49 acres of land. There are 3 barracks for females and 2 complaint boxes were present at the female barrack.

10. Is there a canteen for the Prison Officials?

No, there was no canteen for prison officials. We were informed that every prison official brings their own food. The female officer that interacted with us said that she travelled every day back to her house to have lunch as it is close by.

The canteen facilities in Nashik Central Jail are inadequate, and this can lead to a lack of nutritious and healthy food options for the prison officials. This can lead to a decrease in morale and a decrease in productivity, as well as an increase in stress and anxiety. In order to address this issue, the management of Nashik Central Jail should ensure that adequate canteen facilities are provided, and that these facilities are stocked with nutritious and healthy food options.

In conclusion, prison officials in Nashik Central Jail are facing a number of issues that need to be addressed in order to ensure their welfare. These issues include inadequate salaries, staff shortage, inadequate mental health care, inadequate canteen facilities and a lack of good work culture. In order to address these issues, the management of Nashik Central Jail should increase the salaries of prison officials, increase the number of prison

officials, provide adequate mental health services, improve the canteen facilities and ensure that a good work culture is implemented. Doing so will ensure that prison officials in Nashik Central Jail are provided with an environment that is conducive to their welfare and wellbeing.

About Prisoners from the Prison Officials

1. a) The welfare / rehabilitation programmes, production, activities for generating income to the prisoners and prisons.

There are many organisations that provide vocational training to the prisoners like Samta and Prayas. We were taken to a section where Ganesh murtis are made. There were 100 murtis of different sizes present and they were made by a team of ten prisoners. This room had eight fans and had proper ventilation. Further the prisoners get Rs 67 per murti. The money is sent to their account and can be used in any form except cash. All the murtis are taken to one single outlet outside the jail premises to be sold later. Rehabilitation programmes in the form of soap making were provided in the chemical section. The room had an asbestos roof, with grilled windows and a total of 14 fans in the room. A team of eight prisoners were working here in the presence of nine machines. Out of the nine only four were being used on the day of visit. Further, upon interaction with a prisoner it was seen that the working prisoners get Rs 468 per 1000 soaps that they make. Five prisoners were in charge of packing the soap and two were working on the machine. The prisoners seemed occupied and content with the work they were doing. Then we were taken to the carpentry section where furniture was made after receiving orders by the government. The big room was filled with furniture and all were made of Sagwani wood. It was observed that this room was slightly congested and suffocating. Then in the carpentry section we were taken to a room where the threads are made. It was observed that the fans in this room were hanging very low and were very dangerous for the prisoners if they raised their hand. There was no mask provided to the prisoners working in the fabrication unit which will help them from the harmful toxic released from the chemicals.

The researchers observed that the Nashik prison has better rehabilitation programmes going on that help in keeping the prisoners busy. The work was purely voluntary in nature and available only for the convicts. But if an undertrial is interested, then they are allowed to join the force.

The rehabilitation program provided to the women prisoners was limited to putting cylinder caps. The room was highly congested and only one fan was provided for 13 prisoners.

b) The kind of physical / labour work given to the prisoners.

The physical labour adopted by the prisoners is completely on their own will. Some of them include gardening and agriculture. The whole prison premises had a great environment that had trees and plants of all sizes. This form of gardening was done by the prisoners. The unskilled labour gets Rs 48. The semi- skilled labourers get Rs 55 and highly skilled workers get Rs 65 per piece.

2. Whether medical treatment is available in the prison?

a) Furnish particulars of availability of Medical Officers and the treatments given in the Jail Hospital itself (including number of beds, medical equipments etc)

b) Number of seriously ill, pregnant women or inpatient treated in the Jail Hospital or any other Hospital

As per the information given by the lady prison officer, currently there are no pregnant prisoners in the prison.

c) Whether a complaint box is kept under proper seal and lock and whether inspected regularly by the District and Session Judge as per the Supreme Court directions?

There are four separate complaint boxes around the jail premises addressed to individual authority. Whenever there is a court visit the complaint boxes are looked into. Further there is a separate section named Sudharana which works towards helping the prisoners lodge complaints if they are facing any problems.

3. Whether free legal advice schemes are available to the prisoner?

The Nasik District Legal Service Authority provides free legal aid consultation to the concerned prisoners. The legal aid lawyers come three times on alternate days every week. There is a ladies assistant for legal aid also present to help out the female prisoners.

4. a) Whether any prisoner has escaped or attempted to escape in the last three years?

Specific data was not provided on the number of escapes. But it was informed to the researchers that some prisoners do try to escape. If the prisoners belong from nearby areas then they get caught, but if they belong from a different state it becomes difficult to catch them and they manage to conduct a successful escape.

b) What are the special precautions and security arrangements made to prevent escape of the prisoners?

5. Whether any incident of breach of peace or violence has taken place amongst the prisoners in the last three years?

Violence has taken place amongst the prisoners due to internal conflict but is dissolved quickly. Due to imprisonment small scenarios result in big reactions which get converted into physical violence. In those scenarios, until the situation is very dire, the police officials do not interfere and let the matter settle itself.

6. Furnish in detail, deaths of prisoners in the jail or custody for the last three years.

Death of the prisoners has not happened inside the jail premises. When there is any extreme health issue, the prisoner is taken to the hospital and in some cases death approaches them in the hospital itself.

There was one instance where a prisoner committed suicide in front of a visiting judge by jumping off the roof. He was taken to the hospital but declared dead afterwards.

7. a) Special arrangements for female prisoners, if any.

b) Details of children staying with female prisoners or convicts

Currently there are 5 children staying with the female prisoners in the prison. 1 among them is a boy and the rest are girls.

c) Welfare measures taken in respect of these children

For the welfare of the children as per the information given by the lady police official to the team, the children within the prison are provided nutritious food and it is not the same as the food served to the prisoners. According to her, the children are given eggs, milk and a variety of nutritious dishes such as poha, upma, jaggery etc. Regarding their

education, the team was told that earlier before the COVID-19 pandemic there used to be a regular teacher to teach the children in a school within the compound of the prison, however after the pandemic the teacher has stopped coming and even after sending letter to the authorities there has been no response from them. Currently an educated female prisoner is teaching the children within the prison. Regarding their health a doctor regularly visits the prison every friday, from the City Civil Hospital and in cases of emergencies a doctor is on call and for further treatments they are taken to the Civil Hospital.

8. What are the provisions made for the Under Trial Prisoners for production before the Magistrate / Courts?

a) Whether video conferencing is arranged and how effectively implemented?

Yes, it was observed that a proper arrangement of Video conferencing was made in the Jail Premises with three active systems installed for the purpose of Video Conferencing. We observed that about 10 undertrial prisoners were standing outside the video conferencing room waiting for their names to be called out. We also observed the ongoing video conferencing of a prisoner.

Statistics

1. Sanctioned capacity of the Prison to house prisoners.
2. Existing population of prisoners in detail.

About Welfare Schemes for Prison Officials

The Maharashtra Police Kutumb Arogya Yojana is a health insurance scheme that was launched by the Maharashtra Police for the benefit of police personnel and their families. The scheme provides health insurance coverage to police personnel and their dependents, including their spouse, children, and parents.

Under the scheme, police personnel and their families are provided with cashless health insurance coverage for medical expenses, including hospitalization, surgery, and other medical

treatments. The insurance coverage is available for both pre-existing conditions and new illnesses or injuries.

The scheme is aimed at providing financial protection to police personnel and their families against the high cost of medical treatments. It also aims to improve the overall health and well-being of police personnel by providing them with access to quality healthcare services.

To avail of the benefits of the scheme, police personnel need to enroll themselves and their dependents in the scheme. The premium for the scheme is paid by the Maharashtra Police department on behalf of the police personnel.

Overall, the Maharashtra Police Kutumb Arogya Yojana is a valuable initiative by the Maharashtra Police department to provide health insurance coverage to police personnel and their families, and to improve their overall health and well-being.

CHAPTER 5

OBSERVATIONS AND INFERENCES

Children in Prison:

- *Rule 9* of the Prison Maharashtra Prison Manual provides the circumstances in which the children can be permitted to accompany their mothers inside the prison. The Manual states that the children can only be kept inside the prison premise till they attain 4 years of age in case where the nursing stage requires or when there is nobody to look after the child outside the prison in case the mother is put behind the bars. We talked to a lady prison official regarding the children in the prison and as per her, at present there are 5 children staying with the female prisoners in the prison. 1 among them is a boy and the rest are girls.
- The Prison Manual under *Rule 27* prescribes a special diet for the children of prisoners. For the welfare of the children as per the information given by the lady police official to the team, the children within the prison are provided nutritious food and it is not the same as the food served to the prisoners. According to her, the children are given eggs, milk and a variety of nutritious dishes such as poha, upma, jaggery etc.
- *RD Upadhyay vs. State of Karnataka* to facilitate holistic development of the children of prisoners. The judgment directed that “Adequate arrangements should be available in all jails to impart education, both formal and informal, to every child of the women inmates. Diversified recreational programmes/facilities should also be made available to the children of different age groups.”Regarding their education, the team was told that earlier before the COVID-19 pandemic there used to be a regular teacher to teach the children in a school within the compound of the prison, however after the pandemic the teacher has stopped coming and even after sending letter to the authorities there has been no response from them. Currently an educated female prisoner is teaching the children within the prison.
- Regarding their health a doctor regularly visits the prison every Thursday, from the City Civil Hospital and in cases of emergencies a doctor is on call and for further treatments they are taken to the Civil Hospital. There is also an OPD section within the prison for

health related concerns.

- Rehabilitation facilities in the prison

In the observation, the Prayas Organisation's social worker helps inmates in legal matters and family related matters.

- **Pragati Vikri Kendra-** In chemical ward of the Pragati vikri kendra, there are some products made by inmates like

Pragati Products

Product Name	Price	Quantity
Pragati Bathing Soap	Rs. 22	150gm
Pragati Toothpowder	Rs. 5	50gm
Pragati Phenile	Rs. 111	1 Liter
Pragati Cloth Wash Bar	Rs. 10	250gm
Pragati Detergent	Rs. 75	500
Antinfection Bar for skin		
Utan (For Diwali)	Rs. 50	
Total Turnover of the year 2022-2023 is	34,57,000-/-	

These are the main products made by the Nashik central prisoners, by the priority these products provide to other prisons of the country. Their marketing strategy is simple: the prison authority puts a stall outside of the prison, where they sell the products.

- **Kitchen and Bakery Ward:**

As per the officials in the bakery inmates make their breads and other bakery products.

In the kitchen there were 40 male inmates making the food for 3000 inmates as per the daily schedule. There is also a hot pot which keeps the Chapatis hot for a long time.

- **Understaffing in the prison** - The prison authorities stated that there are less staff as compared to the number of prisoners in the jail. Total 68 vacancies are not yet filled.
- Education
- Female barrack -
- Training of prison officials- Training of police official is done once in the beginning of their joining.

Samata Foundation:

Samata foundation is giving the latest updated computer skilled training to the inmates in the jail in the convicted prisoners ward. There were a total of 70 students there at the time of visit, they teach the IIT bombay structured program. The inmate's name was Kisan Balaji Shinde who got the job in the corona pandemic period with the payment of 10,000-/ per month. In the government agency Customer Facilitation Center (CFC).

- In the same computer ward there was also a library which was full of books with many languages.
- There was the open university in the jail name as Indira Gandhi National University (IGNOU).
- For the inmates there is an open gym also outside of the ward.

Carpenter Ward:

In the carpenter ward they make the things from the furniture by the inmates. They bring the Sagvan wood from the Paratwada, Amaravatri district for making the furniture.

- The quality of the furniture is really good, and sent to the other courts of the Maharashtra state.
- They make the furniture like, a desk, table for the judges, chairs for the judges, chairs for the people in the court, Cupboards, beds, stools, etc.
- Turnover of the carpenter ward of the annual year 2022-2023 is 1,08,89,000-/- in words One crore eight lakh eighty nine thousand only.
- The last delivery of the furniture was given to the Akola and Hingoli court.

Fabrication Ward:

In the fabrication ward the inmates make the things from Khadi, there are weaving machines in the fabrication ward. They make mattresses, bed sheets, pillows, pillow covers, etc.

- The whole material is provided to the police department of the state.
- Turnover of the ward of the year of 2022-2023 is 17,14,000-/- in the words, Seventeen lakh fourteen thousand.
- The fans in the room making threads were very low. It makes raising hands by a person of average height extremely dangerous.
- There were no masks provided to the prisoners who were working very closely with melting iron. The lack of face mask raises the probability of eye damage amongst the working prisoners.

CHAPTER 6

RECOMMENDATIONS AND CONCLUSION

To Add a New Article to the Indian Constitution:

The Indian Constitution does not contain a list of the rights of prisoners. It is regrettable that India does not have codified prisoner rights. Section 21 of The Constitution guarantees both the right to life and the right to personal liberty, with the right to life referring to the ability to live in dignity, including the rights of prisoners. As a result, a new Article, designated as Article 21-B, that will guarantee the preservation of prisoners' rights should be added to the Indian Constitution.

To Create a Scientific Prisoner Classification:

Prisoners should be categorised scientifically based on the type of crime they committed, their sentences, their tendencies, and how they respond to correctional treatment in jail.

Selected convicts will begin receiving correctional treatment right away. As much as is practical, the prison administration should provide each inmate with adequate individual care. More corrections-trained prison staff must be hired for this purpose, and the current staff must also get orientation.

To Pass New, Comprehensive, and Consistent Prison Laws:

Because prison is a state responsibility, each state has its own jail manuals and prison laws. As a result, state laws governing prisons do not all follow the same guidelines.

This has had a negative impact on India's efforts to overhaul its prison system and its prisoner population. Even the laws do not include any proactive means for inmates to exercise their basic human rights. Additionally, India lacks a reliable monitoring organisation to oversee the operation and management of its prison system. Therefore, it is essential that the Central Government enact new, comprehensive, uniform prison legislation to replace the archaic Prisons Act, 1894. This legislation must include a separate Chapter outlining prisoners' rights and providing effective safeguards against their violation, as well as incorporate the suggestions made by the Mulla Committee and NHRC.

To create a separate cell in the jail for transgender inmates:

The laws governing prisons do not include any provisions for transsexual convicts, and there is no special room set aside for them in the jail. They are particularly prone to both physical and mental deficiencies in rectification. Because transgender convicts are neither male nor female, problems with housing and treatment for them are a problem. They thus cannot be kept inside of a male, female cells, or cells. As a result, these types of inmates should have their own cell in the prison.

The Management of "Prison" Should Be List of Topic Content for Union

As all accused persons in India are found guilty under the Central Acts of the IPC and Cr. P.C., which are equally applicable across all of India, the jail facilities must be included in the Union List of the Seventh Schedule of the Indian Constitution. Yet, it would be a breach of the right to equality given by Article 14 of the Constitution if a prisoner of one State receiving the same punishment received more advantages than another. Regarding prison reforms and the preservation of inmates' rights, the law must be uniform. The Central Government must assume responsibility for jail reform if the Supreme Court of India's numerous orders are to be effectively implemented. The Central Government should prioritise reforming prisons and defending the rights of detainees.

The construction of open prisons at each district headquarters

The open prison system is a step in the right direction because history has shown that when convicts are treated humanely, they respond more favourably to reformation. The open prison is better for the inmates' social adjustment. Desirable interactions with the outside world can be arranged in an open prison, and living conditions are more similar to those of everyday life. As a result, the open jail fosters inmates' minds a sincere desire for social re-adjustment and also boosts their belief in their capacity for recovery.

To Build Sufficient Separate Cellular Housing, Borstals, Juvenile Institutions, etc.

Prisoners who are awaiting trial should be housed in cells close to the courts and separated from those who have been convicted. Also, women convicts shouldn't be housed in male-only

facilities. To address the needs of all young offenders, there should be an adequate number of juvenile institutions. Enough numbers of Borstal Schools (Remand) should be constructed to house those young offenders separately in order to reduce the abuse of adolescent or young offenders by older convicts in prison.

To Update and Clearly Describe Parole Regulations

It should be explicitly stated what the goals of parole and furlough are, as well as how they work. The guidelines for parole and furloughs, as well as the other ways to shorten sentences, need to be changed and reorganised, and social welfare services need to be widely acknowledged. Those inmates who respond to correctional treatment should be eligible for parole or early release. They should likewise receive generous forgiveness. Without the convicts making an application, the prison programmes should prepare them for parole, and each case should be automatically heard by a committee. Every month, the respected committee will meet to choose the inmates who will receive such helpful treatments. Personnel of the highest calibre should be appointed to oversee paroles.

To Expand the Media's Role

With frequent visits from press personnel and other social workers, as well as thorough reporting on the operations inside the jails, the public should constantly be kept properly informed about what is happening there. To bring attention to the plight of inmates and to hold the criminal justice system and the government responsible, the media should play an important role. In addition, any instance of a death, act of torture, abuse, etc. occurring in a prison shall be covered by the media. Convicts and prisoners awaiting trial should have access to the news and media. The media needs to take a more active part in prison reforms by consistently raising concerns about convicts and their living conditions in prison. The media should concentrate on jail reform so that the inmates are not corroded. Yet, it can be difficult for the media to gain access to the prison, and the inmates are sometimes too terrified to discuss their actual situation with them. The media should draw attention to any instances of torture, mistreatment, violations of any prisoner's rights, etc. that occur while a person is incarcerated.

Creating a few courses for custodial staff required

The correctional philosophy and social work should be covered in refresher courses, orientation programmes, and orientation cum correctional training courses for custodial employees. These classes should be made required for them, and they should receive thorough training in contemporary methods of correctional thought. The essential players in the penal system are the prison guards, especially the warders. Their style of life, behaviour, and attitude have a significant impact on the behaviour of the convicts because they are in constant and close contact with them. Their treatment of the prisoners has a significant impact on reversing their propensity for crime.

Thus, incentives for promotion or pay increases should be given to prison guards who pass each course in the correctional philosophy and successfully correct the convicts.

To increase the number of prison correctional officers

Given the inadequate number of correctional personnel in prisons, such as psychologists, welfare officers, probation officers, social workers, spiritual instructors, etc., 266 it is recommended that their numbers be increased according to the number of prisoners. That will make it easier to efficiently pay attention to each prisoner in the various settings of correctional activities. Furthermore, all treatment programmes for prisoners in prison, including education, classification, medical and health care, recreational activities, vocational training, sanitation and hygiene, etc., should liberally accept the participation of philanthropists and non-governmental organisations (NGOs) who are truly concerned about the welfare of prisoners. The proper government should provide financial assistance, suitable collaboration, and recognition to people and nonprofit organisations working in the field of corrections.

To create a prisoner's handbook in the official language, distribute it to the prisoners, and introduce prisoner's wall paper and periodic jail newsletters:

To increase inmates' awareness of the law, the State should take steps to develop a prisoner's handbook in an official language and distribute copies of it. A prisoner's wall paper should also be added because it will be one way for convicts to air concerns and will also help to calm things down. The publication Jail-Bulletins, which describes how rehabilitation programmes are carried

out inside the jail, should also be established. This will foster a sense of camaraderie among the prisoners.

The Immediate Need for a Sensitization Program

Since we are now in the realm of human rights law, any infringement of them is a severe issue on a global scale. Hence, it is essential that the public, prison staff, and police are properly taught on this subject, and it is important to implement a programme to raise awareness of inmates' human rights. They ought to understand that prisoners do not lose all of their fundamental rights simply because they are imprisoned. They should not be put to death and instead get compassionate treatment so that their personality can continue to grow while they are detained.

To pay equal attention to prisoners who are women and extra attention to those who are inmates with children

For the swift resolution of cases involving female criminals, Women Adalat and Women Courts may be formed in all States. For women who are awaiting trial and those who have been convicted, separate detention centres should exist. Female wardens should keep an eye on female inmates. A sufficient number of licensed female doctors and nurses should visit each prison for women on a regular basis. Prisoners must be separated from prostitutes, brothel owners, and repeat criminals. To protect the interests of both the woman and her child, the prison administration is required to give inmates with children additional attention. Children of female detainees should be kept as far away from adult prison as feasible, and visits from them should also be widely permitted. The prison administration must make the appropriate arrangements to ensure that the freed convicts are rehabilitated, whether through a charitable organisation, a relief centre, or their families.

For the prison officials

Provide regular training and development opportunities: Prison officials should be provided with regular training and development opportunities to improve their skills and knowledge. This can include training in communication, conflict resolution, mental health management, and other areas that are relevant to their work.

Ensure adequate staffing levels: Adequate staffing levels are essential for maintaining a safe and secure prison environment. Prisons should ensure that they have sufficient staff to handle the workload and provide a safe working environment for all officials.

Provide appropriate equipment and resources: Prison officials should be provided with appropriate equipment and resources to perform their duties effectively. This can include protective gear, communication equipment, and other tools that are necessary for their work.

Improve communication and collaboration: Communication and collaboration are critical for ensuring the smooth functioning of a prison system. Prisons should work to improve communication channels and encourage collaboration among officials to promote a positive and productive work environment.

Provide adequate compensation and benefits: Prison officials play an essential role in maintaining public safety and should be compensated accordingly. Prisons should offer competitive salaries and benefits packages to attract and retain qualified staff.

Implement safety measures: Working in a prison can be dangerous, and officials should be provided with adequate safety measures to protect themselves from harm. Prisons should implement safety measures such as panic buttons, surveillance cameras, and other measures to ensure the safety of officials.

CONCLUSION

Crime is a treatable form of deviation. So, it is said, rather than exacting revenge, the State must attempt to reform the criminals. Nearly all criminologists and penologists acknowledged that criminals are wrong in any deterrent or punitive

way. The only way to correct them is to treat them with sympathy. The jail is to be treated as a hospital, and each prisoner as a patient. That depends on a variety of situations and circumstances since, as we already know, not everyone who spends time in jail is a criminal.

In order to help inmates overcome their psychological challenges and adjust to life as law-abiding citizens once they are released from prison, prison conditions should be strictly enforced. In order to make prison laws more effective and to understand that prison is a place for reforming prisoners rather than punishing them, ongoing research and critical analysis are required. Gandhi stressed in his essay on page 244 that "all punishment is repulsive to Ahinsha." Hence, a killer should be sent to a prison and given every opportunity to turn his life around there under the rule of an Ahinsa-based state. Every crime should be addressed like an illness because it is one.

The jail should be transformed into a facility for corrective care, with a focus primarily on the moral upbringing, reformation, and rehabilitation of offenders. According to the reformatory school of thought on criminology, imprisonment is justifiable if it considers the present rather than the past. Prisons and prison management are essential components of the criminal justice administration system in India. Several criminologists hold the opinion that no one is born a criminal in this world; rather, a criminal develops as a result of his social and economic circumstances. In light of these viewpoints, it must be emphasised that prison administration must be qualified in such a manner that every prisoner must have hope that they, too, can develop into honourable people and contribute to the improvement of their society. They must also not feel alone in this society. Hence, the competent prison authorities must provide them with their fundamental needs, such as sufficient food, health care treatment, cleanliness, shelter, etc. in order to make them a productive group of the society after their time in custody. Additionally, rehabilitation can be accomplished in a variety of ways, such as by holding various counselling sessions for the inmates to improve their mental health, periodically hosting different

entertainment and awareness events, holding social studies classes to make inmates aware of what is going on outside the prison walls, transforming the prison environment into one that is welcoming, etc.

Although numerous organisations have researched the issues with Indian prisons and laws have been passed to improve conditions in jails. Yet, the reality that many 245 problems include stoning the convicts remains. Prisoners frequently leave jails and prisons more like hardened criminals than like bad people who have changed their ways. Implementation, not adherence to the ideas, is where the actual concern lies. Prisoner corrections must be taken into account while enacting laws, and reformation and rehabilitation must be made a requirement. It is necessary to place more focus on the corrective aspects of counselling programmes run by professionals. Discipline and proper regard of the prisoners' human rights must leave an impression on the prison administration. Prisoners' human rights must always be upheld, and they should be entitled to compensation.

Prison reform must also address the conditions that exist inside of the facilities as well as the physical prisons themselves. The protection of prisoners' human rights must be prioritised, together with the implementation of corrective measures for their reformation and rehabilitation and improvement of their facilities. Prison reforms are essential to both the rehabilitation of convicts and the protection of their human rights. Prisons should be transformed into a thriving centre for the reformation and humane rehabilitation of convicts.

ANNEXURES

(will include questionnaire, pictures and any other document if needed)

INTERVIEW SCHEDULE FOR PRISON VISIT ON 24.03.2023

For Prison Officials

1. What are the major issues faced by the Prison officials?
2. What are the major issues faced by the Prison officials while interfacing with prisoners?
3. Mental Health of the Prison Officials?
 - a) What is the effect of the prison environment on their personal life?
 - b) Do they have access to regular mental health checkups?
4. How many complaints / notices have been received by the Jail Superintendent from MSHRCs and NHRC in the last three years and action taken report?
5. How many Prison Officials are there at present?
 - a) Male:
 - b) Female:
6. What is the Prison Officials to Prisoners ratio?
7. What are the duty hours of the Prison Officials? How many off days do they get?
8. Are all the sanctioned posts filled?
9. What is the composition and structure of the prison?
10. Is there a canteen for the Prison Officials?

About Prisoners from the Prison Officials

1. a) The welfare / rehabilitation programmes, production, activities for generating income to the prisoners and prisons.
b) The kind of physical / labor work given to the prisoners.
2. Whether medical treatment is available in the prison?
 - a) Furnish particulars of availability of Medical Officers and the treatments given in the Jail Hospital itself (including number of beds, medical equipments etc)
 - b) Number of seriously ill, pregnant women or inpatient treated in the Jail Hospital or any other Hospital

- c) Whether a complaint box is kept under proper seal and lock and whether inspected regularly by the District and Session Judge as per the Supreme Court directions?
- 3. Whether free legal advice schemes are available to the prisoner?
- 4. a) Whether any prisoner has escaped or attempted to escape in the last three years?
 - b) What are the special precautions and security arrangements made to prevent escape of the prisoners?
- 5. Whether any incident of breach of peace or violence has taken place amongst the prisoners in the last three years?
- 6. Furnish in detail, deaths of prisoners in the jail or custody for the last three years.
- 7. a) Special arrangements for female prisoners, if any.
 - b) Details of children staying with female prisoners or convicts
 - c) Welfare measures taken in respect of these children
- 8. What are the provisions made for the Under Trial Prisoners for production before the Magistrate / Courts?
 - a) Whether video conferencing is arranged and how effectively implemented?

Statistics

- 1. Brief history of the prison.
- 2. Sanctioned capacity of the Prison to house prisoners.
- 3. Existing population of prisoners in detail.

About Welfare Schemes for Prison Officials

नाशिकरोड न्यायवती कारागृह

दिनांक ३१.०१.२०२३ रोजीचे विस्तृत पदाचे विवरणपत्रक

अ.क्र.	पदाचे नांव	मंजूर पदे		एकूण	भरलेली पदे		एकूण	रिक्त पदे		एकूण	शेरा
		स्थायी	अस्थायी		स्थायी	अस्थायी		स्थायी	अस्थायी		
१	२	३	४	५	६	७	८	९	१०	११	
१	अधीक्षक न्यायवती कारागृह	०	०	१	०	०	०	१	०	१	
२	अतिअधीक्षक, जि.का वनी-१	०	१	१	०	०	०	०	१	१	
	एकूण गट-अ	१	१	२	०	०	०	१	१	२	
	गट-ब										
३	जनअधीक्षक, न्यायवती का.	०	२	२	०	१	१	०	१	१	
४	वैद्यकीय अधिकारी, वर्ग-२	१	०	१	१	०	१	०	०	०	
५	प्रशासन अधिकारी	१	०	१	१	०	१	०	०	०	
	एकूण गट-ब	२	२	४	२	१	३	०	१	१	
	गट-क										
६	डेटाईज्ड अधिकारी, वर्ग-३	०	०	१	१	०	१	०	०	०	
७	जवान/मोम अधीक्षक	०	१	१	०	१	१	०	०	०	
८	सुरक्षाधिकारी श्रेणी-१	३	५	८	२	५	७	१	०	१	
९	सुरक्षाधिकारी श्रेणी-२	५	१५	२०	०	११	११	५	४	९	
१०	दरीश्ट लिपीक	५	२	७	५	२	७	०	०	०	
११	लिपीक	८	४	१२	४	४	८	४	०	४	
१२	निश्चक	२	०	२	१	०	१	१	०	१	
१३	शिक्षक	३	०	३	१	०	१	२	०	२	
१४	रसमदान पर्यवेक्षक	१	०	१	१	०	१	०	०	०	
१५	प्रयोगशाळा तंत्रज्ञ	०	१	१	०	१	१	०	०	०	
१६	शिवगंगा पर्यवेक्षक	०	१	१	०	१	१	०	०	०	
१७	शिवगंगा निदेशक	१	०	१	०	०	०	१	०	१	
१८	सुतारकाम पर्यवेक्षक	०	१	१	०	१	१	०	०	०	
१९	सुतारकाम निदेशक	०	१	१	०	०	०	०	१	१	
२०	रंजरी निदेशक	१	०	०	०	०	०	०	०	०	
२१	शिवगंगा पर्यवेक्षक	०	२	२	०	२	२	०	१	०	
२२	शिवगंगा निदेशक	०	१	१	०	०	०	०	१	१	
२३	धर्मकला निदेशक	०	१	१	०	०	०	०	१	१	
२४	धर्मकला पर्यवेक्षक	०	१	१	०	१	१	०	०	०	
२५	लोहारकाग	०	१	१	०	१	१	०	०	०	
२६	कुथी पर्यवेक्षक	१	०	१	१	०	१	०	०	०	
२७	कुथी सहाय्यक	२	०	२	२	०	२	०	०	०	
२८	कागारी निदेशक	१	०	१	१	०	०	०	०	०	
२९	सुभेदार	१	११	१२	०	८	८	१	३	४	
३०	हवालदार	१५	२३	३८	१४	२३	३७	१	०	१	
३१	रक्षक	१७९	६३	२४२	१२९	६३	१९२	५०	०	५०	
३२	परीवारक	३	०	३	३	०	३	०	०	०	
	एकूण गट-क	२३२	१३४	३६६	१६५	१२४	२८९	६७	१०	७७	
	एकूण गट-अ व क	२३५	१३७	३७२	१६७	१२५	२९२	६८	१२	८०	

अधीक्षक
नाशिकरोड न्यायवती कारागृह

०१८५

नाशिकरोड मध्यवर्ती कारागृह			
कारागृहाची अधिकृत बंदी क्षमता	पुरुष बंदी	३११८	
	महिला बंदी	९०	
	एकूण बंदी क्षमता	३२०८	
दिनांक २४/०३/२०२३ रोजीची बंदी संख्या			
वर्गवारी	पुरुष	महिला	एकूण
स्थानबद्ध	४३	०	४३
न्यायाधीन	९०८	२४	९३२
सिध्ददोष	१३०१	२९	१३३०
विदेशी	४	१	५
३०२ (न्यायाधीन)	६१९	२४	६४३
बॉर्डर	४४	५	४९
वॉचमन	२३	०	२३
एकूण	२९४२	८३	३०२५

गोषवारा

	पुरुष	महिला	एकूण
शिक्षाधीन बंदी	१३६८	३४	१४०२
न्यायाधीन बंदी	१५७४	४९	१६२३
एकूण बंदी	२९४२	८३	३०२५

लालपट्टी (पळपुटे) बंदी	
पुरुष	६४
महिला	१
एकूण	६५

बालके	
मुले	१
मुली	४
एकूण	५

वरिष्ठ तुरुंगाधिकारी
नाशिकरोड मध्यवर्ती कारागृह



TATA INSTITUTE OF SOCIAL SCIENCES
SCHOOL OF LAW, RIGHTS AND CONSTITUTIONAL
GOVERNANCE



Title: VISIT TO ‘SHREE NAKODA KARNA BADHIR VIDYALAYA, BHIWANDI, KALYAN, DISTRICT- THANE’

Date of Visit: 27th march 2023

Venue: Shree Nakoda Karna Badhir Vidyalaya, Bhiwandi, Kalyan, District- Thane

**Submitted to : Dr. Swarupa Dholam (Fieldwork Agency Supervisor) Registrar,
Maharashtra State Human Rights Commission**

Submitted by: Student of SLRCG, TISS, Mumbai.

CHAPTER 1

INTRODUCTION

“I wouldn't change you for the world, but I will change the world for you”

On 27th March 2023, a team comprising Dr Swarupa N Dholam, Registrar, Maharashtra State Human Rights Commission and fieldwork interns and LL.M. in Access to Justice students from the School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences, visited ‘*Shree Nakoda Karna Badhir Vidyalaya*’ located in Saravali, Bhiwandi, Kalyan District Thane.

The visit aimed to observe and look into the best practices adopted by the institution in rendering quality education to the needed hearing-impaired and mute students. The hearing impaired is an individual who has a damaged hearing mechanism and faces difficulty in speech and language development. It is to be highlighted that the educational institution provides quality education and renders vocational training to the special student to attain income after completing their schooling.

Education, a basic human right, plays a crucial role in the growth of individuals, communities, and nations. It is significant because it forms the cornerstone of our society's prosperity. It is a person's key to the future. A decent education will enable a person to accomplish any kind of goal. Because education is inextricably connected to all development objectives, opening classroom doors to all children will aid in severing the intergenerational chains of poverty. A decent education can help you succeed in our society and is a good indicator of success in terms of employment, income, and independence later in life. A decent education allows people to define their abilities in a society frequently preoccupied with categorising people according to their disabilities. All kids have some fundamental requirements. Children with disabilities have needs and issues comparable to and distinct from those of other children. Children with disabilities have certain common needs and problems, such as the need for adequate education,

autonomous functioning, respect for their individuality, etc., even though their needs and problems are linked to their characteristics.

The school was established on 9th August 1991. With its 25 years of journey of excellence in rendering quality education to special students, it has succeeded in creating its trademark in this field. The school works under the “Shree Bhairav Seva Samithi” trust and is a Semi-Government aided school. The admissions for the students are considered from the early intervention, which can be below the age of five years. The admissions to the students are given only if deafness is detected. Observations are made soon after the child is a branch of audiology and the science of estimating hearing acuity for sound intensity and pitch deviations involving thresholds and differing frequencies. Typically, audiometric tests determine hearing levels with the help of an audiometer. Still, they may also measure the ability to discriminate between different sound intensities, recognise pitch, or distinguish speech from background noise. Hearing loss can be mainly classified into four types. It comprises mild with a percentage of impairment less than 40%, moderate with a percentage of impairment of 40-50%, severe impairment with 50-75%, and profound with 75-100% impairment or mixed hearing loss. The students are categorised under these categories or the observation and audiometric test.

The school has a total strength of 220 students (130 boys & 90 girls), of which 171 are hostel students (100 boys & 71 girls) & 49 are day scholars (29 boys & 20 girls). With a total staff of 38, the school comprises 18 special educators and 5 art & craft teachers specialised in training the students. The student-teacher ratio is maintained at approximately 10:1.

It is worth mentioning that "People with disabilities are also people with extraordinary talent. Yet they are too often forgotten. When people with disabilities are denied opportunities, they are more likely to fall into poverty -- and people living in conditions of poverty are more likely to develop disabilities. As long as societies exclude those with disabilities, they will not reach their full potential and the poor, in particular, will be denied opportunities that they deserve. We must work closely with our development partners to remove the barriers that exclude disabled people and ensure equal opportunity for every member of society."(Former World Bank President Paul Wolfowitz).

Every child, regardless of ability or disability, has the right to an education. Every society must recognise this right for hearing-impaired children to receive the proper instruction and education so that they can contribute to the development of their country rather than burdening their parents. Children with hearing impairments should receive care and instruction from family, school, community, health, and social welfare personnel. All parents have to undergo a Parent Infant Program to gain all the information about Cochlear implant to ensure they are aware about the entire procedure pre-surgery & care to be taken post surgery. After parents, schools play a significant role in raising and instructing children with hearing impairments. Children with hearing loss typically have communication and language development issues as their main concern. Most of them use sign language extensively for this reason. It is a system of hand gestures used to express abstract concepts and notions. Children who are profoundly deaf and have some schooling can learn fingerspelling to improve their ability to communicate within their own group and with the hearing-speaking world.

It is very crucial that the families and staff members of the special school, with specialised training, must collaborate to provide the child with meaningful exposure to the world to guarantee an appropriate education. Hearing-impaired students can achieve at varying rates and frequently in a different order. To guarantee that proper development does take place, a substantial intervention that is coordinated by an educational team is required. The educational objectives for students with hearing impairments are the same as those for all students; it is essential to remember this. The objectives include effective communication, social skills, employability, and personal freedom. However, students with hearing impairments need particular interventions and modifications to their educational programmes to achieve these objectives. This report hence highlights the best practices to be adopted in the state to improve the quality of education and accessibility of the same among the hearing impaired and mute children.

1.1 Objectives

- To study the working of the special school for the hearing impaired and muted children in Maharashtra.

- To observe the admission procedure, eligibility criteria, and students' classroom interactions.
- To study and observe the infrastructural facilities provided to the children, like speech therapy rooms, recreational facilities, laboratories, kitchens, etc.
- To recommend, based on the observation, the best practices that can be adopted by other schools.
- To study the achievement gained by the special students in every sphere of extracurricular activities.

1.2 Mandate

The mandate of the conducted visit was set forth by the Maharashtra State Human Rights Commission in pursuance of the Memorandum of Understanding with the School of Law, Rights and Constitutional Governance Tata Institute of Social Sciences, Mumbai, in March 2023.

1.3 Rationale

Children with disabilities are a study in differences. They are either sufficiently below or sufficiently above the limit for the average. They require extremely specialised care, which is not offered in normal classroom settings. In order to start looking into what happens to students with disabilities once they enter the school building, this report aims to learn about the education of such students, the infrastructural facilities provided to them, vocational training and best practices adopted by the school in rendering quality education.

CHAPTER 2

LEGAL FRAMEWORK

2.1 International Framework

Several international conventions and agreements have recognised the rights of children with disabilities, including deaf children. Here are some key provisions related to deaf children in international conventions:

- 1. The United Nations Convention on the Rights of the Child (CRC):** This convention, ratified by most countries in the world, recognizes the rights of children to education, health care, and participation in cultural and recreational activities. Article 23 of the CRC specifically addresses the rights of children with disabilities, including those who are deaf or hard of hearing, and calls on countries to provide them with the necessary support to ensure their full participation in society.
- 2. The United Nations Convention on the Rights of Persons with Disabilities (CRPD):** This convention recognizes the rights of persons with disabilities, including those who are deaf or hard of hearing, to equality, non-discrimination, and full participation in society. Article 24 of the CRPD specifically addresses the right to education, and calls on countries to ensure that persons with disabilities, including those who are deaf or hard of hearing, have access to inclusive education systems.
- 3. The World Health Organization (WHO) and the World Federation of the Deaf (WFD):** WHO and WFD have also recognized the importance of sign language in ensuring the full participation and inclusion of deaf people in society. The WHO has recommended that sign language be recognized and supported as a means of communication for deaf children and adults, while the WFD has called for the recognition of sign languages as official languages in their respective countries.

These international conventions and agreements provide a framework for protecting and promoting the rights of deaf children and ensuring their full participation in society. Countries that have ratified these conventions are expected to take measures to ensure that deaf children are able to enjoy their rights on an equal basis with others.

2.2 National Framework

In India, there are several laws and policies in place that aim to protect the rights and interests of children, including those who are deaf or hard of hearing. Some of the important provision, legislations and policies related to deaf children in India are:

- 1. The Right to Education Act (RTE):** This law mandates that every child between the ages of 6 and 14 has the right to free and compulsory education. This includes children who are deaf or hard of hearing, who may require specialised education and support.
- 2. The National Policy for Persons with Disabilities (NPPD):** This policy aims to promote the full participation and inclusion of persons with disabilities in all aspects of society, including education, employment, and social life. The policy recognizes that children with disabilities, including those who are deaf or hard of hearing, have the right to an education that meets their specific needs.
- 3. The Rehabilitation Council of India Act:** This act established the Rehabilitation Council of India (RCI), which is responsible for regulating and standardising the training of professionals working in the field of rehabilitation of persons with disabilities. This includes professionals who work with deaf children, such as sign language interpreters and special educators.
- 4. The Persons with Disabilities Act (PWD):** This act provides a legal framework for protecting the rights and interests of persons with disabilities in India. It covers areas such as education, employment, accessibility, and non-discrimination. The act also mandates that the government take measures to ensure that persons with disabilities, including those who are deaf or hard of hearing, have equal opportunities to participate fully in society.
- 5. National Programme For Prevention And Control Of Deafness (NPPCD):** The long term objective of this programme is to prevent and control major causes of hearing impairment and deafness, so as to reduce the total disease burden by 25% of the existing burden by the end of 12th Five Year Plan. Other objectives include preventing avoidable hearing loss on account of disease or injury, early identification, diagnosis and treatment

of ear problems responsible for hearing loss and deafness, medically rehabilitating persons of all age groups, suffering with deafness, strengthening the existing inter-sectoral linkages for continuity of the rehabilitation programme, for persons with deafness and to develop institutional capacity for ear care services by providing support for equipment, material and training personnel.

In addition to these laws and policies, there are also a number of non-governmental organisations (NGOs), Charitable Trusts and advocacy groups that work to support deaf children and their families. These organisations provide a range of services and support, including education, vocational training, and counselling.

2.2.1 Provisions under the Constitution of India

The Constitution of India guarantees equal rights and opportunities to all citizens, including children with disabilities. In addition, the Rights of Persons with Disabilities Act, 2016 provides a framework for the protection and promotion of the rights of persons with disabilities, including deaf children.

Some provisions in the Constitution of India for deaf children are:

- 1. Right to Equality:** Article 14 of the Constitution guarantees the right to equality before the law and the equal protection of laws to all citizens, including deaf children. This ensures that they are not discriminated against on the basis of their disability.
- 2. Right to Education:** Article 21A of the Constitution provides for the right to education for all children between the ages of 6 and 14. The Right of Children to Free and Compulsory Education Act, 2009 further guarantees the right to free and compulsory education to all children, including deaf children.
- 3. Non-Discrimination:** Article 15 of the Constitution prohibits discrimination on the grounds of religion, race, caste, sex or place of birth. This provision ensures that deaf children are not discriminated against on the basis of their disability.

2.2.2 The Rights of Persons with Disabilities Act, 2016

The Rights of Persons with Disabilities Act, 2016 provides several important provisions for deaf children, which include:

- 1. Communication:** The Act recognizes the importance of communication and mandates that the Government provide accessible information and communication technology to persons with disabilities, including deaf children. This includes providing sign language interpretation and other assistive devices to facilitate effective communication.
- 2. Education:** The Act recognizes the right to education for all children and mandates that all schools, including private schools, provide inclusive education to children with disabilities. It also requires that special educators and sign language interpreters are made available to facilitate learning for deaf children.
- 3. Accessibility:** The Act mandates that all public buildings, spaces, and modes of transport are made accessible to persons with disabilities.
- 4. Non-Discrimination:** The Act prohibits discrimination on the grounds of disability, in various areas, such as employment, education, public transport, and access to public buildings.
- 5. Assistive Devices:** The Act recognizes the importance of assistive devices for persons with disabilities, including deaf children, and mandates that the government provide such devices to facilitate their full and equal participation in society.
- 6. National and State Disability Commissions:** The Act also provides for the establishment of National and State Disability Commissions to protect and promote the rights of persons with disabilities.

These provisions aim to ensure that deaf children have equal access to education, communication, and other facilities, and are not discriminated against on the basis of their disability. They also recognize the importance of assistive devices and inclusive education in promoting the full and equal participation of deaf children in society.

2.2.3 The Maharashtra Public Trusts Act, 1950

The Karna Badhir Vidyalaya the team visited was established under the Trusts Act of Maharashtra.

The Maharashtra Public Trusts Act (the MPT Act) governs public trusts in the Indian state of Maharashtra. The Act's name has been changed from "The Bombay Public Trusts Act, 1950" to "The Maharashtra Public Trusts Act." The Charity Commissioner is the guardian of public trusts under the MPT Act. The Charity Commissioner's office has been given the authority to supervise, regulate, and control public trusts. The act applies to all public religious and charitable trusts with their administrative offices or a substantial portion of their assets in the state of Maharashtra. Its provisions apply to Societies registered under The Societies Registration Act, 1860, whose administrative office or a substantial portion of their property is located in the state of Maharashtra.

Some important definitions under the MPT Act is as follows:

- **Section 2 (13):** Public Trust: means an express or constructive Trust for either a public religious or charitable purpose or both and includes a temple, a math, a waqf, church, synagogue, agiary or other place of public religious worship, a dharmada or any other religious or charitable endowment and a society formed either for religious or charitable purpose or for both and registered under the Societies Registration Act, 1860.

This definition covers:

- a) An express or constructive trust
 - b) for either a public religious or charitable purpose or both
 - c) a temple, a wakf, church, synagogue, agiary or other place of public religious worship,
 - d) a dharmada or
 - e) any other religious or charitable endowment and
 - f) a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860
- **Section 9 (1):** Charitable Purpose: A charitable purpose includes-
 - a) relief of poverty or distress

- b) education
- c) medical relief
- d) provision for facilities for recreation or other leisure time occupation (including assistance for such provision), if the facilities are provided in the interest of social welfare and public benefit, and
- e) the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

2.2.4 Policy and Regulations in Maharashtra for Deaf Children

Some of the Policies and Regulations for deaf children in the state of Maharashtra are:

- 1. Rajiv Gandhi Scheme (Financial Assistance):** The Maharashtra State Government provides financial assistance to parents of deaf children under the Rajiv Gandhi Scheme for the Empowerment of Persons with Disabilities. The scheme provides financial assistance for the purchase of hearing aids, cochlear implants, and other assistive devices.
- 2. Maharashtra State Council for Vocational Training (Skill Development):** The Maharashtra State Government has established the Maharashtra State Council for Vocational Training (MSCVT) to promote vocational training and skill development among persons with disabilities, including deaf children.
- 3. The Maharashtra State Special Education Rules, 2001:** The rules provide for the establishment of special schools and institutions for the education and training of persons with disabilities.
- 4. The Maharashtra State Assistive Devices Scheme:** The scheme provides assistive devices such as hearing aids, mobility aids, and other devices to persons with disabilities, including deaf children.

These regulations and policies aim to promote the rights and inclusion of persons with disabilities in all aspects of life, and provide them with the necessary support and assistance to enable them to live a life of dignity and independence.

CHAPTER 3

OBSERVATIONS AND INFERENCES

After interacting with Smt. Ashwini Dunage, Principal, Shree Nakoda Karna Badhir Vidyalaya, Bhiwandi, Kalyan District, Thane and observing the school premises, the researchers have taken the following observations and inferences from the visit to the School.

3.1 Best practices to secure the better future of the children.

The school is focussing on the overall development of the child so that he/she does not lack behind the other children of his/her age. The school aims at creating a better human resource to the society that does not depend upon others but is able to help others and contribute toward betterment of society and development of the country. The researchers have found that the school has adopted following best practices to cater the special needs of the children with hearing impairments.

1. Students are admitted from all over India.

It was shared by the Principal that the school accepts students from every part of India. There is only one criteria for the student to be admitted in the school is that he/she should be deaf- dumb. A student not having a Disability Certificate is also admitted provisionally upon examination. The school also assists the parents in obtaining a Disability Certificate from the appropriate Govt. authority.

2. Children with severe and profound hearing impairment is admitted to the school.

As informed by the Principal, there are five types of hearing impairment that a child may have. These are mild, moderate, severe, profound and mixed. The child having mild or moderate hearing impairment can listen the sounds and often responds to them, hence they are referred to be admitted in a regular school.

The child having severe or profound hearing impairment can not hear the sounds, hence he/she needs to be admitted in a special school for deaf-dumb students. The majority of students admitted to the present school are in either severe or profound categories. The last type of hearing impairment is the mixed. A child having mixed hearing impairment needs special

education, therefore they are referred to be admitted in special schools catering the special needs of children with mixed hearing impairment.

3. Catering to the specific needs of each students on individual basis.

Students are admitted to the specific grade based on their level of understanding assessed & evaluated by the school during the initial examination. Most of the students are admitted either in KG-3 or 1st grade.

4. Encourages a good parent teacher communication and co-ordination.

It is well known fact that home is an early school for a child and the type of environment it gets during its early years shapes the personality of the child. The school encourages every parent of the admitted child to be actively involved with regular participation in the education of the student thereby supporting the child in the entire process of education & allied activities. This helps the children in getting a conducive environment to develop to their full potential.

5. Better infrastructure to cater the needs of children with hearing impairment.

It was observed during the visit that the school has better infrastructure to cater the special need of children with hearing impairment, in terms of physical infrastructure like sound-proof rooms to conduct speech therapy sessions, special educators and software, technological and technical support needed for better education and training of students.

The Speech Therapy sessions are conducted in a specially designed sound proof room. The therapy is conducted by a certified & trained Audiologist-Therapist. The speech therapy is administered via a Doctor-Speech Software which is based on interactive games & audio-visuals for children. The audiometric tests determine the development of the child aided by the Cochlear implant using different parameters of sound. Every student of the school attends speech therapy sessions 3 times every week.

Special Educators who are specially trained in sign language, also communicate with the students using a microphone that is directly connected to the hearing aid machines by a centralised hub system placed in each classroom. Every classroom is equipped with a big screen to showcase the visuals during teaching.

Allied academic provisions: The School is equipped with Library, Science Laboratory and Computer lab to provide the students with overall learning experiences both in theory and in practice.

6. Gearing up students for 10th Board at the earliest from 8th Standard.

The school starts preparing the students for SSC (matriculation - 10th grade) from the 8th grade itself which helps the students to dedicate sufficient time to learn, practice, revise & give mock tests thereby ensuring higher pass percentage & better prospects for college education.

7. Cochlear implantation and Audio Video Therapy (AVT) Course.

The school also promotes the cochlear implantation for the suitable students so that they can be admitted in a normal school and can learn from there. Cochlear implantation helps the child to develop hearing capacity like a normal person. A 3-year Audio Video Therapy (AVT) course is mandatory for every specially-abled child post cochlear implantation. The eligibility for cochlear implantation are as follow:

- a. The child should be below the age of 5 Years,
- b. At least one audio nerve of the child should be functional
- c. The child shall mandatorily be getting a 3-year Audio Video Therapy (AVT) course that helps the child post the Cochlear implantation to develop the cognitive ability to hear, speak and learn. Failing this training course, the implantation would be of no use.

The specially-abled children from families having Orange ration card avail hearing aid devices & the AVT under the ADIP (Assistance to Disabled Persons) Scheme.

Funds for the cochlear implant, purchasing of hearing aid devices along with maintenance, AVT-speech therapy are procured from the following sources:

- a. Aid by Government of India - Central Schemes
- b. Aid by Government of Maharashtra - State Schemes
- c. Partial aid by the Shree Bhairav Seva Samithi Trust
- d. Assistance by NGOs & Corporates under the CSR (corporate social responsibility) initiative.

8. After school career guidance and support.

The school aims at developing the students into a better human resource, hence it also provides the students after school career guidance and support so that the students have the clear picture of their future in their mind. It conducts a Counselling session on the day when the students get their result of 10th Board in a meeting with student and their parents. It also provides the students with needed funds and networking, wherever possible so that the student can get a good employment opportunity, a better knowledge of scholarship schemes available for them for pursuing higher education, or to start their own venture.

9. Vocational Courses.

The school is providing the students with proper training facilities in vocational courses to develop them for an economically independent future. The following vocational courses are provided to students from the 5th standard based on their choice and interest.

- Beautician Course
- Sewing Course
- Cooking Course
- Photography Course
- Handicraft Course
- Electrician/ ITI Training Course
- Fabrics Course

The Principal of the school also shared with inspirational stories on how these courses have helped the students in becoming financially independent. The courses have also brought behavioral changes in the students. Two Ex- students of the school have started their Beauty Parlour after passing out from the school. One student went to France for competing in an international photography competition and secured gold medal there, plus he also learnt the photography course provided at the school. So, now he is working as a professional photographer for different sports events across the Maharashtra state.

10. Vocational Courses..

The school also encourages the students to actively participate in extracurricular activities as well. The school has a play ground. It has the facility for indoor and outdoor games. The students are encouraged and supported to take part in following co curricular activities like:

- Sports
- Procession Band
- Dance and Drama
- Art and Craft

It was shared by the Principal that the students eagerly participated the sports and other activities. They also participate in various sports competitions and tournaments at state and national level and also win trophies there. A whole room was occupied with the medals and trophies won by the students in different sports competitions.

The school also provides the children with training of playing musical drums, despite the fact that the students are there with hearing impairments. This inculcates the spirit in students that they are nowhere behind any one. The drum band of the school is invited every year to be a part of Procession Parade at the eve of Republic Day by the state government.

3.2 Issues Observed during the Visit

The researchers visited the whole premises of the schools including the girls' hostel. The kitchen of the hostel was very hygienic and the quality of food being provided was also satisfying. There were two separate dining halls in the hostels, one for the boys and another for the girls. The students were encouraged to their daily chores on their own like cleaning of plates, washing their clothes. There were two female attendants in the girls' hostel who resides there 24 by 7 to take care the needs of the needs of the girls. There was one warden in the boys hostel with no attendants. The parents are allowed to meet the children residing in the hostel once in a month after obtaining prior permission from the school.

However the researchers have observed the following issues during the visit to the Nakoda Karna Badhir Vidyalaya:

1.Unhygienic toilets

The toilets of the school and girls' hostel was in very unhygienic condition. There was no flush in the toilets. They were not properly cleaned. Two- three bathrooms were not inworking condition. The sink of the bathroom was also not clean and unsafe to use. There was open dustbin kept outside the toilet which attract harmful germs and insects, thereby endangers the health of the students of the school. There was no handwash or soap available in the washrooms.

2.No beds for sleeping

It was also observed that the there was no bed available to the students residing in hostel. They were provided with thin mattresses. It was also observed that the students were provided only one bedsheet, which they used either as mattress cover or as quilt.

3. Improper Library- The library in the school was not properly maintained as there were no books arranged and neither there was any sitting. The room allotted to the library was being used as storing the extra stationary items and other equipment.

4.Government fund not on time- The authorities informed the team that there is insufficient fund from the Government for the specially abled children. In this situation, the parents have to bear the huge cost of the treatment which is around Rs. 9 Lakhs. The maintenance after the implantation is around Rs. 10,000 which every parent has to bear without any Government support.

5.Slow implementation of government schemes- It was informed to the team that the Government scheme made for the treatment of the specially abled children is inefficiently working as the cochlear implantation process is very slow. Under this scheme, the children are referred to only 1 hospital as informed by the school authorities.

6. Fear of stigmatization in society of parents

It was shared by the Principal that many parents due to fear of stigmatisation send their children to normal schools, thinking that they will learn there. But it inturns hampers the overall education and development of the child. In normal school, they do not get the proper attention

and care that are provided to the children in special schools and thus they lose their academic year. Many times a child is also traumatised with the non inclusive environment of the normal schools which affects the confidence of the child and act as a barrier to his/her development.

CHAPTER 4

RECOMMENDATIONS AND CONCLUSION

Following are the possible recommendations as suggested by the fact-finding team-

- **Timely and Efficient Cochlear Implantation-** It is suggested that under the National Programme for Prevention and Control of Deafness (NPPCD), the Cochlear implantation should take place on time with proper care.
- **Inclusion of more Hospitals under the NPPCD scheme-** It is suggested that there should be more hospitals included for the Government aided cochlear implant of the children as currently there is only 1 hospital for the same.
- **Representatives from specially abled persons in Government Institutions-** It is suggested that the Maharashtra State Human Rights Commission should hire people from specially abled sections and the Commission as well as the Maharashtra Government should give directions to the Government Institutions in Maharashtra to have specially abled people. This is urgently needed so that the needs and basic human rights of the specially abled persons can be addressed and they get decent employment.
- **Volunteer work of Therapist-** It is suggested that more and more volunteers should be there for the role of Therapist in the school.
- **Improvement in condition of Washroom and Toilets in the School -** It is suggested that the conditions of toilets need to be improved as 2 of them were not working and the working ones were in pathetic condition with unhygienic environment, no flush and choked toilet seat.
- **Proper Library -** It is suggested that there should be a Library in the school as the room allotted to the Library is used as a store room for the books, copies and other equipment.
- **Govt. Regulations for Affordable Speech Therapy -** It is suggested that the Government of India at the national level & the Government of Maharashtra at the state level, establish a set of rules & regulations for the private sector that will put a cap or an upper limit on the charges to avail speech therapy in order to bring down the expensive rates thereby making it affordable to all the specially-abled children. The Governments may also implement schemes providing speech therapy at subsidised rates for the middle income group families.

- **Vocational Courses in Regular Schools** - It has been witnessed that despite having proper education, many youths in India lack behind in getting employment or starting their own business, because they don't have skills that can help them to earn money. The Nakoda Karna Badhir Vidyalaya is providing the students with various vocational courses inculcating the skills which are helping the students to be financially independent in the future, based on the interest of the student.

It is suggested that similar facilities for providing vocational courses to students should be provided in other schools also, so that the students have the basic skills that will help them in becoming an economically independent person, after completing their basic education.

- **Awareness among Parents-** It can be suggested that the parents should be made aware to send their specially abled children to the Special Schools as here the children will get proper attention, learning and guidance which are not available in normal schools. The stigma associated with going to special schools should be removed from the minds of the people as these schools play a very important role in developing the personality of the child.

It can be concluded that the visit to the Nakoda school was a great learning experience for all the students. The school is working towards a noble cause enabling the specially-abled children to become self-reliant along with the academics, they are giving vocational training to the students so that they can start their own business after school without being dependent on anyone. The school is an example of best practices being followed and is an inspirational example to all the other schools in India to make their students self-reliant. The staff was cooperative and very welcoming throughout the visit. There is a primary screening test to check the type of hearing disability - mild, moderate, severe, profound, or mixed. After that, an early intervention program starts. There are parent-teacher meetings and consultative sessions. After getting the parents' consent, cochlear implantation takes place if the child is below 5 years old with an audio nerve working. The school provides specialised teachers giving students speech therapy and sign language training. There are hostels for boys and girls with separate dining halls for each. The visit inspired the team to contribute towards the welfare of the specially abled children. The

Advocates can create legal awareness among students about their rights. They can act as a bridge between the school and the government by doing advocacy for them.

ANNEXURES

Fig:1 "Silent determination - these students at the deaf school are working hard to achieve their goal."



Fig:2 Early Intervention Children



Fig:3 Pathetic Condition of the toilets on the academic floor



Fig:4 Food Menu for hostel residents of school

श्री नाकोडा कर्ण बधिर विद्यालय, सरवली भोजन गृह तक्ता			दिनांक: 27/03/2023 संचेती परिवार, अंधेरी (पूर्ण वचवि पौष्टिक आहाराचे लाभार्थी) पौष्टिक आहार सोमवार: ✓ झायफ्रूट मंगळवार: फ्रूट बुधवार: सलाड गुरुवार: फ्रूट शुक्रवार: गुळशेंगदाणे शनिवार: फ्रूट रविवार: अंकुरीत कडधान्ये
नाश्ता सकाळ चहा, बिस्किट द्रायफ्रूट्स नाश्ता दुपार _____ _____	जेवण सकाळ चपाती मटकी भाजी दाळ भात	जेवण संध्याकाळ चपाती रोवगाभाजी दाळ भात	
मुले-74	मुली-51	एकुण-125	

Fig:5 Dining Hall for the students at the School



Fig:6 Cooking Room at the school for providing vocational education of cooking to the students.





Fig: 7 Science Laboratory at the School with the various equipment and devices.

**“MAKING 75 DIVYANG FAMILY SELF RELIANT ON THE OCCASION OF
75th AMRIT MAHOTSAV”
AT GOVERNOR’S HOUSE (RAJ BHAVAN) , MAHARASHTRA**

On 26th of March, 2023, Maharashtra State Human Rights Commission, District Legal Services Authority Mumbai in collaboration with ‘Hetu Charitable Trust’ organized a program at Raj Bhavan, Maharashtra for the specially abled people in the presence of Honourable Governor of Maharashtra Shri Ramesh Bais as the Chief Guest, Hon’ble Shri Mangal Prasad Lodha, Minister, Tourism, Skill Development, Entrepreneurship, Women and Child Development, Guardian Minister of Mumbai Suburban district. Hon’ble Justice K.K. Tated, former Chief Justice of Himachal Pradesh, the Chairperson of Maharashtra State Human Rights Commission Hon’ble Justice K.K. Tated, Honourable Shri M. A. Sayeed, Member, MSHRC, Honourable Shri Bhagwant D. More, Member, MSHRC, Dr. Swarupa N. Dholam, Registrar, MSHRC, Smt. Nutan T. Bhosle, Assistant Registrar, MSHRC along with other notable guests were present at the program.

The program was organized on the occasion of the 75th Amrit Mahotsav where 75 Divyang families and needy womens were provided with sewing machines and electronic flour mill machines to make them self reliant.

The fieldwork interns at Maharashtra State Human Rights Commission and students of LL.M in Access to Justice at School of Law Rights and Constitutional Governance, Tata Institute of Social Science were volunteers for the program with the main objective of managing and smooth functioning of the whole event. The volunteers assisted the Registrar of MSHRC in managing the arrangements for specially abled people to make their experience at the event as convenient as possible.