

Visit to the Government Krupa Women Shelter Home

Karjat



**Government Krupa Mahila Vasatigruha,
Shri Malhar- B Wing, Lallani Colony,
Dahiwali, Karjat,
Raigad-410202
Krupa.raigad@gmail.com**

Visit Date: September 14, 2023

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

Dr. Prof. Arvind Tiwari, Dean, School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai

Dr. Devakumar Jacob (Fieldwork Coordinator) Asst. Professor, School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai

Students of the one-year LLM program of the School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai, 2023-2024 batch.

Aditya Raj Marandi M2023ATJ006	Nancy M2023ATJ020
Alok Sharma M2023ATJ008	Huma Wasim M2023ATJ044
Roy Stephen Rodrigues M2023ATJ027	Vishakha AryaM2023ATJ040
Ashutosh Kumar M2023ATJ010	Uttkarsh Singh Goyat M2023ATJ036
Harsh Kumar Jauhar M2023ATJ015	Arundhati Manish Tadmok M2023ATJ043
Tanmay Tejaswi M2023ATJ035	

TABLE OF CONTENTS

SERIAL .NO	TITLE	PAGE.NO
1	INTRODUCTION	4
2	MANDATE	4
3	OBJECTIVES OF THE VISIT	4
4	RESEARCH METHODOLOGY	5
5	HOMELESSNESS: AN OVERVIEW	6
6	SHELTER HOMES	7
7	LEGAL FRAMEWORK FOR PROTECTION OF HOMELESS WOMEN	7-11
8	SCHEMES FOR SHELTER HOMES FOR WOMEN	11-15
9	MAHARASHTRA SCHEMES FOR SHELTER HOMES	15-16
10	LANDMARK CASES	16 - 22
11	OBSERVATION AND FINDINGS	22 - 25
12	CASE STUDY	25 - 26
13	LEARNING OUTCOMES	26 - 32
14	SUGGESTIONS	32 - 35
15	CONCLUSION	36
16	ANNEXURE 1	37 - 38
17	ANNEXURE 2	38
18	PICTORIAL OBSERVATION OF THE VISIT	39 - 42

I. INTRODUCTION:

The purpose of this report is to document observations made during the visit to Shasakiya Krupa Mahila Vastigruh, a shelter home for women in Karjat, District: Raigad, Maharashtra. The visit aimed to assess infrastructure, living conditions, dietary provisions, and other essential aspects related to the well-being of women residing in the shelter home. This visit was prompted by a custodial death incident involving a woman named Laxmi, whose case was reported to the Maharashtra State Human Rights Commission. The shelter home primarily accommodates women falling into three categories: those with mental disabilities, psychological illnesses, and those who are homeless or not integrated into their families.

II. MANDATE OF THE VISIT:

The mandate of any Maharashtra State Human Rights Commission visit flows from section 12, read with section 25 of the Protection of Human Rights Act, 1993. Section 12 of the Act provides for the 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”. Shelter Home for Women is an institution under the control of the State Government, so it becomes one of the functions of the Maharashtra State Human Rights Commission to visit such institutions and observe the living conditions.

III. OBJECTIVES OF THE VISIT:

1. To investigate, analyse, and make a report on the custodial death of Laxmi.

2. To study the scheme of shelter homes from the grassroots level and understand the project's challenges.
3. To comprehend the admission process of women into the shelter home, as well as their rehabilitation and reintegration into the family and society.

IV. RESEARCH METHODOLOGY:

The research methodology employed in this study was a blend of qualitative, descriptive, and exploratory approaches, aiming to investigate and analyse two main objectives comprehensively:

Investigation and Analysis of Custodial Death of Laxmi: The study began with an in-depth investigation into the custodial death of Laxmi, employing qualitative research techniques. This involved extensive review and analysis of available legal documents, police records, witness statements, and any media coverage related to the incident. Additionally, interviews were conducted with relevant stakeholders; the objective was to unravel the circumstances surrounding Laxmi's custodial death, examine potential human rights violations and identify systemic issues.

Study of Shelter Home Scheme and its Implementation Challenges: An exploratory approach was taken to understand the shelter home scheme from the grassroots level and assess the challenges in its implementation. Field visits were made to the Karjat Krupa women's shelter home, involving direct interactions with administrators, staff, and inhabitants. Semi-structured interviews were employed to gather qualitative data regarding the scheme's functioning, shortcomings, and hurdles at the ground level.

Comprehending the Admission and Rehabilitation Process for Women: Understanding the admission process into shelter homes for women and their subsequent rehabilitation and reintegration was approached through a descriptive methodology. Interviews were conducted with women admitted to shelter homes, focusing on their experiences and the entry process. Additionally, discussions were held to comprehend the strategies and programs to support the residents in their journey toward reintegration into family and society. This involved an analysis of the rehabilitation services offered, the effectiveness of these programs, and the impediments encountered in the process.

The qualitative data collected through interviews, case studies, and field observations were analyzed using thematic analysis, allowing for the identification of recurring themes, patterns, and critical insights about the custodial death case, the shelter home scheme, and the rehabilitation processes. The findings from each objective were then synthesized to produce a comprehensive report that provided a holistic understanding of the issues investigated.

V. HOMELESSNESS: AN OVERVIEW

According to the Census of India 2011, India has more than 1.7 million homeless persons, of which 938,384 are located in urban areas. The Indian government considers the official Census of India's definition of homelessness and defines 'houseless people' as persons who are not living in buildings or 'census houses.' A census house refers to 'a structure with roof.' Hence, for measuring the extent of homelessness or determining eligibility programs and services, the government considers those who "live in the open on roadside, pavements, in home pipes, under flyovers and staircases, or in the open in places of worships, mandaps (porch), railway platforms, etc.", as "houseless people."¹

Homelessness constitutes the worst violation of the human right to adequate housing, and homeless people, especially women, are among the most marginalized, ignored, and discriminated against in the country. Living on the streets without any shelter greatly increases homeless women's vulnerability to abuse, sexual violence, injury, disease, mental illness, and death. At the same time, a large number of women are lost because they have escaped situations of violence at home or are they were turned out of their homes for various reasons, including HIV and mental illness. Homeless women, particularly young women, suffer the worst kinds of violence and insecurity and are vulnerable to sexual abuse, exploitation, and trafficking. Instances of rape, molestation, and women spending sleepless nights guarding their young adolescent girls are a common feature among homeless women.

"Women and children who are homeless experience particular forms of violence or are more vulnerable to them. The lack of access to medical services for homeless women,

¹ Census of India 2011. Document available at:
http://censusindia.gov.in/Data_Products/Data_Highlights/Data_Highlights_link/concepts_def_hh.pdf

owing to their status, has a disproportionate impact, particularly during pregnancy and childbirth. Many homeless children and women suffer from severe malnutrition.” – Special Rapporteur on adequate housing, Report on Mission to India, January 2017

VI. SHELTER HOMES:

The dictionary meaning of shelter suggests something that covers or affords protection². The concept of shelter homes was built to afford care and protection to those distressed or underprivileged from an unfavorable environment.

The ‘Right to Adequate Housing’ or the ‘Right to Shelter’:

The human right to adequate housing is recognized in international law, as opposed to the right to shelter, and provides wider legal protection and entitlements. However, in the majority of cases related to housing rights, Indian courts have referred to the ‘right to shelter’ instead of the ‘right to adequate housing.’ In a few of the cases such as in *Ajay Maken v. Union of India*³, *Millennium Educational Trust v. State of Karnataka*⁴, *Shivaji Krishna Zunjare v. State of Maharashtra*⁵, etc. the judiciary has used the language of the ‘right to housing.’

‘Adequate housing’ is not merely the provision of shelter in the form of four walls and a roof but also includes fundamental elements necessary for individuals, groups, and communities to live adequately, and with peace, safety, security, and dignity, as elaborated by the Special Rapporteur on Adequate Housing and the General Comments of the UN Committee on Economic, Social and Cultural Rights, cited above. The human right to adequate housing is also integrally linked to other human rights, including those required to fulfil an acceptable standard of living.

² Merriam-Webster

³ W.P. (C) 11616/2015, High Court of Delhi

⁴ ILR 2013 KARNATAKA 1452

⁵ 2004 (6) BomCR 133

VII. LEGAL FRAMEWORK FOR THE PROTECTION OF HOMELESS WOMEN:

1. INTERNATIONAL CONVENTIONS & FRAMEWORK:

The following are the international conventions and frameworks that encompass the rights and protection of homeless women, including shelter:

A. Universal Declaration of Human Rights (UDHR):

The UDHR as adopted by the United Nations in 1948, recognizes *the right to an adequate standard of living* which includes food, clothing, housing and medical care and necessary social services under Article 25(1)⁶. Hence, the concept of homelessness was recognized by the same.⁷

B. International Covenant on Economic, Social and Cultural Rights (ICESCR):

ICESCR as adopted in 1966, reaffirmed this right under Article 11.1 which stated: “*State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living*”.

The scope of the right is elaborated in General Comment 4 of the United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR), which states that regardless of context, certain elements are essential for housing to be considered ‘adequate.’ These include: the legal security of tenure; availability of services, materials, facilities, and infrastructure; affordability; habitability; accessibility; location; and, cultural adequacy.⁸

This list of adequacies has been further expanded by Housing and Land Rights Network and the Special Rapporteur on Adequate Housing to include the additional elements of: physical security; participation and information; access to land, water, and other natural resources; freedom from dispossession, damage, and destruction; resettlement, restitution,

⁶ https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf accessed on 14:14 on 24/9/23

⁷ Surbhi Singh, Shelter Homes in India : A study

⁸ United Nations Committee on Economic, Social and Cultural Rights, General Comment 4: ‘The Right to Adequate Housing’ (Art. 11 (1) of the Covenant), 1991. Available at: http://hln.org.in/documents/CESCR_General_Comment_4.pdf

and compensation; non-refoulement and return; access to remedies; education and empowerment; and, freedom from violence against women.⁹

General Comment 7 of CESCR further lays down the obligations of State Parties with regard to forced evictions.¹⁰

In consonance with these international instruments, the first Special Rapporteur on Adequate Housing, in 2006, aptly defined the human right to adequate housing as: *“The right of every woman, and man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.”*¹¹

The Special Rapporteur on Adequate Housing, in her report on the access to justice for the right to housing has outlined the normative framework within which relief may be provided for violation of the human right to adequate housing.¹² Access to justice for the right to housing includes “recognizing the inherent dignity” of those whose right has been violated and “providing a human rights space in which the claim to a right to live in dignity and security is clearly heard, valued and responded to.”

C. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):

CEDAW as adopted in 1979, obliges states to take measures to eliminate discrimination against women. The CEDAW’s General Recommendation no. 19 (1992) dealt with gender-based violence against women and explicitly on the violence resulting in homelessness of women.¹³

⁹ See, ‘Questionnaire on Women and Housing,’ Annex 3 of the report of the Special Rapporteur on Adequate Housing, A/HRC/4/18, February 2007. Available at:

<http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

¹⁰ See, General Comment 7 (‘The Right to adequate housing: Forced evictions’) of the United Nations Committee on Economic, Social and Cultural Rights, 1997. Available at:

http://hlrn.org.in/documents/CESCR_General_Comment_7.pdf

¹¹ Report of the Special Rapporteur on Adequate Housing, E/CN.4/2006/41, March 2006. Available at:

<http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

¹² Report of the Special Rapporteur on Adequate Housing, A/HRC/40/61, January 2019. Available at:

<http://www.unhousingrapp.org/user/pages/04.resources/Access%20to%20justice%20Report.pdf>

¹³ <https://www.ohchr.org/sites/default/files/Documents/HRBodies/CEDAW/GR19/GlobalInitiativeESCR.pdf>

accessed on 23:21 on 24/9/23

D. United Nations Sustainable Development Goals:

Goal 11 of the SDGs focuses on making cities and human settlements inclusive, safe, resilient and sustainable. It includes a target (Target 11.1) to ensure access for all to adequate, safe, and affordable housing and basic services and upgrade slums.

E. United Nations Habitat Agenda:

The United Nations Human Settlements Programme, UN-Habitat, is the United Nations agency for human settlements. It is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. The United Nations Millennium Declaration recognizes the dire circumstances of the world's urban poor. It articulates the commitment of Member States to improve the lives of at least 100 million slum dwellers by the year 2020 – Target 11 of Goal No.7 – a task mandated to UN-Habitat.¹⁴

F. United Nations Commission on the Status of Women (CSW):

The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. A functional commission of the Economic and Social Council (ECOSOC), it was established by ECOSOC resolution 11(II) of 21 June 1946.¹⁵

2. NATIONAL LEGAL FRAMEWORK

A. The Constitution of India, 1950:

- According to Article 21 of the Constitution of India, “*No person shall be deprived of his life or personal liberty except according to procedure established by law.*” The Right to life enshrined under this Article also encompasses a life with dignity and it should not to be interpreted as mere animal existence.¹⁶

¹⁴ <https://www.un.org/youthenvoy/2013/08/un-habitat-united-nations-human-settlements-programme/>
accessed on 00:05 on 25/9/23

¹⁵ <https://www.unwomen.org/en/csw>

¹⁶ Maneka Gandhi v. UOI

- Articles 19(1)(d), 19(1)(e), and 19(1)(g) of the Constitution, which provide for the rights to move, settle, and carry out trade, respectively, in any part of the country, the Constitution guarantees protection of the right to life, residence, and livelihood in India.
- However, *there is no specific constitutional provision or national and state laws that address the issue of homelessness or inadequate housing in the country.* Though policies and schemes are available to address the issue of homelessness and inadequate housing, they are not legally enforceable and hence not sufficient to address the violation of housing rights of the majority of the people.¹⁷

The international conventions and frameworks provide a foundation for addressing the issue of homelessness. National governments are responsible for incorporating these international standards into their legal and policy frameworks to protect the rights and dignity of homeless people and ensure access to shelter and housing.

B. Legislations mandating shelter homes for women:

- Protection of Women from Domestic Violence Act, 2005:

This law, commonly known as the Domestic Violence Act, includes provisions for the protection of women who are victims of domestic violence. It empowers the courts to pass protection orders, which may include providing the woman with a place of shelter in a shelter home.

- National Commission for Women (NCW):

The NCW, established under the National Commission for Women Act, 1990, works to protect and promote the rights of women. It supports initiatives related to shelter homes for women and investigates complaints of violations of women's rights.

SCHEMES FOR SHELTER HOMES FOR WOMEN:

¹⁷ Housing and Land Rights Network, Shelter for Homeless Women: Working Paper with a focus in Delhi

➤ Short Stay Homes¹⁸:

In 1969, they were launched by the then Department of Social Welfare. These are meant to be temporary shelters (available for a period of six months to three years) for women and girls who were in “social and moral danger” or were rendered homeless due to a range of violent experiences or abuse, exploitation, destitution, lack of economic support, emotional disturbance or mental illness and such like. Preference is given to those between the age group of 15 to 35 years.

Other than accommodation, the Short Stay Home scheme offers maintenance and rehabilitation services through voluntary organizations. It allows children up to the age of seven years to stay with their mother, after which they are sent to a children’s home. It also mandates vocational training and skill development.

➤ Working Women’s Hostels¹⁹:

These were conceptualized in 1972-73 to offer safe, affordable and convenient accommodation for women in paid employment. These hostels are supposed to be built in cities, smaller towns and even rural areas. The eligibility criteria for a place in these hostels includes women who are single, widowed, divorced, separated, married but whose husband/family lives in another city. Preference is given to those from disadvantaged sections and the physically challenged.

As per the June 2015 policy on these hostels, only women whose gross income does not exceed Rupees 50,000 per month in metropolitan cities or Rupees 35,000 per month in any other place are entitled. Girls up to the age of 18 years and boys up to the age of 5 years are allowed to live with their mothers. These hostels also offer day care facilities for the residents’ children. The maximum period of stay in such hostels is three years.

¹⁸ Short Stay Homes for Women and Girls, SOCIOLOGY GUIDE <https://www.sociologyguide.com/women-and-society/short-stay-homes.php>

¹⁹ Scheme for Working Women Hostel, MWCD WEBSITE
https://wcd.nic.in/sites/default/files/Working%20Women%20Hostel_about_revised_about.pdf

➤ Swadhar Homes²⁰:

These were introduced in 2001-02 as part of the Swadhar scheme by the Department of Women and Child Development, after having seen the limited scope of the Short Stay Homes' scheme. The intent of the Swadhar scheme is to provide multiple and integrated services to women who have no socio-economic support such as destitute, poor widows, survivors of natural disasters and terrorist/extremist violence, migrants or refugees, ex-prisoners without family support, survivors of natural disasters, and women deserted by families because of physical/mental disabilities. The ambit of services offered by Swadhar includes food, clothing, shelter, healthcare, counseling, legal support, socio-economic rehabilitation through education, awareness generation and skill building.

➤ Ujjawala²¹:

It is a scheme of the Ministry of Women and Child Development implemented in the year 2007 and specifically positioned at (adult female and minor) survivors of trafficking for commercial sexual exploitation and to enable prevention, rescue, rehabilitation, reintegration and repatriation. To aid protection and rehabilitation, Ujjawala homes were established to offer survivors food, shelter, clothing, education, vocational and livelihood opportunities, and medical and legal assistance. For cross- border survivors, the scheme has mechanisms that can enable reintegration and repatriation. The implementation of the scheme is done by nongovernmental organizations.

➤ Swadhar Greh²²:

Following a performance assessment of the Short Stay Homes and Swadhar Homes in 2007 and the overlaps that emerged, the two schemes were merged in the same year. The aim was to slim down the administrative machinery and procedures, and enhance functioning. The new, merged entity – Swadhar Greh – has since been run by voluntary organizations, with State assistance on a non-profit basis. It was recommended that every district in the

²⁰ Press Information Bureau, Swadhar Sheme, MWCD <http://pib.nic.in/newsite/PrintRelease.aspx?relid=123683>

²¹ Ujjawala, MWCD <https://wcd.nic.in/sites/default/files/Ujjawala%20New%20Scheme.pdf>

²² National Portal of India, Swadhar Greh, GOVT. OF INDIA <https://www.india.gov.in/spotlight/swadhar-greh-scheme>

country should have at least one Swadhar Greh. Depending upon local needs, these new shelters are allowed a resident capacity of between 50 and 100. Their profile of residents is similar to other homes: victims of violence, the destitute and the deserted, those suffering from HIV/AIDS, among others. The age limit for residents was fixed at above 18 years.

➤ One Stop Crisis Centre (OSCC)²³:

OSCC, set up in 2014, is a result of the recommendations of the legal commission that was set up in the aftermath of 2012 gang rape in Delhi. The 12th Plan Working Group on Women's Agency and Empowerment had also recommended setting up of an OSCC for a pilot run. The OSCC is designed to offer a one-roof, single-window clearance and multi-level support to survivors of violence at notified hospitals.

The OSCC offers temporary shelter for a maximum period of five days to survivors of violence that is private or public in nature, and takes place within the home, workplace or community. Aggrieved women facing any kind of violence due to attempted sexual harassment, sexual assault, domestic violence, trafficking, honour related crimes, acid attacks or witch-hunting who have reached out or been referred to the OSC will be provided with specialized services. The Centre is designed to support girls and women of all ages and meets a range of needs of the survivors: basic necessities, shelter, medical aid, and legal assistance, police complaint, counseling and emotional support. It includes emergency response and rescue services and a police desk that is connected to a 24-hour helpline.

C. Schemes for homelessness:

➤ National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless

The National Urban Livelihoods Mission – Scheme of Shelter for Urban Homeless (NULM– SUH) was launched by the Ministry of Housing and Urban Poverty Alleviation in 2014. It provided policy direction to the Supreme Court's orders on homelessness. The

²³ One Stop Centre Scheme, MWCD https://wcd.nic.in/sites/default/files/OSC_S.pdf

Scheme 10 aims to provide permanent shelter and essential services to the urban homeless population in the country. It sets specific norms and standards for the distribution, location, and design of permanent and all-weather shelters for the urban homeless, who presently have no access to shelter or public services such as health, education, food, water, and sanitation. Further, the Scheme specifies that the requirements for vulnerable homeless groups vary, and hence, the nature of the homeless population in a location should dictate the type of shelter to be constructed. There should thus be separate shelters for men, women, and families, and special shelters for older persons without care, persons with mental illness, and recovering patients and their families. The Scheme also provides for convergence of service delivery and provision of entitlements including social security, food, education, and healthcare, as well as identity proof, address proof, pension, Below Poverty Line (BPL) cards, ration cards, Integrated Child Development Services (ICDS) centers, free legal aid, and admission to government schools and public hospitals for urban homeless residents. NULM–SUH mandates a space of at least 50 square feet per person in a homeless shelter.

3. MAHARASHTRA GOVERNMENT SCHEMES FOR SHELTER HOMES:

➤ Maharashtra State Commission for Women (MSCW):

The Maharashtra State Commission for Women was established under the Maharashtra State Commission for Women Act, 1993. MSCW works to protect and promote the rights of women in the state, including homeless women. It addresses complaints and advocates for the welfare of women, including those without shelter.

➤ Maharashtra Women's Policy:

Maharashtra has a Women's Policy that outlines the state government's commitment to the empowerment and protection of women. This policy includes provisions for the creation of shelter homes and support services for homeless women and women in distress.

➤ Maharashtra Women and Child Development Department:

The Department of Women and Child Development in Maharashtra is responsible for implementing various schemes and programs to support women, including those without shelter. These initiatives may include the establishment and management of shelter homes.

➤ Maharashtra State Social Welfare Board (MSSWB):

MSSWB is involved in the implementation and monitoring of various welfare programs for women, including shelter homes and support services for homeless women.

➤ Swadhar Greh:

The Swadhar Greh scheme, previously known as Swadhar and Short Stay Home Scheme, is implemented in Maharashtra as well. Swadhar Greh provides shelter, food, counselling, medical aid, legal assistance, and vocational training to women in difficult circumstances, including homeless women.

➤ One-Stop Crisis Centre (OSCC):

Maharashtra has established One-Stop Crisis Centre's to provide comprehensive support to survivors of violence, including homeless women who may have experienced violence. These centers offer medical, legal, and counseling services.

VIII. LANDMARK CASES

On several occasions, the Supreme Court of India has held that the right to adequate housing is a human right emanating from the fundamental right to life protected by Article 21 of the Constitution of India. In several essential judgments, the apex court has established the relationship between the right to housing and energy, as guaranteed by Article 21.

In its earliest conception of the right to shelter, the Supreme Court of India in ***Francis Coralie v. Union Territory of Delhi***²⁴ stated that:

²⁴ (1981) AIR SC 746 753

8. We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow beings.

Subsequently, in *Olga Tellis v. Bombay Municipal Corporation*²⁵, the Supreme Court of India considered forced evictions as a violation of the rights to life and livelihood, and held that:

32. (...) An equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life.

Indeed, that explains the massive migration of the rural population to big cities. They migrate because they have no means of livelihood in the villages.

36. (...) **the eviction of the Petitioners from their dwellings would result in the deprivation of their livelihood** [emphasis added].

Similarly, in *Consumer Education and Research Centre v. Union of India*²⁶, the Supreme Court held that the ‘right to shelter’ would mean and include the right to livelihood, a better standard of living, hygienic conditions in the work place, and leisure.

In *U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd.*²⁷, the Supreme Court further established that:

²⁵ (1985) 3 SCC 545

²⁶ 1995 (3) SCC 42

²⁷ (1996) AIR 114 1995 SCC

7. (...) **The right to shelter is a fundamental right, which springs from the right to residence under Article 19 (1)(e) and the right to life under Article 21** [emphasis added].

In *State of Karnataka v. Narasimha Murthy*²⁸, the Supreme Court affirmed the positive obligation of the state to fulfil the right to shelter/housing. It held that:

7. Right to shelter is a fundamental right under Article 19(1) of the Constitution. To make the right meaningful to the poor, the State has to provide facilities and opportunity to build house. Acquisition of the land to provide house sites to the poor houseless is a public purpose as **it is a constitutional duty of the State to provide house sites to the poor** [emphasis added].

In *Chameli Singh v. State of Uttar Pradesh*²⁹, the Court elaborated the components of the right to adequate housing:

8. In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. **Right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter.** These are basic human rights known to any civilized society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. **Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually, and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation, and other civic amenities like roads, etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but a right to all the infrastructure necessary to enable one to live and develop as a human being. The right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right.** As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its

²⁸ AIR 1996 SC 90

²⁹ (1996) 2 SCC 549

citizens, of course, subject to its economic budgeting. **In a democratic society as a member of the organized civic community, one should have a permanent shelter so as to physically, mentally, and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy.** The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. **Want of decent residence, therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself** [emphasis added].

The Supreme Court has also directed the state to meet its positive obligations to fulfil the right to adequate housing. For example, in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*³⁰, the apex court stated that:

13. (...) In *P.G. Gupta v. State of Gujarat*³¹, the Supreme Court **considered the mandate of human right to shelter and read it into Article 19(1)(e) and Article 21 of the Constitution** and the Universal Declaration of Human Rights and the Convention of Civic, Economic and Cultural Rights and held that it is the duty of the State to construct houses at reasonable cost and make them easily accessible to the poor. **The aforesaid principles have been expressly embodied and in-built in our Constitution to secure socio-economic democracy so that everyone has a right to life, liberty and security of the person.** Article 22 of the Declaration of Human Rights envisages that **everyone has a right to social security and is entitled to its realization as the economic, social and cultural rights are indispensable for his dignity and free development of his personality.** It would, therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpath, pavement or public streets or any other place reserved or earmarked for a public purpose, **the State has the Constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and fruitful. Right to livelihood is meaningful because no one can live without means of this living, that is the means of livelihood. The deprivation of the right to life in that context would not only**

³⁰ (1997) 11 SCC 121

³¹ 1995 (1) SCALE 653

denude life of effective content and meaningfulness but it would make life miserable and impossible to live. It would, therefore, be the duty of the State to provide right to shelter to the poor and indigent weaker sections of the society in fulfillment of the Constitutional objectives [emphasis added].

In *Shantistar Builders v. Narayan Khimalal Totame*³², the Supreme Court of India also recognized the right of children to adequate housing and observed that:

9. Basic needs of man have traditionally been accepted to be three – food, clothing and shelter. **The right to life is guaranteed in any civilized society. That would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in.** The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body; for a human being it has to be a suitable accommodation which would allow him to grow in every aspect – physical, mental and intellectual. **The Constitution aims at ensuring the full development of every child. That would be possible only if the child is in a proper home** [emphasis added].

In *PUCL v. Union of India*³³, the issue of homelessness which is a serious violation of the human right to adequate housing, was brought to the notice of the Supreme Court of India through the intervention of special commissioners. The Court ordered that shelters must be sufficient to meet the need of the homeless, in the ratio of at least one shelter per lakh (100,000) population, in every major urban Centre. It also stated that shelters should be functional throughout the year and not as a seasonal facility only during the winter.

In an order dated, 23 January 2012, the Supreme Court of India stated that:

1. Article 21 of the Constitution states that no person should be deprived of his life or personal liberty except according to the procedure established by the law. Over the years, this Court's jurisprudence has added significant meaning and depth to the right to life. **A large number of**

³² (1990) 1 SCC 520

³³ (2013) 14 SCC 368

judgments interpreting Article 21 of the Constitution have laid down right to shelter is included in right to life.

5. The State owes to the homeless people to ensure at least minimum shelter as part of the State obligation under Article 21 [emphasis added].

Similarly, in *E.R. Kumar v. Union of India*³⁴, the Supreme Court addressed the right to shelter of homeless persons in urban areas, by establishing a committee to examine the slow progress with regard to the creation of shelter homes by states/union territories across India, and directing the government and its authorities to ensure that at least temporary shelters are provided for the homeless to protect them during the winter season. The Supreme Court has also established the right to property as a human right, in the context of adverse possession.

In *Tukaram Kana Joshi v. Maharashtra Industrial Development Corporation*³⁵, the apex court declared that:

9. The right to property is now considered to be, not only a constitutional or a statutory right, but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi-faceted dimension. The right to property is considered, very much to be a part of such new dimension [emphasis added].

Similarly, in *P.T. Munichikkanna Reddy v. Revamma*³⁶, the Court held that:

40. There is another aspect of the matter, which cannot be lost sight of. The right of property is now considered to be not only a constitutional or statutory right but also a human right [emphasis added].

41. Declaration of the Rights of Man and of the Citizen, 1789 enunciates right to property under Article 17: Since the right to property is inviolable and sacred, no one may be deprived thereof,

³⁴ 2016 (10) SCJ 467

³⁵ (2013) 1 SCC 353

³⁶ (2007) 6 SCC 59

unless public necessity, legally ascertained, obviously requires it and just and prior indemnity has been paid. 42. Moreover, the Universal Declaration of Human Rights, 1948 under Section 17(i) and 17(ii) also recognizes right to property:

- (i) Everyone has the right to own property alone as well as in association with others.
- (ii) No one shall be arbitrarily deprived of his property.

43. Human rights have been historically considered in the realm of individual rights such as, right to health, right to livelihood, right to shelter and employment, etc. but now human rights are gaining a multifaceted dimension. Right to property is also considered very much a part of the new dimension. Therefore, even claim of adverse possession has to be read in that context.

Thus, the Supreme Court of India has unequivocally established the human right to adequate housing as an integral aspect of the 'right to life' guaranteed under Article 21 of the Constitution of India. Moreover, the Supreme Court has expounded on the various facets of adequate housing not limited merely to shelter, and also emphasized the positive duties of the State towards fulfilling the right.

IX. OBSERVATION & FINDINGS:

Shelter Home Location and Accessibility:

- It was found that the shelter home is situated in a remote area, posing accessibility challenges. The surrounding infrastructure needs enhancement to facilitate ease of access for both residents and visitors.
- Prior to the visit, we were informed that this was a government-working women's hostel but later on during the visit, we got to find that this was a shelter home.
- It was found that the shelter home operates from a rental building owned privately, which lacks disability-friendly features. The building's lift is non-functional, and the stairs are poorly maintained. The home can accommodate up to 100 women, but currently houses 57 inmates.

- There was discrepancies found regarding the number of inmates. One of the staff said there are 49 inmates but as per the allocated rooms there could be more that 57 inmates in the premise.
- The facility lacks proper bedding, forcing inmates to sleep on the floor using chatais.
- Rooms are overcrowded, with some accommodating as many as 11 inmates. Moreover, the living conditions are compromised due to inadequate provision of electricity and absence of a functional inverter.
- The shelter home operates in substandard conditions, violating the residents' right to adequate housing.
- Maintenance issues were evident, encompassing broken fixtures, inadequate utensils, malfunctioning equipment, and non-functional essential appliances.
- The lift was found out of order and lack of necessary amenities affect the overall living conditions.
- The shelter home incurs a substantial monthly rental fee, pointing to financial considerations and the necessity for a sustainable financial model. Maintenance responsibilities lie with the owner, necessitating a collaborative approach.
- The shelter home's financial challenges and rental issues highlight the need for sustainable financial models and collaborations in line with the requirements of the shelter as per NULM-SUH.

Security and Staffing Issues:

- The presence of security personnel was observed; however, discrepancies were noted regarding the number of security staff, scheduling, and adherence to uniform protocols. The shortage of female staff raises concerns about adequate support and supervision.
- The protection officer was found to come late in the premise at the time of the visit despite the prior information.
- It was found that the district protection officer was given additional charge of the shelter.
- There was no probation officer in the premise as per **sec 9 of the DV Act**.
- The security staff, consisting of 12 individuals on contractual basis, is not provided with proper uniforms and has faced salary delays for the past two months.

Sanitation and Hygiene Concerns:

- The overall sanitation and hygiene within the shelter home require immediate attention. Expired sanitary napkins, dysfunctional dispensers, inadequate kitchen facilities, and the presence of harmful pesticides were observed in the building.
- The rotten, smelly and pest-ridden food materials were found in the premise.
- The fridge had a foul smell and it was found non-working.
- The taps of the kitchen were dysfunctional. The utensils were left in an unhygienic condition.
- The shelter home lacks a proper first aid room and a dedicated nurse for medication distribution.
- There are concerns about the appropriate dispensing and potential overuse of medications, including addictive substances.
- The shelter home lacks proper medical facilities and trained staff to administer psychiatric medications accurately. A single general physician and a female psychiatrist visit on a weekly or monthly basis, respectively.
- Sanitary napkin vending machines are non-functional, and medicines are nearing expiry, with a lack of proper monitoring and prescription control.
- The kitchen is inadequately maintained, and there is no water purification system, compromising the inmates' health and hygiene.
- The shelter home's inadequate medical facilities and potential overuse of medication violate the right to medical care as per ICESCR. Proper dispensing of medications and medical infrastructure are essential components of adequate living conditions.
- The women in the shelter homes were found to have difficulty in speaking. While regular visits by a medical officer and psychiatrist were noted, the absence of essential services like physiotherapy or speech therapist were needed.
- The physiotherapist equipment's were found in the premises but there were clothes hanging on it.
- No recreational activities were found in the premise.

- The shelter home does not have any ambulance of its own. They call for an ambulance and as per them the ambulance takes 15mins to reach to the premise. What needs to be noted is that the premise is in a secluded area. The lack of an ambulance on-site necessitates reliance on private ambulance services, posing potential delays during emergencies and highlighting the need for better preparedness. As per the protection officer they call the ambulance on their own and they later get reimbursement within 2-4 months.

CASE STUDY

The shelter home lacks a legal aid clinic and dedicated rehabilitation programs, indicating a gap in legal assistance and support for reintegration into society.

Case Study 1: Woman X

A woman named X, originally from Chembur, has been residing in Karjat for six years. She is a mother of three daughters and three sons, and her husband put her into the shelter home. She does clean and mopping of the shelter home. We asked her if she wants to meet her family to which she said Yes! We then asked her why is she not going back to her family to which she said that they (the staff of the shelter home) are not letting her go.

Case Study 1: Woman Y

We looked at her report in her report she was deemed fit to work in the cooking job but under supervision. Few questions were asked of her with a point of view to encourage her rehabilitation into society. The questions were as following:

Question? Why she left her house?

Answer. To which she said she one day left her house because of her mental disbalance and stress regarding how she would run her family.

Question? Who all are there in her family?

Answer. She had a daughter whom she left with her mother when she was 12 years of age now she could probably be 25 years of age. her mother is dead now.

Question? What does she want from us?

Answer. She wanted to meet her daughter. In her family, she had a maternal uncle and his son. They were contacted but they were not inclined to provide information regarding her daughter's whereabouts. her mother is dead.

Question? We asked if there was any other problem she faced here?

Answer. To which she said she felt the dose of medicine given to her was excessive she wanted to regularize it. she also said that she feels addicted to the medicines.

LEARNING OUTCOME

Shelter Home Location and Accessibility:

As per the Supreme Court Commissioners' manual³⁷ and the National Urban Livelihoods Mission scheme³⁸ of Shelters for Urban Homeless talks about building new and adequate permanent shelters, it also states to locate shelters close to areas with high densities of homeless people and work sites. Instead of building shelters in peripheral regions of the city, new shelters should be located in areas with high homeless populations. Also, to build adequate permanent shelters of concrete or durable and weather-proof material. Ensure that shelters are open twenty-four hours and equipped for all weather conditions. Utilize empty/vacant government buildings and convert these into permanent homes for the homeless. But it was found that the shelter home is situated in a remote area, posing accessibility challenges. The surrounding infrastructure needs enhancement to facilitate ease of access for both residents and visitors. *In the case of Court On Its Own Motion Petitioner v. U.O.I & Anr. S.*³⁹ The State Government may consider having shelter homes in more

³⁷ Available at: http://www.sccommissioners.org/Homelessness/shelter_manual.pdf

³⁸ Please see Scheme Guidelines: National Urban Livelihoods Mission: Scheme of Shelters for Urban Homeless - Operational Guidelines (Ministry of Housing and Urban Poverty Alleviation, Government of India).

³⁹ Court On Its Own Motion Petitioner v. U.O.I & Anr. S W.P(C) 5913/2010

centralized locations so that women in need have easy and immediate access. The awareness campaign and dissemination of information should be more accentuated so that the people would know about the shelter homes and the facilities available therein. It is a suggestion that the necessary mandate should be followed and the krupa home should be located in a more populous area.

Infrastructure and Living Conditions:

The UDHR as adopted by the United Nations in 1948, recognizes *the right to an adequate standard of living* which includes food, clothing, housing and medical care and necessary social services under Article 25(1). Also, as per the Supreme Court Commissioners' manual and the National Urban Livelihoods Mission –Ensure that the space of 50 square feet per person is taken as the minimum space to be provided to each homeless person in a shelter. Provide adequate street-lighting and fencing around shelter premises, for security. Provide three caretakers at each shelter, working in rotating shifts of eight hours each, and ensure the presence of a guard, especially at night. It was found that the shelter home operates from a rental building owned privately, which lacks disability-friendly features such as lift. The building's lift is non-functional, and the stairs are poorly maintained. The home can accommodate up to 100 women, but currently houses 57 inmates, contrary to the initially reported count of 49. The facility lacks proper bedding, forcing inmates to sleep on the floor using chatais. Rooms are overcrowded, with some accommodating as many as 11 inmates. Moreover, the living conditions are compromised due to inadequate provision of electricity and absence of a functional inverter. The shelter home operates in substandard conditions, violating the residents' right to adequate housing as highlighted by the Universal Declaration of Human Rights (UDHR). The inadequacy of bedding violates Article 11.1 of ICESCR, which emphasizes providing adequate living conditions.

Security and Staffing Issues:

The presence of security personnel was observed; however, discrepancies were noted regarding the number of security staff, scheduling, and adherence to uniform protocols. The shortage of female staff raises concerns about adequate support and supervision. *In a case of A In the Matter of Regarding Abuse Of Girls In A Women Shelter Home In Deoria vs State Of U.P .* The court has given the directions and time with regard to installation of CCTV cameras in all shelter homes which are directly monitored from the State Data Management Centre situated in the Directorate of Women Welfare. The lack of female security staff raises concerns regarding adherence to gender-sensitive protocols outlined by *A Women Shelter Home v. State of U.P.* The court emphasized the need for monitored CCTV systems in shelter homes. There was no probation officer in the premise as per sec

9 of the DV Act. Inmates are admitted through court orders or by the police, with varying durations of stay. The Maharashtra State Commission for Women addresses complaints and advocates for the welfare of women, including those without shelter. And the lack of dedicated staff and burdened protection officer violates the Protection of Women from Domestic Violence Act, 2005, which mandates proper staffing and support for residents. *Section 9* of the Domestic Violence Act talks about the responsibilities of Protection Officers, it's mentioned that a Protection Officer should do several things to help people facing domestic violence.

As per sec 9(1) of the act it shall be the duty of the Protection Officer—

- (a) to assist the Magistrate in the discharge of his functions under this Act;*
- (b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;*

- (c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;*
 - (d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;*
 - (e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;*
 - (f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;*
 - (g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;*
 - (h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);*
 - (i) to perform such other duties as may be prescribed.*
- (2) The Protection Officer shall be under the control and supervision of the Magistrate and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act*

Sanitation and Hygiene Concerns:

As per the Supreme Court Commissioners' manual and the National Urban Livelihoods Mission. Build and/or upgrade all shelters with requisite infrastructure of sanitation, clean and potable water, heating and cooling arrangements, vector control, and first aid requirements. Ensure that secure storage lockers are provided for each homeless family in each shelter, so that they are able to store their belongings. The overall sanitation and hygiene within the shelter home require immediate attention. Expired sanitary napkins, dysfunctional dispensers, inadequate kitchen facilities, and the presence of harmful pesticides were observed. In the case of *Gulshan Khatun and others v. Delhi Urban Shelter Improvement Board and others* Court Passed an order directing to provide soaps, detergents, hand sanitizers, hand wash and masks to urban homeless in all shelter homes in Delhi⁴⁰.

Infrastructure and Maintenance Challenges:

Maintenance issues were evident, encompassing broken fixtures, inadequate utensils, malfunctioning equipment, and non-functional essential appliances. The lift being out of order and lack of necessary amenities affect the overall living conditions. *People's Union for Civil Liberties (Night Shelter Matters) v. Union of India*,⁴¹ The court directed the Madhya Pradesh government to construct fifty-seven shelter homes even in towns having population more than one lakh. Maintenance issues directly contradict Goal 11 of the SDGs, emphasizing the need for sustainable and well-maintained infrastructure.

Family and Social Support Aspects:

Instances highlighted the need for improved communication and support systems for residents, emphasizing the importance of family and social connections in their well-being.

Government Oversight and Compliance:

ICESCR as adopted in 1966, reaffirmed this right under Article 11.1 which stated “*State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living*”. The shelter home falls under the jurisdiction of the Child, Women, and Development Department, necessitating a qualified superintendent to ensure regulatory compliance and effective operations.

Lack of Recreational and Occupational Activities:

The absence of organized recreational and occupational activities deprives residents of opportunities for skill development and mental well-being. *Court On Its Own Motion Petitioner v. U.O.I & Anr. S* The court said that the establishment of some kind of vocational training should be imparted to them so that they would be in a position to earn a livelihood and should be provided with life skills. Shelter Home will provide boarding, lodging, education, health care, recreation, and other required facilities for their holistic development

Legal and Rehabilitation Services:

The shelter home lacks a legal aid clinic and dedicated rehabilitation programs, indicating a gap in legal assistance and support for reintegration into society. The absence of a legal aid clinic and dedicated rehabilitation programs violates the spirit of the Protection of Women from Domestic Violence Act, 2005, which mandates legal aid and support for residents' reintegration into society. According to section of the act (d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made; (e) to maintain a list of all service providers

40 Gulshan Khatun and others v. Delhi Urban Shelter Improvement Board and others W. P. (C)3570/2020 & CMs No. 16876/2020

41 People's Union for Civil Liberties (Night Shelter Matters) v. Union of India, (2012) 11 SCC 422

providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate.

Inadequate Food Storage and Preparation:

Hygiene concerns were identified in the storage area, reflecting issues with food storage and potential compromises to residents' health. *Gulshan Khatun and others v. Delhi Urban Shelter Improvement Board and others* Court Passed an order directing to provide three nutritious meals a day including at least one serving of vegetable and fruit to the urban homeless in all shelter homes. The inadequacies in food storage and preparation contravene the court's directions in *Gulshan Khatun and others v. Delhi Urban Shelter Improvement Board and others*, which emphasize providing nutritious meals to the urban homeless.

Ambulance Shortage and Emergency Preparedness:

The lack of an ambulance on-site necessitates reliance on private ambulance services, posing potential delays during emergencies and highlighting the need for better preparedness. The absence of an ambulance on-site violates the Emergency Preparedness guidelines suggested by the court in *In The Matter Of Regarding Abuse Of Girls In A Women Shelter Home In Deoria v. State of U.P.*, underlining the need for proper medical facilities and readiness.

SUGGESTIONS

Enhance Security:

- ***In a case of A Women Shelter Home v. State of U.P.*** The court has given the directions and time with regard to installation of CCTV cameras in all shelter homes which are directly monitored from the State Data Management Centre situated in the Directorate of Women Welfare. Install CCTV cameras in common areas for added security.
- Ensure the presence of trained security personnel around the clock.
- Implement a secure access control system for entry and exit.

Safety Measures:

- Establish clear protocols for handling emergencies.
- Create a safe and confidential reporting mechanism for harassment or security concerns.

Hygiene and Sanitation:

- Maintain clean and hygienic living spaces and common areas.
- Regularly check and replace sanitary napkin machines and supplies.
- Implement a strict cleaning and pest control schedule.

Healthcare Facilities:

- Establish a well-equipped first aid room with a trained nurse.
- Collaborate with local healthcare providers to ensure easy access to medical care.
- Offer regular health check-ups and mental health support.

Infrastructure and Maintenance:

- The PWD should compliance with the mandate and build a separate building for the shelter home.
- Address maintenance issues promptly to ensure a comfortable living environment.
- Upgrade facilities as needed, including kitchen appliances, furniture, and recreational areas.
- The lift of the premise should be repaired and the building should be made feasible for the disabled.

Legal Aid and Counselling:

- As per the mandate of the sec 9(e) of the DV act access to legal aid services for women facing legal challenges should be made available.
- Offer counselling and support groups for emotional and mental well-being.
- Facilitate workshops on financial literacy and career development.

Education and Skill Development:

- As per the scheme of the swadhar ghreh scheme mandates the vocational upgradation training of women hence the shelter home should partner with educational institutions for on-site classes or career training programs.
- Create a resource centre with computers and internet access for residents to pursue education or job searches.

Family and Social Support:

- As per the Protection of Women from Domestic Violence Act, 2005, which mandates legal aid and support for residents' reintegration into society. According to section of the act (d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made; (e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate. With this mandate establish a communication channel with residents' families, ensuring their involvement and support. Also organize regular social events and networking opportunities for residents.

Community Engagement:

- Foster a sense of community within the hostel by organizing activities and group projects.
- Collaborate with local NGOs and community organizations for additional support and resources.

Feedback Mechanism:

- Implement an anonymous feedback system for residents to express concerns and suggestions.
- Use feedback to continuously improve hostel operations and services.

Green Initiatives:

- Promote eco-friendly practices such as waste recycling and energy conservation.
- Encourage residents to participate in sustainability initiatives.

Regular Inspections and Audits:

- Conduct regular internal and external audits to ensure compliance with standards and regulations.
- Address any issues or non-compliance promptly.

Transparency and Documentation:

- Maintain transparent records of finances, resident information, and incident reports.
- Ensure all policies and procedures are documented and easily accessible to residents.

CONCLUSION

These comprehensive observations underscore critical areas for immediate improvement and intervention to ensure a safe, hygienic, and supportive environment for the residents of the shelter home. Rehabilitation efforts are insufficient, and programs for occupational therapy, speech therapy, and recreational activities are lacking. Efforts to reunite inmates with their families are notably absent, emphasizing a need for a more holistic and rehabilitative approach to care. Addressing these issues is imperative for providing adequate care and support to the vulnerable population residing within the facility.

In conclusion, the visit to Shasakiya Krupa Mahila Vastigruh in Karjat, District Raigad, Maharashtra, has shed light on many critical issues impacting the lives and well-being of the women in this shelter home. The primary impetus for this visit was the tragic custodial death of Laxmi, bringing into focus the pressing need for meticulous examination and reform within such facilities. The shelter primarily caters to three categories of women: those with mental disabilities, psychological illnesses, and those who are homeless or estranged from their families. However, numerous deficiencies were identified during the visit, encompassing infrastructure challenges, inadequate living conditions, security and staffing issues, sanitation and hygiene concerns, maintenance and operational hurdles, lack of recreational and occupational activities, and insufficient legal and rehabilitation services. These critical findings underscore a pressing need for immediate interventions and reforms to guarantee the residents' right to an adequate standard of living, as enshrined in international human rights conventions. Notably, this necessitates comprehensive improvements in infrastructure, staffing, security, healthcare, legal support, and rehabilitation programs, aiming at a more holistic, gender-sensitive, and human rights-based approach to the care and rehabilitation of vulnerable women. The deficiencies identified demand urgent attention and remediation to uphold the residents' rights and provide them with the dignified living conditions they deserve.

ANNEXURE 1:

Questionnaire For Government Kripa Shelter Home,

Infrastructure:

1. Is it a government-owned building or rented?
2. Whether the owner take care of the maintenance of the building regularly?
3. Is the building disability friendly?

Kitchen and Food:

1. How many meals are given to the inmates in a day and at what time?
2. Who is the vendor of food grains for the home?

Medical Care & Health Facilities:

1. How frequently does the general physician, psychiatrist, and gynecologist visit the home?
2. How are the emergency patients taken care of in the shelter home?
3. Is there a 24*7 ambulance facility?
4. Is there any nurse on the premises to distribute the medicines?

Officials & Staffs:

1. Whether the number of staff is proportional to that of inmates?

2. How frequently audit happens?

Hygiene & Sanitation:

1. Are there biodegradable dustbins in the premises?
2. Are there sanitary napkins vending machines available? How frequently it is used by the inmates?

Vocational Course or Occupational Activity:

1. Whether the inmates are given any vocational training?

Annexure: 2

 महिला व बाल विकास WOMEN & CHILD DEVELOPMENT महाराष्ट्र शासन महिला व बाल विकास विभाग अधीक्षक, शासकीय कृपा महिला वसतीगृह, कार्यालय स्थळ-श्री मल्हार बी- विंग, ललानी कॉलनी, दहिवली, कर्जत. ता. कर्जत, जिल्हा-रायगड -410201. ☎ 02148-220605 Email-krupa.raigad@gmail.com  कृपा महिला वसतीगृह				
अ.क्र.	पदनाम	मंजूर पदे	भरलेली पदे	रिक्त पदे
१	अधीक्षक	०१	००	०१
२	मानद वैद्यकीय अधिकारी	०१	००	०१
३	परिविक्षा अधिकारी	०१	००	०१
४	निर्देशक	०१	००	०१
५	अधिपरिचारिका	०१	००	०१
६	कनिष्ठ लिपिक	०१	००	०१
७	वरिष्ठ काळजी वाहक	०१	००	०१
८	कनिष्ठ काळजी वाहक	०३	०१	०२
९	स्वयंपाकी	०१	००	०१
१०	पहारकरी	०१	००	०१
११	सफाईगार	०१	००	०१
		१३	०१	१२

PICTORIAL OBSERVATION OF THE VISIT



PICTURE 1: FUNGUS ALL OVER THE GROUND FLOOR, NO PROPER CLEANING MEASURES.



PICTURE 2: STAFF WAS GIVING ADDICTIVE WITHOUT THE ASSISTANCE OF THE NURSE.



PICTURE 3: LACK OF PROPER STORAGE FACILITY FOR GOOD AND DOCUMENT.



PICTURE 4: THERE WAS NO STORAGE FACILITY FOR FOOD SUPPLIES; IT WAS CRAWLING WITH INSECTS.



PICTURE 5: SANITARY PAD VENDING MACHINE WITHOUT SANITARY PADS.



PICTURE 6: ALMOST ALL SANITARY PADS WERE EXPIRED AND STORED IN LARGE AMOUNT.



PICTURE 7: MOST MEDICINES WERE EXPIRED THEY WERE STORED IN BULK.



PICTURE 8: THE CONDITION OF THE INFRASTRUCTURE WAS NOT ADEQUATE.

Visit to The Malabar Hill Police Station



Image of Entrance Gate of The Malabar Hill Police Station



MSHRC Registrar Dr. Swarupa Dholam along With LLM Students and Police Inspector Shubhada More

Title: Visit to Malabar Hill Police Station, Mumbai

Date of Visit: 15th September 2023

Venue: Malabar Hill Police Station, Mumbai

Visiting team :Dr. Swarupa Dholam (Fieldwork Agency Supervisor) Registrar, Maharashtra State Human Rights Commission , Vijay Khare from the Investigation

Students of One year LLM program of School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai 2023-2024 batch

Aditya Raj Marandi M2023ATJ006	Nancy M2023ATJ020
Alok Sharma M2023ATJ008	Huma Wasim M2023ATJ044
Harsh Lohiya M2023ATJ016	Vishakha Arya M2023ATJ040
Roy Stephen Rodrigues M2023ATJ027	Dipsikha Deka M2023ATJ047
Harsh Kumar Jauhar M2023ATJ015	Arundhati Manish Tadkod M2023ATJ043
Tanmay Tejaswi M2023ATJ035	Ashutosh Kumar M2023ATJ010
Uttkarsh Singh Goyat M2023ATJ036	

TABLE OF CONTENTS

SL. NO.	CONTENTS	PAGE NO.
1	INTRODUCTION	3-7
2	LEGAL FRAMEWORK RELATED TO POLICE OFFICIALS	8-22
3	FINDINGS/OBSERVATIONS OF THE VISIT	23-31
4	LEARNING OUTCOMES & SUGGESTIONS	32-35
5	CONCLUSION	36-37
6	REFERENCE	38
7	ANNEXURES	39-41

CHAPTER I

INTRODUCTION

The term police has been derived from the Latin word ‘politia’, which means the condition of a State, preserving order and regulation of law in the society. It broadly refers to the purposeful maintenance of public order and the protection of persons and property from the commission of unlawful acts toward them. The Oxford dictionary defines Police as “*the civil force charged with keeping order, civil administration of the city or town and public order*” according to the Royal Commission on the Police Powers and Procedures 1929, “*a policeman is a person paid to perform, as a matter of duty, acts which, if he were so minded, he might have done voluntarily. The term police refer to the executive civil force of a state entrusted with the duty of maintaining public order and enforcing regulations to prevent crime.*”¹

India, with an area of 32,87,782 sq. km and a population of 1.21 billion, is a union of 28 States and eight union territories. The powers and responsibilities of the Union and States are demarcated in the Constitution of India. Article 246 of the Constitution of India places the police, public order, courts, prisons, reformatories, and other allied institutions in the State List. The Police is a state subject, and its organization and working are governed by rules and regulations framed by the State Governments. These rules and regulations are outlined in the Police Manuals of the state police forces. Each State/Union Territory has its separate police force. The structure and working of the Maharashtra State Police Forces are governed by the Police Act of 1861 (5 of 1861) and the Bombay Police Act of 1951.

The police in India are pivotal to the functioning of the country's law enforcement and justice system. Law enforcement agencies in India are tasked with the critical responsibility of maintaining law and order, preventing and investigating crimes, and ensuring the safety and security of the nation's citizens. With a rich and diverse cultural heritage, India faces unique challenges that require a multifaceted and adaptive approach to policing.

¹ Sharma, Anupam. “POLICE IN ANCIENT INDIA.” *The Indian Journal of Political Science*, vol. 65, no. 1, 2004, pp. 101–10. JSTOR, <http://www.jstor.org/stable/41855800>. Accessed 21 Sept. 2023.

Details of the visit

On September 15, 2023, a group of 13 students, accompanied by Vijay Khere from the investigation wing and under the guidance of fieldwork supervisor Swarupa Dholam, embarked on an insightful visit to the Malabar Hill Police Station in Mumbai. The primary objective of this visit was to conduct a comprehensive examination to ascertain whether the Malabar Hill Police Station held certification from the International Organization for Standardization (ISO).

Our visit commenced promptly at 11:00 AM and extended until 3:30 PM, providing us with ample time to delve into the station's operations and protocols. Throughout the visit, we were fortunate to be under the expert guidance of a senior lady officer who ensured our coordination and offered valuable insights into the workings of the station.

This endeavor was not only an educational experience for the students but also an opportunity to understand the importance of international standards in law enforcement. The visit allowed us to witness firsthand the efforts and dedication of the Malabar Hill Police Station in upholding professionalism and quality in their operations. It also raised questions about the significance of ISO certification in the context of law enforcement agencies and their commitment to international best practices.

Profile of Malabar Hill police Station, Mumbai

The Malabar Police Station, established in 1995, stands as a prominent law enforcement agency in Mumbai. It distinguishes itself as one of the finest in the city, owing to its inclusive approach by employing 8 lady officers and 22 lady constables. The station operates several specialized sections that contribute to its effectiveness.

The Main section is the Information center, which meticulously recording crucial information and maintains an online criminal database, ensuring swift access to case details. The Cyber Cell focuses on combating cybercrimes, safeguarding digital spaces, and pursuing cyber criminals. The Malkhana section manages evidence and seized items, crucial for investigations and court proceedings.

Moreover, the presence of a Passport Office streamlines documentation processes, while the CCTV room ensures constant surveillance and monitoring of public areas. This multifaceted structure underscores the Malabar Police Station's commitment to providing comprehensive law enforcement services, thereby earning its reputation as one of Mumbai's top police stations.

Mandate of the Visit

The Maharashtra State Human Rights Commission conducts its visits based on the authority outlined in Section 12 of the Protection of Human Rights Act, 1993. This section delineates the Commission's functions and Maharashtra State Human Rights Regulation, 2011. Notably, Section 12 (c) specifies that the Commission has the responsibility to *"visit, irrespective of any other existing laws, correctional facilities or institutions administered by the State Government, where individuals are detained, confined, or housed for purposes of therapy, rehabilitation, or safeguarding, in order to assess the living conditions of the residents and provide recommendations to the Government based on its findings."*

The Malabar Hill Police Station falls within the category of institutions under the jurisdiction of the State Government as Police is a Subject of State list under Schedule 7 and Article 246(3) of Constitution of India, so it falls squarely within the purview of the Maharashtra State Human Rights Commission's responsibilities. Section 12 (c) further empowers the Commission to offer recommendations to the Government following such visits.

Objectives of the Visit

The visit to the Malabar Police Station was undertaken with several key objectives in mind:

- ❖ **Assessment of ISO Certification Eligibility:** Our primary aim was to conduct an evaluation to ascertain whether the Malabar Police Station fulfills the criteria required for ISO certification. This involves a comprehensive examination of the station's practices to determine its adherence to international standards.
- ❖ **Understanding Daily Operations and Reporting Protocols:** We sought to gain a deeper understanding of the station's day-to-day operations and the protocols followed in their

reporting procedures. This included examining how cases are registered, investigated, and documented, providing us with valuable insights into the station's functioning.

- ❖ **Recognition of Challenges Faced by Police Personnel:** It was crucial to identify and comprehend the challenges and obstacles encountered by police personnel while carrying out their duties. This perspective allows us to appreciate the complexities of law enforcement work and the issues that officers confront in their roles.
- ❖ **Assessment of Compliance with Legal Guidelines:** We aimed to determine the extent to which the police station adheres to the guidelines and directives issued by the Supreme Court or High Court. This involves an examination of the station's legal compliance and its commitment to upholding the law in accordance with judicial mandates.

Overall, this visit aims to ensure that Malabar Police Station operates at the highest standards of efficiency, accountability, and legal compliance.

Rationale of this Visit

The rationale behind visiting The Malabar Hill police station is to gain practical exposure to the criminal justice system. It provides an opportunity to witness firsthand how law enforcement agencies operate, handle cases, and interact with the public. The main idea is to assess whether Malabar Hill police station fulfills the requirements of the International Organization for Standardization.

Research Methodology of this Visit

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 and in our case non- participant observation, in depth interviews and focus group discussions with the prison officials in understanding the working of the prison and understanding their problems and difficulties. 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 data collection methods like questionnaires and observational techniques, case studies etc. 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.

CHAPTER II

LEGAL FRAMEWORK RELATED TO POLICE OFFICIALS

International Conventions, Laws, Policies & Schemes relating to Police Officials

1. Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights (UDHR) contains several principles that are directly relevant to police officials and law enforcement agencies. Here are some of the key articles from the UDHR that pertain to the rights and responsibilities of police officials:

- ❖ **Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment:** Article 5 prohibits torture and cruel, inhuman, or degrading treatment. Police officials are obligated to uphold this prohibition in their treatment of individuals in custody or during law enforcement operations.
- ❖ **Freedom from Arbitrary Arrest and Detention:** Article 9 safeguards against arbitrary arrest and detention. Police officials must have lawful grounds for arresting and detaining individuals and must ensure that due process rights are respected.
- ❖ **Presumption of Innocence:** Article 11 states that everyone charged with a criminal offense has the right to be presumed innocent until proven guilty according to law. Police officials should not prejudge individuals and must respect the presumption of innocence.
- ❖ **Right to Privacy:** Article 12 protects the right to privacy, including protection against arbitrary interference with one's privacy, family, home, or correspondence. Police officials must respect individuals' privacy rights in their law enforcement activities.

These principles from the UDHR provide a foundational framework for human rights that applies to police officials worldwide. It's important for law enforcement agencies to operate in accordance with these principles to ensure the protection of individuals' rights and the promotion of justice and fairness in society.

2. The International Covenant on Civil and Political Rights (ICCPR), 1966

The International Covenant on Civil and Political Rights (ICCPR) is a key international treaty that addresses various aspects of human rights, including those related to law enforcement and police officials. Below are some provisions of the ICCPR that are particularly relevant to police officials:

- ❖ **Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment:** Article 7 prohibits torture, cruel, inhuman, or degrading treatment or punishment. Police officials are required to ensure that individuals in their custody are treated with dignity and are not subjected to any form of abuse or mistreatment.
- ❖ **Right to Liberty and Security of Person:** Article 9 protects individuals from arbitrary arrest or detention. It outlines the rights of persons who are arrested or detained, including the right to be informed of the reasons for arrest and to have prompt access to legal counsel.
- ❖ **Treatment of Persons Deprived of Their Liberty:** Article 10 requires that individuals deprived of their liberty be treated with humanity and respect for their inherent dignity. It also emphasizes the need for the separation of accused persons from convicted prisoners.
- ❖ **Protection of Privacy:** Article 17 safeguards the right to privacy. It prohibits arbitrary or unlawful interference with an individual's privacy, including unauthorized surveillance.

3. "Code of Conduct for Law Enforcement Officials, 1979"

The "Code of Conduct for Law Enforcement Officials" is an important international instrument that provides guidance on the behavior and responsibilities of police officials. It was adopted by the United Nations General Assembly in 1979. Here are some key aspects of this code:

- ❖ **Duty to Serve and Protect the Community:** *"Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession."*²

- ❖ **Respect for Human Dignity and Human Rights:** *“In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.”*³
- ❖ **Use of Force within Strict Limits:** *“Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.”*⁴
- ❖ **Prohibition of Torture and Cruel Treatment:** *“No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.”*⁵
- ❖ **Protection of Health and Access to Medical Attention:** *“Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.”*⁶
- ❖ **Duty to Respect and Uphold the Law and Code of Conduct:** *“Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.”*⁷

Laws, Policies & Schemes relating to Police Officials in context of India

India, as a diverse and complex nation, relies on its police force to maintain law and order, ensure public safety, and uphold the rights of its citizens. The country has a multifaceted legal framework, along with a variety of policies and schemes, that govern the conduct, responsibilities, and welfare of its police officials. This article explores these aspects in detail, delving into the key laws, policies, and schemes that shape the functioning of police officials in India.

1. Laws Governing Police Officials in India

³ Article 2, Code of Conduct for Law Enforcement Officials, 1979

⁴ Article 3, Code of Conduct for Law Enforcement Officials, 1979

⁵ Article 5, Code of Conduct for Law Enforcement Officials, 1979

⁶ Article 6, Code of Conduct for Law Enforcement Officials, 1979

The Police Act, 1861

- ❖ This is one of the primary legislations governing policing in India. It outlines the organization, powers, and responsibilities of police forces across the country. The Act empowers the police to maintain law and order, prevent and investigate crimes, and provide assistance during emergencies.
- ❖ **Section 23** outlines the duties of police officials, it states that *“It shall be the duty of every police-officer promptly -*
 - 1. to obey and execute all orders and warrants lawfully issued to him by any competent authority;*
 - 2. to collect and communicate intelligence affecting the public peace; to prevent the commission of offenses and public nuisances;*
 - 3. to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists;*
 - 4. it shall be lawful for every police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.”*

Bombay Police Act, 1951

The Bombay Police Act of 1951, which governs the functioning of the police force in the state of Maharashtra, contains several legal provisions related to police officials. These provisions outline the powers, duties, and responsibilities of police personnel in the state. Here are some of the key legal provisions related to police officials under the Bombay Police Act, 1951:

- ❖ **Appointment and Ranks:** The Act defines the various ranks and categories of police officers, including the Commissioner of Police, Superintendent of Police, and others. It outlines the process of recruitment, appointment, and transfer of police officers.
- ❖ **Powers of Police Officers:** Police officers in Maharashtra are granted certain powers under the Act, including the power to arrest, search, and detain individuals suspected of committing crimes. They have the authority to use force when necessary to maintain law and order, protect lives and property, and apprehend suspects.

- ❖ **Duties and Responsibilities:** The Act specifies the duties and responsibilities of police officers, including maintaining public peace and order, preventing and investigating crimes, and ensuring the safety of the public. It mandates the supervision and control of the police force by higher-ranking officers.
- ❖ **Maintenance of Records:** Police officers are required to maintain records related to arrests, investigations, and other law enforcement activities. The Act outlines procedures for the recording and handling of these records.
- ❖ **Discipline and Conduct:** Provisions related to the discipline and conduct of police officers are detailed in the Act. It prescribes penalties for misconduct, negligence of duty, or violation of rules and regulations.
- ❖ **Powers of Entry and Search:** The Act provides police officers with the power to enter and search premises under certain circumstances, including when there is reasonable suspicion of criminal activity. It establishes guidelines for conducting searches and seizing evidence.
- ❖ **Legal Immunity and Protection:** The Act includes provisions that protect police officers from legal action when they act in good faith and within the scope of their duties. It outlines the process for obtaining government sanction for prosecuting police officers for actions taken in the line of duty.
- ❖ **Control of Traffic:** Police officers have the authority to regulate and control traffic on public roads, issue traffic citations, and enforce traffic laws as per the Act.
- ❖ **Maintenance of Public Safety:** The Act empowers police officers to take measures to ensure public safety during emergencies, public gatherings, or events that may pose a threat to law and order.

The Code of Criminal Procedure, 1973 (CrPC): The CrPC governs the procedures related to criminal law enforcement. It outlines the powers and responsibilities of the police in conducting investigations, making arrests, and presenting evidence in court. It contains several provisions related to police officials' roles and responsibilities. Below are some of the key legal provisions concerning police officials under the CrPC 1973:

- ❖ **Section 41: When Police May Arrest Without Warrant:** This section outlines the circumstances under which a police officer can arrest a person without a warrant. It

provides guidelines for the arrest of individuals suspected of committing cognizable offenses and lists the conditions that must be met for such an arrest.

- ❖ **Section 46: Use of Force in Making an Arrest:** Section 46 prescribes the extent of force that can be used by a police officer when making an arrest. It stipulates that force beyond what is necessary for the arrest should not be used, and it provides safeguards to prevent the unnecessary use of force.
- ❖ **Section 50: Duty of Police Officer to Inform Arrested Person:** Police officers are required to inform the arrested person of the grounds for their arrest and the right to bail. They must also inform the arrested person of their right to have a friend, relative, or legal advisor present during interrogation.

- ❖ **Section 54: Examination of Arrested Person by Medical Practitioner:**
This section

allows for the medical examination of arrested persons if they request it. The purpose of this examination is to document any injuries or health conditions that existed prior to the arrest.

- ❖ **Section 57: Person Arrested Not to Be Detained Unnecessarily:** Section 57 places a limitation on the duration of detention without a warrant. A person arrested without a warrant must be produced before a magistrate within 24 hours, excluding the time necessary for travel to the magistrate's court.

- ❖ **Section 160: Police Officer's Power to Require Attendance of Witnesses:** **Police**

officers can summon witnesses to appear before them during investigations. Failure to comply with such a summons may result in legal consequences.

- ❖ **Section 161: Examination of Witnesses by Police:** This section outlines the procedure for examining witnesses during police investigations. Statements made by witnesses during such examinations are recorded and can be used as evidence in court.
- ❖ **Section 197: Prosecution of Judges and Public Servants:** Section 197 requires prior sanction from the appropriate authority for the prosecution of certain public servants, including police officials, for acts done in the discharge of their official duties. This provision is intended to protect public servants from frivolous or malicious legal actions.

The IPC contains provisions that define various criminal offenses and the penalties for committing them. The police officials are responsible for enforcing these laws and bringing perpetrators to justice. While the IPC primarily focuses on defining crimes and prescribing punishments, it does contain some provisions that are relevant to police officials in the context of their duties and responsibilities. Here are a few notable legal provisions related to police officials under the IPC, 1860:

- ❖ **Section 129 - Public Servants Disobeying the Law, with Intent to Cause Injury to Any Person:** This section deals with public servants, including police officials, who intentionally disobey the law with the aim of causing injury to any person. It prescribes penalties for such actions.

- ❖ **Section 166 - Public Servant Disobeying Law, with Intent to Cause Injury to Any**

Person: Similar to Section 129, this section addresses the misconduct of public servants, including police officers, who knowingly disobey the law with the intent to cause harm to any person. It outlines the punishment for such actions.

- ❖ **Section 218 - Public Servant Framing Incorrect Record or Writing with Intent to**

Save Person from Punishment or Property from Forfeiture: This section deals with situations where a public servant, including a police official, intentionally frames an incorrect record or writes something with the intent to save a person from punishment or to protect property from forfeiture. It prescribes penalties for such actions.

- ❖ **Section 342 - Wrongful Confinement:** While this section is not specific to police officials, it deals with wrongful confinement. It can be relevant in cases where police officials are accused of wrongfully confining individuals during the course of their duties.
- ❖ **Section 343 - Wrongful Confinement for Three or More Days:** This section deals with cases of wrongful confinement for three or more days. If police officials are involved in such acts, they may be charged under this section.

The Indian Evidence Act, 1872

This Act outlines the rules of evidence in Indian courts. Police officials play a crucial role in collecting and preserving evidence, and their actions must adhere to the provisions of this Act.

The National Security Act, 1980

This law empowers state governments to detain individuals to prevent them from acting in any manner prejudicial to the security of the state or the maintenance of public order. Police officials often play a role in implementing this law.

The Protection of Human Rights Act, 1993

This Act establishes the National Human Rights Commission and State Human Rights Commissions to protect and promote human rights. Police officials come under scrutiny in cases of human rights violations.

2. Policies and Guidelines for Police Officials

- ❖ **Pradhan Mantri Kaushal Vikas Yojana (PMKVY):** The PMKVY is a scheme designed to elevate the skillsets of police personnel through targeted training programs, thereby increasing their efficiency and effectiveness in performing their duties.
- ❖ **Police Housing Schemes:** Several states have introduced housing schemes tailored for police officials, with the objective of improving their residential conditions and creating recruitment incentives.
- ❖ **Police Welfare Funds:** These funds are established to provide financial support to the families of police officials in situations involving injury or loss of life while on duty, recognizing the inherent risks associated with policing.
- ❖ **Modernization of Police Force (MPF) Scheme :** Under this initiative, the central government allocates funds to states to facilitate the modernization of their police forces. This encompasses the acquisition of equipment and infrastructure development to enhance operational capabilities.
- ❖ **Training and Capacity Building:** Routine training programs are conducted for police officials, aiming to bolster their skills and keep them well-informed about new legislation, technological advancements, and best practices in law enforcement.
- ❖ **Police Families' Welfare Associations:** These associations play a crucial role in extending support and welfare services to the families of police officials, acknowledging the unique

- ❖ **National Police Mission (NPM):** The NPM focuses on modernizing and reforming police forces across the country. It aims to improve police infrastructure, training, and community-oriented policing.
- ❖ **Police Modernization:** Various states have initiated police modernization schemes to equip police forces with advanced technology, communication systems, and modern equipment to enhance their effectiveness.
- ❖ **Community Policing:** Many states have adopted community policing policies to build trust and collaboration between the police and the communities they serve. This approach encourages police officials to work closely with citizens to address local issues.
- ❖ **Gender Sensitization and Women's Safety:** In response to rising concerns about gender-based violence, several states have implemented policies to promote gender sensitization within police forces and enhance the safety of women.
- ❖ **Anti-Terrorism Measures:** In the face of security threats, India has implemented stringent anti-terrorism measures, including the establishment of specialized units and the enactment of laws such as the Unlawful Activities (Prevention) Act.
- ❖ **Cybercrime and Digital Policing:** With the proliferation of cybercrime, police forces have developed policies and units dedicated to combating cyber threats and ensuring digital security.

Judicial Pronouncements for Effective Police System in India

1. D.K Basu v State of West Bengal⁸: In this Case, Supreme Court issued guidelines to prevent the arbitrary arrest and detention and proper procedure must be followed. These Guidelines are as follow-

- ❖ **Identification and Name Tags:** Police personnel involved in arrest and interrogation must wear accurate, visible, and clear identification, including name tags with their designations. The details of these officers must be recorded in a register.
- ❖ **Memo of Arrest:** A memo of arrest should be prepared by the arresting police officer at the time of arrest. It must be attested by at least one witness, and signed by the arrestee, containing the time and date of the arrest.

⁸ (1997 (1) SCC 416)

- ❖ **Notification of Arrest:** A person arrested must be informed of their right to have someone informed of their arrest. This information should be provided as soon as they are arrested or detained.
- ❖ **Notification to Next of Kin:** The time, place of arrest, and custody venue must be notified to the next friend or relative of the arrestee, especially if they live outside the district or town.
- ❖ The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
- ❖ An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.
- ❖ The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
- ❖ **Medical Examination:** The arrestee should be subjected to a medical examination by a trained doctor every 48 hours during detention, as per a panel of approved doctors appointed by the Director of Health Services.
- ❖ Copies of all relevant documents, including the memo of arrest, should be sent to the Illaqa Magistrate for record-keeping.
- ❖ The arrestee may be allowed to meet their lawyer during interrogation.
- ❖ Police control rooms should be established at district and state headquarters to communicate information about the arrest and custody location within 12 hours of arrest and display it prominently.

Later on, These provisions were incorporated through Criminal Procedure Amendment Act, 2009 in CrPC, 1973 in section 41A, 41B, 41C, 41D.

2. Prakash Singh vs Union of India(Also known as Police Reform Case)⁹: In this case, a lot of directives were given for the better police system in India. Here are some directives-

- ❖ The State Governments are directed to- constitute a State Security Commission in every State to ensure that the State Government does not exercise unwarranted influence or pressure on the State police and for laying down the broad policy guidelines so that the State police always acts according to the laws of the land and the Constitution of the country.
- ❖ The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department.
- ❖ Police Officers on operational duties in the field like the inspector general of police in charge zone, deputy Inspector General of Police In charge Range, Superintendent of police in charge district and station house officer in charge of a Police Station shall also have a prescribed minimum tenure of two years unless they are found unfit due to disciplinary proceedings.
- ❖ The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people.
- ❖ There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers.
- ❖ There shall be a Police Complaints Authority at the district level to look into complaints against police officers.
- ❖ The Central Government shall also set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organ Mostly.

3. Paramvir Singh Saini Vs. Baljit Singh¹⁰: The Supreme Court asked all states and Union Territories to ensure that closed-circuit television, or CCTV cameras, with night vision and audio recording, are installed in every police station in the country.

⁹ 2006 8 SCC 1

¹⁰ (2021) 1 SCC 184

Legal Provisions Related to International Organisation for Standardization

The International Organization for Standardization (ISO) was established in 1947 with its headquarters located in Geneva, Switzerland. Its origins can be traced back to the 1920s when it was known as the International Federation of the National Standardizing Associations (ISA). However, its activities were halted during World War II.

Following the conclusion of the war, there was a growing consensus to create a new global standards body, and the United Nations Standards Coordinating Committee (UNSCC) put forth the proposal for the formation of the International Organization for Standardization.

Key Points about ISO:

1. **Foundation:** ISO officially came into being in 1947 as part of post-World War II efforts to promote international standardization and collaboration.
2. **Global Presence:** ISO operates in 167 countries worldwide, demonstrating its truly international character.
3. **Membership:** ISO adheres to a membership structure where each member country is represented by its primary national standards organization. Each country has a single member, and these organizations collaborate to develop and uphold international standards.
4. **Individual and Company Membership:** ISO membership is typically reserved for national standards bodies, meaning that individuals and companies cannot directly join ISO. Instead, they can participate in ISO's activities through their respective national standards organizations.
5. **Collaboration:** Industry experts, professionals, and technical specialists can engage with ISO by contributing to the development of standards through their national standards bodies. These experts often serve on technical committees and provide their expertise to the standardization process.

ISO's primary mission is to create and publish international standards that facilitate trade, ensure product quality and safety, encourage innovation, and address global challenges. By convening

experts and organizations from around the world, ISO plays a vital role in standardizing practices and promoting best practices across various industries and sectors.

The International Organization for Standardization (ISO) has not developed specific standards or requirements tailored to police stations in India or any other specific country. ISO standards are typically developed for various industries and sectors, and they provide guidelines and requirements for quality management, safety, security, and other areas.

There are several ISO standards that can be relevant to police stations in terms of general principles of management, security, and safety. Police stations can choose to adopt and implement relevant ISO standards as part of their overall quality and security management systems. Some potentially relevant ISO standards include:

1. **ISO 9001:2015 - Quality Management Systems:** While this standard is not specific to police stations, it can be applied to improve the quality of services provided by a police station. It emphasizes customer satisfaction, process improvement, and documentation of procedures.
2. **ISO 27001:2013 - Information Security Management Systems:** This standard focuses on information security, which is crucial for police stations that handle sensitive data. It helps organizations establish and maintain effective information security controls.
3. **ISO 22301:2019 - Business Continuity Management Systems:** This standard can assist police stations in developing plans and systems to ensure the continuity of essential services, even in the face of disruptions or emergencies.
4. **ISO 45001:2018 - Occupational Health and Safety Management Systems:** Safety is a significant concern in police stations. This standard provides guidelines for creating a safe and healthy work environment for employees.
5. **ISO 31000:2018 - Risk Management:** Police stations can use this standard to establish a structured and comprehensive approach to risk management, which is essential for ensuring public safety and operational effectiveness.
6. **ISO 19600:2014 - Compliance Management Systems:** This standard can help organizations, including police stations, in establishing processes and controls to ensure compliance with laws and regulations.

Factors to Consider For ISO Certifications in Police Stations in India

- ❖ **Reception Counter:** A designated reception counter should be available at the police station to assist visitors and provide information.
- ❖ **Affixing of Guidelines (DK Basu Case):** Guidelines should be displayed as mandated by the Supreme Court's DK Basu case to inform individuals about their rights and procedures during detention.
- ❖ **Feasibility in FIR Registration and Investigation:** Ensure a streamlined process for the registration of First Information Reports (FIRs) and efficient handling of investigations. Whether there is a Facility for lodging a "Zero FIR" or not when the crime occurs outside the jurisdiction of the police station.
- ❖ **Effectiveness of Dial 100 and Investigation Process :** The response time of the police should be monitored when a distress call is made through the emergency helpline "Dial 100." The number of pending cases for investigation Should be assessed.
- ❖ **Diversity in Police Station:** Diversity in the police personnel should be ensured, like LGBTQ members and women in the force should be Included more in the police Station.
- ❖ **Digitization of Records:** Digitization of records should be implemented to improve data management and accessibility. online FIR registration is available for the convenience of the public or not.
- ❖ **Passport Verification Facility:** Evaluate the facility for passport verification services within the police station. It should be less time consuming
- ❖ **Surveillance System:** Assess the surveillance infrastructure by determining the number of CCTV cameras installed within the police station premises.
- ❖ **Special Women Cell:** Verify the presence of a specialized women's cell within the police station to handle cases related to crimes against women effectively.
- ❖ **Separate Parking Facility:** Ensure separate parking facilities for police personnel and the general public to manage traffic efficiently.
- ❖ **Library Facility:** Check if there is a library facility with relevant legal literature for reference and knowledge enhancement.
- ❖ **Waiting Room Facility:** Evaluate the availability of waiting room facilities for visitors and complainants.

- ❖ **Cleanliness and Hygiene:** Ensure proper cleanliness and hygiene within the police station premises.
- ❖ **Toilet Facilities:** Verify the availability of clean and functional restroom facilities for both staff and visitors.
- ❖ **Drinking Water Facility:** Check for the provision of safe drinking water, including the availability of RO.

Adhering to these standards and facilities not only contributes to ISO certification but also enhances the overall effectiveness, transparency, and public perception of the police station. It promotes a more citizen-friendly approach to law enforcement and upholds the principles of justice and human rights. It's essential for police stations to continuously assess and improve their facilities and services to better serve the community.

CHAPTER III

Findings/Observations of the Visit

Observation/Findings

During our visit to the Malabar Police Station regarding the examination of ISO certification to the police station and To know about working Condition, Infrastructure of the police Station and challenges faced by the Police Personals. Here are the following observations and findings made by me:

1. Parking Facility and Space

ConstraintsParking Facility:

- ❖ During the visit, it was observed that the parking facility at the police station was in good condition.
- ❖ A well-maintained parking area is essential for the convenience of both police personnel and visitors to the station.
- ❖ Adequate parking space ensures that police officers can easily access their vehicles, especially during emergency situations or rapid responses.

Space Constraints:

- ❖ Despite the good parking facility, there were evident space constraints within the police station premises.
- ❖ These space limitations can have a significant impact on the working conditions and overall efficiency of police personnel.
- ❖ Limited space may affect the organization of resources, such as office space, equipment storage, and workstations, which can impede the smooth functioning of the police station.
- ❖ Adequate space is essential for maintaining a conducive and professional working environment for police officers, ensuring that they can perform their duties effectively.

2. Overview of Police Station

The Malabar Hill Police Station in Mumbai, consists of various specialized sections, each with its specific responsibilities and functions. Here is an overview of these sections:

Recording of Information Section

- ❖ This section is responsible for receiving and recording complaints and information from the public.
- ❖ It plays a crucial role in initiating the process of registering First Information Reports (FIRs) for various criminal incidents.
- ❖ Maintains records of all cases, both cognizable and non-cognizable, and updates them in the database.

Malkhana Section

- ❖ The Malkhana section is tasked with the safe custody and management of seized properties and evidence.
- ❖ It ensures the proper storage and documentation of confiscated items, including weapons, drugs, and other materials related to ongoing investigations.

Cyber Cell

- ❖ The Cyber Cell is a specialized unit focused on investigating cybercrimes and online offenses.
- ❖ Officers in this section deal with cases involving hacking, online fraud, cyberbullying, and other digital crimes.
- ❖ They often work to trace digital evidence and track down cybercriminals.

Passport Verification Section

- ❖ This section is responsible for verifying the backgrounds and credentials of individuals applying for passports.
- ❖ Police personnel in this section conduct inquiries to confirm the identity and antecedents of passport applicants.

CCTV Camera Section

- ❖ The CCTV Camera section is involved in monitoring and maintaining surveillance cameras in specific areas of the city under the police station's jurisdiction.
- ❖ They oversee the operation and maintenance of CCTV systems to enhance public safety and investigate incidents captured on camera.

3. Organizational Structure

- ❖ The police station operates under the Commissionerate system.
- ❖ Police officials are divided into four branches: Law and Order, Crime, Administration, and Public Relations Offices.

4. CCTNS Portal and Digitization

The Crime and Criminal Tracking Network & Systems (CCTNS) is a significant initiative in India aimed at modernizing and digitizing law enforcement processes and records. Here are further details about the CCTNS portal and its role in digitizing police records:

Purpose of CCTNS:

- ❖ The CCTNS project was launched to create a comprehensive and integrated system for law enforcement agencies across India.
- ❖ Its primary objective is to enhance the efficiency, transparency, and effectiveness of policing by digitizing and interconnecting police records and processes.

Digitization of Records:

- ❖ One of the core functions of the CCTNS is the digitization of police records, including FIRs (First Information Reports), criminal records, investigation details, and other relevant documents.
- ❖ This digitization process involves converting physical paper records into electronic formats, making them easily accessible and searchable within the system.

Real-Time Data Entry:

- ❖ Police personnel are responsible for entering data into the CCTNS portal in real-time as cases are registered and investigated.
- ❖ This ensures that the most up-to-date information is available to law enforcement agencies, improving their ability to track and solve crimes.

Integration of Police Stations:

- ❖ The CCTNS portal links all police stations and law enforcement agencies across the country, creating a network that allows for the sharing of information and data.
- ❖ This integration enhances coordination and collaboration among different police units and jurisdictions.

Accessibility and Transparency:

- ❖ The digitization of records on the CCTNS portal makes information more accessible to authorized users, including law enforcement agencies, courts, and other relevant authorities.
- ❖ This transparency can improve the overall criminal justice system by facilitating information exchange.

Date of Implementation:

- ❖ During the visit we found that records have been digitized and updated on the CCTNS portal since 2017. This indicates that the digitization process has been ongoing for several years.

Benefits of CCTNS:

- ❖ The CCTNS project has several advantages, including faster and more efficient crime investigations, reduced paperwork, improved data accuracy, and enhanced public safety.
- ❖ It also aids in creating a comprehensive national database of criminals and criminal activities, which can assist in tracking and preventing crimes.

Future Development:

- ❖ The CCTNS project is continually evolving, with plans for further enhancements and improvements to better serve the needs of law enforcement agencies and the public.

The CCTNS portal is a vital tool in the modernization of law enforcement in India, streamlining processes and ensuring that critical information is readily available to those who need it. It plays a pivotal role in improving the overall effectiveness and transparency of the criminal justice system in the country.

5. Anti-Terrorism Cell

The police station houses an Anti-Terrorism Cell, highlighting the importance of addressing security concerns. This cell specifically deals with the terrorist activities taken place in the country.

6. Information Recording Section

- ❖ The main section of the police station handles the recording of information.
- ❖ An online database is maintained for both cognizable and non-cognizable cases.
- ❖ Notably, there was no affixing of DK Basu guidelines despite the station's location in a prominent area of Mumbai.

7. Lack of Proper Uniform

The observation regarding the uniform and appearance of some police officials not wearing the proper uniform and wearing slippers raises important considerations for the professionalism and discipline within the police force. Proper uniforms are not only a matter of appearance but also symbolize the authority and professionalism of law enforcement agencies.

8. Number of Female Police Personnel and Shift Operations

- ❖ The police station has a total of 30 female police officials.
- ❖ Out of these, 22 were lady constables, and 8 held police officer ranks.
- ❖ This mix of female personnel is crucial for a diverse and balanced law enforcement team.

Shift Operations:

The police station operates in two shifts:

- ❖ The first shift runs from 8 AM to 8 PM.
- ❖ The second shift operates from 8 PM to 8 AM.

9. Lack of Lock up Facility

The police station does not have an independent lock-up, and arrested individuals are transferred to LT Marg Police Station.

10. Ammunition Room

The ammunition room contains various firearms and equipment, including revolvers, pistols, SLRs, and an AK-47.

11. CCTV Room

The CCTV room is equipped with two large LED screens and one small LED screen displaying live footage from areas within the station's jurisdiction. CCTV footage is stored in the police station for 15 days and then transferred to the main control room.

12. Working Conditions and Infrastructure Challenges in

cyber cell Space Constraints:

- ❖ One of the noted challenges was the limited space available within the Cyber Cell area.
- ❖ Space constraints can lead to a crowded and less efficient working environment, making it challenging for police personnel to conduct their tasks effectively.

Lack of Dedicated Infrastructure:

- ❖ Officers in the Cyber Cell were observed using their personal laptops for work.
- ❖ The absence of dedicated infrastructure, including workstations and computers, can hinder the efficiency and security of cybercrime investigations.

Challenges in Cybercrime Investigations:

- ❖ Discussions with officers in the Cyber Cell revealed that they face various challenges in tracking and investigating cybercrimes.
- ❖ Cybercrimes can be complex and require specialized tools and expertise.
- ❖ Limited resources and infrastructure can impede the effectiveness of investigations into cyber-related offenses.

13. Washroom Condition

- ❖ The washrooms at the police station were found to be of average quality.
- ❖ Concerns were noted regarding the cleanliness of the washroom facilities.

Maintaining clean and hygienic washrooms is essential not only for the comfort and well-being of police personnel but also for maintaining a professional and welcoming environment for visitors to the police station. Proper cleanliness and maintenance of washrooms are important aspects of overall infrastructure management within a law enforcement facility. Addressing cleanliness concerns can contribute to a more conducive working environment.

14. Wireless Room

- ❖ The call is directed from the headquarters to the wireless room of the police station. When a crime commits then the headquarter informs the police station through the wireless in which area the crime commits.
- ❖ There was a separate channel for the KOYNA DAM of Maharashtra, in the police station if something mishap happens.
- ❖ The communication was done through MORSE code.
- ❖ There were two types of channels one was for internal communication and other was for state wise communication.

Whether Malabar Police Station fullfill the criteria of ISO Certification or not

During our visit to the Malabar Hill Police Station to assess its eligibility for ISO certification, we were informed by the Station Incharge that it had not been granted ISO certification. Subsequently, we conducted an observation to determine whether the station fulfilled the criteria

for ISO certification. Our findings revealed a mix of strengths and areas that needed improvement. Here's a systematic breakdown:

Merits (Facilities/Initiatives that can be considered for ISO certification)

- ❖ **Digitization of Records:** The police station demonstrated a positive step towards modernization by digitizing records and maintaining them on a dedicated portal, CCTNS (Crime and Criminal Tracking Network and Systems). This enhances data management and accessibility.
- ❖ **Cyber Cell:** The presence of a dedicated cyber cell is a notable feature, indicating the station's readiness to handle cybercrime cases and emerging technological challenges effectively.
- ❖ **Availability of Female Police Personnel:** The station had female police personnel on duty, a critical factor in ensuring a safe and comfortable environment for women who may need to interact with the police.
- ❖ **Anti-Terrorism Cell:** The existence of an anti-terrorism cell underscores the station's commitment to addressing national security concerns and ensuring public safety.

Areas Needing Improvement (Basic Criteria Not Fulfilled for ISO Certification)

- ❖ **Lack of Infrastructure:** The station faced infrastructure challenges, particularly concerning space constraints. Adequate space is essential for efficient and organized police operations.
- ❖ **Missing CCTV Cameras inside Police Station:** The absence of CCTV cameras inside the police station raises concerns about transparency and accountability in policing practices.
- ❖ **Absence of Waiting Room:** The lack of a waiting room can inconvenience individuals who visit the police station, making it important to provide a designated area for the public.
- ❖ **Library:** The absence of a library may limit access to essential legal resources and reference materials that police personnel may require during their work.
- ❖ **Washroom Conditions:** The unsatisfactory condition of washrooms can impact the overall hygiene and comfort for both police personnel and visitors.

- ❖ **Dedicated Women's Cell:** The absence of a dedicated women's cell within the police station could hinder the effective handling of cases involving women and children.

Our assessment of the Malabar Hill Police Station indicated that it currently does not fulfill the basic criteria for ISO certification. While there are positive aspects such as record digitization, the presence of specialized units, and female police personnel, there are critical infrastructure and facility deficiencies that need attention. Addressing these shortcomings and aligning with ISO standards would be essential for the station to qualify for certification in the future.

CHAPTER IV

Learning Outcomes & Suggestions

Learning Outcomes

- 1. Understanding the Structure of a Police Station:** Learners will be able to describe the layout and key sections of a police station, including the reception, duty officer room, summon room, police malkhana, CCTV room, cyber cell, and wireless room.
- 2. Complaint Handling and FIR Process:** Learners will understand the process of handling complaints and lodging FIRs at a police station, including the role of the reception and duty officer.
- 3. Crime Data Management:** Learners will gain knowledge about the Crime and Criminal Tracking Network and Systems (CCTNS) and its role in digitally maintaining FIR data and content.
- 4. Court Procedures:** Learners will become familiar with the role of the summon room in sending summons and warrants to the courts.
- 5. Case Property Management:** Learners will learn about the importance of the police malkhana in storing and maintaining case property and its role in further trial processes, including sending items for forensic testing.
- 6. CCTV Surveillance:** Learners will understand how police officials monitor CCTV cameras installed in the police station and their role in maintaining security.
- 7. Cybercrime Management:** Learners will gain insights into the presence of a dedicated cyber cell in the police station and its role in monitoring cyber-related offenses and tracking cybercriminals.

8. Wireless Communication: Learners will learn about the use of wireless communication in police operations, including its role in receiving crime alerts, Morse code communication, and internal and state-wise channels.

9. Detention Procedures: Learners will note that the police station does not have a lock-up room, and detained individuals are sent to LT marg Police station.

10. Compliance with Legal Guidelines: Learners will be aware of the absence of DK BASU guidelines in the police station, which are mandated by court orders for safeguarding the rights of detainees.

11. Police Officer Behavior: Learners will observe that the behavior of police officers on duty appears to be friendly towards visitors but may seem care-free when dealing with complainants. This observation can lead to discussions about the professionalism and conduct of law enforcement personnel.

Suggestions

1. Training and Education Enhancement

- ❖ Develop comprehensive training programs based on the learning outcomes to ensure that police officers are well-equipped with the necessary knowledge and skills.
- ❖ Implement continuous education and training modules to keep officers updated on the latest legal guidelines, technology, and best practices.

2. Technology Integration

- ❖ Invest in advanced crime data management systems, including robust CCTNS software, to streamline data collection and improve the accuracy and accessibility of information.
- ❖ Continuously upgrade and expand the CCTV surveillance network to enhance real-time monitoring and evidence gathering capabilities.

3. Cybercrime Prevention and Response

- ❖ Establish specialized cybercrime units or cells in police stations to proactively combat cyber-related offenses and efficiently track cybercriminals.
- ❖ Foster partnerships with cybersecurity experts and organizations to strengthen the cybercrime response infrastructure.

4. Legal Compliance and Accountability

- ❖ Ensure that all police officers are fully aware of and adhere to legal guidelines such as DK BASU guidelines, promoting respect for the rights of detainees and due process.
- ❖ Implement robust accountability mechanisms, including regular audits and internal affairs investigations, to address any misconduct or negligence.

5. Community Policing and Public Relations

- ❖ Promote community policing initiatives that encourage officers to engage with the community, build trust, and address concerns proactively.
- ❖ Improve public relations efforts to enhance the perception of the police force, emphasizing professionalism, transparency, and responsiveness.

6. Ethical Behavior and Conduct

- ❖ Incorporate ethical behavior and professionalism as core components of police training, ensuring officers maintain a respectful and empathetic demeanor toward all individuals, including complainants.
- ❖ Implement ongoing ethics training and peer monitoring to encourage adherence to a high standard of conduct.

7. Resource Allocation and Infrastructure Improvement

- ❖ Allocate resources strategically based on the specific needs identified in the learning outcomes, such as maintaining proper Maal khana facilities and wireless communication systems.
- ❖ Invest in infrastructure improvements to create a conducive and efficient working environment for police officers.

8. Procedural Revisions and Best Practices

- ❖ Continuously review and update procedures based on lessons learned from the learning outcomes, incorporating best practices to enhance efficiency and effectiveness.
- ❖ Encourage officers to share their experiences and suggest procedural improvements through regular feedback mechanisms.

9. Data-Driven Policing

- ❖ Leverage data collected through the CCTNS and other systems to inform policing strategies, resource allocation, and crime prevention efforts.
- ❖ Implement predictive policing models to allocate resources proactively in areas with high crime rates.

10. Interagency Collaboration

- ❖ Foster collaboration with other law enforcement agencies, forensic labs, and judicial authorities to streamline processes and improve coordination in investigations and legal proceedings.

11. Continuous Evaluation and Feedback

- ❖ Establish a feedback loop where officers can provide input on their training and on-the-job experiences, allowing for continuous improvement in policing strategies and procedures.

12. Hygiene and Cleanliness

- ❖ Maintain proper cleanliness and hygiene standards in washroom facilities to ensure the well-being of personnel and visitors.

13. Lock-Up Facility

- ❖ Consider the establishment of a dedicated lock-up facility within the police station for the convenience and safety of arrested individuals.

CHAPTER V

CONCLUSION

Our visit to Malabar Police Station was a noteworthy experience because we had first hand experience to study the socio legal aspects of the working of the Police System in India, role of Criminal Justice System , Safeguard of Human Rights.

The police system plays a vital role in maintaining law and order in society. While law enforcement agencies are essential for public safety, it is imperative that they operate with transparency, accountability, and a commitment to protecting the rights of all citizens. To build a more just and equitable police system, collaboration between law enforcement, communities, and policymakers is essential. Implementing community policing strategies, investing in training and de-escalation techniques, and addressing systemic issues within the criminal justice system are critical steps toward achieving this goal. By working together, we can strive for a police system that better serves and protects all members of society while upholding the principles of justice and equality.

The criminal justice system is a complex web of institutions and processes designed to maintain law and order within society. Among its crucial components, the police play a central and foundational role. Police officers are often the first point of contact with the criminal justice system for individuals involved in criminal activities, victims of crimes, and the general public. Their role is multifaceted, encompassing various functions that are essential to the overall functioning of the system. One of the primary functions of the police is law enforcement. Police officers are responsible for upholding and enforcing the laws of their jurisdiction. They are tasked with preventing, detecting, and investigating crimes. This involves patrolling neighborhoods, responding to emergency calls, conducting investigations, and apprehending individuals suspected of criminal activity. By maintaining a visible presence in communities, the police serve as a deterrent to crime, helping to create a sense of safety and security among residents.

Another critical aspect of the police role is public safety. Police officers are often the first responders to emergencies, including accidents, medical incidents, and incidents of violence. Their quick response can make the difference between life and death in many situations.

Additionally, police play a vital role in managing and controlling large-scale events, protests, and disasters, ensuring public safety and minimizing harm.

Community policing is an approach that emphasizes building positive relationships between the police and the communities they serve. This approach recognizes that trust and cooperation between law enforcement and the public are essential for effective crime prevention and resolution. Police officers who engage with the community can better understand local concerns, address specific needs, and work collaboratively with residents to develop solutions to neighborhood problems.

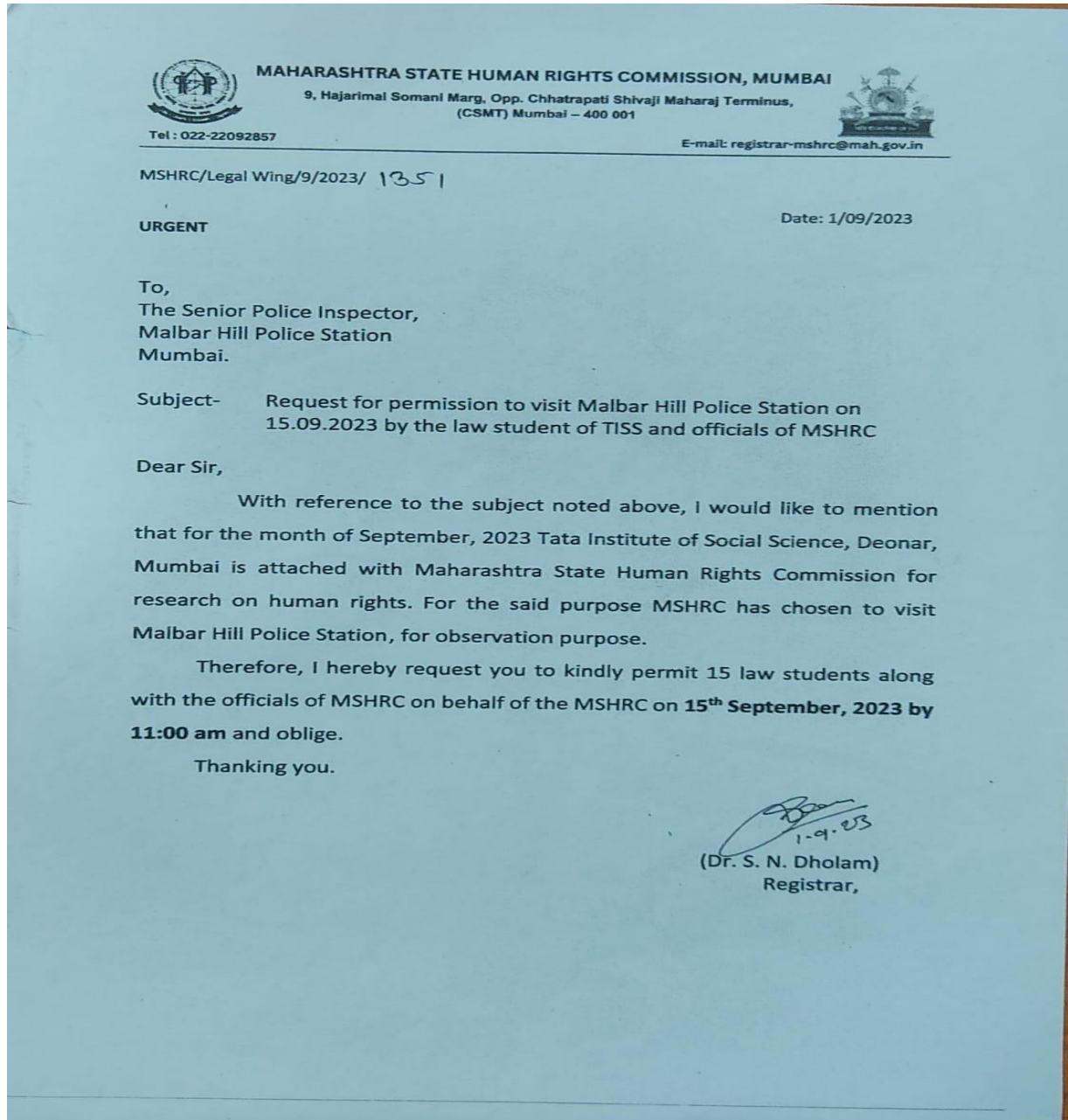
In the criminal justice system, police officers serve as a bridge between law enforcement and the judiciary. They gather evidence, interview witnesses, and prepare cases for prosecution. The quality and integrity of their work are critical in ensuring that the subsequent stages of the criminal justice process, such as trials and sentencing, are fair and just.

The police are a cornerstone of the criminal justice system, playing a vital role in maintaining law and order, enforcing laws, ensuring public safety, and building community relationships. While they face challenges and scrutiny, their role in upholding the principles of justice and protecting the rights of all individuals in society remains essential. Police officers serve as the first line of defense against crime and as agents of change in the ongoing efforts to improve and reform the criminal justice system.

REFERENCE

- Universal Declaration of Human Rights, 1948
- The International Covenant on Civil and Political Rights (ICCPR), 1966
- Royal Commission on the Police Powers and Procedures 1929
- Protection of Human Rights Act, 1993
- Maharashtra State Human Rights Regulation, 2011
- Bombay Police Act of 1951
- Police Act of 1861 (5 of 1861)
- Code of Conduct for Law Enforcement Officials, 1979
- The Code of Criminal Procedure, 1973 (CrPC)
- The Indian Penal Code, 1860 (IPC)
- The Indian Evidence Act, 1872
- The National Security Act, 1980

ANNEXURES



Permission Letter to Visit The Malabar Hill Police Station

Infrastructure Issues



Image 2: First Floor in front of the Stairs



Image 3 : Stairs at the Police Station



Image 4: Washroom in the Malabar Hill Police Station

Awareness



Image 5: Guidelines for Stolen Phone in the Police Station



Image 6: Cyber Crime Helpline Guideline



Home for Mentally Deficient Children – Entry Gate



Dr. Swarup Dholam (Fieldwork Supervisor), Dr. Devakumar Jacob (Fieldwork Coordinator) and Students of Tata Institute of Social Science With Principal in-charge of MDC Home

Table of Contents

S. No.	Topic	Page
1.	Introduction	3
2.	Fieldwork Mandate	4
3.	Profile of Home for Mentally Deficient Children, Mankhurd	6
4.	Objectives of the Visit	13
5.	Rationale	13
6.	Methodology	15
7.	Legal Provisions	17
8.	International Conventions	19
9.	Case Laws	21
10.	Observations	23
11.	Learning Outcomes	26
12.	Suggestions Based on the Observations	26
13.	Conclusion	28
14.	References	30
15.	Annexure I (Suo Moto Proceeding)	37
16.	Annexure II (Legal Documents)	46
17.	Annexure III (Questionnaire)	48

Title: Visit to Home for Mentally Deficient Children, Mankhurd

Date of Visit: 11th September, 2023

Venue: Mentally Deficient Children's Home, Mankhurd, Mumbai- 400088

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

Dr. Devakumar Jacob (Fieldwork Coordinator) Asst. Professor, School of Law
Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS),
Mumbai

Students of One-year LLM program of School of Law Rights and Constitutional
Governance, Tata Institute of Social Sciences (TISS), Mumbai 2023-2024 batch

Aditya Raj Marandi M2023ATJ006	Nancy M2023ATJ020
Alok Sharma M2023ATJ008	Huma Wasim M2023ATJ044
Harsh Lohia M2023ATJ016	Vishakha Arya M2023ATJ040
Roy Stephen Rodrigues M2023ATJ027	Dipsikha Deka M2023ATJ047
Harsh Kumar Jauhar M2023ATJ015	Arundhati Manish Tadkod M2023ATJ043
Tanmay Tejaswi M2023ATJ035	Ashutosh Kumar M2023ATJ010
Uttkarsh Singh Goyat M2023ATJ036	

Introduction

“History will judge us by the difference we make in the everyday lives of children.”

-Nelson Mandela

On 11th September 2023 at 11.00 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 Mentally Deficient Children’s Home, Mankhurd, Mumbai- 400088

Humans have asserted themselves to be the most intelligent species to have ever walked on planet earth. The human brain is such that until today medical science has not been able to explain it in entirety. For instance, we still don’t know how memories are stored. It is because of this brain that humans have made significant discoveries and lived the best life for themselves, but sometimes there occurs a disorder in it which we colloquially refer to as madness or insanity. People experiencing mental health problems often face difficulties that are different from those faced by other people. In this case it is particularly faced by children as they are abandoned and left homeless just because of their existing mental condition and care and rehabilitation of such children is difficult as their mental condition is not curable and they cannot be ever integrated into normal life.¹

The MDC established in 1941 happens to be one of the oldest children’s homes in the country. This is one of the major institutions for mentally challenged for minor children of 6 to 18 years; the case of retarded children is quite different from that of others, as retarded children have nowhere to go, so these all beneficiaries are kept here till they breathe their last.

In 1992, the general assembly adopted the Declaration of Hawaii. For many years it was observed that many patients in mental asylums were subject to gross human rights violations at the hands of authorities. In many countries the asylums were in dismal conditions where in some cases even food and water were not available. Apart from this, the patients lacked privacy, there were no

¹ Critical Perspective on Disability Laws with Model Forms by Nayan Joshi Edition 2023

facilities for recreation and leisure activities, the patients were made to do hard labor at times. In fact, there has been no attempt to ‘treat the mentally ill’. The Hawaii declaration laid down that an environment of love and care ought to be maintained in asylums. The seclusion and restraint that is practiced in treating these people need to as minimum as possible. The declaration was the first international treaty that recognized human rights of mentally challenged people.²

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. Persons with Disabilities Act, 2016 also provides safeguards as mental condition of such children can be treated as disability. The primary objective of the Act is to ensure that disabled people enjoy their right to equality and are able to live a dignified and respectful life. The Preamble of the Act provides that it is aimed at protecting disabled people from all sorts of discrimination. The Act seeks to ensure the full social, political, and economic participation of disabled people. This Act promotes inclusive education and provides employment safeguards for disabled people. Thus, it aims at empowering disabled people through inclusive growth and active societal participation.³

The Fieldwork 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”

² <https://www.wpanet.org/declaration-of-hawaii-last> seen on 16/09/2023

³ The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, 2016 See Dr. S. K. Awasthi and R. P Kataria, Law Relating to Protection of Human Rights 115 (2000).

As the Mentally Deficient Children's Home 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.

The primary purposes of these visits are as follows:

- **Study of Living Conditions:** The Commission is empowered to study the living conditions of the individuals who are detained or lodged in these institutions. This includes assessing the treatment, reformation, or protection measures provided to the inmates, especially in cases involving vulnerable populations like mentally deficient children and women.
- **Recommendations:** After conducting such visits and making observations, the Commission has the authority to make recommendations to the State Government. These recommendations can address any issues or concerns identified during the visit. These recommendations are aimed at improving the conditions, treatment, and protection of individuals in these institutions.

The fieldwork undertaken at the Maharashtra State Human Rights Commission (MSHRC) is not merely a mandatory academic requirement but constitutes a vital and profound component of our academic journey. This endeavor is firmly rooted in a formal Memorandum of Understanding (MOU) meticulously crafted and agreed upon between the MSHRC and the School of Law, Rights, and Constitutional Governance (SLRCG) at the Tata Institute of Social Sciences (TISS), Mumbai. This MOU serves as a testament to the shared commitment and collaborative spirit of both institutions in the pursuit of promoting and safeguarding human rights within the dynamic and diverse landscape of the state of Maharashtra.

At its core, this partnership underscores the recognition of the paramount significance of practical engagement and experiential learning in our collective mission to enhance access to justice for all. It reflects an acknowledgment that the study of law and human rights goes beyond the confines of the classroom and textbooks, requiring active participation in the real-world contexts where the principles of justice, equity, and human dignity are both tested and reaffirmed.

Under the auspices of this mandate, our fieldwork has been thoughtfully designed to encompass a diverse range of visits and engagements. These visits serve as our practical foray into the realm of human rights advocacy and enforcement, enabling us to bridge the gap between theory and practice. They are imbued with a deeper purpose, aligning closely with the core values and objectives of MSHRC and SLRCG, TISS, Mumbai.

Our interactions with the Home for Mentally Deficient Children is not mere perfunctory exercise but represent our commitment to monitoring, assessing, and, where necessary, advocating for the protection of human rights. These visits are conducted with the utmost diligence, attention to detail, and sensitivity to the needs and vulnerabilities of the marginalized sections of society.

In essence, this fieldwork mandate embodies the fusion of academic rigor with practical wisdom, reflecting our shared aspiration to contribute meaningfully to the promotion of justice and human rights in Maharashtra. It reinforces our belief that true learning and meaningful change occur when we step out into the world, engage with its complexities, and work collaboratively to uphold the principles of justice, dignity, and equality that lie at the heart of our legal and human rights education.

Profile of Home for Mentally Deficient Children, Mankhurd

The Mentally Deficient Children Home, established on September 30th, 1941, has a noble mission at its core: to empower parentless individuals with mental retardation to achieve their highest quality of life, enabling them to grow and fulfill their needs and potential within a supportive and caring environment.

Vision:

Every Person with a Disability has the opportunity to live, educate, habilitate and rehabilitate in a supportive and accessible institute.

Mission:

Empower people with mental retardation to achieve their highest quality of life, to grow and fulfil their needs and potential in a supportive environment.

History:

The Home for Mentally Deficient Children (MDC Home) has a rich history that reflects its commitment to providing care and rehabilitation for mentally challenged children in India. Here is a detailed history of MDC Home:

- **1941 - Establishment:** MDC Home was established on 30 September 1941. It holds the distinction of being the first major residential institution in India specifically dedicated to the welfare and care of mentally retarded children. The institution operated under the umbrella organization of the Children Aid Society.
- **Mission and Purpose:** From its inception, MDC Home's primary mission was to provide sheltered care, protection, and rehabilitation for mentally retarded boys and girls. It aimed to address the needs of orphaned and marginalized children with mental disabilities in India.
- **Admissions:** Children in need of specialized care due to mental retardation were admitted to MDC Home through the involvement of the Honourable Majesties of the Juvenile Court and the Honourable Chairperson of the Child Welfare Committee. This ensured that the institution admitted children who required its services.
- **Comprehensive Rehabilitation Program:** MDC Home took a comprehensive approach to rehabilitation. In addition to offering educational and vocational training, it placed significant emphasis on improving the children's daily living activities and addressing their medical conditions. This holistic rehabilitation model aimed to develop person-centered care for all beneficiaries and promote services that facilitated a good quality of life.
- **Residential Settings:** MDC Home provided residential care, not only for children but also for adults with mental retardation. The institution made it a priority to create an environment that felt like a true home for its residents, one that upheld their dignity and ensured their safety.
- **Pitruvatsalya for Girls:** In a significant development, a special section within MDC Home known as "Pitruvatsalya" was inaugurated on 17 April 1977. This section was specifically

dedicated to the care and rehabilitation of mentally retarded girls. The inauguration of Pitruvatsalya marked a significant milestone in MDC Home's efforts to expand its services and support to cater to the unique needs of mentally challenged girls.

Throughout its history, MDC Home has played a vital role in the care and rehabilitation of mentally retarded children and adults in India. It has remained dedicated to its mission of providing a nurturing and supportive environment that promotes the well-being and quality of life of its residents. The establishment of Pitruvatsalya in 1977 was a testament to the institution's commitment to expanding its services and addressing the specific needs of the community it serves.

Composition of MDC Home:

- Inmate Numbers: Presently, the home provides shelter and care for a total of 263 mentally deficient individuals, comprising 115 boys and 148 girls.
- Basic Necessities: The MDC Home fulfills the essential needs of its residents, including accommodation, food, clothing, medicine, and educational facilities, aiming to create a nurturing environment that caters to their well-being and development.

Capacity and Sanctioned Strength:

- Capacity: It's important to note that the MDC Home is designed to accommodate up to 200 mentally challenged children.
- Sanctioned Strength: The sanctioned capacity, however, extends to 350 inmates, reflecting the home's commitment to expanding its support to a larger number of individuals in need.⁴

Admission Criteria:

- Age Group: Children between the ages of 6 to 18 years who are certified as mentally challenged and are destitute are admitted into the Mentally Deficient Children's Home based on vacancies.

⁴Observations on page 2 of Proceeding of Suo Motu case No. 3870/13/16/2022 (Maharashtra State Human Rights Commission)- Dated 28th October, 2022

- Continued Support: Residents are provided care and support not only until they reach the end of their natural lives but also until they can be reintegrated into a professional source of income, emphasizing the home's dedication to long-term welfare.

Diverse Age Groups:

- Age Distribution: Of the current residents, only 23 fall below the age of 18, while the remaining inmates range from 19 to 40 years of age, showcasing the MDC Home's commitment to providing care and support to individuals across various stages of life.

IQ-Based Categorization:

- Categorization: Residents at the MDC Home are categorized based on their IQ into six distinct groups: profound, severe, moderate, mild, borderline, and slow learner. This categorization helps tailor care and support to each individual's specific cognitive needs, ensuring a personalized approach to their development and well-being.

Government Contribution:

- On Date: 30 March 2012 Mentally Deficient Children Home transferred from The Women & Child Development Department to The Social Justice & Welfare Department, Government of Maharashtra.
- On Date: 22 June 2018, according to the government rule of Social Justice & Welfare Department has appointed new staff pattern at MDC Home.
- The Government of Maharashtra has given a 100% grant to fulfil not only basic needs of food, clothing, and shelter but also educational and medical facilities. In accordance with this purpose, the Government, on average, provides an aid of Rs. 2000 per child per month.

Education and Development of the Inmates:

The Home for Mentally Deficient Children (MDC Home) is dedicated to the comprehensive care and development of its inmates, which includes children and adults with mental disabilities. Here are some details about the education and development programs offered by MDC Home:

1. **Residential Care:** MDC Home provides a safe and supportive residential environment for people with disabilities. This ensures that the inmates have a stable and caring place to live, which is essential for their overall well-being.
2. **Child Welfare Services:** Child welfare services are a fundamental aspect of MDC Home's operations. These services focus on the holistic development of the children under their care, including their physical, emotional, and social needs.
3. **Health Services:** Health services are crucial for the well-being of the inmates. MDC Home likely provides medical care and attention to address the specific health needs of the residents.
4. **Education:** MDC Home comprises a school where specially trained educators work with the inmates. The focus of the education program is on teaching basic motor skills, behavior therapy, and life skills to help the inmates lead more fulfilling lives.
5. **Vocational Training:** The institution also offers vocational training, enabling inmates to acquire trade skills. This training can empower them with practical skills that may be useful in gaining employment or pursuing other productive activities.
6. **Occupational Therapy and Physiotherapy:** Occupational therapy and physiotherapy are provided to address the physical and occupational needs of the residents. These therapies can help improve mobility and independence.
7. **Dental Clinics:** Dental care is an essential component of overall health, and dental clinics at MDC Home likely provide necessary dental treatments and check-ups to residents.
8. **Counselling and Supportive Services:** Inmates may receive counseling to address their emotional and psychological well-being. These services can help them cope with their unique challenges and improve their overall quality of life.
9. **Recreational Activities:** MDC Home organizes recreational activities, such as day-long picnics at water parks during summer vacations, to provide enjoyment and social interaction for the residents.
10. **Cultural and Festival Celebrations:** The institution celebrates various Indian festivals, ensuring that the inmates are engaged in cultural activities and traditions, which can be a source of joy and connection with their cultural heritage.
11. **Sports and Achievements:** MDC Home encourages residents to participate in sports, and some inmates have achieved success in various sports, including handball, skating,

basketball, and even at the Special Olympics. This involvement in sports promotes physical fitness and a sense of accomplishment.

12. Rehabilitation and Reintegration: For those inmates who show improvement and readiness, MDC Home makes efforts to rehabilitate them and reintegrate them into the community. This reflects a commitment to helping individuals transition beyond the institution's walls when possible.

Social Welfare Services:

There are One Probation officer cum Superintendent and one Child Welfare officer in the MDC Home who conducts Care & Protection services for beneficiaries.

Child Welfare officers; shares all administration task, prepare case works & group works of children with mental retardation and maintain all medical record of the CWMR. CWOs play an important role in the organisational structure of MDC Home. They play the role of catalyst coordinates with other departments of MDC Home. Children are the utmost responsibility of the CWOs; they maintain their physical and psychological records. CWOs also handle human rights cases, child rights policies and all legal matters.

Residential Services:

The centre has separate dormitories for male and female residents, which facilitate the residential need for 200 children with mental retardation & associated with other disabilities. Beneficiaries are provided a separate dormitory, and each dormitory has its own lavatory. Children with terminal illnesses or dependent children are kept under the supervision of a single caregiver. Caregivers provide proper daily living care, such as eating, toileting, bathing, and dressing, for the children who cannot live independently within MDC Home residents. Beneficiaries are categorised based on their IQ level and age and are under constant watch of caregivers and staff.

Food Services:

Hygienic and nutritious food is provided to the residents. The food is made in a controlled environment in the mess by experienced kitchen staff. Special food is also provided to sick residents as per doctor's advice. Constant checkup of the food is also conducted in the mess. A water filter has been installed to get hygienic water all the time.

Medical Services:

- A medical unit with one Medical Officer (General Physician), 3 Nurses and one compounder treat all the children housed in Mankhurd Campus for minor illnesses such as fever, cold, cough, scabies, diarrhea, vomiting, epilepsy and minor injuries.
- For major illnesses, as per the suggestion of the Medical Officer, children are sent to outside hospitals for thorough investigations and treatment like Shatabdi, LTMG, KEM, NIAR and JJ Hospitals.
- The storage and distribution process of medicine is properly documented (Medicine distribution log) and streamlined
- Medicines are distributed to children by nurses with the help of caregivers as per prescription, which is reviewed by a nurse and supporting staff.
- A separate medicine distribution log is maintained for temporary medicines. Sick children are referred to the Hospitals.
- If residents are admitted to the hospital, caregivers are appointed to take care of residents at the hospital. Staff are oriented by nurses to take care of their health while dealing with sick residents.
- Periodic checkup of residents is conducted by Medical Officer, Nurses, Occupational Therapist, Dentists, psychologist, and Counsellor.
- The clinic on the premises of the Home is equipped for primary diagnosis and to give first aid to the inmates.
- The medical history of every inmate right from the time of his/her admission is maintained in the record books.
- A medical checkup of every inmate is conducted at intervals of every three months.
- The Medical Officer has also chalked out a diet plan in conformity with the age and needs of inmates.

Health and Medical Infrastructure:

MDC Home has a facility of 10 beds and provides full nursing care facilities. These specially appointed Doctors, Nurses and Caregivers take care of all the requirements of the hospitalised, including medicine and food as prescribed by the doctor. Experienced Nurses are appointed to take

care of the medical needs of the persons. The hospital has a well-managed system of storage and timely distribution of medicines. The centre also operates an Ambulance 24*7, which is used in times of medical emergency.

Objectives of the Visit

1. To Ensure Follow-up and Compliance:

- To ensure the follow-up of previous guidelines and orders issued by the Maharashtra State Human Rights Commission.
- To monitor and verify compliance with these guidelines and orders to ensure the rights and well-being of the affected children.

2. To Understand the Difficulties:

- To understand the difficulties faced by children in need, particularly in terms of societal reintegration and acceptance.
- To gather insights into the challenges and barriers that hinder the social reintegration of these children into mainstream society.

3. To Provide a Safe and Conducive Environment:

- To demonstrate the knowledge and understanding of providing a safe and conducive environment for these children.
- To ensure the provision of essential services and facilities, including education, vocational training, infrastructure, food, and other necessities, to support the growth and thriving of these children.

Rationale

Rationale behind the visit to Home for Mentally Deficient Children by the Maharashtra State Human Rights Commission official (Dr. Swarupa Dholam), Dr. Devakumar Jacob (Fieldwork Coordinator) Asst. Professor, School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai and Students of One-year LLM program of School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai 2023-2024 batch:

Follow-up and Compliance of Previous Orders:

- One of the primary rationales for the visit was to follow up on and assess the compliance of previous orders issued by the Maharashtra State Human Rights Commission. These orders may have been related to the rights and welfare of mentally deficient children.
- This follow-up is essential to ensure that the recommendations and directives given in previous orders have been implemented effectively and that any violations have been rectified. It serves as a mechanism for accountability.

Observation of Living Conditions:

- Another crucial rationale for the visit was to observe the living conditions of mentally deficient children in institutions. Persons with mental health conditions, especially children, are often subjected to stigmatization, marginalization, mistreatment, and neglect.
- The visit aimed to provide an objective assessment of the actual conditions in which these children live, including their physical surroundings, access to healthcare, education, and other essential services.

Challenges of Societal Acceptance and Reintegration:

- It's well-recognized that individuals with mental health conditions, including mentally deficient children, face significant challenges in terms of societal acceptance and reintegration. Stigma and discrimination can lead to their exclusion from mainstream society.
- The visit sought to better understand these challenges, which can encompass social, psychological, and cultural factors, and identify ways to address them effectively.

Assessment of Human Rights Violations:

- The Maharashtra State Human Rights Commission officials and students undertook the visit to assess whether there were any violations of the human rights of mentally deficient children in these institutions. This includes the right to dignity, privacy, education, and healthcare.

- Any identified violations could lead to corrective measures, recommendations, or further actions to protect and uphold the rights of these vulnerable individuals.

Recommendations for Improvement:

- Based on their observations and assessments, the visit aimed to generate recommendations for improvement. These recommendations could encompass changes in policies, procedures, or practices within the mental health institutions or broader societal initiatives.
- The ultimate goal was to enhance the quality of care, treatment, and living conditions for mentally deficient children.

Ensuring Adequate Care and Human Rights:

- Such visits are necessary to ensure that mental health institutions are providing not just treatment but also adequate care to patients, particularly those who are often vulnerable and marginalized.
- The visit sought to ensure that basic human rights, such as the right to live in dignity and access to healthcare and education, are respected and upheld in mental health institutions.

In summary, the visit by the Maharashtra State Human Rights Commission officials and students was multifaceted, aiming to address a range of issues related to the care, treatment, and human rights of mentally deficient children. It sought to ensure compliance with previous orders, assess living conditions, understand societal challenges, identify violations, make recommendations, and ultimately improve the overall well-being of these children.

Methodology

The methodology adopted for this research is comprehensive and combines qualitative, descriptive, and exploratory approaches. Here are more details about each aspect of the research methodology:

Qualitative Nature:

- Qualitative research is characterized by its focus on understanding the depth and nuances of a particular phenomenon. It emphasizes collecting rich, detailed data that can provide insights into the subjective experiences, perceptions, and behaviors of individuals involved.
- In this research, qualitative methods such as participant observation, in-depth interviews, and focus group discussions were employed. Participant observation involves the researcher immersing themselves in the context being studied, in this case, the Maharashtra State Human Rights Commission, to gain a firsthand understanding of its functioning.
- In-depth interviews allow for in-depth exploration of the experiences and perspectives of key individuals, such as staff members or officials of the Commission. Focus group discussions involve group interactions to gather diverse viewpoints on the research topic.
- These qualitative methods help capture the complex and multifaceted nature of the issues related to the Commission's work and the conditions of mentally deficient children.

Descriptive Nature:

- Descriptive research aims to provide a comprehensive description of a particular population, setting, or phenomenon. It seeks to answer questions about "what" and "how" by collecting detailed data.
- This research involves the collection of various types of data, including surveys, questionnaires, and observational techniques. These methods contribute to a detailed description of the Maharashtra State Human Rights Commission, its orders, and the conditions of mentally deficient children.
- The descriptive aspect of the research helps in presenting a clear picture of the situation and understanding the characteristics and dynamics involved.

Exploratory Research:

- Exploratory research is conducted when the researcher aims to gain a preliminary understanding of a relatively unexplored or complex issue. It focuses on identifying key issues, challenges, solutions, and opportunities.
- In this research, the exploratory nature is evident in the attempt to uncover the fundamental issues and challenges faced by mentally deficient children and the functioning of the

Commission. This includes understanding societal acceptance, reintegration challenges, and potential areas for improvement.

- The research explores the context and context-specific factors that influence the experiences and conditions of mentally deficient children.

In summary, the research methodology combines these three approaches to provide a holistic and in-depth understanding of the topic. It employs a range of data collection methods to gather rich and detailed information about the functioning of the Maharashtra State Human Rights Commission, its orders, and the challenges faced by mentally deficient children. This comprehensive approach helps generate insights and recommendations for addressing the issues and improving the well-being of this vulnerable population.

Legal Provisions

Sec 2(l) of the Mental Health Act, 1987⁵ defines the mentally ill person as mentally ill person only by the need of treatment by reason of any mental disorder other than mental retardation, without any explicit mention of the nature of mental disorders. The act provides to the under Sec 5 of the Act says about the Establishment or maintenance of psychiatric hospitals and nursing homes. Which says that:

1. The Central Government may, in any part of India, or the State Government may, within the limits of its jurisdiction, establish or maintain psychiatric hospitals or psychiatric nursing homes for the admission, treatment and care of mentally ill persons at such places as it thinks fit; and separate psychiatric hospitals and psychiatric nursing homes may be established or maintained for, -
 - a) those who are under the age of sixteen years;
 - b) those who are addicted to alcohol or other drugs which lead to behavioural changes in a person;
 - c) those who have been convicted of any offence; and
 - d) those belonging to such other class or category of persons as may be prescribed.

⁵ Mental Health Act, 1987 (Act No. 14 of 1987).

2. Where a psychiatric hospital or psychiatric nursing home is established or maintained by the Central Government, any reference in this Act to the State Government shall, in relation to such hospital or nursing home, be construed as a reference to the Central Government.

The MHCA goes a step further to state that separate facilities are needed for all minors, i.e., under 18 years of age rather than 16. It does not specify if these separate facilities could be housed in the same compound as the facilities for adults, but with separate enclosures; or they should be separate hospitals in themselves. MHCA also makes a mention that facilities for young people should suit the developmental needs; however, there is no clear definition of the minimum standards required for such a facility.⁶

Other legislations

Rights of Persons with Disabilities Act, 2016⁷

The Rights of Persons with Disabilities Act (RPWD) came into force in 2016, i.e., before the MHCA. RPWD is also deeply driven by the United Nations Convention on the Rights of Persons with Disabilities. In the area of mental disabilities, RPWD is a major advancement over Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995 in encompassing a broad range of mental health conditions, including neurodevelopmental disorders, in its ambit. Thereby, mental retardation, autism spectrum disorders, specific learning disabilities, and mental illnesses are all eligible for disability evaluation and certification. This is an area where the MHCA falls short, in that it is unclear what the stand of the act on neurodevelopmental disorders is. Its definition of mental illness excludes mental retardation and is silent about other neurodevelopmental disorders that constitute a substantial proportion of consultations in child and adolescent psychiatric practice. There is also a lack of clarity on the relation between guardianship in the RPWD and NR in the MHCA. Further, while MHCA is quite elaborate in provisions for

⁶ Mental Health Act, 1987 (Act No. 14 of 1987), Sec 5.

rights of mentally ill persons with respect to their health care and within MHEs, issues of social rights and discrimination find no mention in the act.

Juvenile Justice (Care and Protection of Children) Act, 2015⁸

The Juvenile Justice (Care and Protection of Children) Act, 2015 is the primary provision in India that dictates laws related to children in conflict with the law and children in need of care and protection. Section 15 of this act talks a much-debated transfer of alleged offenders between the age of 16–18 years to the adult justice system in the event of heinous crimes and if so deemed after a preliminary assessment of the adolescent's mental and physical capacity to commit the offence, ability to understand the consequences of the offence, and circumstances in which the alleged offense was committed. The law, therefore, deems it possible that persons aged 16–18 years are capable of “adult-like” decision-making processes, can be held fully accountable for their acts, and can be penalized like adults in similar situations. Contrast this with the MHCA that places all decision-making authority about the treatment and care of minors with their NR.

National Mental Health Policy, 2014

India adopted the National Mental Health Policy (NMHP) in 2014; this policy is meant to guide all actions to scale up the mental health programs and provisions in the country. The policy lays special emphasis on the mental health needs of vulnerable groups such as orphans with mental illnesses, children of persons with mental illnesses, and children in custodial institutions.

International Conventions

Article 12 of the Convention on the Rights of Persons with Disabilities affirms the right of persons with psychosocial disabilities to equal recognition before the law, upholding their right to exercise

legal capacity on an equal basis with others. In the area of mental health, legal capacity has an important application in the exercise of free and informed consent.⁹

African Charter on the Rights and Welfare of the Child (1990)

Article 14 of the convention says about Health and Health Services states that “Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.” and that “State Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures for the implementation into the legislation.”¹⁰

Convention of Rights of the Child.

Article 23 of the convention states that the States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

World Health Organization (WHO) Mental Health Action Plan:

The WHO has developed a Mental Health Action Plan that includes a focus on the mental health and well-being of children and adolescents, including those with mental disabilities. It emphasizes the importance of early intervention, access to quality mental health care, and the promotion of mental well-being.

The Sustainable Development Goals (SDGs):

The United Nations' Sustainable Development Goals include a commitment to ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all. This goal is particularly relevant to children with mental disabilities, as it underscores the importance of inclusive education and equal access to opportunities.

UNICEF Guidelines:

⁹ Convention on the Rights of Persons with Disabilities, 2006, art. 12.

¹⁰ African Charter on the Rights and Welfare of the Child (1990), art 14.

UNICEF, the United Nations Children's Fund, provides guidelines and resources to promote the rights and well-being of children with disabilities, including those with mental disabilities. These resources aim to assist governments, organizations, and communities in implementing inclusive policies and practices.

Case laws

Accused X versus State of Maharashtra¹¹, wherein noted that under the Mental Health Care Act, 2017, there is a statutory right for mentally ill persons to live with dignity. The court said that "All human beings possess the capacities inherent in their nature even though, because of infancy, disability, or senility, they may not yet, not now, or no longer have the ability to exercise them. When such disability occurs, a person may not be in a position to understand the implications of his actions and the consequence it entails. In this situation, the execution of such a person would lower the majesty of law."

In **Dr. Vijay Verma Vs. Union of India**¹² directed the state government of Uttarakhand to formulate a comprehensive policy for rehabilitation of mentally ill children and patients. It observed *"Every person with mental illness is entitled to clean, safe and hygienic environment, adequate sanitary conditions, reasonable facilities for leisure, recreation, education and religious practices, food, proper clothing to protect such person from exposure of his body to maintain his dignity, and not be subjected to compulsory tonsuring (shaving of head hair), to be protected from all forms of physical, verbal, emotional and sexual abuse in any mental health establishments run by the State and granted permission by any private institution provided approval by it."*

The court has also issued slew of directions:

- *The State Government is directed to prepare a comprehensive Policy for rehabilitating the mentally disturbed children and patients.*
- *Survey within six months- The State Government is directed to conduct the Epidemiological Survey Data in the State to determine the mentally*

¹¹ Supreme Court, Criminal Appeal Number. 680 of 2007.

¹² Writ petition (PIL No. 17 of 2018).

retarded/disturbed children through National Institute of Mental Help and Neurosciences, Bangalore (Karnataka)

- *Setting up of Centre for Human Rights, Ethics, Law and Mental Health*
- *The State Government is directed to constitute the State Authority under Section 45 of the Mental Healthcare Act, 2017.*
- *The State Government, thereafter, shall constitute the Board to be called 'Mental Health Review Board' as per Section 73 of the Act within eight weeks.*

Directions for the State Government under the Act

- *The State Government is directed to provide mental healthcare and treatment to all the persons with mental illness at an affordable cost, of good quality, available in sufficient quantity, accessible geographically and without any discrimination.*
- *The State Government is directed to incorporate mental health service into general service at all levels including primary health centres in all health programmes.*
- *The State Government is directed to ensure that no person with mental illness including children and illiterate persons are transferred to long distances to access mental health service.*
- *The State Government is directed to ensure that every person, with mental illness, as per Section 20, is protected from cruel, inhuman and degrading treatment in any mental establishment.*
- *The State Government is directed as per Section 29 to plan, design and implement programmes for the promotion of mental health and prevention of mental illness in the State.*
- *The State Government is also directed to take all necessary measures to give due publicity to the Mental Healthcare Act, 2017 through public media, including television, radio, print and online media at regular intervals.*
- *The State Government is also directed to ensure that no person or organization establishes or runs mental health establishment unless registered with the authority constituted under the Act.*
- *The persons suffering from mental illness shall be admitted in the Establishment as per Section 86 of the Act.*

- *The state government has also define the role and duties of the police.*

The Bombay High Court held that under Article 39(f) of the Constitution, it is the duty of the state to make policy for healthy development of children, and certainly towards mentally-ill and mentally-challenged children. Merely because they are mentally-ill or -Challenged, they cannot be deprived of their fundamental right under the Article 21A of the Constitution. It said that *"Under Clause (f) of Article 39 of the Constitution of India, it is the duty of the State to ensure that there is a policy for securing that the children are given opportunities and facilities to develop in a healthy manner. Clause (f) of Article 39 will certainly apply to the mentally ill or mentally challenged children. Merely because they are mentally ill or challenged, they cannot be deprived of their fundamental right under Article 21A of the Constitution of India. Article 45 which is also a part of the directive principles of the State Policy provides that the State shall provide early childhood care and education for all children until they complete the age of six years".*¹³

Observations

During the visit to the Mentally Deficient Children Home (MDC Home), several observations were made regarding the living conditions, facilities, and overall environment. These observations shed light on various aspects that are significant from a legal and human rights perspective:

1. Living Conditions: The Rights of Persons with Disabilities Act, 2016 emphasizes the need for suitable living conditions for persons with disabilities. However, the inmates were observed sitting on the bare floor in the hall, which serves multiple purposes, including dining and functions. Notably, there was no carpet, potentially leading to discomfort.

In the boys' section, the permanent barracks were worn out, and reconstruction had been sanctioned by the Public Works Department (PWD). Until reconstruction is complete, male inmates are

¹³ <https://www.livelaw.in/mentally-challenged-kids-cannot-deprived-fundamental-rights-bombay-hc/> (last accessed on 16.09.2023).

residing in temporary barracks with inadequate washroom facilities. Importantly, there was no door in the washroom, compromising privacy and hygiene.

2. Educational Activities: The Rights of Persons with Disabilities Act, 2016 and international conventions stress the importance of inclusive education for children with disabilities. The MDC Home operates a school, with separate buildings for boys and girls. Special educators are responsible for teaching children motor skills and pre-occupational training.

It was observed that in the boys' section, a class focuses on teaching children to make brooms from coconut tree leaves. However, the knives used for this task were observed to be rusted. Additionally, the flooring in the boys' section was found to be worn out, potentially posing safety hazards.

A "lacuna" in the premises suggests gaps in infrastructure or facilities needed for educational activities.

3. Kitchen Facilities: In the girls' section, there is a kitchen setup within the home science class. However, it was reported to be non-operational, and staff members were using it for personal purposes, such as heating meals and washing utensils.

4. Achievements and Medical Unit: The Principal In Charge shared information about the accomplishments of three inmates who won silver medals in the Special Olympics, highlighting the achievements of the residents.

The medical unit within the facility consists of one medical officer (General Physician), three permanent nurses, and one temporary nurse. The presence of two ambulances, one large and one small, indicates a preparedness for medical emergencies.

5. Healthcare Services: Notably, there was a lack of essential healthcare professionals, including counselors, a female physiotherapist, gynecologist, and neuro-physician. The absence of these specialists could affect the comprehensive healthcare provided to the inmates.

The need for organizing medical camps, especially for female inmates, was emphasized. The absence of such camps raised concerns about healthcare access and preventative care.

6. Legal Aid Clinic: There was a mention of a closed Legal Aid Clinic within the MDC Home. The closure of this clinic limits inmates' access to information about their fundamental and basic rights.

There is a clear need to reinstate and maintain a properly functioning Legal Aid Clinic to empower the inmates with knowledge about their rights.

7. Kitchen Conditions: The kitchen's excellent condition, attributed to donations and proper maintenance, is a positive aspect of the facility. Clean and well-maintained kitchens are crucial for food safety and overall well-being.

8. Footwear and Awareness: None of the inmates were wearing footwear, and there were no exercises to promote the understanding that they should wear footwear. Basic hygiene practices, such as wearing footwear, need to be addressed for the inmates' well-being.

9. CCTV Cameras and Safety Measures: Before the court order in Suo Motu case on 28/10/2022, there were no CCTV cameras in the facility. Subsequently, 40 CCTV cameras were installed, with 33 in working condition and 7 not functioning due to mischief by monkeys, as reported by the In Charge Principal Mrs. Komalkar. This highlights the challenges in maintaining security measures.

The absence of fire extinguishers raises concerns about fire safety preparedness within the facility, potentially posing risks to the safety of the inmates and staff.

10. Playground and Grounds Maintenance: The observation that the playground and grass were not maintained highlights a need for better upkeep of outdoor spaces for the inmates' recreational activities.

In conclusion, these highly detailed and elaborated observations provide a comprehensive overview of the conditions and operations within the MDC Home. The findings underscore several areas that require attention and improvement, including living conditions, healthcare services, educational facilities, safety measures, and legal aid services. Addressing these issues is essential for enhancing the overall well-being and rights of the inmates residing in the MDC Home.

These Observations Reflect Several Key Concerns (Learning Outcomes)

- Inadequate Facilities: The inadequate infrastructure, lack of proper living conditions, and insufficient educational resources raise concerns about the quality of life and opportunities for the mentally deficient children residing in the MDC Home.
- Healthcare Deficiencies: The absence of specialized medical professionals, counseling services, and the need for medical camps highlight a gap in providing comprehensive healthcare to the inmates.
- Legal Rights: The closure of the Legal Aid Clinic is a significant omission, as it deprives inmates of the opportunity to understand and assert their legal rights and entitlements.
- Safety and Security: The presence of non-functional CCTV cameras and the absence of fire safety measures suggest potential risks to the safety and security of the inmates.
- Hygiene and Basic Needs: The lack of proper footwear and hygiene education indicates the need for attention to basic needs and personal care.
- Vocational Training: While some vocational training was observed, the condition of tools and equipment needs improvement to ensure effective skill development.

As a legal researcher, these observations serve as a basis for further investigation and advocacy to address these deficiencies and ensure that the rights and well-being of mentally deficient children in the MDC Home are protected and enhanced in accordance with relevant legal provisions and human rights standards.

Suggestions Based on the Above Observations

1. Improved Living Conditions:

- Provide proper seating arrangements in the dining hall, including carpets or mats for inmates to sit on during meals and functions.
- Urgently reconstruct the worn-out permanent barracks for boys, ensuring proper washroom facilities with doors for privacy.
- Address flooring issues and ensure the overall maintenance of the premises.

2. Educational and Occupational Enhancements:

- Continuously support the school within the MDC Home, offering specialized education and pre-occupational training.
 - Replace rusted knives used for activities like making brooms with safe and functional tools.
 - Address any lacuna in the premises that may pose risks to the residents.
- 3. Functional Home Science Class:** Ensure that the home science class kitchen in the girls' section is operational, allowing staff to prepare meals and maintain hygiene as needed.
- 4. Medical and Healthcare Enhancements:**
- Increase medical staff capacity by recruiting a counselor, female physiotherapist, gynecologist, and neuro-physician to cater to the diverse healthcare needs of the inmates.
 - Organize health camps regularly, especially for female inmates, to address their specific health concerns and provide necessary medical care.
- 5. Legal Aid Clinic:** Open and maintain a properly functioning Legal Aid Clinic within the MDC Home to educate inmates about their fundamental and basic rights, ensuring their access to legal information and assistance.
- 6. Footwear and Hygiene:**
- Promote hygiene and educate inmates about the importance of wearing footwear through motor exercises or awareness programs.
 - Provide suitable footwear for all inmates to protect their feet.
- 7. Fire Safety Measures:** Install fire extinguishers and implement necessary fire safety measures to safeguard against potential fire hazards within the premises.
- 8. Grounds Maintenance:** Regularly maintain the playground and grass areas to provide a safe and clean environment for recreation and outdoor activities.
- 9. CCTV Cameras:** Ensure that all installed CCTV cameras are in working order and address issues caused by wildlife interference.

These suggestions aim to improve the overall living conditions, educational opportunities, healthcare access, legal awareness, and safety measures within the Mentally Deficient Children Home. Implementing these recommendations will contribute to the well-being and quality of life of the inmates, fostering a supportive and dignified environment for their growth and development.

Conclusion

The comprehensive observations made during the visit to the Mentally Deficient Children Home (MDC Home) unveil a deeply troubling narrative that calls for immediate attention and remediation. At the heart of these observations lies a profound commitment to safeguarding the rights and well-being of a particularly vulnerable segment of society—mentally deficient children. These young individuals are among the most marginalized and often voiceless members of our community, and it is imperative that their rights are upheld, their dignity preserved, and their potential nurtured.

The paramount concern that permeates every aspect of the MDC Home's operations is the woefully inadequate facilities and living conditions endured by its residents. In a setting where these children should be provided comfort, security, and an environment conducive to their development, they are found sitting on bare floors and inhabiting deteriorating barracks. These conditions not only create physical discomfort but also undermine their sense of self-worth and human dignity. Urgent and comprehensive measures are needed to transform these conditions, ensuring that suitable seating arrangements are provided and that the living quarters are reconstructed to prioritize privacy and hygiene.

The healthcare deficiencies within the MDC Home are equally disconcerting. The absence of essential healthcare professionals, including counselors, a female physiotherapist, gynecologist, and neuro-physician, represents a profound gap in the provision of comprehensive healthcare tailored to the unique needs of these children. The sporadic organization of medical camps is a mere stopgap solution that does not address the inherent right of these children to consistent and accessible healthcare. It is not merely a matter of medical necessity; it is an imperative dictated by their human rights.

The closure of the Legal Aid Clinic is yet another significant shortcoming that cannot be overlooked. It represents a denial of access to critical information about their rights and entitlements, effectively rendering these children voiceless in matters concerning their own well-being. Reinstating and maintaining a functioning Legal Aid Clinic is not just a legal requirement; it is a vital step towards empowering these children, ensuring that they can assert their legal rights and reclaim their autonomy and dignity.

Safety and security, both physical and emotional, are cornerstones of the MDC Home's responsibilities. However, the non-functional CCTV cameras and the absence of fire safety measures pose an imminent threat to the well-being of the inmates. The intrusion of wildlife, such as monkeys, underscores the challenges faced in maintaining security within the facility. Addressing these issues is paramount to safeguarding the physical and psychological safety of these children.

Basic hygiene practices, like wearing footwear, which many of us take for granted, are starkly absent. This deficiency highlights the need for educational programs that foster awareness and understanding of these basic necessities. Providing suitable footwear for the inmates not only contributes to their physical well-being but also reinforces their sense of dignity and self-care.

Finally, the need for improved vocational training facilities and equipment is a key aspect that should not be ignored. Vocational training plays a pivotal role in providing these children with skills and opportunities for personal growth and independence. However, the tools and equipment used for training must be safe and functional to ensure effective learning and meaningful occupational prospects.

In conclusion, the observations made at the Mentally Deficient Children Home point to a complex and deeply concerning set of challenges that demand immediate and sustained action. These challenges encompass the very essence of human rights—dignity, equality, and inclusivity. Each child, regardless of their mental capabilities, deserves an environment that respects their intrinsic worth, promotes their growth, and protects their rights. Implementing the suggested recommendations is not just a matter of administrative duty; it is a moral and legal imperative to ensure that these children can truly thrive, learn, and lead lives of dignity and purpose, in accordance with the principles of justice and humanity.

References:

- Critical Perspective on Disability Laws with Model Forms by Nayan Joshi Edition 2023
- <https://www.wpanet.org/declaration-of-hawaii-last>
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, 2016 See Dr. S. K. Awasthi and R. P Kataria, Law Relating to Protection of Human Rights 115 (2000).
- Observations on page 2 of Proceeding of Suo Motu case No. 3870/13/16/2022 (Maharashtra State Human Rights Commission)- Dated 28th October, 2022
- Mental Health Act, 1987 (Act No. 14 of 1987)
- Rights of Persons with Disabilities Act, 2016 (Act No. 49 of 2016)
- Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No. 2 of 2015)
- Convention on the Rights of Persons with Disabilities, 2006, art. 12.
- African Charter on the Rights and Welfare of the Child (1990), art 14.
- [Mentally-Challenged Kids Cannot Be Deprived Of Their Fundamental Rights: Bombay HC \[Read Judgment\] \(livelaw.in\)](#)
- <https://www.ohchr.org/en/stories/2014/02/right-education-all-including-persons-disabilities>
- <https://nalsa.gov.in/services/legal-aid/eligibility#:~:text=It%20states%20that%20those%20persons,eligible%20for%20free%20legal%20aid.>



Pic. 1



Pic. 2

Pic. 1- Algae at the Wall of Ground in Girl's Section of MDC Home

Pic. 2 – Kitchen set up in Home Science Workshop of Girl's Section

महाराष्ट्र शासन महिला व बाल विकास विभाग दि चिल्ड्रेन्स एंड सोसायटी मंदबुद्धी बालगृह			
मंदबुद्धी मुंबई-॥			
• मुलांची संख्या संख्या :			
• दिनांक: 11/9/2023			
• तपशील	मल्ल	मुली	
१. संस्थे मधील मुले	113	148	
२. बाहेर संस्थे मधील			
३. गैरहजेर प्रमाण	02		
४. स्पेशल			
• एकूण =	115	148	
मुली	115		
मुली	148		
एकूण	263		
पुराम			

THE CHILDREN'S AID SOCIETY M.D.C.HOME	
LEVEL OF RETARDATION	
BOYS	GIRLS
PROFOUND	
SEVERE	
MODERATE	
BORDERLINE	
CLASSIFICATION AGEWISE	
BOYS	GIRLS
BELOW 18 Yrs	17 06
ABOVE 18 Yrs	38 141

Attendance Board



Pre Vocational Centre in Boy's Section



Ground in Front of Pre Vocational Training Centre in Girl's Section



Tailoring Workshop in Boy's Section





Poster of Three Girls Who Won Silver Medals in Special Olympics



MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

9, Hajarimal Somani Marg, Opp. Chhatrapati Shivaji Maharaj Terminus, Mumbai – 400 001

Tel : 22092857 Email:- court1-mshrc@mah.gov.in

DIVISION BENCH

(Before Hon'ble Chairperson Justice K.K. Tated)

&

(Before Hon'ble Member Shri M.A.Sayeed)

Suo-Motu Case No 3870/13/16/2022 C/w 4213/13/16/2022

SUMMONS

(The Protection of Human Rights Act, S. 13 & under the Regulation 19 of Maharashtra State Human Rights Commission (Procedure) Regulations 2001, for appearance in person)

To,

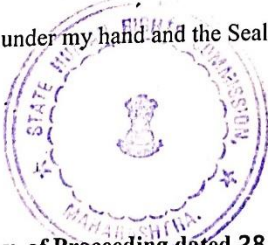
The Chief Secretary State of Maharashtra Mantralaya, Mumbai	The Addl Chief Secretary Public Work Department Mantralaya, Mumbai	The Addl Chief Secretary Public Health Department Mantralaya, Mumbai
The Principal Secretary Women and Child Development Mantralaya Mumbai	The Municipal Commissioner M.C.G.M Mumbai	

Whereas Commission has taken Suo-Motu cognizance dt.3/10/2022 in respect of news of regarding मनोरुणवाढ डॉक्टराची वाणवा against you for having failed to take necessary action in respect of its grievance, you are hereby summoned to appear before Commission in court room no 1 in person on 30/11/2022 at 11.00 a.m., and thereafter, to submit response to the complaint.

You are further directed to submit your response in writing with relevant documents upon which you intend to rely in respect of your defence.

Take note that in default of your appearance on the day mentioned above, the matter will be decided further in accordance with law.

Given under my hand and the Seal of the Commission this



/2022.

(By Order)

Registrar,

Maharashtra State Human Rights Commission,
Mumbai.

✓ Encl : Copy of Proceeding dated 28/10/2022

Note : If you so desire you can appear online also, please inform at least three days in advance to this Commission on Email : court1-mshrc@mah.gov.in or contact on: (022) 2205 0791



DIVISION BENCH

**Suo-Motu Case No.- 3870/13/16/2022 with
4213/13/16/2022**

news

: मनोरुग्ण वाढ डॉक्टरांची वानवा

Respondent

: 1.The Chief Secretary,
State of Maharashtra

2.Additional Chief Secretary,
Public Health Department, Mumbai

AND

Suo-Motu Case 4213/13/16/2022

Respondent

: 1. Chief Secretary,
State of Maharashtra,
Mantralaya, Mumbai

2. Additional Chief Secretary,
Public Health Department,
Mantralaya, Mumbai

3.Additional Chief Secretary,
P.W.D., Mantralaya,
Mumbai

4.Municipal Commissioner,
Greater Mumbai Corporation,
Mumbai

5.Principal Secretary,
Women & Child Development Dept.,

VVS

Mantralaya, Mumbai

Date

: 28th October, 2022

Coram

: Justice K.K. Tated, Chairperson
M.A.Sayeed, Member

PROCEEDING

Under Secretary, Shri Sanjay Dhagale, Health Department, Mantralaya, Director Dr Swapnil Lale, Sr Clerk Shri Shivaji Kubade, Health present.

2. Mr Sanjay Dhagale, Under Secretary, Public Health Department, submits that he required time to file the detail affidavit of Principal Secretary, Public Health Department. Same is granted as a last chance.

Matter to be appear on board on 30.11.2022.

Suo-Motu case 4213/13/16/2022 not on board taken on board on 24.09.2022.

On the 24th of September, 2022 the Commission visited The Home for Mentally Deficient Children, Mankhurd, Mumbai. It includes the Registrar, and two law students from pro-bono services of the commission. The staff members along with the Principal of the Mentally Deficient Children's Home, Mankhurd, Mumbai were present at the time of the visit. The relevant records and documents have been checked alongwith the register of custodial death cases. The set of the documents such as formation of Children Aid Society and its office bearers, non-governmental organization supporting the said home, correspondence with relevant department of government of Maharashtra for infrastructure of home, communications regarding lac of manpower etc. has been provided by the In charge Principal of the said home.

OBSERVATIONS:

This Home for Mentally Deficient Children was established on 30th September, 1941 with its mission to empower parentless people with mental

retardation to achieve their highest quality of life, to grow and fulfill their needs and potential in a supportive environment.

Institution and Composition Of MDC Home:

1. At present, the home shelters 110 boys and 148 girls accounting to 258 mentally deficient inmates. Mentally Deficient Children's Home provides accommodation, food, clothing, medical and educational facilities for children. However, it is essential to note that the capacity of Mentally Deficient Children's Home is only for 200 mentally challenged children and the sanctioned strength is of 350 inmates.
2. The boys and girls who fall in the age group of 6 to 18 years, who are certified as mentally challenged and who are destitute are admitted by the Mentally Deficient Children's Home through vacancy. The mentally challenged inmates reside there till their last breath or till their reinstatement in professional source of income. As a result, only 26 inmates are below the age of 18, 153 inmates are between 19 to 40 years of age and 79 are above the age of 40 years. Consequently, no clear classification between residence of children and older persons can be observed.
3. The inmates are further categorized on the basis of their IQ into 6 groups namely, Profound, severe, moderate, mild, borderline and slow learner.

Observations on Infrastructure:

4. The core infrastructure of the Mentally Deficient Children's Home is the same as it back in the year 1941 during its establishment except for repairs and renovations done during the course of time. The building of residential dormitories, the school and workshop area as well as the administrative block incorporating the medical facilities need repairs.
5. During the visit, it came to the notice that the Mentally Deficient Children's Home severely lacked safeguards against fire hazards.
6. No CCTV cameras were seen to be installed in the premises.

7. It is significant to note that infrastructure of the kitchen area was in an admirable condition, owing to the donations received by the Mentally Deficient Children's Home for its renovation.
8. The In charge Principal Mrs. Kolamkar placed before the Commission several letters of correspondence with Public Works Department and Social Welfare Departments urging them to carry out repair works. However, it has come to notice that the concerned authorities have not taken steps to redress and remedy the situation. The said letters are enclosed herewith for kind perusal.

Role of Government:

9. The Government of Maharashtra has given 100% grant to fulfill not only basic needs of food, clothing and shelter but also educational and medical facilities. In accordance with this purpose, the Government on an average provides an aid of Rs. 2000 per child per month.
10. Nevertheless, it was observed that fulfillment of medical needs of the inmates which majorly encompasses medicines and sanitary napkins are done through donations.
11. No other Government initiatives or schemes were seen to be implemented.

Conditions of Medical Services:

12. The medical unit was seen to be comprised of one Medical Officer (General Physician) and 3 nurses.
13. The clinic on the premises of the Home is equipped for primary diagnosis and to give first aid to the inmates. However, for major illness or specialized treatment the inmates are required to be taken to Government hospital for treatment. A grievance in this regard was put forth by the Medical Officer who claimed that the Government hospitals did not give preference to the treatment of the inmates on the account of them being mentally challenged.
14. Medical history of every inmate right from the time of his/her admission is maintained in the record books. A medical checkup of every inmate is conducted at the intervals of every three months.

15. The Medical Officer has also chalked out a diet plan in conformity with the age and needs of inmates. The diet has been not provided by any government machinery such as dietician provided in government hospital. It has been prepared by hiring services of private dietician. Donations for food is accepted only on the basis of said diet chart to offer only healthy food to the especially abled children.
16. There is one male counselor (Clinical psychiatrist) catering to all 110 boys in the and there is no female counselor at the Mentally Disabled Children's Home.
17. There is urgent need of gynecological checkup of female inmates considering the menopausal age and menstrual hygiene.

Education and Development of the Inmates:

18. The Mentally Disabled Children's Home comprises of a school and a workshop enabling education and development of the inmates. The special educators were seen to teach the students basic motor skills and behavior therapy, along with life skills. The workshop constituted of inmates training in trade skills.
19. On the day of visit several inmates were seen to be engaged in preparation of diya and lanterns for the festival of Navratri and Diwali.
20. The In-charge Principal placed before the Commission, the accomplishments of their inmates in various sports like handball, skating, basketball etc. who have succeeded at different levels including the Special Olympics.
21. The In-charge Principal also informed about their efforts to rehabilitate those inmates who have shown improvement and give them a chance to live beyond the four walls of the Mentally Disabled Children's Home. The rehabilitated inmates are kept under scrutiny in the course of first year, so that if during this time, the person fails to cope up with the outside world he/she is taken back to Mentally Disabled Children's Home.

Miscellaneous Observations:

22. There is no sitting Probation officer cum Superintendent, in the Mentally Disabled Children's Home to conduct and monitor Care & Protection services for beneficiaries.
23. Inadequacy in the working of the staff/ lapse of posts.
24. Mentally Disabled Children's Home is embroiled in Public Interest Litigation No. 182 of 2010, decided on 07.04.2017. Copy of the Judgment is enclosed herewith for kind perusal.

CONCLUSION

- A. The head of the Social Welfare Development Department, Public Works Department along with other concerned authorities can be called upon to rectify and comply with the pending work.
 - B. A recommendation can be sent to the Government of Maharashtra to increase the monthly allowance given to every inmate.
 - C. The Government of Maharashtra can devise and implement a scheme to enhance better functioning of Mentally Disable Children's home.
 - D. There is a need of devise a plan to classify and create home on the basis of the age group of inmates e.g. children's home and an old age home for mentally deficient so that the functions can be carried out in a much effective manner.
 - E. A proposal to appoint a permanent Counselor for the female inmates at Mentally Disable Children's Home.
 - F. A proposal to hold at least a monthly medical camp for the inmates along with a regularly visiting gynecologist.
3. Considering the observations made by Registrar, Maharashtra State Human Rights Commission, Mumbai following order is passed.
- a) Office is directed to issue summons to Chief Secretary, State of Maharashtra, Additional Chief Secretary, P.W.D., Mantralaya, Additional Chief Secretary (Public Health Department), Mantralaya, Municipal Commissioner, Greater Mumbai Corporation and Principal Secretary,

vvs

Women & Child Department calling upon them to file their reply in the present matter on or before 30.11.2022.

b) Mr Sanjay Dhangle, Under Secretary, Public Health Department, Mantralaya who is present before this Commission in connected Suo-Motu No.3870/13/16/2022 is directed to contact personally Chief Secretary, Additional Chief Secretary, Public Health Department, Additional Chief Secretary, P.W.D. & Principal Secretary, Women & Child Development Department & explain them the entire matter so that they can file their reply within time .

Both the Matters to be appear on board for hearing on 30.11.2022.

Sd/-

M.A. Sayeed)

Member

Sd/-

(Justice K. K. Tated)

Chairperson

मनोरुग्ण वाढ; डॉक्टरांची वानवा

अ, ब आणि क गटातील ३५ टक्क्यांहून अधिक जागा रिक्त

sharmila.kalgutkar

@timesgroup.com

twitter : @ksharmilaMT

मुंबई : मानसिक आजारसह तांत्रिकावांसाठी वैद्यकीय उपचार घेणाऱ्या रुग्णांची संख्या रान्यात मातल्याने वाढती असली तरीही त्यांच्यावर उपचार करणाऱ्या डॉक्टरांची मात्र वानवा आहे. अशा रुग्णालयांतील अ, ब आणि क गटातील ३५ टक्क्यांहून अधिक जागा रिक्त असल्याचे 'महाराष्ट्र टाइम्स'कडे उपलब्ध झालेल्या माहितीवरून स्पष्ट होते.

सर्वच करोनासंसर्गानंतर वयोगटांमध्ये मानसिक ताणतणाव आणि आजार वाढते असून, त्यावर तातडीने वैद्यकीय मदत उपलब्ध द्यायला हवी, असा सल्ला सरकारकडून दिला जातो. प्रत्यक्षात मात्र या गरजू व्यक्तींना तातडीने मदत मिळण्यासाठी प्रशिक्षित वैद्यकीय तज्ज्ञांसह समुपदेशकांची



८८ मानसिक आजार व

ताणतणावामुळे माणसांच्या जगण्याची गुणवत्ता ढासळते. योग्य वेळी उपचार मिळाले नाहीत तर या चक्रातून बाहेर पडण्यासाठी अनेक वर्षे जातात. मानसिक आरोग्याचे प्रश्न वाढत आहेत हे मान्य करणारे सरकार रिक्त पदांचा प्रश्न का सोडवत नाही?

- एन. एस. श्रोती, कार्यकर्ता, मानसिक आरोग्य क्षेत्र

ठाणे प्रादेशिक मनोरुग्णालय

■ अ, ब, क आणि ड या चारही गटांमध्ये मिळून ७२३ मंजूर पदे ■ त्यापैकी ४९० पदे भरली असून २३३ पदे रिक्त ■ चिकित्सक मानसशास्त्रज्ञांच्या मंजूर दोन पदांपैकी दोन्ही पदे रिक्त ■ मुख्य प्रशासकीय, वैद्यकीय अभिलेख, वैद्यकीय अधिकारी यांचे एकेक पद मंजूर असले तरीही ते भरण्यात आलेले नाही ■ सोशल वर्कपदासाठी संमत झालेल्या नऊ पदांपैकी दोन पदे रिक्त ■ रुग्णांचा सांभाळ करण्यासाठी असलेल्या परिचारांची ३६० पैकी १५० पदे रिक्त ■ मनोरुग्णालयामध्ये २०२१ पर्यंत ३,६७९ रुग्णांना दाखल करण्यात आले आहे. त्यात १,९६० स्त्रिया, तर ४९२ पुरुषांचा समावेश

रत्नागिरी प्रादेशिक मनोरुग्णालय

■ महत्वाची १३ पदे रिक्त ■ त्यात वैद्यकीय उपअधीक्षक, मनोविकृतीतज्ञ, चिकित्सालयीन मानसशास्त्रज्ञांच्या पदांचा समावेश ■ या रुग्णालयामध्ये २०२०-२१ मध्ये ३,९२९ रुग्णांना दाखल करण्यात आले आहे. ■ २०१८-१९ मध्ये ही रुग्णसंख्या ४,८२९ इतकी होती

पुणे प्रादेशिक

मनोरुग्णालय

■ प्रशासकीय अधिकारी एस. के. राठोड यांनी दिलेल्या माहितीनुसार, १५४ मंजूर पदांपैकी ३३५ पदे रिक्त ■ वैद्यकीय तज्ज्ञांच्या अ गटातील ४३ पैकी १८, ब गटातील सहापैकी वून, क गटातील २७८ पैकी ६१ तर गट ड मधील ६२७ पैकी २५३ पदे रिक्त ■ 'मटा'कडील माहितीनुसार १-१-२०१८ ते ३१-१२-२०१८ या कालावधीत रुग्णालयात १,०२३, त्यापुढील वर्षी ८९६, १-१-२०२० ते २०-१२-२०२१ या कालावधीत १,१८८ रुग्णांना दाखल करण्यात आले

उपलब्धता नसल्याचा अनुभव रुग्णालयात १० खाटा मानसिक प्रशिक्षित कर्मचारी व डॉक्टर मात्र येत आहे. आजाराच्या रुग्णांसाठी राखून ठेवल्या असल्या तरी त्यासाठी पुरेसे पदांच्या गंभीर समस्येसंदर्भात राज्याचे आरोग्य विभागाने प्रत्येक जिल्हा

आरोग्यमंत्री तानाजी सावंत यांच्याशी सातत्याने संपर्क साधूनही तो होऊ शकला नाही.



दि चिल्ड्रेन्स एंड सोसायटी, मुंबई

(महाराष्ट्र शासनाची प्राधिकृत संस्था)

(सन १९८१ "Best Child Welfare Institute" हा राष्ट्रीय पुरस्कार प्राप्त)

८३.टि.एच.कटारीया मार्ग, माटुंगा रोड फ्लाय ओव्हरजवळ, माटुंगा रोड (प), माहिम, मुंबई-४०००१६

जा.क्र.सी/३३/८३५

दि.२७/७/२०२३

31/07/2023

अध्यक्ष

मा.श्री. देवेंद्र
फडणवीस, गृहमंत्री,
महाराष्ट्र राज्य

उपाध्यक्ष

मा.श्रीमती आदिती
सु.तटकरे,
मंत्री, महिला व
बाल विकास
मंत्रालय, महाराष्ट्र
राज्य

कोषाध्यक्ष

श्री.बी.एच.नागरगोणे

मुख्य अधिकारी

श्री.बापूराव भवाने

प्रति,

१. मा.आयुक्त,
महिला व बाल विकास आयुक्तालय,
महाराष्ट्र राज्य, पुणे.

२. मा.आयुक्त,
दिव्यांग कल्याण आयुक्तालय,
महाराष्ट्र राज्य, पुणे.

३. मा.सहाय्यक आयुक्त,
समाज कल्याण,
मुंबई उपनगर, मुंबई.

४. जिल्हा महिला व बाल विकास अधिकारी,
मुंबई उपनगर, चेंबूर, मुंबई.

विषय:- मानखुर्द येथील मतिमंदाकरीताच्या बालगृहाचा विकास आराखडा व सद्यस्थितीतील अहवाल तसेच युसुफ ट्रस्टकडून सदर संस्थेला देण्यात आलेल्या जमिनीचा विकास आराखडा व सद्यस्थितीतील अहवाल या विषयाबाबत मा.उच्च न्यायालय, बाल न्याय समितीची दि.१४/६/२०२३ रोजीच्या बैठकीतील दिलेल्या निर्देशानुसार तातडीने कार्यवाही करणेबाबत.

संदर्भ :- १. या कार्यालयाचे पत्र क्र.सी/३३/९७७, दि.१५/३/२०२३

२. या कार्यालयाचे पत्र क्र.सी/३३/२३४, दि.२२/६/२०२३

३. कार्यकारी अभियंता, उत्तर मुंबई (सा.बां.) विभाग, अंधेरी, मुंबई यांचे पत्र क्र.उमुवि/प्रशा-२/चेंबूर/६५६२/२०२३, दि.१८/७/२०२३

महोदय,

उपरोक्त विषयास अनुसरून संदर्भित पत्रान्वये कळविण्यात येते की, या कार्यालयाचे पत्र क्र.२ च्या अनुषंगाने दिलेल्या आराखडयानुसार सार्वजनिक बांधकाम विभागाच्या पॅनलवर असलेल्या वास्तु विशारद यांच्याकडून दिव्यांगांसाठी शाळा/कर्मशाळा/बालगृह इमारतीच्या बांधकाम स्थापत्य नकाशा (Architectural Design Plan) तयार करण्यात आलेला असून वरील संदर्भ क्र.३ अन्वये या कार्यालयास प्राप्त झालेले आहे. सदर इमारतीच्या बांधकाम स्थापत्य नकाशा आपल्या माहिती व पुढील कार्यवाहीकरिता सविनय सादर.

सोवत :- वरीलप्रमाणे

आपला विश्वासू,

(बापूराव भवाने)

विभागीय उपआयुक्त,

महिला व बाल विकास, कोकण विभाग,

तथा मुख्य अधिकारी,

दि चिल्ड्रेन्स एंड सोसायटी, मुंबई

प्रत माहितीस्तव सादर,

१. मा.कार्यकारी अभियंता, उत्तर मुंबई (सा.बां.) विभाग, अंधेरी, मुंबई

२. मा.उपविभागीय अभियंता, कुर्ला (सा.बां.) उपविभाग, कुर्ला, मुंबई.

वेबसाईट-casmumbai.in, मध्यवर्ती कार्यालय ई-मेल-childrenso@yahoo.com, संपर्क-०२२-२४३०२५१४/२४३२८२७९
(Donations to the Society are exempted from Income Tax U/Sec 80-G of Income Tax Act)

	कार्यकारी अभियंता यांचे कार्यालय उत्तर मुंबई (सा.बां.) विभाग, भवन्स कॉलेज जवळ, दादाभाई नौरोजी मार्ग, अंधेरी (प), मुंबई - ५८	
	ई-मेल :- northmumbai.ce@mahapwd.com	फोन नं :- ०२२-२६२३१९६४
जा.क्र. उमुवि/प्रशा-२/चेंबूर/६५६२/२०२३	दिनांक :- १८-०६-२०२३	

प्रति,

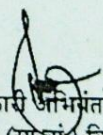
✓ विभागीय उपआयुक्त
 महिला व बाल विकास कोंकण विभाग,
 तथा मुख्य अधिकारी,
 दि चिल्ड्रेन्स एड सोसायटी,
 मुंबई.

विषय- मानखुर्द येथील मतिमंदाकरीताच्या बालगृहाचा विकास आराखडा व सद्यस्थितीतील अहवाल तसेच युसुफ ट्रस्ट कडून सदर संस्थेला देण्यात आलेल्या जमिनीचा विकास आराखडा व सद्यस्थितीतील अहवाल या विषयाबाबत मा. उच्च न्यायालय, बाल न्याय समितीची दि. १४/०६/२०२३ रोजीच्या बैठकीतील दिलेल्या निर्देशानुसार तातडीने कार्यवाही करणेबाबत.

संदर्भ- १. आपले कार्यालयीन पत्र जा.क्र. सी/३३/२३४, दि. २२/०६/२०२३.
 २. आपले कार्यालयीन पत्र जा.क्र. सी/३३/१७७, दि. १५/०३/२०२३

उपरोक्त विषयांस अनुसरून संदर्भित पत्रान्वये कळविण्यात येते की, संदर्भित पत्र क्र. २ च्या अनुषंगाने आपण दिलेल्या आराखडयानुसार सार्वजनिक बांधकाम विभागाच्या पॅनलवर असलेल्या वास्तु विशारद यांच्या करून दिव्यांगांसाठी शाळा/कर्मशाळा/बालगृह इमारतीच्या बांधकाम स्थापत्य नकाशा (Architectural Design Plan) तयार करण्यात आलेला असून सोबत आपल्या माहिती व पुढील कार्यवाहीकरीता सादर करण्यात येत आहे.

सोबत - वरिलप्रमाणे


 कार्यकारी अभियंता
 उत्तर मुंबई (सा.बां.) विभाग
 अंधेरी, मुंबई

प्रत :- उपविभागीय अभियंता, कुर्ला (सा.बां.) उपविभाग, कुर्ला, मुंबई-७० यांना माहितीकरीता..

Questionnaire for MDC Home

- What improvements will be made to the living conditions of inmates at the MDC Home in accordance with the Rights of Persons with Disabilities Act, 2016?
- What is the maximum capacity of the institution, and how many children are currently residing here?
- How educational activities be enhanced and safety hazards be addressed in the boys' section of the MDC Home?
- How are individualized needs and progress tracked?
- What steps will be taken to make the non-operational kitchen facilities in the girls' section of the MDC Home functional for its intended purpose?
- What plans are in place to address the healthcare deficiencies, including the need for specialized medical professionals and medical camps for female inmates?
- What measures be taken to promote basic hygiene practices, such as wearing footwear, among the inmates?
- Is there a CCTV system to monitor different areas of the institution?
- The non-functional CCTV cameras be repaired and security measures improved to ensure the safety of inmates and staff?
- What efforts be made to maintain outdoor spaces and the playground for the recreational activities of the inmates?
- What educational enhancements and safety measures are currently in development for the boys' section to address the lacuna in infrastructure?
- What steps be taken to ensure fire safety preparedness within the facility, including the provision of fire extinguishers?
- How the vocational training tools and equipment be improved to enhance skill development for the inmates?
- What changes are planned to improve the living conditions in the boys' section of the MDC Home?
- How special educators contribute to the educational activities at the MDC Home?
- What is the number of essential healthcare professionals, including counsellors, a female physiotherapist, gynaecologist, and neuro-physician, within the facility?

- How effective operation of the Legal Aid Clinic to provide inmates with information about their legal rights?
 - What strategies will be employed to maintain outdoor spaces and the playground more effectively in the future?
 - What educational programs or services are available for the children?
 - Are there special education teachers or therapists on staff?
 - How are individualized education plans (IEPs) developed and implemented?
 - How do you address the individual needs and goals of each child in your care?
 - What qualifications and training do your caregivers and staff members have in caring for mentally deficient children
 - Is there a ratio of staff to children, and if so, what is it
 - What safety measures are in place to protect the children from accidents and harm?
 - Are there protocols in place to ensure food safety and hygiene?
 - Is the kitchen equipped to handle specific dietary requirements of inmates?
 - Are there separate living quarters for different age groups or levels of care?
 - How often are medical check-ups conducted for the children?
 - Is there a registered nurse or healthcare professional on-site at all times?
-

Taloja Central Prison Visit Report



Image: With Jail Superintendent, Taloja Central Prison, Fieldwork Coordinator, Dr. Devakumar Jacob, Assistant Professor SLRCG, Tata Institute of Social Sciences (TISS) and students of one year LLM program 2023-2024 batch

Title: Visit to Taloja Central Prison Visit

Date of Visit: 4th September 2023 at 11.00 a.m.

Venue: Taloja Central Prison, Kharghar, Navi Mumbai,

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

Mr. Vijay Khare, Police Sub- Inspector, Investigation Wing, Maharashtra State
Human Rights Commission

Mrs. Deepali Lokhade, Police Constable, Investigation Wing, Maharashtra State
Human Rights Commission

Dr. Prof. Arvind Tiwari, Dean, School of Law Rights and Constitutional Governance,
Tata Institute of Social Sciences (TISS), Mumbai

Dr. Devakumar Jacob (Fieldwork Coordinator) Asst. Professor, School of Law Rights
and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai

Students of one year LLM program of School of Law Rights and Constitutional
Governance, Tata Institute of Social Sciences (TISS), Mumbai, 2023-2024 batch

Adv. Aditya Raj Marandi M2023ATJ006	Adv. Nancy M2023ATJ020
Adv. Alok Sharma M2023ATJ008	Ms. Huma Wasim M2023ATJ044
Adv. Harsh Lohia M2023ATJ016	Ms. Vishakha Arya M2023ATJ040
Adv. Roy Stephen Rodrigues M2023ATJ027	Adv. Dipsikha Deka M2023ATJ047
Mr. Harsh Kumar Jauhar M2023ATJ015	Adv. Arundhati Manish Tadkod M2023ATJ043
Adv. Tanmay Tejaswi M2023ATJ035	Mr. Ashutosh Kumar M2023ATJ010
Adv. Uttkarsh Singh Goyat M2023ATJ036	

Table of Contents

Sr. No.	Table of Contents	Page No.
1.	Introduction	4-5
2.	Objectives of the Visit	5
3.	Mandate of the Visit	6
4.	Rationale of the Visit	6
5.	Methodology of research	6-7
6.	Profile of the Prison	7-9
7.	Constitutional provisions and Indian Legal Framework on Health, Hygiene and food in Prisons & Landmark Case Laws	9-14
8.	International Conventions/Instruments on Prisons/Prisoners specific to Food, Health and Hygiene	14-24
9.	Observations	24-29
10.	Suggestions	29-31
11.	Summary	32
12.	Conclusions	32-33
13.	Annexure I	34
14.	Annexure II	35-37

Introduction

“Crime is the outcome of a diseased mind and jail must have an environment of hospital for treatment and care.”

- M.K Gandhi

On 4th September 2023 at 11.00 AM, a team of Maharashtra State Human Rights Commission (MSHRC) officials, along with the faculty and the students of the School of Law, Rights & Constitutional Governance from Tata Institute of Social Sciences, visited the Taloja Central Prison, Kharghar, Navi Mumbai.

The conviction of a human does not render him non-human. He still remains a human who should be treated like one. He should be given the basic human rights available to every man walking on the earth. But at the same time, he should not be treated as a free man with all absolute rights and luxuries. His freedom should be subject to certain limitations and legal restrictions. These restrictions, in addition, should be reasonable. The basic rights given to any human being include food, clothing, shelter and dignity.

The purpose of the visit was to inspect and assess human rights particularly in terms of health hygiene, food and sanitation 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 inmates were living. The food served to inmates was not hygienically cooked; there were lack of hygiene measures taken in the kitchen and other surrounding areas. They observed leaking ceilings, open sewers and drainage lines, cracked tiles on the floor and on the side walls, and uncontrolled fungal and mould growth on the walls. The visit was aimed to identify areas that need improvement and to ensure that the inmate's rights and well-being are upheld as per the provisions of the law particularly the rights of food, health hygiene and sanitation.

Right to food as mentioned above is a basic human right which is not an option or mere thing of charity, but it is the responsibility of the state to ensure Right to food to all its citizens, and if the state or its government is unable to ensure it then it is a gross violation of human rights of the citizens. Although the Constitution of India does not

recognize the right to food as a fundamental right, it gives recognition to the right under Article 21 of the constitution. The right to life includes a right to live with dignity. The right to live with dignity recognizes the right to food as an inseparable part of Article 21. In the landmark judgement of *Maneka Gandhi v. Union of India*¹, the Supreme Court while delivering the judgement stated, the right to life enshrined in Article 21 means something more than animal instinct and includes the right to live with human dignity, it would include all these aspects which would make life meaningful, complete and living. In 2021, During COVID-19 Pandemic the Supreme Court of India took Suo moto cognizance of the issue in *In Re: Problems and Miseries of Migrant Workers*². The Court reiterated that the right to food is an inseparable part of the right to life under Article 21. The Supreme Court directed the state governments to initiate appropriate schemes immediately and stop the plight of migrants. The Court ordered state governments to distribute dry ration to the migrants, even the ones that did not possess a ration card. The Central Government implemented the One Nation One Ration Card (ONORC) Scheme and also set up a National Database of Unorganized Workers (NDUW) portal in 2021.

Objectives of the visit

1. To understand the role of the kitchen- canteen in providing food for the good health and well-being of the inmates.
2. To evaluate the nutritional adequacy and quality of food served in prisons and their impact on the health and well-being of inmates.
3. To investigate the hygiene conditions in prisons, including the availability of hygiene items and the frequency of cleaning, and its impact on the health of inmates.
4. To assess the availability and accessibility of medical services, including mental health services, in prisons, and the quality of care provided.

¹ 1978 AIR 597, 1978 SCR (2) 621

² SUO MOTU WRIT PETITION (CIVIL) No(s). 6/2020

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)³ 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 Taloja Central Prison 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.

Rationale of the visit

One of the rationale behind the visit was to check, inspect and observe the health hygiene, food and sanitation facilities. Another rationale for the visit was to observe the living conditions of patients of the inmates. The visit by the Maharashtra State Human Rights Commission officials and the students aimed at assessing the conditions of the inmates, identifying any violations of their human rights, and making recommendations for improvement. Such visits are necessary to ensure that prisons are providing basic care and facilities to the inmates and that their basic human rights are being respected and upheld.

Methodology

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

³ Section 12 of the Protection of Human Rights Act, 1993.

It is qualitative in nature because it allows the researcher to collect rich, detailed data. It includes participant and in our case non- participant observation, in depth interviews and focus group discussions with the prison officials in understanding the working of the prison and understanding their problems and difficulties. 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 data collection methods like questionnaires and observational techniques, case studies etc. 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.

Prison Profile

Established in 2008, Talaja Central Prison, located in the Raigad district of Maharashtra, serves as a significant institution within the state's correctional system. It was developed with the primary purpose of alleviating the burden on the Mumbai Central Prison, which traditionally housed the majority of undertrials inmates from the Mumbai Metropolitan Region (MMR). Situated near the Talaja Panchand railway station on the outskirts of Kharghar, a suburb of Mumbai, this sprawling facility spans across 27 hectares of land. It is designated to house a total of 2,124 inmates, exclusively male, with the majority awaiting trial.

As of September 4, 2023, the prison population at Talaja Central Jail had exceeded its intended capacity, reaching a staggering 3,259 inmates. Within this population, there were 400 inmates from other states, highlighting the prison's role in accommodating individuals from various regions of India. Additionally, the facility hosted 93 foreign inmates, underscoring its international reach in terms of housing offenders.

One notable aspect of Taloja Central Prison is its provision for high-security inmates, with a maximum capacity of 100 individuals. This allocation reflects the prison's commitment to separating and managing inmates based on the nature and severity of their offences, ensuring the safety and security of both inmates and staff.

Furthermore, the prison's physical layout is designed around a single entry and exit point, a common feature in correctional facilities to streamline security measures and enhance control over the movement of individuals within the prison grounds. This strategic layout is essential for maintaining order and preventing unauthorized access.

Taloja Central Jail primarily serves as a detention center for undertrial prisoners, emphasising the importance of this category within the Indian criminal justice system. Undertrial prisoners are individuals who have been accused of committing crimes but have not yet been convicted. They are detained while awaiting trial to ensure their presence during legal proceedings. Additionally, inmates who have been convicted and sentenced to one year or less in prison are also held at Taloja Central Prison. However, those with longer sentences are typically transferred to other correctional facilities.

The categorization of a prison as a "Central Jail" can vary from state to state in India, with specific criteria determining its classification. However, the common feature observed in all the States/UT's that the prisoners sentenced to imprisonment for a longer period (more than 2 years) are confined in the Central Jails, which have larger capacity (more than 1,000 inmates) in comparison to other jails.

This classification reflects the state's recognition of the challenges posed by overcrowding and the need for specialized facilities to manage a larger number of inmates effectively.

Taloja Central Prison's significance extends beyond its role as a mere correctional facility; it represents a microcosm of the broader issues within the Indian criminal justice system. Overcrowding, the treatment of undertrial prisoners, and the challenges associated with managing a diverse inmate population are just a few of the complex issues faced by the prison authorities.

Efforts to address these challenges often involve collaborations between government agencies, non-governmental organizations, and civil society groups. Advocates work tirelessly to ensure that the rights of inmates are protected, that conditions within the prison meet international standards, and that effective rehabilitation and reintegration programs are in place to reduce recidivism rates.

In conclusion, Taloja Central Prison, established in 2008, stands as a vital institution within the state of Maharashtra's correctional system. Its evolution from a response to overcrowding in Mumbai Central Prison to a multifaceted facility accommodating a diverse inmate population highlights the complex nature of the criminal justice system in India. As the prison population continues to grow, there is an ongoing need for comprehensive reform and innovative solutions to address the challenges associated with incarceration in the state of Maharashtra and across the nation

Constitutional provisions and Indian Legal Framework on Health, Hygiene and food in Prisons & Landmark Case Laws

In India, the legal framework for health, hygiene, and food in prisons is primarily governed by the Constitution of India and various statutory provisions under Prisons Act, 1894, Code of Criminal procedure, 1973, Maharashtra prison manual, 1979 and model prison manuals etc.

Constitutional Provisions

Constitutional rights for prisoners include access to adequate healthcare, hygienic living conditions, and nutritious food. These rights are essential to ensure the well-being and rehabilitation of incarcerated individuals while upholding human dignity. In India, the constitutional provisions for health, hygiene, and food in prisons are primarily covered under the following articles of the Indian Constitution-

Article 21: Right to Life and Personal Liberty - This article ensures that every person, including prisoners, has the right to life and personal liberty. It has been interpreted by the courts to include the right to live with dignity, which encompasses

basic amenities like health and hygiene. Article 21 also includes within its ambit Right to food as the fundamental Right.⁴

Article 47: Duty of the State to Raise the Level of Nutrition and the Standard of Living - While this article doesn't explicitly mention prisons; it places a duty on the State to improve nutrition and living standards, which indirectly applies to prisoners' access to proper food and living conditions.

Provisions under Code of Criminal procedure, 1973

The Code of Criminal Procedure (CrPC) in India primarily deals with the legal procedures related to criminal cases and the rights of accused persons. However, the CrPC does not contain specific provisions related to the health, sanitation, and food of prisoners but some rights related to accused person will also be available to prisoners which are as follows

Right of Medical Examination: Section 54 of the Code of Criminal Procedure (CrPC) allows for the medical examination of arrested persons. When a person is arrested and alleges torture or ill-treatment in custody, they have the right to request a medical examination to document any injuries or physical conditions. This examination is typically conducted by a medical officer.

Health of Arrested Persons: Before 2009, there was no protection available in the CrPC related to health of the person who is in the custody but in the year of 2009, criminal Amendment Act, 2009 introduced section 55A which deals with the health of person whose is in the custody section 55A states that It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.

Provisions under Prisons Act, 1894

The Prisons Act, 1894, is an old legislation in India that governs the management and administration of prisons. While it has been amended several times, it primarily focuses on the establishment, maintenance, and regulation of prisons. Provisions related to the health, sanitation, and food of prisoners can be found in various sections of the Prisons Act, as well as in rules and regulations framed under the Act. Here are

⁴ P.M. Bakshi the Constitution of India 12th Edition 2017 by Eastern Book Company

some key provisions related to health, sanitation, and food for prisoners under the Prisons Act, 1894:

- ❖ **Section 13:** The Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the State Government under section 59.
- ❖ **Section 24:** Section 24 provides for medical examination by a medical officer. In case of female prisoners, such examination shall be carried out by Matron.
- ❖ **Section 26** provides the right to medical examination in case of transfer.
- ❖ **Section 6:** Provides for the appointment of a qualified medical officer for each prison, responsible for the health of prisoners.
- ❖ **Section 33:** Civil or under trial Prisoners who are unable to furnish sufficient clothing and beddings, shall be supplied with necessary beddings and clothing by the superintendent to ensure hygiene and sanitation.
- ❖ **Section 39:** Allows for the establishment of hospitals within prisons for the treatment of sick prisoners.
- ❖ **Section 37:** It provides relief to sick Prisoners to report the officer in immediate charge of such prisoners to the Jailor about health whether it is physical or mental then The Jailor shall, without delay, call the attention of the Medical Subordinate to any prisoners desiring to see him, or who is ill, or whose state of mind or body appears to require attention.

Provisions under Maharashtra Prison Manual, 1979

The Maharashtra Prison Manual, 1979, contains provisions related to various aspects of prison administration, including health, sanitation, and food. Please note that the manual may have been amended or updated since 1979. Here are some provisions related to health, sanitation, and food as outlined in the Maharashtra Prison Manual, 1979

- ❖ It is the duty of Medical Officer to inspect every part of the prison regularly and frequently for the purpose of ascertaining that nothing likely to be injurious to the health of the prisoners exist therein and ascertain that ventilation and cleanliness of the barracks, yards, latrines, and other parts of the prison are properly attended

to according to the rules laid down for conservancy and that cleanliness of the persons and clothing of prisoners is observed.

- ❖ The Medical Officer may permit any prisoner to purchase from his private cash any items of food, patent medicines, or articles of clothing, if he considers that these are essential for the maintenance of the health of the prisoner.
- ❖ The meals shall be served hot and the prisoners shall take it at a place where the food will be free from contamination.
- ❖ Every article of food, whether cooked or uncooked, is subject to proper examination and inspection before it is supplied for consumption by any prisoner.
- ❖ All foodstuffs at any time obtained and stored in the prison are frequently inspected, and that all articles which are unwholesome or in any respect unfit for human consumption, are forthwith rejected and are not issued for the use of prisoners.
- ❖ The prisoners employed in cooking shall always wear clean blue aprons which shall reach the bust below the knees. Each prisoner working in the kitchen shall be provided with aprons and he shall keep them always clean.
- ❖ The kitchen and cooking pots and appliances shall be scrupulously cleaned and well maintained.
- ❖ The Superintendent shall, at least once a week, inspect the provisions furnished for the prisoners and satisfy himself by personal observation regarding the quality of the different cereals and other articles of food supplied for their use.

Despite having several provisions in law related to health, sanitation and food, the Indian Prison System lacks in implementation of these provisions at grassroots level. It is because of several factors like corruption, Lack of accountability. The present Government has prepared a Model Prison Act, 2023 to repeal the 130 yrs. prison act for the betterment of Prisoners and effective implementation.

Judicial Interpretation on Health, Sanitation & Food in Prisons

Case: Sunil Batra vs Delhi Administration⁵

⁵ (1978) 4 SCC 409

Facts: The case was based on a letter written by Sunil Batra, a prisoner on death row, to the Supreme Court, alleging the torture and inhuman treatment of another prisoner, Prem Chand, by the head warden of Tihar Jail. The letter claimed that the warden had inserted a rod into the anus of Prem Chand to extort money from his relatives. The letter also complained about the poor living conditions and lack of basic amenities in the jail. The Supreme Court treated the letter as a writ petition under Article 32 of the Constitution and notified the respondents. In this case, The Court held that-

- ❖ The right to life and personal liberty under Article 21 includes the right to live with human dignity and that this right is not forfeited by a person upon conviction.
- ❖ Prisoners are entitled to basic amenities such as proper food, clothing, bedding, medical treatment, etc., and that any cruel, inhuman, or degrading treatment or punishment is prohibited by Article 21.
- ❖ Prisoners have certain freedoms under Article 19, such as freedom of speech and expression, subject to reasonable restrictions imposed by law.

Case: Re-Inhuman Conditions in 1382 Prisons vs State of Assam⁶

Fact: This case was based on a Suo motu writ petition initiated by the Supreme Court in 2013, after receiving a letter from the former Chief Justice of India, R.C. Lahoti, highlighting the inhuman conditions prevailing in 1382 prisons in India. The letter pointed out the problems of overcrowding, unnatural deaths, inadequate staff and training, torture and ill-treatment, lack of medical facilities, etc., in the prisons.

The Supreme Court issued various directions regarding prison reforms, including providing medical assistance, mental health care, counselling, etc., for the prisoners which are as follows-

- ❖ The *Director General of Police* or the *Inspector General of Police* who is in-charge of Prisons will ensure proper utilization of funds so that conditions of the prisoners are commensurate with human dignity which includes health, hygiene, food, clothing, rehabilitation etc.

⁶ 2017 10 SCC 658

- ❖ The *Ministry of Home Affairs* will ensure that the Management Information System is implemented in all central, district and women jails for better management of prison and prisoners.

Case: [Rasikbhai Ramsing Rana v. State of Gujarat](#)⁷

Held: The Gujarat High Court held that the right to medical treatment is one of the basic human rights that should be made available to every person. The court further guided the concerned jail authorities to take proper mental and physical health care of the prisoners which were suffering from any type of disease.

Gujarat High Court in a suo moto writ, issued guidelines to the Central government to equip all Central and District jails with facilities such as ICCU, pathology lab, proficient doctors, sufficient staff including nurses and latest instruments for medical treatment.

Case: *State of A.P. Vs Challa Ramakrishna Reddy*⁸

It was held that a prisoner is entitled to all his/her fundamental rights unless his/her liberty has been constitutionally curtailed. The Supreme Court has emphasized that a prisoner, whether a convict, under-trial or detenu, does not cease to be a human being and, while lodged in jail, he/she enjoys all his/her fundamental rights guaranteed by the Constitution of India including the right to life guaranteed by the Constitution of India. Even a person is convicted and deprived of his/her liberty in accordance with the procedure established by law; a prisoner still retains the residue of constitutional rights.

International Conventions/Instruments on Prisons/Prisoners specific to Food, Health and Hygiene

1. Universal Declaration of Human Rights (UDHR)

While not a binding treaty itself, the UDHR, adopted by the United Nations in 1948, sets out fundamental human rights principles that apply to all individuals, including

⁷ AIR 1983 SC 66

⁸ AIR 2000 SC 2083

prisoners. Articles 5 and 7 of the UDHR specifically address the prohibition of torture and inhuman or degrading treatment.

Article 5 of the Universal Declaration of Human Rights (UDHR) states:

*"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."*⁹

This article explicitly prohibits torture and cruel treatment, emphasizing the protection of individuals' physical and mental well-being.

Article 7 of the UDHR states:

*"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination"*¹⁰.

This article highlights the principle of equality before the law, ensuring that prisoners are entitled to equal legal protection and should not face discrimination based on their status as prisoners.

2. International Covenant on Economic Social and Cultural Rights (ICESCR)

While the ICESCR primarily focuses on economic, social, and cultural rights, it does not exclude individuals in detention, including prisoners, from the protection of these rights. Prisoners, like all individuals, are entitled to certain economic and social rights as recognized under the ICESCR.¹¹

Some ways in which the ICESCR applies to prisoners:

⁹ Universal Declaration of Human Rights, art. 5

¹⁰ Id., art. 7

¹¹ International Covenant on Economic, Social and cultural Rights, *available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

Right to Adequate Food: Prison authorities have an obligation to provide prisoners with adequate and nutritious food that meets their dietary needs. This is in line with the right to an adequate standard of living, including the right to food, as outlined in *Article 11* of the ICESCR.

Right to Health: Prisoners have the right to access healthcare services, including medical, dental, and mental health care. This right is in line with the right to the highest attainable standard of physical and mental health, as recognized in *Article 12* of the ICESCR.

Right to Sanitation and Hygiene: Adequate sanitation and hygiene facilities should be provided to prisoners to ensure their health and well-being. These provisions are integral to the right to an adequate standard of living and the right to health.

3. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which was adopted in 1984, primarily centers on prohibiting torture and cruel treatment.¹² While it doesn't offer specific, detailed guidelines on health, hygiene, and food for prisoners, it does contain principles and provisions that indirectly touch on these aspects by emphasizing the humane treatment of people in detention. The CAT establishes a framework for preventing torture and inhuman treatment, which encompasses ensuring reasonable living conditions for detainees.

Article 1 (Prohibition of Torture): Article 1 of the CAT defines torture and prohibits it unequivocally. It emphasizes the duty of state parties to prevent acts of torture within their jurisdiction.

Article 16 (Preventing Cruel, Inhuman, or Degrading Treatment): While not specifying health, hygiene, or food, Article 16 of the CAT obligates state parties to prevent cruel, inhuman, or degrading treatment in any territory under their

¹² Convention against Torture & other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, available at :<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

jurisdiction. This includes ensuring that detention conditions do not reach a level that could be considered inhuman or degrading.

4. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

The Standard Minimum Rules for the Treatment of Prisoners, initially established in 1955 and later expanded upon in 2015 through the Nelson Mandela Rules, represent a vital milestone in global efforts to define how prisoners should be treated. These rules were created to ensure that prisoners are granted humane and dignified treatment and to set standards for their living conditions and overall care.

The Nelson Mandela Rules¹³, named in honour of the iconic South African leader who endured 27 years of imprisonment, build upon the principles of the Standard Minimum Rules and provide more comprehensive guidelines for the treatment of prisoners. They encompass various aspects of prison management and emphasize the fundamental principles of respecting the dignity of all prisoners and prohibiting torture and ill-treatment in accordance with international human rights norms.

Crucially, the Mandela Rules extend their coverage not only to individuals serving sentences but also to those held in pre-trial detention, recognizing the importance of safeguarding the rights and well-being of individuals at every stage of the criminal justice process.

These rules offer detailed guidance on a broad spectrum of topics related to prisoner treatment, including disciplinary procedures, access to medical services, educational and vocational opportunities, and measures to prevent overcrowding in prisons.

The widespread adoption and effective implementation of these rules by United Nations member states play a pivotal role in ensuring that individuals deprived of their liberty are treated with respect and in upholding international standards for the humane treatment of prisoners. These rules are essential in protecting human rights within the context of criminal justice systems globally.

¹³ The United Nations Standard Minimum Rules for Treatment of Prisoners (the Nelson Mandela Rules), available at: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

Specific Rules on Food, Health and Hygiene in Nelson Mandela Rules are-

Accommodation Rule 12-17

Rule 13 emphasizes that prisoner accommodations, particularly sleeping quarters, must adhere to health standards. These standards must consider factors such as the local climate, cubic air space, minimum floor area, lighting, heating, and ventilation to ensure compliance.

Rule 15 focuses on the provision of adequate sanitary facilities to enable prisoners to attend to their needs in a clean and dignified manner.

Rule 16 stipulates that suitable bathing and shower facilities should be available to prisoners, ensuring that they can maintain proper hygiene, taking into account climate and regional conditions.

Rule 17 mandates that all areas of a prison regularly used by prisoners must be well-maintained and consistently kept impeccably clean. These rules collectively aim to safeguard the health, hygiene, and overall living conditions of prisoners in a manner that upholds their dignity and well-being.

Personal Hygiene

Rule 18 entails two key provisions for the cleanliness and personal care of prisoners. Firstly, it obliges prisoners to maintain personal cleanliness, and for this purpose, they should have access to water and essential toiletries to promote health and hygiene. Secondly, the rule emphasizes the importance of prisoners maintaining a respectable appearance in line with their self-esteem. Consequently, facilities should be available to enable prisoners to care for their hair and beard, with men having the opportunity to shave regularly. In essence, Rule 18 underscores the significance of personal hygiene and grooming for prisoners' well-being and self-respect.

Food

Rule 22 emphasizes two essential aspects of prisoner well-being. Firstly, it mandates that prisoners receive adequate, wholesome, and well-prepared food at their usual

meal times to maintain their health and strength. Secondly, the rule highlights the importance of providing prisoners with ready access to drinking water whenever they need it. In summary, Rule 22 underscores the significance of regular, nutritious meals and readily available clean water to ensure the welfare of prisoners.

Health-care services (Rule 24-35)Rule 24

Rule 24 states that providing healthcare to prisoners is the responsibility of the State. Prisoners should have access to healthcare services equal to what the general community receives, and these services should be available at no cost and without discrimination based on legal status. Healthcare services should be closely coordinated with the general public health administration, ensuring ongoing treatment and care for conditions like HIV, tuberculosis, infectious diseases, and drug dependence.

Rule 25

Rule 25 mandates that each prison must establish a healthcare service responsible for assessing, enhancing, safeguarding, and enhancing the physical and mental well-being of prisoners. Special consideration should be given to prisoners with specific healthcare requirements or conditions that hinder their rehabilitation. This healthcare service should be comprised of a multidisciplinary team with an adequate number of qualified professionals who operate with full clinical autonomy. It should also include sufficient expertise in psychology and psychiatry. Additionally, every prisoner should have access to the services of a qualified dentist.

Rule 26

Rule 26 outlines that the healthcare service in prisons must create and keep precise, current, and confidential medical records for each prisoner. Prisoners should have the right to access their medical records upon request, and they can nominate someone else to access their medical file on their behalf. Furthermore, when a prisoner is transferred to another institution, their medical records should be sent to the

healthcare service of the receiving institution while maintaining medical confidentiality.

Rule 27

Rule 27 emphasizes the following points:

Timely access to medical assistance for urgent cases must be guaranteed in all prisons. Prisoners in need of specialized treatment or surgery should be transferred to specialized institutions or civilian hospitals. If a prison system has its own hospital facilities, they should be sufficiently staffed and equipped to deliver suitable treatment and care to referred prisoners.

Clinical decisions regarding prisoner healthcare can only be made by qualified healthcare professionals responsible for their care, and these decisions should not be overridden or disregarded by non-medical prison staff.

Rule 30

Rule 30 outlines the following:

A physician or other qualified healthcare professionals, regardless of their obligation to report to the physician, must promptly see, communicate with, and assess each prisoner shortly after their admission to the facility. Subsequently, these assessments should occur as needed. Specific attention should be directed towards:

- (a) Identifying the healthcare requirements of prisoners and implementing necessary treatment measures.
- (b) Recognizing any potential mistreatment or abuse suffered by newly arrived prisoners prior to their admission.
- (c) Detecting signs of psychological stress induced by imprisonment, which may include the risk of self-harm, suicidal tendencies, or withdrawal symptoms from substance use, such as drugs, medication, or alcohol. Appropriate individualized measures or treatment should be administered.

(d) In cases where prisoners are suspected of having contagious diseases, ensuring their clinical isolation and providing adequate treatment throughout the contagious period.

(e) Assessing prisoners' suitability for work, physical exercise, and engagement in other activities as deemed appropriate.

Rule 31

The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

Rule 32

This rule governs the relationship between healthcare professionals and prisoners, applying the same ethical and professional standards as in the wider community. It emphasizes:

- ❖ The duty to protect the physical and mental health of prisoners and prevent and treat diseases based on clinical needs.
- ❖ Respecting prisoners' autonomy regarding their health and obtaining their informed consent in medical care.
- ❖ Maintaining medical information confidentiality, except when disclosure is necessary to prevent a real and imminent threat to the patient or others.
- ❖ An absolute prohibition on healthcare professionals participating in acts that could constitute torture, cruelty, or inhuman treatment, including medical experiments harmful to prisoners, such as removing cells, tissues, or organs.

Additionally, prisoners, with their free and informed consent and in accordance with the law, may be permitted to engage in clinical trials and health research in the community if these activities are expected to directly and significantly benefit their health. They may also donate cells, tissues, or organs to relatives, subject to appropriate conditions.

Rule 33

The physician shall report to the prison director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

Rule 34

If healthcare professionals, while examining a prisoner upon admission or providing ongoing medical care, detect any signs of torture or any other cruel, inhuman, or degrading treatment or punishment, they must make a record of it and report these cases to the appropriate medical, administrative, or legal authority. It's essential to follow established procedures to prevent any foreseeable harm to the prisoner or individuals associated with the situation.

Rule 35

- ❖ The physician or a qualified public health authority shall conduct regular inspections and provide guidance to the prison director on various aspects, including the quantity, quality, preparation, and serving of food, the cleanliness and hygiene of the facility and prisoners, sanitation, temperature, lighting, ventilation, the condition of prisoners' clothing and bedding, and compliance with rules related to physical education and sports, especially when no specialized personnel oversee these activities.
- ❖ The prison director must consider the advice and reports given in line with paragraph 1 and Rule 33. They should promptly take necessary actions based on the advice and recommendations from these reports. If the advice or recommendations fall beyond the director's authority or if there is a disagreement, the director must promptly forward their own report along with the advice or recommendations from the physician or public health authority to a higher-ranking authority for resolution.

5. European Prison Rules 1987

Hygiene (Rule 19):

- ❖ Prison authorities should maintain a clean and sanitary environment in prison facilities, including cells, common areas, and sanitation facilities.
- ❖ Adequate hygiene supplies, such as soap and towels, should be provided to prisoners.
- ❖ Prisoners should be encouraged to maintain personal hygiene, and facilities should allow for regular washing and bathing.
- ❖ Laundry services should be available to ensure clean clothing and bedding.

Health (Rule 39-48):

Access to Health Care (Rules 39-41, 46-47):

Prisoners should have access to healthcare services that provide medical, dental, and mental health care. Access to a wide range of healthcare services, including medical, surgical, and psychiatric care, should be available to those in prison on an equal basis with those outside of prison (following the principle of normalization). Prisoners should also have access to dental and optical care. These rules apply equally to mental and physical health. Therefore, the prison medical service must offer psychiatric treatment when necessary and pay special attention to preventing suicide. In essence, prisoners should receive healthcare that is equivalent to what is available in the general population, with a focus on equal treatment for both mental and physical health and a strong emphasis on preventing suicide.

Duties of Medical Practitioner (Rules 41-45):

Each prison should have at least one qualified medical practitioner and other trained healthcare staff available, especially in urgent situations. The medical practitioner's responsibilities go beyond diagnosing and treating health conditions; they also include:

1. Documenting and reporting any indications that an individual may have experienced violence, whether from other prisoners or staff mistreatment.
2. Addressing withdrawal symptoms from substances like drugs and alcohol.

3. Identifying and reporting the psychological impact of detention, especially when an individual's physical or mental well-being is seriously jeopardized by their conditions of imprisonment, including solitary confinement.
4. Arranging for continued treatment with community agencies after a prisoner's release.
5. Visiting individuals in solitary confinement daily and providing immediate medical assistance upon request.
6. Conducting regular inspections and reports on the prison's hygiene, sanitation, and food quality, with prompt corrective action for any identified concerns. This monitoring role may also be carried out by another designated authority.

Food (Rule 22):

- ❖ Prison authorities should ensure that prisoners receive food of adequate nutritional value, quality, and quantity.
- ❖ Meals should be served at regular intervals, and prisoners should have access to clean drinking water at all times.
- ❖ Special dietary requirements for health or religious reasons should be accommodated.
- ❖ Prisoners should have the opportunity to prepare food in their cells if facilities allow.
- ❖ Food preparation and handling should follow proper hygiene standards to prevent contamination.

The Theme of the Visit was: Health, Food and Hygiene

Observations

Our visit to Taloja Central Jail to observe health, hygiene, and sanitation conditions within the prison revealed critical issues that demand immediate attention. These observations underscore inmates' significant challenges and the need for comprehensive reforms in various aspects of prison management, particularly in Circle No. 5, as it was the only circle we were permitted to visit as per the protocol.

1. Legal Aid Services:

It was observed that the Legal Aid services were provided only twice a week through the form of “Mulakat” which was usually dependent on the number of prisoners allowed per day by the prison officials depending on the inflow and the crowd of inmates on a particular day. The Legal Aid services did even have a proper office as it functioned in the cultural Hall of the prison. As the Taloja Central Prison houses mostly under trial prisoners it one the crucial services that needs to provided. As per Chapter 31 Facilities to Prisoners of the Maharashtra Prison Manual 1979 sub section 34 Prisoners of all categories may be given necessary facilities for—

- (a) Appeal and petition according to the provisions of any law;
- (b) Legal defense;
- (c) Delegation of power of attorney (property, land, civil suits, business transactions
- (d) execution of Will

The frequency and the quality of the legal aid services need to be improved, and this matter requires further investigation.

The Prison officials were also insensitive towards the officials Maharashtra State Human Rights Commission (MSHRC) and the students and faculty of School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai. Despite prior intimation and official permission we were made to wait outside for 45 minutes.

2. Drainage and Hygiene

As per Chapter 5 Prison Building and Sanitary Arrangement of the Maharashtra Prison Manual 1979 Section 1 Statutory Rules Sub Sections 4 (i), 5 and 7

The wards in a prison shall be thoroughly swept and cleaned daily.

All parts of a prison shall be kept thoroughly clean and no rubbish or dirt be allowed to accumulate in any part thereof. The Superintendent shall, take special care to see that cleanliness in the kitchen is maintained and refuse is not thrown about anywhere.

Public privies, dye works, open drains or similar other nuisances likely to affect the health of prisoners shall not, as far as possible, be permitted near a prison.

But as per our observations one of the most pressing concerns we identified was the inadequate drainage system which is noticeable on the prison campus. This deficiency can pose serious health risks not just to the inmates but also to the police authorities.

In Circle No. 5, we observed standing water on the floor, creating an unsanitary environment. Additionally, some barracks lacked proper doors for their toilets, leading to a lack of privacy and hygiene issues. The prison barricades were in a deplorable condition, emitting foul odours, and the absence of doors to some toilets exacerbated the problem.

3. Infrastructure and Ventilation

Infrastructure-related challenges, despite falling under the purview of the Public Works Department (PWD), cannot be ignored. Barrack No. 16 in Circle No. 5 stood out due to its lack of proper ventilation, leaving inmates without access to fresh air. Inadequate ventilation can contribute to poor air quality and heightened discomfort for inmates. In Circle No. 5, Barrack No. 7, where around 40 undertrials were placed, there was only 1 fan. This exacerbates the harsh living conditions in the prison.

4. Kitchen Hygiene and Food Safety

As Per Chapter 24 Diet for Prisoner of the Maharashtra Prison Manual 1979 Section 40 talks about the prisoners employed in cooking shall always wear clean blue aprons which shall reach bust below the knees. Each prisoner working in the kitchen shall be provided with aprons and he shall keep them always clean.

But the kitchen staff did not have access to essential protective gear, such as hairnets, gloves, and proper aprons or uniforms. It was evident that there was a lack of uniformity in the attire of the kitchen staff, with some wearing aprons while others did not. Moreover, the kitchen faced pipeline issues, resulting in water accumulating on the floor surface, which created an unsanitary environment.

As per Sec 49 of Chapter 24 Diet for Prisoner of the Maharashtra Prison Manual 1979. In order to ensure that the food is properly cooked, stored and the quantity ready for serving is of correct weight, the Jailor in charge of each circle, Octagon, section or yard shall be present at each meal, and he shall see that the food is properly

served. The Superintendent and the Medical Officer shall carry out surprise inspection of the food by taking samples from the bulk ready for serving.

One particularly troubling observation was the haphazard storage of cooked rice. It was simply laid out on a platform, left uncovered and exposed. This unsanitary practice attracted bees and raised concerns about food contamination. Furthermore, the staff used the same footwear outside and in the kitchen without any segregation, posing hygiene risks.

In the kitchen, where inmates were responsible for food preparation, not all wore proper uniforms. We noted instances where one inmate was shirtless and another wore a banyan. This lack of uniform attire is problematic as it could potentially lead to food contamination, especially considering the nature of food preparation activities.

Additionally, the practice of storing cooked food outdoors, exposed to environmental elements, was concerning and raised significant hygiene issues. The absence of a designated space for utensil cleaning further compounded these concerns.

These observations collectively point to a need for immediate attention and improvement in the kitchen and food handling practices within Taloja Central Jail. Ensuring proper hygiene, protective gear, uniformity in attire, and adherence to food safety protocols are essential to safeguard the health and well-being of inmates and staff. These issues directly align with the broader theme of health, hygiene, and sanitation within the prison environment, emphasizing the importance of upholding basic human rights and dignity.

5. Access to Clean Drinking Water

As per Chapter 5 Prison Building and Sanitary Arrangement Section 1 Statutory Rules Sub Section 33 (i) It shall be the duty of the Superintendent and the Medical Officer to see that the water supplied to prisoners for drinking and culinary purposes is pure and wholesome or so treated with other suitable chemicals as to be potable and safe for human consumption.

One of the most alarming discoveries during our visit was the lack of access to clean water for inmates. The absence of installed water purifiers forced inmates to choose

between consuming non-purified water or ordering bottled water, is a cumbersome process that seemed inconvenient. Access to clean drinking water is a fundamental human right that must be upheld within any correctional facility.

5. Recreational and Educational Facilities

In Circle No. 5, the prison lacked adequate recreational facilities. While prison officials mentioned the provision of playing volleyball in the evenings, we could notice only one pole, which makes it impractical to tie the volleyball net, limiting inmates' access to recreational activities. Additionally, the library was closed during our visit, depriving inmates of reading materials and educational resources. Despite claims of recreational activities like volleyball and chess, we did not witness any such facilities. Providing inmates with access to education, recreation, and skill development opportunities is essential for their rehabilitation and overall well-being, which we couldn't see.

6. Prison "Canteen" and Digitalization

The prison operates a "canteen" that stocks various items, including toiletries, stationery, groceries, and snacks. However, this canteen does not function as a traditional eating establishment with seating for inmates. Instead, it offers a range of goods, and inmates must adhere to certain procedures to obtain items, a process that takes two days. This system may pose difficulties for inmates in urgent need, and the monthly purchase limit of 6000 rupees may be restrictive for some. The total sum of Rs 6000 is mix of the wages of the inmates for the work done in the prison and the money sent to them by their families which is usually deposited in their account at the prison and maintained in form of a ledger at the prison. The inmates do not receive money in the form of hard cash instead it is in the form of ledger, which is an open source of corruption between prison officials and the inmates. There is an opportunity to streamline and digitize money orders received by inmates from their families to enhance accessibility and convenience.

7. Overcrowding and Healthcare Facilities

Taloja Central Jail faces severe overcrowding, with a sanctioned capacity of 2124 but a total inmate population of 3259. This overcrowding significantly strains the

resources and services provided within the prison, raising concerns about the adequacy of healthcare facilities. Shockingly, there is only one ambulance available within the prison complex to serve the healthcare needs of 3259 inmates, which is a critical deficiency in emergency healthcare provision.

8. Noise Disturbance during the restrictive hours

We noted a concern regarding excessive noise within the barracks during sleeping hours, particularly between 12 to 3 PM, causing disturbances that may impact the mental well-being of inmates. Loud music was still being played during these restrictive hours. Addressing noise levels is essential to ensure a conducive environment for rest and rehabilitation.

❖ Suggestions

Our observations of health, hygiene, and sanitation conditions in Taloja Central Jail, particularly in Circle No. 5, have illuminated the pressing need for wide-ranging reforms and enhancements within the prison system. These suggestions align with the overarching theme of our observation, highlighting the paramount importance of health, hygiene, and sanitation as foundational elements of human rights and dignity within the prison environment.

1. Drainage and Hygiene

- **Repair and Upgrade Drainage:** Implement immediate measures to address the inadequate drainage system across the prison campus. Regular maintenance and repairs should be scheduled.
- **Standing Water Removal:** Address the issue of standing water in Circle No. 5 by ensuring proper drainage and cleaning procedures.
- **Barrack Toilet Door Installation:** Install proper doors for barracks' toilets to ensure privacy and improve hygiene conditions.
- **Barricade Maintenance:** Maintain and clean prison barricades regularly to eliminate foul odors and unsanitary conditions.

2. Infrastructure and Ventilation

- Ventilation Improvement: Collaborate with the Public Works Department (PWD) to ensure adequate ventilation in all prison barracks, especially Barrack No. 16
- Fan Provision: Ensure that each barrack has sufficient fans for ventilation and comfort.
- Living Condition Evaluation: Regularly assess living conditions in different barracks and address issues promptly.

3. Kitchen Hygiene and Food Safety

- Protective Gear: Provide essential protective gear, such as hairnets, gloves, and aprons, to kitchen staff to maintain hygiene.
- Uniformity in Attire: Enforce a uniform attire policy for kitchen staff to prevent cross-contamination.
- Kitchen Maintenance: Address pipeline issues in the kitchen to prevent water accumulation.
- Proper Food Storage: Implement proper food storage practices, including covering and refrigerating cooked food to prevent contamination.
- Designated Utensil Cleaning Area: Establish a designated area for utensil cleaning to ensure proper hygiene.

4. Access to Clean Water

- Install Water Purifiers: Install water purifiers in all barracks to provide inmates with access to clean drinking water.
- Regular Maintenance: Ensure regular maintenance and servicing of water purifiers to maintain water quality.
- Water Ordering System: Streamline the process of ordering bottled water to make it more convenient for inmates.

5. Recreational and Educational Facilities

- Recreation Area Development: Improve recreational facilities, including the provision of necessary equipment like volleyball nets.
- Library Access: Ensure the library is accessible to inmates, offering reading materials and educational resources.

- Skill Development Programs: Introduce skill development programs to aid inmates' rehabilitation and personal development.

6. Prison "Canteen" and Digitalization

- Canteen Efficiency: Evaluate and streamline the canteen system to improve accessibility for inmates.
- Digitize Money Orders: Implement a digital system for money orders received from inmates' families to enhance convenience and transparency.

7. Overcrowding and Healthcare Facilities

- Overcrowding Management: Develop a plan to address overcrowding issues, possibly through alternative sentencing programs or expanding capacity.
- Increase Healthcare Resources: Increase the number of ambulances within the prison complex to meet the healthcare needs of the inmate population and ensure that inmates have access to timely medical care and necessary treatments.

8. Noise Disturbance

- Noise Control Measures: Enforce stricter rules to minimize noise disturbances during restricted hours, ensuring a conducive environment for rest and rehabilitation.
- Education and Awareness: Educate inmates about the importance of maintaining quiet during sleeping hours.

Hence, there is an unequivocal need to implement comprehensive reforms in prison management, aiming to uphold basic human rights and dignity. These reforms must encompass regular inspections, rigorous staff training, and a steadfast commitment to transparency and accountability. By doing so, we can ensure that Taloja Central Jail not only rectifies the observed shortcomings but also evolves into a model correctional facility that respects the inherent dignity and rights of all incarcerated individuals.

Summary

The visit to Talaja Central Jail focused on health, food, and hygiene conditions within the prison, particularly in Circle No. 5. Several critical issues were identified during the visit. These included problems with drainage and hygiene, inadequate infrastructure and ventilation, kitchen hygiene and food safety concerns, limited access to clean water, insufficient recreational and educational facilities, challenges with the prison "canteen," issues related to overcrowding and healthcare facilities, and disturbances caused by noise during restricted hours.

To address these issues, a series of comprehensive suggestions are being provided. These suggestions encompassed improvements in drainage, ventilation, kitchen hygiene, water access, recreational and educational facilities, canteen efficiency, overcrowding management, healthcare resources, and noise control measures. The overarching goal of these recommendations is to instigate significant reforms within Talaja Central Jail, ensuring the protection of inmates' fundamental human rights and dignity while promoting their rehabilitation and well-being.

Conclusion

The field visit to Talaja Central Prison in Mumbai revealed critical issues within the prison system, necessitating reform. These include overcrowding (potentially violating Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty), poor hygiene and sanitation conditions (contrary to Article 21 and various state health regulations), concerns about food quality and kitchen hygiene (violating prison standards and possibly Food Safety and Standards Act), deplorable living conditions (inconsistent with the human rights principles enshrined in various international treaties and the prison standards), limited access to recreational and educational facilities (denying opportunities for rehabilitation, possibly infringing upon educational rights), inadequate healthcare facilities (potentially violating the Right to Health under Article 21), and restricted legal aid access (raising concerns about fair trial rights).

These findings underscore the urgent need for prison reform to align with constitutional and human rights standards. Addressing these issues is vital to ensuring

the well-being and rights of inmates and improving the effectiveness of the criminal justice system.

References

1. Maharashtra prison manual: containing the rules for the superintendence and management of prisons in Maharashtra (prescribed by the Government of Maharashtra) Pune : Yerwada Prison Press, 1979
2. The Prisoners Act 1984 <https://ddashboard.legislative.gov.in/>
3. Human Rights, Ethics and Prison Administration in India: A Critical Overview
Prof. Arvind Tiwari
4. Prison Reforms: Historical and Contemporary Perspectives: Prof. Vijay Raghvan
Available at SSRN: <https://ssrn.com/abstract=2624530>
5. Report on the National Consultation on Prison Reform by Human Rights Law Network <http://www.slic.org.in/>
6. Indian Journal of Criminology 2018-19: <https://nludelhi.ac.in/download/publication/>
7. Handbook for prison visitors. <https://www.humanrightsinitiative.org/>

ANNEXURES

Annexure I

4 | mp Nation

'NATIONAL AVERAGE OCCUPANCY RATE IN PRISONS IS 130.2%'

'Overcrowding in jails, delayed justice become pressing concern'

OUR CORRESPONDENT

NEW DELHI: A parliamentary panel has observed that overcrowding in jails and delayed justice have become a pressing concern, leading to a series of consequences for both the prisoners and the criminal justice system as a whole.

The Parliamentary Standing Committee on Home Affairs, headed by BJP MP Brijlal, also recommended that special attention should be given to pregnant women on the line of a judgement of the Supreme Court where it was observed that a jail must have adequate facilities for prenatal and post-natal care for female prisoners as well as their children.

"The committees, notes that the issue of overcrowding and delayed justice has become a pressing concern, leading to a series of consequences for both the prisoners and the criminal justice system as a whole.

The committee recom-



mends that prisoners from overcrowded jails may be transferred to other jails with vacant cells in the same state or other states by signing MoUs to that effect.

This kind of an arrangement can be mutual in nature between the states signing the MoU, it observed.

The panel recommended that the babies born in prison be allowed to stay with their mothers until the age of 12 in order to provide a nurturing environment during their early years while ensuring their well-

being and development.

According to guidelines, emphasis should be given towards proper care of children relating to food, shelter, medical care, education, and physical growth, it further said.

Apart from this, sports and entertainment facilities are also to be provided to these children.

The committee said transgender prisoners are to be provided the same standards of healthcare available to other inmates and should have access to necessary healthcare services without discrimination on the

Highlights

- The committees, notes that the issue of overcrowding and delayed justice has become a pressing concern, leading to a series of consequences for both the prisoners and the criminal justice system as a whole'
- The panel recommended that babies born in prison be allowed to stay with their mothers until the age of 12 in order to provide a nurturing environment during their early years while ensuring their well-being and development

grounds of their gender identity

It observed that the overcrowding in Indian prisons has long plagued the country's criminal justice system. Despite various steps to reduce the number of inmates from jails, the total inmates in India stands at 5.54 lakh against the total prison capacity of 4.25 lakh.

The national average occupancy rate in prisons across India is 130.2 per cent and the states of UP, Bihar, MP, Maharashtra, Punjab and Haryana together make up for more than

50 per cent of total prisoner population in country.

In four of these six states, the occupancy rate in prisons is more than the national average. Further, the state of Uttarakhand has reported the highest occupancy rate of 185 per cent. Delhi with the highest crime rate in the country of 1479.9 has an occupancy rate of 182 per cent. The committee observed that the problem of overcrowding in the Indian prisons is mostly because of a very large number of undertrial prisoners.

ANNEXTURE - II

Field visit to Taloja Central Prison

Proposed Questionnaire

It is going to be qualitative research, and a questionnaire is going to be conducted. Here are some questions that were asked to the inmates and prison authorities.

Kitchen and Canteen.

(Prison Kitchen and Canteen)

1. How many times a day are you provided with meals, snacks, or tea and are the mealtimes convenient for you?
2. Have you noticed a variety in the meals provided, or is the food generally the same each day? For example, have you ever received meat or eggs as part of your meals while in prison or if you have ever received any nutritional food other than the usual such as nuts or dairy products? If yes, then how often do you get it?
3. Have there been any changes in your health (physical and mental) after being here? If yes, how is it taken care of? Are you satisfied with the quality of food here? Do you think the portion size is enough for your needs?
4. Are you satisfied with the services provided by the canteen staff? Are there any positive or negative interactions or experiences you'd like to share? Example: Do you believe that the prison authorities are transparent about the sourcing and preparation of food served to inmates and do you think the prison administration takes dietary restrictions and preferences into account when planning meals for inmates?
5. Is the canteen conveniently located within the prison premises? Are there any restrictions or limitations on accessing the canteen? Are you allowed to get home-cooked or outside food in the prison?
6. Have you been allowed to voice your dietary preferences or requirements while in prison? For example if clean drinking water is not available inside the prison.
7. Are you aware of the nutritional standards and guidelines that should be followed in prison meals under the Prison Act, of 1894? Example: For diabetic or ill inmates or allergic to food what is the food pattern?

8. What is the quality of food which is provided to prisoners? Does any prison official check it before serving it to prisoners and is there any diet plan prepared by the nutritionist to maintain the proper nutrition or calorie intake?
9. Do you have any concerns or feedback regarding the pricing and affordability of items in the canteen?
10. How satisfied are you with the overall management and operation of the canteen and prison mess facilities? Are there any suggestions or improvements you would like to see in the prison mess and canteen services?

Health:

1. How often do you see a doctor? Have you ever had to wait a long time to see a doctor or have you ever had to go without needed medical care? How long does it take to supply medicines in case anyone falls sick?
2. In case of certain illnesses that cannot be handled by the medical team of the prison, are you allowed to visit a hospital outside the prison or to see a specialist? Does it have enough medical staff?
3. Do you have access to counselors, psychologists, or other mental health experts?
4. Are there medical professionals, such as doctors and nurses, available on-site to deal with the treatment of prisoners during an emergency?
5. What measures are in place to ensure the cleanliness and hygiene of common washrooms and cells with the availability of hygiene items, such as soap, toothpaste, and Hand wash?
6. In how many days do beddings of individual cells get changed? What are the arrangements that have taken place to ensure proper clean beddings?
7. Are inmates informed about their healthcare rights and procedures for seeking medical attention following the Prison Act of 1894?
8. Are you aware of the process for requesting medical attention when needed?
9. Have you received any vaccinations or preventive healthcare services while in prison? Are you currently taking any medications prescribed by the prison medical staff?
10. Are there any challenges or concerns related to the availability or administration of medications?
11. Do you have access to regular exercise or physical activity opportunities within the prison?

12. Do you have access to educational programs or resources related to health and wellness?

Visit to The Regional Mental Hospital, Thane





Title: Visit to Regional Mental Hospital, Thane

Date of Visit: 12th September 2023

Venue: Regional Mental Hospital, Thane

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

Students of One year LLM program of School of Law Rights and Constitutional Governance, Tata Institute of Social Sciences (TISS), Mumbai 2023-2024 batch

Aditya Raj Marandi M2023ATJ006	Nancy M2023ATJ020
Alok Sharma M2023ATJ008	Huma Wasim M2023ATJ044
Harsh Lohiya M2023ATJ016	Vishakha Arya M2023ATJ040
Roy Stephen Rodrigues M2023ATJ027	Dipsikha Deka M2023ATJ047
Harsh Kumar Jauhar M2023ATJ015	Arundhati Manish Tadkod M2023ATJ043
Tanmay Tejaswi M2023ATJ035	Ashutosh Kumar M2023ATJ010
Uttkarsh Singh Goyat M2023ATJ036	

Table of Contents

<u>CHAPTER 1</u>	4
<u>INTRODUCTION</u>	4
Introduction to the Visit	4
Profile of Regional Mental Hospital, Thane	5
Purpose of Mental Hospitals in India	6
Objective of this Visit	6
Mandate of the Visit	7
Rationale of the visit	7
Research Methodology of this Visit	8
<u>Chapter 2</u>	9
<u>Legal Framework For the Protection of Persons with Mental Illness</u>	9
International Conventions, Laws, Policies & Schemes for the Protection of Persons With Mental Illness	9
1. The United Nations Charter, 1945	10
2. The Universal Declaration of Human Rights (UDHR), 1948	11
3. The International Covenant on Civil and Political Rights (1966)	13
4. The International Covenant on Economic, Social and Cultural Rights (1966)	14
5. UN Declaration on the Rights of Mentally Retarded Persons (1971)	15
6. UN Declaration on the Rights of Disabled Persons (1975)	15
7. The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991)	16
8. WHO's Mental Health Care Law: ten basic principles and WHO Guidelines for the Promotion of Human Rights of Persons with Mental Disorders (1996):	17
9. The Standard Rules for Equalization of Opportunities for Persons with Disabilities (1993)	18
10. The World Psychiatric Association (WPA) Declaration of (1996)	18
11. Convention on the Rights of Persons with Disabilities (CRPD):	19
Conceptualisation of Laws related to Protection of Persons with Mental Illness in India	21
1. Mental Healthcare Act, 2017	21
Case: Dr. Harish Shetty vs State of Maharashtra	24
2. Constitution of India, 1949	25
3. Rights of Person with Disabilities Act, 2016	25
4. Indian Penal Code (IPC), 1860	27
5. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act, 1999	27
6. Rehabilitation Council of India Act, 1992:	27
Policies & Schemes for the Protection of Persons With Mental Illness in context of India	27

1. National Mental Health Programme	27
2. District Mental Health Programme:	28
3. National Trust Act, 1999	29
4. National Institute of Mental Health and Neurosciences (NIMHANS)	29
5. Institutional Care Scheme (under National Trust Act)	30
6. Rashtriya Kishor Swasthya Karyakram (RKSK)	30
7. Mahatma Jyotirao Phule Jan Arogya Yojana (MJPJAY)	30
Follow up Agenda	31
CHAPTER III	33
Observations/Findings of the visit	33
Observations of the Visit	33
1. Admission Process	33
2. Advanced Directives and Legal Aid Clinic	34
3. OPD Section Observations:	35
4. Record Room	35
5. Infrastructure and Equipment	36
6. Ward Observations: Boys Ward (19A) and Female Ward (19B)	36
7. Grass Maintenance and TMC Response	37
8. Incomplete Road Construction by TMC	37
9. Travel Distance to Access Primary Mental Health Treatment	37
10. Neurology and Dental Camps	37
Key Issues Identified During the Mental Hospital Visit	39
CHAPTER IV	40
Learning Outcomes and Suggestions	Error! Bookmark not defined.
Learning Outcomes	40
Suggestions	43
CHAPTER V	45
Conclusion	45
References	48
ANNEXURES	49

CHAPTER 1

INTRODUCTION

Introduction to the Visit

“Empty Vessel Sound Much”

On September 12, 2023, at 11:00 AM, a group comprising 13 students from the School of Law, Rights & Constitutional Governance at the Tata Institute of Social Sciences, accompanied by 5 pro bono volunteers, paid a visit to the Maharashtra State Human Rights Commission (MSHRC) at the Regional Mental Hospital in Thane. Their visit was conducted under the supervision and guidance of FieldWork Supervisor Swarupa Dholam.

The hospital is renowned as one of Thane's oldest and most esteemed mental health facilities, overseen by the Maharashtra State Government. The visit's primary objective was to conduct an examination and evaluation of the patients' human rights and living conditions, in line with the Commission's Suo Moto Cognisance. Such visits are authorized by section 29 (c) and section 12 (c) of the Protection of Human Rights Act, 1993.

Shree Mahavir Jain Hospital, in partnership with the Maharashtra State Human Rights Commission, the Maharashtra State Government, and Regional Mental Hospital, Thane (West), jointly organized a Neurology and Dental Consultation Camp on the same date. This event took place at the hospital and cardiac center, offering individuals the chance to seek guidance from experienced neuro physicians and dentists for any neurological or dental concerns they had been facing. The camp achieved significant success, with attendees expressing satisfaction with the top-notch medical advice and care they received during the event.

In India, mental health has traditionally been a topic shrouded in taboo, receiving limited priority and attention. However, recent times have underscored the critical importance of addressing mental health issues, particularly in the wake of the COVID-19 pandemic, which has seen a surge

in mental health cases. In response to these evolving needs, India has taken significant steps in the realm of mental health regulation.

The Mental Healthcare Act of 2017 now governs mental health in the country, marking a significant departure from the Mental Health Act of 1987, which was deemed inadequate in meeting the complex requirements of individuals grappling with mental illness. This shift in legislation reflects a growing recognition of the pressing need to prioritize mental health care and support for those affected by mental health challenges in India.

Profile of Regional Mental Hospital, Thane

The Regional Mental Hospital Thane, with its rich history dating back to its establishment in 1901, represents an integral part of the healthcare landscape. The foundation stone of Mental Hospital was laid down by H.E. Lord Harris, Then Governor of Bombay on 11th February 1895. The land was donated by Seth Norottamdas Madhavdas. The major expenditure of this Hospital was borne by this family, so this hospital was named as Narottamdas Madhavdas Mental Hospital.¹

In the beginning the total bed strength of this Hospital was 200. Civil Surgeon was in charge of this Hospital. In 1947 the bed strength was increased to 600 and then in 1954 it was again increased to 1191. In the year 1961 the bed strength was raised to 1765. Presently the bed strength of the Hospital is 1850 with 1059 patients currently under its care. Among these capacity figures, 1050 beds are dedicated to male patients, while 800 are reserved for female patients, reflecting a commitment to gender-specific healthcare needs.

The Outpatient department in this Hospital was started in 1983. In the year 1989 the name of this Hospital was changed to Mental Health Institute, later it was renamed to Regional Mental Hospital, Thane. This institution is not merely a medical facility; it is a sprawling complex that spans an impressive 72 acres. As a government-operated hospital, it falls under the purview of the Maharashtra state, playing a vital role in providing mental health services and support to the region's population. Its enduring presence and evolution underscore the continued importance of mental healthcare in the community.

¹ National Human Rights Commission Report (Visit of Ravi Kumar Bhargava, IAS Retd. Special Reporter Central Zone NHRC)

Purpose of Mental Hospitals in India

Mental hospitals are an integral part of mental health services in India. Mental hospitals in India are tertiary centers which specialize in the treatment of mental disorders. These hospitals may vary in their size and grading. Some of them specialize in short-term or outpatient treatment for low-risk patients while others specialize in the temporary treatment in the inpatient care for those who as a result of the disorder require routine assistance, treatment, or a specialized and controlled environment. Since independence, the numbers of mental hospitals in India have increased from 31 to 45. There still exist a large number of patients who require long-term inpatient care (sometimes in restrained settings) in mental hospitals. These patients are mostly those with more severe forms of illness, poor social supports, and significant family and societal burden.

There were about 10,000 beds in mental hospitals for a population of 400 million at the time of India's independence. Over the last 50 years, the population has increased by nearly two and half times, while the number of beds had increased to only about 21,000. Thus, the psychiatric bed ratio has remained more or less constant at 1 bed for 5000 population. The prevalence of severe mental morbidity in India ranges from 3 to 10 per 1000, which is more than five times the bed strength available.

Objective of this Visit

- ❖ To diligently pursue and monitor the suo moto case initiated by the Maharashtra State Human Rights Commission, demonstrating the commitment to upholding human rights.
- ❖ To engage in a comprehensive observation of the Neurology and Dental Camp, which serves as a proactive step in addressing healthcare needs within the community.
- ❖ To conduct a thorough assessment of the living conditions experienced by the inmates at the Mental Hospital, with a specific focus on the preservation and protection of their fundamental human rights.
- ❖ To identify and acknowledge the challenges faced by mental healthcare providers in the context of resource constraints and insufficiencies.

- ❖ To strategize and propose effective solutions and measures aimed at overcoming these resource-related difficulties.
- ❖ To foster a collaborative environment that encourages mental healthcare providers to share their experiences and best practices for more comprehensive and sustainable care.
- ❖ To emphasize the significance of providing a nurturing and safe atmosphere that promotes the well-being and recovery of mental health patients.
- ❖ To check whether infrastructure maintenance and repair works have been undertaken by TMC (Thane Municipal Corporation).
- ❖ To see what facilities are available for the relatives of inhabitants to stay when they come to visit them.

Mandate of the Visit

The Maharashtra State Human Rights Commission conducts its visits based on the authority outlined in Maharashtra State Human Rights Regulations, 2011 and Section 12 of the Protection of Human Rights Act, 1993. This section delineates the Commission's functions. Notably, Section 12 (c) specifies that the Commission has the responsibility to *"visit, irrespective of any other existing laws, correctional facilities or institutions administered by the State Government, where individuals are detained, confined, or housed for purposes of therapy, rehabilitation, or safeguarding, in order to assess the living conditions of the residents and provide recommendations to the Government based on its findings."*

The Regional Mental Hospital falls within the category of institutions under the jurisdiction of the State Government, it falls squarely within the purview of the Maharashtra State Human Rights Commission's responsibilities. Section 12 (c) further empowers the Commission to offer recommendations to the Government following such visits.

Rationale of the visit

The rationale of the visit was to observe whether there have been any improvements in the living conditions of the patients in the Hospital. Another rationale was to see how far the medical camps are successful in addressing the medical problems of the patients. Another rationale was to check on the maintenance and repair works being undertaken at the Hospital.

Research Methodology of this Visit

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 and in our case non- participant observation, in depth interviews and focus group discussions with the prison officials in understanding the working of the prison and understanding their problems and difficulties. 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 data collection methods like questionnaires and observational techniques, case studies etc. 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.

Chapter 2

Legal Framework For the Protection of Persons with MentalIllness

International Conventions, Laws, Policies & Schemes for the Protection of Persons With Mental Illness

Mental health is an essential aspect of human well-being, yet for far too long, individuals with mental illness have faced discrimination, stigma, and neglect in many parts of the world. The global recognition of the human rights of persons with mental illness has given rise to a complex and evolving international legal framework aimed at protecting their rights, dignity, and access to appropriate care and support.

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. Mental health and human rights are inextricably linked. They are complementary approaches to the betterment of human beings. Some measure of mental health is indispensable for human rights because only those who possess some reasonable level of functioning can engage in political and social life. On the other hand, human rights are indispensable for mental health as they provide security from harm or restraint and the freedom to form and express beliefs that are essential to mental well-being.²

Some of the International instruments for Protection of People with Mental Illness are-

- ❖ International Bill of Rights, which includes the United Nations (UN) Declaration of Human Rights (1948), The International Covenant on Civil and Political Rights (1966) And The International Covenant on Economic, Social and Cultural Rights (1966)

² 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]

- ❖ Convention on the Rights of Persons with Disabilities (CRPD), 2006
- ❖ UN Declaration on the Rights of Mentally Retarded Persons (1971)
- ❖ UN Declaration on the Rights of Disabled Persons (1975)
- ❖ The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991)
- ❖ The Standard Rules for Equalization of Opportunities for Persons with Disabilities (1993)
- ❖ The World Psychiatric Association (WPA) Declaration of (1996)
- ❖ WHO's Mental Health Care Law: ten basic principles and WHO Guidelines for the Promotion of Human Rights of Persons with Mental Disorders (1996).

1. The United Nations Charter, 1945

The UN Charter emphasizes the commitment to respect and promote human rights and fundamental freedoms for all without distinction of race, sex, language, or religion. 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.³

The UN Charter, as the foundational document of the United Nations, establishes the overarching principles of human rights, equality, and non-discrimination. These principles form the basis upon which subsequent international instruments, including those directly related to mental health and the rights of persons with mental illness, have been developed. While the Charter does not explicitly address mental health, its principles human dignity, non-discrimination, and the

³ 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

protection of individual rights serve as a vital framework for the global promotion and protection of human rights, including those of individuals living with mental health conditions.

2. The Universal Declaration of Human Rights (UDHR), 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.

Although the Universal Declaration of Human Rights is not, in itself, a legally binding instrument, it establishes a fundamental set of human rights that applies to all nations. Article 1 of the Declaration provides that *“All people are free and equal in rights and dignity”*, setting up that people with mental illnesses are protected by human rights law by virtue of their basic humanity⁴ (UN – Charter, 1948). Here are the key provisions under UDHR, 1948-

- ❖ **Article 1 - Right to Equality:** Article 1 States that *“All human beings are born free and equal in dignity and rights.”* This principle underscores the inherent dignity and equality of all individuals, including those with mental illness, and prohibits discrimination based on any grounds, including disability.
- ❖ **Article 3 - Right to Life, Liberty, and Security of Person** - Article 3 States that *“Everyone has the right to life, liberty, and security of person.”* This article confers the right of individuals with mental illness to life and personal security, emphasizing the importance of safeguarding their well-being and protection from harm.
- ❖ **Article 5 - Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment:** Article 5 States that *“No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”* This provision prohibits the

⁴ In addition, in 1993, the Vienna Declaration, established during the World Conference on Human Rights meeting in Vienna, reemphasized the fact that people with mental and physical disabilities are protected by international human rights law and that governments must establish domestic legislation to realize these rights (UN, 1993 – Vienna Declaration)

mistreatment or abuse of individuals with mental illness in any form, including cruel or degrading treatment.

- ❖ **Article 7 - Equality Before the Law and Non-Discrimination:** Article 7 States that *"All are equal before the law and are entitled without any discrimination to equal protection of the law."* Persons with mental illness are entitled to equal protection under the law and should not face discrimination based on their mental health status.
- ❖ **Article 8 - Right to an Effective Remedy:** Article 8 States that *"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."* Persons with mental illness have the right to seek legal remedies and redress for any violations of their fundamental rights.
- ❖ **Article 9 - Freedom from Arbitrary Arrest, Detention, or Exile:** Article 9 states that *"No one shall be subjected to arbitrary arrest, detention, or exile."* This article is relevant in protecting the rights of mentally ill individuals from arbitrary detention or confinement without proper legal safeguards.
- ❖ **Article 25 - Right to Adequate Standard of Living:** Article 25 states that *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family."* This article emphasizes the right to access healthcare services, including mental healthcare, necessary for physical and mental well-being.
- ❖ **Article 26 - Right to Education :** Article 26 States that *"Everyone has the right to education."* Persons with mental illness have the same right to education as anyone else, and they should not be denied access to education on the basis of their mental health condition.
- ❖ **Article 21 - Right to Participate in the Cultural, Social, and Political Life of the Country :** Article 21 states that *"Everyone has the right to take part in the government of his country, directly or through freely chosen representatives."* Persons with mental illness have the right to participate in the civic and social life of their country, including access to mental health services and support.

While the UDHR does not specifically address mental illness, its principles emphasize the protection of the basic rights and dignity of all individuals. These provisions serve as a foundation

upon which more specific international and national laws and policies related to mental health and the rights of persons with mental illness have been built.

3. The International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights (ICCPR) is an international treaty adopted by the United Nations General Assembly in 1966. It outlines the civil and political rights to which individuals are entitled and places obligations on states parties to protect and uphold these rights. Here are the key provisions of ICCPR, 1966 dealing with the Protection of Persons with Mental Illness-

- ❖ **Article 6 - Right To Life:** Article 6 of ICCPR recognizes the inherent right to life and prohibits arbitrary deprivation of life. It states that *“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”* It is applicable to all individuals, including those with mental illness, and safeguards against any form of violence, abuse, or neglect.
- ❖ **Article 7- Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment:** Article 7 of ICCPR prohibits torture, cruel, inhuman, or degrading treatment or punishment. It states that *“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”* It applies universally and is crucial for protecting mentally ill persons from any form of ill-treatment in mental health facilities or other settings.
- ❖ **Article 9 - Right to liberty and security of person:** Article 9 of ICCPR establishes the right to liberty and security of person and prohibits arbitrary arrest or detention. It states that *“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”* It is relevant to mentally ill individuals, as it protects against unjustified involuntary confinement or institutionalization.
- ❖ **Article 10 - Freedom from Inhumane Treatment:** Article 10 of ICCPR emphasizes the humane treatment of persons deprived of their liberty, including those with mental illness

who may be placed in psychiatric hospitals or detention facilities. It promotes their dignity and well-being during confinement. It states that “*All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*”

4. The International Covenant on Economic, Social and Cultural Rights (1966)

The International Covenant on Economic, Social and Cultural Rights (ICESCR) in Article 12 states steps for the realization of the right to health. To clarify and operationalize this provision, the UN Committee on Economic, Social and Cultural Rights adopted, among other provisions, General Comment⁵ 5 in 1996 and General Comment 14 in 2000. In General Comment 5, the Committee recognized the application of ICESCR with regard to people with mental and physical disabilities and with the General Comment 14 affirmed that the right to health extends not only to timely and appropriate health care but also to the underlying determinants of health. Thus, the right to health has undergone an evolution and resulted in the appointment by the UN of a Special Rapporteur on the right to health, whose mandate includes the right to mental health. However, in spite of these developments, the lack of language that pertains specifically to people with mental illnesses in the International Bill of Rights and other mainstream conventions has long impaired the application of these instruments to people with mental illnesses. Thus, while international human rights law has grown tremendously over the last thirty years, the development of international law to protect specifically the rights of people with mental illnesses has been relatively limited.

Here are key provisions and principles within the ICESCR that are relevant to the protection of persons with mental illness:

- ❖ Right to Health (Article 12)
- ❖ Right to Non-Discrimination (Article 2)
- ❖ Right to Education (Article 13)

⁵ General Comments are important sources of interpretation of human rights conventions produced by human rights oversight bodies to guide Governments in the preparation of their official reports. They are non-binding, but represent the official view as the proper interpretation of the convention by the human right oversight body (WHO, The Role of International Human Rights)

- ❖ Right to an Adequate Standard of Living (Article 11)
- ❖ Right to Work (Article 6)
- ❖ Right to social security, including social insurance.(Article 9)

5. UN Declaration on the Rights of Mentally Retarded Persons (1971)

In 1971, the General Assembly of the United Nations, in its resolution 2856 (XXVI), proclaimed the "Declaration on the Rights of Mentally Retarded Persons." Bearing in mind the necessity of assisting persons with mental disabilities to develop their full abilities and of promoting their integration, the General Assembly calls for national and international action to ensure that the Declaration is used as a common basis and frame of reference for the protection of their rights.

The Declaration establishes that 'mentally retarded persons' have the same rights as other human beings. Specifically, they have the right to:

- ❖ Proper medical care, physical therapy, education, training, rehabilitation and guidance to develop their ability and maximum potential;
- ❖ Economic security and decent standards of living; to perform productive work and engage on any meaningful occupation;
- ❖ To live with their own families or foster care, and to participate in community life;
- ❖ A qualified guardian when required to protect their personal well-being and interest;
- ❖ Protection from exploitation, abuse, degrading treatment, to due process of law.

6. UN Declaration on the Rights of Disabled Persons (1975)

The Declaration on the "Rights of Disabled Persons", proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975, reiterates the commitments and principles established in earlier United Nations instruments, and reaffirms the rights of persons with disabilities, set forth in the Declaration, without discrimination on any basis.

It also reiterates the necessity of preventing physical and mental disabilities and of assisting persons with disabilities "to develop their abilities in the most varied fields of activities and of promoting their integration as far as possible in normal life."

It states: "Disabled persons have the inherent right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible, "to include, civil and political rights. The Declaration also notes, among other things, that: "paragraph 7 of the Declaration on the Rights of Mentally Retarded Persons applies to any possible limitation or suppression of those rights for mentally disabled persons."

7. The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991)

The first comprehensive statement of the rights of persons with mental illness was UN's *Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care* in 1991.

After various years of deliberations on the rights of persons admitted to or detained in mental health institutions, in December of 1991, the General Assembly adopted the "Principles for the protection of persons with mental illness and the improvement of mental health care."

Though mental illness is not always a disability, the principles have some relevance within the broader discussion about the rights of persons with Developmental and Psychiatric disabilities. The twenty-five Principles address the: fundamental freedoms and basic rights; protection of minors; life in the community; determination of mental illness; medical examination; confidentiality; role of community and culture; standards of care; treatment; medication; consent to treatment; notice of rights; rights and conditions in mental health facilities; resources for mental health facilities; admission principles; involuntary admission; review body, procedural safeguards; access to information; criminal offenders; complaints; monitoring and remedies; implementation; scope of principles relating to mental health facilities; and saving of existing rights.

Some key principles are:

- ❖ All people are entitled to receive the best mental health care available and be treated with humanity and respect

- ❖ There should be no discrimination on the grounds of mental illness. All people with mental illness have the same rights to medical and social care as others
- ❖ Everyone with mental illnesses has the right to live, work, and receive treatment in the community, as far as possible
- ❖ Mental health care should be based on internationally accepted ethical standards
- ❖ Each patient's treatment plan should be reviewed regularly with the patient
- ❖ There shall be no misuse of mental health skills and knowledge
- ❖ Medication should meet the health needs of the patient and shall not be administered for the convenience of others or as a punishment
- ❖ For voluntary patients, no treatment should be administered without informed consent, subject to some exceptions (e.g., patients with personal representatives empowered by law to provide consent)
- ❖ For involuntary patients, every effort should be made to inform the patient about treatment
- ❖ Physical restraint or involuntary seclusion should be used only in accordance with official guidelines
- ❖ Records must be kept of all treatments
- ❖ Mental health facilities must be appropriately structured and resourced
- ❖ An impartial review body should, in consultation with mental health practitioners, review the cases of involuntary patients.

8. WHO's Mental Health Care Law: ten basic principles and WHO Guidelines for the Promotion of Human Rights of Persons with Mental Disorders (1996):

The 1991 statement of principles was important not only for its specific provisions, but also its acknowledgement of a particular need to protect the rights of persons with mental disorder, especially persons with enduring mental disorders whose rights have been significantly ignored in the past.

Against this background, the World Health Organization (WHO) went on to articulate ten basic principles of mental health care law in 1996, further emphasizing many of the 1991 principles, and distilling them into ten key principles:

- ❖ All persons should benefit from the best possible measures to promote mental well-being and prevent mental disorders
- ❖ All persons in need should have access to basic mental health care
- ❖ Mental health assessments should be performed in accordance with internationally accepted medical principles and instruments
- ❖ All persons with mental disorders should be provided with health care which is the least restrictive possible
- ❖ Consent is needed before any type of interference with a person can occur
- ❖ If a patient experiences difficulties appreciating the implications of a decision, although not unable to decide, the patient shall benefit from the assistance of an appropriate third party of his or her choice
- ❖ There should be a review procedure for any decision made by official, surrogate or representative decision-makers and health care providers
- ❖ For decisions affecting integrity or liberty, with a long-lasting impact, there should be automatic periodical review mechanisms
- ❖ All decision-makers acting in official or surrogate capacity should be qualified to do so
- ❖ All decisions should be made in keeping with the body of law in force in the jurisdiction involved and not on any other basis, or an arbitrary basis.⁶

9. The Standard Rules for Equalization of Opportunities for Persons with Disabilities (1993)

The "Standard Rules for the Equalization of Opportunities for Persons with Disabilities" is a document that was adopted by the United Nations General Assembly in 1993. It consists of 22 rules that provide guidelines and recommendations for governments and organizations to promote the rights and equal opportunities of persons with disabilities. These rules cover various aspects of disability rights and inclusion.

⁶ *Division of Mental Health and Prevention of Substance Abuse (World Health Organization). Mental Health Care Law: Ten Basic Principles.* Geneva: World Health Organization; 1996

10. The World Psychiatric Association (WPA) Declaration of (1996)

The World Psychiatric Association (WPA) Declaration of Madrid, 1996, is a significant document that addresses the ethical principles and guidelines for psychiatric practice and the treatment of individuals with mental disorders.

The WPA Declaration of Madrid, 1996, serves as an important ethical framework for psychiatric practice, emphasizing the human rights and dignity of individuals with mental disorders and guiding psychiatrists in their professional responsibilities. It reflects the commitment of the psychiatric community to provide ethical and high-quality care to those in need.

- ❖ The declaration emphasizes the importance of respecting the dignity and human rights of individuals with mental disorders, including their right to equality, privacy, and autonomy.
- ❖ The declaration underscores the principle of obtaining informed consent from patients before treatment and the importance of respecting their right to refuse treatment, except in exceptional circumstances.
- ❖ It emphasizes the duty of psychiatrists to maintain patient confidentiality, ensuring that patients' personal information is protected.
- ❖ The declaration highlights the importance of psychiatrists being competent and continuously trained to provide the best possible care to their patients.

11. Convention on the Rights of Persons with Disabilities (CRPD):

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. As a result of this movement, 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 the ones with mental disabilities.

The Convention gives substance to the complex nature of the right to health by adopting a social, rather than a medical, model of disability. The social model of disability addresses environmental constraints that limit people with disabilities to engage in community life, emphasizing the relationship between stigma, discrimination, structural inequalities, inadequate service provision

and deficits in health. The CRPD provides a “framework for ensuring that mental health laws fully recognize the rights of those with mental illness”. Here are some key provisions of the CRPD related to the protection of persons with mental illness:

- ❖ **Article 1** - The CRPD establishes its purpose as promoting, protecting, and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. This includes Persons with mental health conditions.
- ❖ **Article 12 - Equal Recognition Before the Law:** Article 12 of the CRPD recognizes the right of persons with disabilities, including those with mental health conditions, to enjoy legal capacity on an equal basis with others. It emphasizes supported decision-making and safeguards against forced interventions.
- ❖ **Article 14 - Liberty and Security of the Person:** Article 14 ensures that persons with disabilities, including those with mental health conditions, have the right to liberty and security of the person on an equal basis with others. It prohibits arbitrary detention and requires legal safeguards in cases of deprivation of liberty.
- ❖ **Article 15 - Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment:** Article 15 prohibits torture and cruel, inhuman, or degrading treatment or punishment. This provision is particularly relevant for persons with mental illness, as it protects them from abusive or harmful practices.
- ❖ **Article 19 - Right to Live Independently and Being Included in the Community:** Article 19 recognizes the right of persons with disabilities, including those with mental health conditions, to live independently and be included in the community. It calls for the provision of support services to facilitate community inclusion.
- ❖ **Article 25 - Right to Health:** Article 25 acknowledges the right of persons with disabilities to the highest attainable standard of health without discrimination. This includes access to mental health services and treatment on an equal basis with others.
- ❖ **Article 26 - Habilitation and Rehabilitation:** Article 26 mandates the provision of habilitation and rehabilitation services, including mental health rehabilitation, to enable persons with disabilities to achieve and maintain maximum independence, functionality, and inclusion in society.

- ❖ **Article 28 - Right to Adequate Standard of Living and Social Protection:** Article 28 emphasizes the right of persons with disabilities to an adequate standard of living and social protection. This includes access to appropriate support, services, and financial assistance.
- ❖ **Article 30 - Participation in Cultural, Recreational, and Sports Activities:** Article 30 recognizes the right of persons with disabilities, including mental disabilities, to participate in cultural, recreational, and sports activities on an equal basis with others.

These provisions in the CRPD highlight the importance of recognizing the rights of persons with mental illness and ensuring that they are treated with dignity, respect, and equality under the law. The CRPD has played a pivotal role in advancing the protection and inclusion of individuals with mental health conditions in the global human rights framework.

Conceptualisation of Laws related to Protection of Persons with Mental Illness in India

The legal framework in India for the protection of persons with mental illness primarily centers around the Mental Healthcare Act, 2017. This act represents a comprehensive and modern approach to mental healthcare and seeks to safeguard the rights and well-being of individuals with mental health conditions. Here are some significant laws and Policies in India for the protection of persons with mental illness.

1. Mental Healthcare Act, 2017

The Mental Healthcare Act, 2017, is a significant piece of legislation in India that provides comprehensive provisions for the protection and rights of persons with mental illness. This Act replaced the Mental Act 1987, Here are key provisions under the act:

- ❖ **Definition of Mental Illness:** The act defines mental illness as *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.*⁷ This broad definition

⁷ Section 2(s), The Mental Healthcare Act, 2017.

encompasses various mental health conditions and ensures a comprehensive approach to mental healthcare.

- ❖ **Right to Access Mental Healthcare:** This act confers the right to access mental Health care to Person with mental illness. This act provides that *“Every person shall have a right to access mental health care and treatment from mental health services run or funded by the appropriate Government.”*⁸The act mandates the availability of mental healthcare services at affordable rates and in a manner that respects the dignity of the person seeking treatment.
- ❖ **Advance Directives**⁹: Individuals have the right to make advance directives, which are legal documents specifying their preferences for treatment, including or excluding specific treatments or procedures. They can also nominate a representative who will make decisions on their behalf in case they become incapable of making decisions regarding their mental healthcare. This provision empowers individuals to have a say in their treatment and care.
- ❖ **Voluntary and Involuntary Admission:** The act outlines the procedures for both voluntary and involuntary admission to mental health establishments. Voluntary admission occurs when a person willingly seeks treatment. **Section 86** provides that *“Any person, who is not a minor and who considers himself to have a mental illness and desires to be admitted to any mental health establishment for treatment may request the medical officer or mental health professional in charge of the establishment to be admitted as an independent patient”*. Involuntary admission can only take place under specific circumstances, such as when a person poses a risk to themselves or others, and with proper safeguards to protect the rights of the person with mental illness. Section 87,89 and 90 of The act establishes clear criteria and processes for involuntary admissions.
- ❖ **Right to Legal Aid:** Persons with mental illness have the right to access legal aid and representation if they require it. This is particularly important in cases where their rights or treatment decisions are being challenged or contested. *“A person with mental illness shall be entitled to receive free legal services to exercise any of his rights given under this Act.”*¹⁰

⁸ Section 18, The Mental Healthcare Act, 2017

⁹ Sections 5-13, Chapter 3, The Mental Healthcare Act, 2017

¹⁰ Section 27, The Mental Healthcare Act, 2017

❖ **Prohibition of Discrimination:** The act explicitly prohibits discrimination on the grounds of mental illness. It states that “every person with mental illness shall be treated as equal to persons with physical illness in the provision of all healthcare which shall include the following, namely:—

(a) there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability;

(b) emergency facilities and emergency services for mental illness shall be of the same quality and availability as those provided to persons with physical illness;

(c) persons with mental illness shall be entitled to the use of ambulance services in the same manner, extent and quality as provided to persons with physical illness;

(d) living conditions in health establishments shall be of the same manner, extent and quality as provided to persons with physical illness; and

(e) any other health services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.”¹¹

❖ **Right to Confidentiality:** Mental health professionals are required to maintain the confidentiality of information obtained during the course of treatment. It states that “A person with mental illness shall have the right to confidentiality in respect of his mental health, mental healthcare, treatment and physical healthcare.”¹² This confidentiality is subject to certain exceptions, such as when there is a risk of harm to the person with mental illness or others.

❖ **Review Boards:** The act establishes Mental Health Review Boards at the district, state, and national levels. These boards are responsible for reviewing cases related to involuntary admissions, discharge, and other matters involving persons with mental illness. They ensure that legal and human rights are upheld during the treatment process.

¹¹ Section 21, The Mental Healthcare Act, 2017

¹² Section 23, The Mental Healthcare Act, 2017

- ❖ **Decriminalization of Suicide:** The act decriminalizes attempted suicide, recognizing that a person attempting suicide is in distress and needs medical and psychological help rather than punishment. Section 115 states that “*Notwithstanding anything contained in section 309 of the Indian Penal Code (45 of 1860) any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.*”
- ❖ **Mental Health Authorities:** The act mandates the establishment of Central and State Mental Health Authorities to monitor and regulate mental health services. These authorities are responsible for ensuring the implementation of the act's provisions and promoting mental health awareness and services.

Case: Dr. Harish Shetty vs State of Maharashtra¹³

In this case a PIL is filed by a city-based psychiatrist Dr. Harish Shetty seeking a comprehensive report on the status of all persons in mental health facilities across the state, and a review of their status for discharge as mandated by the Mental Healthcare Act, 2017. The PIL has urged the implementation of the Mental Healthcare Act, 2017, across Maharashtra.

The court noted that Maharashtra Government has failed to ensure that the State Mental Health Authority, which was set up to implement the Mental Healthcare Act, was fully functional.

In a PIL highlighting serious issues of the non-implementation of the Mental Healthcare Act, 2017, in the State of Maharashtra, the Division Bench of Nitin Jamdar and Gauri Godse, JJ., came down heavily on the State government for non-functioning of the State Mental Health Authority under section 45 of the Mental Health Act, 2017.

Dr. Shetty also drew court's attention to those languishing in hospitals after being rejected by their families though they had completely recovered from the illness.

The PIL is still pending in Bombay High Court.

These detailed provisions of the Mental Healthcare Act, 2017, are designed to protect and promote the rights and well-being of persons with mental illness in India. They provide a comprehensive

¹³ 2022 SCC OnLine Bom 7507

legal framework for mental healthcare and aim to reduce stigma and discrimination associated with mental health issues. It is crucial for individuals, families, and mental health professionals to be aware of these provisions to ensure that the rights of persons with mental illness are upheld and respected.

2. Constitution of India, 1949

In India, the Constitution provides several legal provisions for the protection and welfare of mentally ill persons. These provisions are primarily aimed at safeguarding their rights and ensuring they receive appropriate care and treatment. Some of the key legal provisions related to mentally ill persons in India are as follows:

- ❖ **Right to Equality (Article 14):** Article 14 of the Indian Constitution guarantees the right to equality before the law and equal protection of the law to all persons, including those with mental illnesses. This ensures that mentally ill individuals are not discriminated against solely because of their condition.
- ❖ **Right to Life and Personal Liberty (Article 21):** Article 21 of the Constitution protects the fundamental right to life and personal liberty. This includes the right to live with dignity, which extends to mentally ill persons. It implies that they should be provided with adequate treatment, care, and protection of their rights.
- ❖ **Right to Privacy:** The right to privacy which is one of the facets of right to life and personal liberty under Article 21, also applies to mentally ill individuals. Their medical records and personal information should be kept confidential, and their dignity should be respected.
- ❖ **Directive Principles of State Policy (Article 47):** Article 47 directs the State to regard the improvement of public health as one of its primary duties. This can be interpreted as an obligation to provide adequate mental healthcare facilities and services

3. Rights of Person with Disabilities Act, 2016

The Rights of Persons with Disabilities Act, 2016 in India provides legal provisions for the protection and empowerment of persons with disabilities, including those who are mentally ill. Here are some key provisions related to mentally ill persons under this act:

- ❖ **Non-Discrimination:** Section 3 of the Act prohibits discrimination against persons with disabilities, including those with mental illnesses, in various aspects of life, including employment, education, and public services.
- ❖ **Equal Opportunities:** The Act ensures equal opportunities and full participation for persons with disabilities in society. It mandates that the government and other authorities take steps to provide reasonable accommodation and accessibility to persons with disabilities, which includes those with mental illnesses.
- ❖ **Protection of Rights and Full Participation:** Section 21 of the Act emphasizes the need to protect the rights of persons with disabilities, including their legal capacity. It aims to ensure that persons with mental illnesses are not arbitrarily deprived of their rights and can participate in decision-making processes affecting their lives.
- ❖ **Access to Healthcare:** The Act recognizes the importance of access to healthcare services for persons with disabilities, including those with mental illnesses. It emphasizes the need for health facilities to be accessible and responsive to the specific requirements of persons with disabilities.
- ❖ **Mental Health Care:** While the Act primarily focuses on disabilities, including mental illnesses, it also emphasizes the importance of mental health care and services. It encourages the integration of mental health services into the overall healthcare system.
- ❖ **Education:** The Act mandates the inclusion of children with disabilities, including those with mental illnesses, in mainstream educational institutions. It promotes an inclusive education system that caters to the specific needs of these children.
- ❖ **Reservation in Government Jobs:** The Act provides for reservations in government jobs for persons with disabilities, including those with mental illnesses. A certain percentage of vacancies in government posts are reserved for persons with disabilities as per the Act.
- ❖ **Penalties for Offenses:** The Act includes penalties for offenses committed against persons with disabilities, including discrimination and neglect. It also addresses issues related to abuse and exploitation.

4. Indian Penal Code (IPC),1860

The IPC contains provisions related to the treatment of mentally ill persons. For example, Section 84 of the IPC states that *“Nothing is an offense which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.”*

5. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act, 1999

This Act focuses on the welfare of persons with various disabilities, including those with mental disabilities, and establishes the National Trust to support their needs.

6. Rehabilitation Council of India Act, 1992:

This Act sets up the Rehabilitation Council of India (RCI), which works towards the rehabilitation and education of persons with disabilities, including those with mental disabilities.

Policies & Schemes for the Protection of Persons With Mental Illness in context of India

1. National Mental Health Programme

National Mental Health Programme¹⁴ was launched in the country in 1982 with the following objectives:

- ❖ To ensure the availability and accessibility of minimum mental healthcare for all in the foreseeable future particularly to the most vulnerable and underprivileged sections of the population;
- ❖ To encourage the application of mental health knowledge in general health care and in social development; and
- ❖ To promote community participation in the mental health service development and to stimulate efforts towards self-help in the community.

The NMHP was re-strategize in the year 2003 (in X Five Year Plan) with the following components:

- ❖ Extension of DMHP to 100 districts

¹⁴ National Health Mission, available at: <https://nhm.gov.in>

- ❖ Up gradation of Psychiatry wings of Government Medical Colleges/ General Hospitals
- ❖ Modernization of State Mental hospitals
- ❖ IEC
- ❖ Monitoring & Evaluation

In the XI Five Year Plan, the NMHP has the following components/schemes:

- ❖ District Mental Health Programme (DMHP)
- ❖ Manpower Development Schemes - Centers of Excellence And Setting Up/ Strengthening PG Training Departments of Mental Health Specialities
- ❖ Modernization of State-Run Mental Hospitals
- ❖ Up gradation of Psychiatric Wings of Medical Colleges/General Hospitals
- ❖ IEC
- ❖ Training & Research
- ❖ Monitoring & Evaluation

2. District Mental Health Programme:

The District Mental Health Program (DMHP) was launched under NMHP in the year 1996 (in IX Five Year Plan). The DMHP was based on ‘Bellary Model’ with the following components:

- ❖ Early detection & treatment.
- ❖ Training: imparting short-term training to general physicians for diagnosis and treatment of common mental illnesses with a limited number of drugs under guidance of specialist. The health workers are being trained in identifying mentally ill persons.
- ❖ IEC: Public awareness generation.
- ❖ Monitoring: the purpose is for simple Record Keeping.

Starting with 4 districts in 1996, the program was expanded to 27 districts by the end of the IX plan. The main objective of DMHP is to provide Community Mental Health Services and integration of mental health with General health services through decentralization of treatment from Specialized Mental Hospital based care to primary health care services. On the basis of “Bellary model” District Mental Health Program was launched in 1996 in 4 districts under NMHP and was expanded to 27 districts of the country by the end of IXth Five year plan period. Presently the DMHP is being implemented in 123 districts of the country. The DMHP envisages a community-based approach to the problem, which includes:

- ❖ Training of a mental health team at identified nodal institutions.
- ❖ Increase awareness & reduce stigma related to Mental Health problems.
- ❖ Provide service for early detection & treatment of mental illness in the community (OPD/ Indoor & follow up).
- ❖ Provide valuable data & experience at the level of community at the state & center for future planning & improvement in service & research.

3. National Trust Act, 1999

The National Trust Act, 1999, which established the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities (commonly known as the National Trust), is primarily focused on promoting the welfare and rights of individuals with certain disabilities, including those with mental retardation (intellectual disabilities). Some of the duties of the National Trust-

- ❖ The National Trust is responsible for facilitating the development of a network of organizations and services for persons with disabilities. It promotes research, education, and training in the field of disability.
- ❖ The Act underscores the importance of protecting the rights and best interests of persons with the specified disabilities. It emphasizes their right to live with dignity, enjoy equal opportunities, and participate fully in society.
- ❖ The Act allows the National Trust to grant financial assistance to registered voluntary organizations for the care, treatment, rehabilitation, and training of persons with disabilities. This financial support aims to enhance the quality of life and inclusion of individuals with intellectual disabilities.
- ❖ The Act promotes training and capacity-building programs for professionals and caregivers involved in the care and rehabilitation of persons with disabilities.

4. National Institute of Mental Health and Neurosciences (NIMHANS)

The National Institute of Mental Health and Neurosciences (NIMHANS) is a premier mental health institution in India, established in 1925. The institute is dedicated to the treatment and research of mental health and neurological disorders. NIMHANS provides several services, including outpatient and inpatient care, rehabilitation services, and research activities. The institute also offers training and education programs in mental health and neuroscience.

5. Institutional Care Scheme (under National Trust Act)

This scheme provides financial assistance to voluntary organizations and NGOs involved in the care and rehabilitation of persons with autism, cerebral palsy, mental retardation, and multiple disabilities.

6. Rashtriya Kishor Swasthya Karyakram (RKSK)

The Rashtriya Kishor Swasthya Karyakram (RKSK) is a national program launched in 2014 with the aim of improving the health and well-being of adolescents in India. The program focuses on several areas, including mental health, nutrition, and sexual and reproductive health.

Under the RKSK, several activities are carried out, including the establishment of adolescent-friendly health clinics, training of healthcare professionals in adolescent health and the promotion of mental health awareness among adolescents. The program also provides counseling and support services to adolescents with mental health problems.

7. Mahatma Jyotirao Phule Jan Arogya Yojana (MJPJAY)

Insurance for treatment of mental illness is very important. Mental Health Care Act, 2017 of India mandates that *“Every person with mental illness shall be treated as equal to persons with physical illness in the provisions of all health care.”* According to Section 21 (4), *“Every insurer needs to make provisions for mental illness on the same basis as is available for treatment of physical illness.”*

The union government and state governments took a major step in this direction in 2007 when government-sponsored health insurance (HI) schemes were launched. These schemes included the Rashtriya Swasthya Bima Yojana, – now called Rashtriya Swasthya Suraksha Yojana, at the level of the union government. The scheme at state level in Maharashtra was called Rajiv Gandhi Jeevandayee Arogya Yojna which is now renamed to Mahatma Jyotirao Phule Jan Arogya Yojna (MJPJAY).

This scheme is for the poor people who can't afford treatment expenditures. Most of Health Insurance schemes do not cover mental illness and even disqualify persons with mental illness from deriving benefits for the treatment of physical illness. But this scheme provides coverage to people with Mental Disorders.

The National Mental Health Programme has strengthened the public infrastructure for mental health delivery, and availability of free medication is now being ensured by most of the state governments.

Ayushman Bharat, flagship scheme of Government of India, offers up to 5 lakhs insurance cover. For the first time, it offers cover for mental illness. It has 17 packages for mental health disorders, which also includes psychoactive substance use. It covers ECT, rTMS and most of the blood tests. However, insurance facilities are applicable to public sector hospitals only and not private hospitals whereas, for other medical disorders, it covers treatment in private hospitals also. Some state governments have opted out of Ayushman Bharat citing their own health schemes.

Follow up Agenda

Follow-Up Agenda for the Visit:

- ❖ **Assessment of Infrastructure Improvements:** One of the primary objectives of this follow-up visit is to evaluate the progress made in enhancing the infrastructure since our last inspection. During the previous visit, we identified serious concerns regarding the habitability of wards. Some of them were unsuitable for accommodating residents. Additionally, the deplorable condition of washrooms and toilets was a major issue. We aim to determine if these critical infrastructure problems have been adequately addressed and if the living conditions have improved.
- ❖ **Review of Funding Allocations:** Another crucial aspect of this visit is to ascertain whether there have been any noteworthy improvements in the allocation of funds to the institution. Adequate financial support is vital to maintain and upgrade facilities, provide necessary services, and ensure the well-being of residents. We will examine whether there has been an increase in funding, which is essential for the sustained improvement of the institution's operations.
- ❖ **Privacy Assessment for Female Patients:** A recurring concern that was identified during our last visit was the lack of privacy for female patients. It is imperative to determine whether this issue still persists and, if so, to what extent. The privacy and dignity of all residents, particularly female patients, should be safeguarded, and we will assess whether any measures have been taken to address this concern.

- ❖ **Maintenance of Hospital Compound:**One of the primary focuses of this follow-up visit is to inspect the overall maintenance of the hospital compound. A well-maintained environment is not only aesthetically pleasing but also crucial for the health and well-being of residents. We will closely examine the cleanliness, landscaping, and general upkeep of the hospital premises to ensure that it meets the required standards and provides a conducive environment for patients and staff alike

CHAPTER III

Observations/Findings of the visit

During our visit to the Mental Hospital, we had the opportunity to observe the admission process, facilities, and services provided to patients. We also gained insights into the legal aspects of admission, advanced directives, and the challenges faced by both healthcare providers and patients. This report provides a detailed overview of our findings and offers Suggestions to address the identified issues.

Observations of the Visit

1. Admission Process

During our visit to the Mental Hospital, we closely examined the admission process, which plays a critical role in facilitating access to mental healthcare services for individuals in need. Our findings regarding this process are outlined below:

- ❖ **Free Admission:** One of the commendable aspects of the admission process is that it offers free access to mental healthcare services. This ensures that individuals seeking treatment are not deterred by financial constraints.
- ❖ **Initial Contact:** To initiate the admission process, an individual in need of mental healthcare services must first come to the hospital. This step ensures that individuals have the opportunity to seek help when required.
- ❖ **Ayushman Card Holders:** For those possessing an Ayushman card, the process involves filling out an assessment form as a preliminary step for admission. This assessment helps determine the appropriate level of care and treatment required for the individual.
- ❖ **Admission for Non-Ayushman Card Holders:** Individuals without an Ayushman card are not excluded from receiving care. They are required to register first, after which the same admission process, including assessment, is followed.
- ❖ **Non-Mandatory of Court Order:** It is important to note that, historically, under the Mental Health Act of 1987, a court order was necessary for admission to a mental health facility. However, with the enactment of the Mental Healthcare Act of 2017, the

requirement for a court order has been removed. This legal change has streamlined and expedited the admission process, making it more accessible to those in need of mental healthcare services.

2. Advanced Directives and Legal Aid Clinic

During our visit to the Mental Hospital, we gathered important information about advanced directives, the frequency of psychologist visits, and observed the Legal Aid Clinic. Below, we provide details of these findings:

Advanced Directives

- ❖ We were informed about the existence of advanced directives, a crucial component of mental healthcare. Advanced directives allow individuals to specify their treatment preferences and choices in advance, ensuring their autonomy in the decision-making process regarding their mental health treatment. This is an essential aspect of respecting patients' rights and ensuring their voice is heard in their care.

Psychologist Availability

- ❖ The psychologist's presence at the hospital for four days a week is a positive sign. Psychologists play a vital role in assessing and providing therapeutic support to patients with mental health issues. This frequency of visits indicates a commitment to addressing patients' psychological needs.

Legal Aid Clinic

- ❖ The presence of a legal aid clinic is essential for protecting the rights of individuals with mental illness. However, it was observed that the clinic operates only two days a week, which may lead to delays in addressing legal issues.
- ❖ There is no dedicated office for Legal aid as it is shared with the Psychological Department which raises questions on the ineffective implementation of Legal Aid.

3. OPD Section Observations:

In the OPD section of the hospital, we noted the following:

- ❖ **Staffing:** The OPD is staffed with Two Psychologists out of two, one is female Psychologist. It also consist of 3 class 4 employees, one nurse, one attendant, and an additional personnel responsible for patient transfers. This well-rounded team ensures the efficient delivery of healthcare services to patients.
- ❖ **Non-Functional TV Screen:** An issue was identified in the OPD section concerning a non-functional TV screen. While this may seem minor, it is worth addressing, as it can provide patients with a source of distraction and relaxation during their visits to the OPD.
- ❖ **No Sanctioned Post for Dentist:** It was observed that there is no sanctioned post for a dentist in the OPD section. Dental care is an integral part of overall healthcare, and the absence of a dedicated dentist may impact patients' oral health and well-being.
- ❖ **Doctor-Patient Ratio and Patient Load:**The doctor-patient ratio at the hospital stands at 1:100, and each day, the doctors handle between 60 to 70 patients. This high patient load emphasizes the demand for healthcare services in the region.

4. Record Room

Our visit to the Mental Hospital included an inspection of the record room, where we made the following observations:

- ❖ **Record Availability and Organization:**Records for each patient were organized manually and arranged according to admission numbers. This traditional method ensures that each patient's information is retrievable, but it relies on physical copies of records.
- ❖ **Lack of Digitization:**Notably, the record room lacks digitization of records, meaning that patient information is not stored electronically. This can present challenges in terms of data accessibility, retrieval, and overall record management.

5. Infrastructure and Equipment

- ❖ **MRI Machines:** The hospital faces challenges due to the lack of MRI machines. Efforts should be made to secure funding for this essential diagnostic equipment. Access to modern medical technology is essential for accurate diagnosis and treatment.
- ❖ **Maintenance of Open Gym:** The condition of the open gym is suboptimal, requiring maintenance. Construction materials left in the gym area need to be cleared to facilitate its use.
- ❖ **Renovation of Wards:** In accordance with the directives issued by the Maharashtra State Human Rights Commission (MSHRC), the Public Works Department (PWD) has initiated renovation work for Ward numbers 17 and 18. Additionally, Ward number 10 requires immediate and critical attention. Similar to Ward 17, Ward 16 A is also undergoing renovation following orders from MSHRC. This is a positive step toward improving patient accommodations.

6. Ward Observations: Boys Ward (19A) and Female Ward (19B)

During our visit to the Mental Hospital, we had the opportunity to observe the conditions and facilities in the Boys Ward (19A) and the Female Ward (19B), which provided valuable insights into the living conditions and needs of the patients.

Boys Ward (19A):

In the Boys Ward (19A), we noticed the following:

- ❖ **Entertainment Facilities:** The Boys Ward was equipped with a television for the entertainment of the male patients. This is a positive feature as it can help provide a source of distraction and leisure for the residents.
- ❖ **Water Facility:** The ward had a functioning water facility, ensuring that the patients had access to clean water, which is essential for their well-being. However RO facility was not there.

- ❖ **Cleanliness:** It was evident that the Boys Ward was maintained in a clean and orderly manner. This is crucial for the health and hygiene of the patients and contributes to their overall comfort.

Female Ward (19B):

In contrast, the Female Ward (19B) presented some noteworthy observations:

- ❖ **Overcrowding:** The Female Ward housed a total of 58 patients, but there were only 40 available beds. As a result, some female patients had no choice but to sleep on the floor. This overcrowding issue raises concerns about patient comfort and dignity.
- ❖ **Attire:** Another concern we observed in the Female Ward was that some patients were not wearing proper attire, particularly pants. This lack of appropriate clothing affects the dignity and privacy of female patients, especially when male staff members are present.

7. Grass Maintenance and TMC Response

The maintenance of grass within the hospital compound is problematic, with no response from Thane Municipal Corporation (TMC). A well-maintained environment is crucial for patient well-being.

8. Incomplete Road Construction by TMC

TMC was instructed to construct a road within the hospital premises, but only half of the planned road has been completed. Ensuring the completion of this road is vital for accessibility and transportation within the hospital.

9. Travel Distance to Access Primary Mental Health Treatment

In this region, It is the sole mental hospital, patients are required to journey over 100 kilometers to receive essential primary mental treatment which requires a lot of expenses.

10. Neurology and Dental Camps

During our visit to the Mental Hospital, we had the opportunity to observe the Neurology and Dental camps, where we gained insights into the unique challenges and healthcare needs of

mentally ill patients. Here are the details of our observations and discussions with the healthcare professionals:

Dental Camp Observations:

- ❖ The Dental Camps are conducted approximately once every six months.
- ❖ During our visit, the camp was attended by a total of 30 patients who sought treatment for various dental issues.
- ❖ The primary dental issues observed included concerns related to oral hygiene, basic cleaning, bleeding gums, and tooth mobility.

Challenges Highlighted by the Dentist: The dentist shared with us the significant challenges involved in treating mentally ill patients, emphasizing that their care cannot be approached in the same manner as that of individuals without mental health issues. Some of the challenges identified include:

- ❖ **Communication:** Communicating with mentally ill patients can be complex, as they may have difficulty expressing their dental problems or understanding treatment instructions.
- ❖ **Behavioral Issues:** Mentally ill patients may exhibit behavioral challenges during dental procedures, which can require specialized care and patience.
- ❖ **Anxiety and Fear:** Dental anxiety and fear are common among mentally ill patients, making it necessary to employ techniques that alleviate their concerns.
- ❖ **Oral Hygiene Maintenance:** Due to their condition, mentally ill patients often struggle to maintain proper oral hygiene, leading to dental problems.
- ❖ **Lack of a Dedicated Dentist Position:** An important observation was the absence of a dedicated, sanctioned post for a dentist within the hospital's infrastructure. Having a dedicated dentist would ensure regular dental care for patients, particularly those who require ongoing treatment.
- ❖ **No Follow-Up from Previous Camps:** Another significant finding was the absence of a follow-up system for patients treated during previous dental camps. Follow-up appointments are crucial for tracking progress and addressing any recurring dental issues.

Neurology Camp Observations:

- ❖ The Neurology Camp aimed to provide specialized care to patients with neurological conditions.
- ❖ A total of 50 patients were scheduled to be examined during the camp.
- ❖ It was noted that a significant number of patients presented with epilepsy-related issues.
- ❖ **Neurologist's Insights:** The neurologist shared that epilepsy was a prevalent neurological condition among the patients they encountered. The positive aspect was that these patients could be stabilized effectively with appropriate medications

Key Issues Identified During the Mental Hospital Visit

Our visit to the Mental Hospital allowed us to gain valuable insights into the challenges faced by both the patients and the institution itself. Two prominent issues stood out during our observations:

1. Reintegration Challenges into Society

One of the major issues we identified is the significant difficulty faced by patients in reintegrating into society after receiving treatment at the hospital. This challenge arises due to two primary factors:

- ❖ **Poverty-Related Reintegration Obstacles:** Many patients come from impoverished backgrounds, where their families are unable or unwilling to accept them back due to the financial burden associated with their care. This situation often results in patients being left without familial support, exacerbating their vulnerability.
- ❖ **Lack of Recreational Activities:** A critical aspect of successful reintegration is providing patients with opportunities for recreation and engagement. During our visit, we observed a dearth of recreational activities within the hospital, which can hinder patients' ability to reintegrate effectively into society.

2. Litigation Implementation Challenges

The second significant issue pertains to the implementation of legal aid services for mentally ill individuals. This issue has two distinct components:

- ❖ **Limited Availability of Legal Aid:** The legal aid clinic at the hospital operates only two days per week, and during our visit, it was found to be closed. Given that a substantial number of individuals with mental illnesses come from economically disadvantaged backgrounds, this limited availability of legal aid services poses a significant challenge.
- ❖ **Shortage of Pro Bono Assistance:** It was noted that there is a shortage of pro bono legal services available for individuals with mental illnesses. These individuals often require legal support to navigate their unique challenges, but the shortage of pro bono lawyers creates a barrier to accessing justice.

CHAPTER IV

Learning Outcomes and Suggestions

Learning Outcomes

Our visit to the Mental Hospital yielded several valuable learning outcomes that encompass various aspects of mental healthcare and the challenges faced by both patients and healthcare providers. These outcomes provide insights into the complexities of mental healthcare and the potential areas for improvement.

1. Understanding of the Admission Process and Legal Aspects under the Mental Healthcare Act of 2017

We gained a comprehensive understanding of the admission process for individuals seeking mental healthcare. This included insights into the significance of Ayushman cards, assessment forms, and the removal of the court order requirement under the Mental Healthcare Act of 2017. This knowledge helps us appreciate the steps taken to ensure accessibility to mental healthcare services.

2. Recognition of the Importance of Legal Aid and Advanced Directives for Patients' Rights:

We recognized the critical role that legal aid and advanced directives play in protecting the rights and autonomy of individuals with mental illnesses. The legal aid clinic's presence and the information on advanced directives highlighted the importance of safeguarding patient rights and ensuring informed consent in healthcare decisions.

3. Awareness of the Need for Infrastructure Improvement and Equipment Maintenance:

Our observations revealed the importance of maintaining healthcare infrastructure and equipment. The non-functional TV screen in the OPD section and the absence of a sanctioned post for a dentist underscored the significance of addressing infrastructure issues to enhance the patient experience and the quality of care provided.

4. Insights into the Challenges Faced by Patients in Reintegration into Society:

We gained insights into the challenges that mentally ill patients encounter when attempting to reintegrate into society. Poverty-related issues and the lack of recreational activities were identified as barriers to successful reintegration. This understanding underscores the importance of holistic support systems for patients beyond clinical care.

5. Recognizing the Role of NGOs and Collaboration in Addressing Healthcare Challenges

The visit highlighted the crucial role played by non-governmental organizations (NGOs) and collaborative efforts in addressing various healthcare challenges. NGOs were identified as potential partners in addressing issues such as escorting, manpower shortages, and support for patients in need.

6. Healthcare Administration and Management

During Our Visit, We Identified problems related to healthcare Administration and management which sometimes become hurdle in the proper treatment of patients, some of the few issues are as follows-

- ❖ Identifying the problems and implications of manual record-keeping methods and the necessity for digitization in healthcare institutions.
- ❖ Recognizing the significance of adequate infrastructure and equipment in a healthcare institution for optimal patient care and illness prevention.

7. Patient Care and Treatment

During Our visit, we encountered few challenges related to patient care and treatment which need to be addressed, Some are as follows-

- ❖ Recognizing the need for a comprehensive and timely patient evaluation before admission.
- ❖ Recognizing the need for critical medical equipment, such as MRI machines, in identifying and treating mentally challenged patients.

Suggestions

Based on the observations and insights gathered during our visit to the Mental Hospital, we propose the following recommendations to enhance the quality of care and support provided to individuals with mental illnesses:

1. Regular Healthcare Camps

Organize regular healthcare camps to ensure that patients receive timely and comprehensive medical attention. These camps can address various healthcare needs, including dental and neurological care.

2. Involvement of Medical Students in Camps

Collaborate with medical students pursuing advanced degrees (such as masters) to actively participate in conducting healthcare camps. These students can contribute their expertise, under supervision, to expand the reach and frequency of healthcare camps.

3. Dedicated Legal Aid Support on all days

Assign one dedicated lawyer for each person with a mental illness to provide legal aid and guidance. This personalized legal assistance will help protect the rights of individuals and ensure they receive appropriate legal support.

4. Regular Follow-Up from Camps

Establish a system for regular follow-up with patients who attend healthcare camps. This will enable ongoing monitoring of their health and ensure that any recurring issues are addressed promptly.

5. Collaboration with NGOs in Reintegration process

Collaborate with non-governmental organizations (NGOs) that specialize in mental healthcare support. NGOs can play a crucial role in providing additional resources, manpower, and expertise to complement the hospital's efforts.

6. Infrastructure Improvement

Invest in infrastructure improvement, including the repair of non-functional equipment like TV screens, the establishment of dedicated dental facilities, and the digitization of patient records for efficient management.

7. Expansion of Legal Aid Clinic Hours

Extend the operating hours of the legal aid clinic to make legal assistance more accessible to patients, ideally ensuring that it operates on all working days.

8. Education and Awareness

Conduct awareness programs and educational initiatives for both patients and their families to increase understanding of mental health conditions, treatment options, and legal rights.

9. Advocacy for Government Funding

Advocate for increased government funding to address the hospital's financial challenges, including the acquisition of essential equipment like MRI machines and the maintenance of infrastructure.

10. Recreation and Social Support

Develop and implement recreational activities within the hospital to improve the quality of life for patients and facilitate their reintegration into society.

By implementing these recommendations, the Mental Hospital can provide more comprehensive and accessible mental healthcare services, protect the legal rights of patients, and contribute to their successful reintegration into society. These measures will also enhance the overall quality of care and support provided to individuals with mental illnesses.

CHAPTER V

Conclusion

Our visit to the Mental Hospital provided us with a comprehensive understanding of the various facets of mental healthcare, including the admission process, legal aspects, healthcare infrastructure, patient observations, and the challenges faced by both patients and healthcare providers. Through careful examination and discussions with hospital staff, patients, and specialists, we have gained valuable insights into the complexities and opportunities for improvement within the mental healthcare system.

One of the most noteworthy aspects of our observations was the admission process. The Mental Hospital has made commendable strides in ensuring free access to mental healthcare services, a crucial step in breaking down financial barriers that often deter individuals from seeking help. Additionally, the elimination of the court order requirement under the Mental Healthcare Act of 2017 has significantly streamlined the admission process, making it more accessible to those in need. These reforms represent a positive shift towards ensuring that individuals receive timely care and support when facing mental health challenges.

Furthermore, our visit shed light on the critical role played by advanced directives and legal aid in safeguarding the rights and autonomy of patients. The existence of advanced directives allows individuals to assert their treatment preferences in advance, ensuring that their voices are heard in their care decisions. However, there is room for improvement in the availability and accessibility of legal aid services, particularly for economically disadvantaged individuals who may require legal support to navigate the complexities of mental healthcare and associated legal issues.

In terms of infrastructure and equipment, our observations highlighted the need for ongoing maintenance and investment. Non-functional equipment, such as the TV screen in the OPD section, may seem minor, but it can significantly impact the patient experience. Additionally, the absence of a sanctioned post for a dentist in the OPD section underscores the importance of providing comprehensive healthcare services, including dental care, to address the holistic needs of patients.

In the context of patient observations, we recognized both positive and concerning aspects within the hospital. The availability of entertainment facilities in the Boys Ward, as well as clean and orderly conditions, contribute to the well-being and comfort of patients. However, the overcrowding issue in the Female Ward and the lack of proper attire for some female patients are areas that require immediate attention to ensure the dignity and privacy of patients.

Our examination of the healthcare camps, specifically the Dental and Neurology camps, highlighted the unique challenges faced when providing specialized care to mentally ill patients. Effective communication, managing behavioral issues, addressing anxiety and fear, and promoting proper oral hygiene are essential considerations in providing quality healthcare to this population. Additionally, the absence of follow-up from previous camps emphasizes the need for continuity of care and monitoring of patients' progress.

One of the most pressing issues that emerged from our visit is the challenge of reintegrating mentally ill patients into society. Patients often face significant difficulties due to poverty-related obstacles and the lack of recreational activities within the hospital. Successful reintegration requires a holistic approach that not only addresses clinical care but also provides social and economic support to patients, enabling them to lead fulfilling lives in their communities.

Finally, our visit highlighted the vital role played by non-governmental organizations (NGOs) and collaborative efforts in addressing various healthcare challenges. NGOs can provide additional resources, manpower, and expertise to complement the hospital's efforts, contributing to a more comprehensive and effective healthcare system.

In conclusion, our visit to the Mental Hospital has provided us with a wealth of insights and learning outcomes. It is clear that while progress has been made in various aspects of mental healthcare, there are significant opportunities for improvement. By implementing our recommended suggestions, including regular healthcare camps, dedicated legal aid support, infrastructure improvement, and collaboration with NGOs, the Mental Hospital can enhance the quality of care and support provided to individuals with mental illnesses. These measures will not only protect the rights and autonomy of patients but also contribute to their successful reintegration into society. Ultimately, our visit has reinforced the importance of a holistic and patient-centered

approach to mental health care that addresses the diverse needs and challenges faced by individuals with mental illnesses.

References

1. Kapadia Yash , Legal Right of Persons With Mental Illness (2019), <https://blog.ipleaders.in/legal-rights-of-persons-with-mental-illness/#:~:text=from%20the%20mother,-,Right%20to%20protection%20from%20cruel%2C%20inhuman%20and%20degrading%20treatment,right%20to%20live%20with%20dignity.> (Last visited on September 24, 2023)
2. The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991) International Principles available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-protection-persons-mental-illness-and-improvement> (Last visited on September 24, 2023).
3. Protection of Human Rights Act, 1993 (Act 10 of 1994)
4. Constitution of India, 1950
5. Mental Healthcare Act, 2017 (Act 10 of 2017)
6. Universal Declaration of Human Rights, 1948 available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>(Last visited on September 24, 2023)
7. International Covenant on civil and Political Rights, 1966 available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (Last visited on September 24, 2023)
8. International Covenant on Economic, Social and Cultural Rights, 1966 available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (Last visited on September 24, 2023)
9. Right of Persons with Disabilities Act, 2016 (Act 49 of 2016)
10. <https://www.livelaw.in/news-updates/bombay-high-court-slams-state-mental-health-authority-for-inaction-215728>
11. Indian Government Schemes for Mental Illness available at [https://indian-government-schemes.in/indian-government-schemes-for-mental-illness/#:~:text=National%20Mental%20Health%20Programme%20\(NMHP\),-The%20National%20Mental&text=The%20program%20aims%20to%20integrate,of%20individuals%20with%20mental%20illness.](https://indian-government-schemes.in/indian-government-schemes-for-mental-illness/#:~:text=National%20Mental%20Health%20Programme%20(NMHP),-The%20National%20Mental&text=The%20program%20aims%20to%20integrate,of%20individuals%20with%20mental%20illness.) (Last Visited on September 24,2023)

ANNEXURES

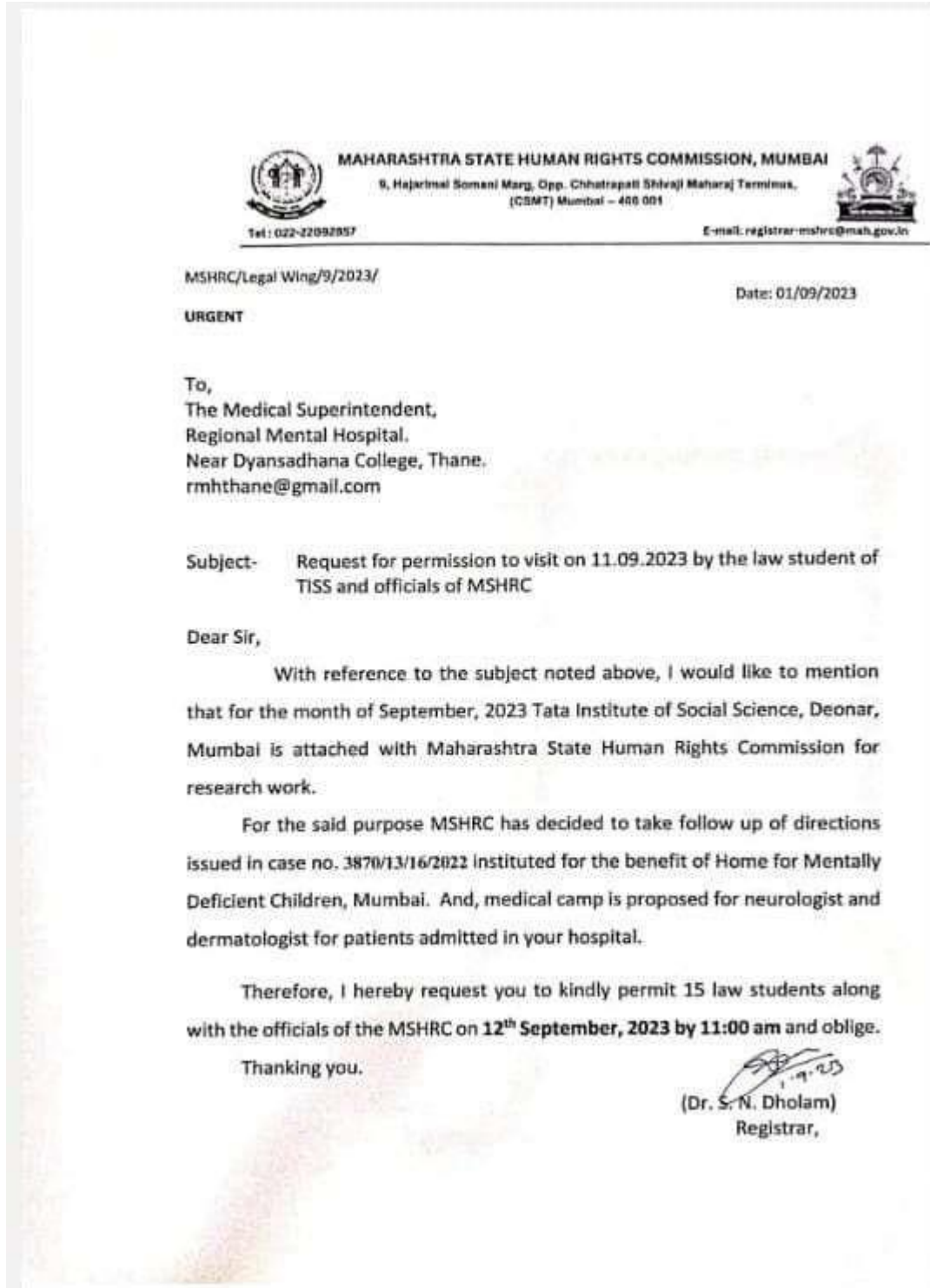


Image 1: Permission Letter to visit Regional Mental Hospital, Thane



Image 2: On the way to Hospital



Image 3: Patients waiting for the Admission



Image 4: Outpatient Department Gate



Image 5: Legal Aid Clinic Office



Image 6: Neurology And Dental Camp organized by MSHRC in collaboration with Shree Mahavir Jain Hospital & Shree Pratap J. Ashar Cardiac Centre

REGIONAL MENTAL HOSPITAL, THANE

August 2023 Outdoor Patients						
Regular OPD	Male	Female	Child	Total	Up to last month,	Progressive
New cases	192	168	4	364	949	1313
Old cases	2608	1766	16	4390	11287	15677
Total	2800	1934	20	4754	12236	16990

(2) Outreach Patients						
OUTREACH Patients	Male	Female	Child	Total	Up to Last Month	Progressive
New cases	0	0	0	0	0	0
Old cases	0	0	0	0	0	0
Total	0	0	0	0	0	0

(3 - A) Indoor Patients (New)							
New	Male	Female	Child		Total	Up to Last month	Progressive
			M	F			
Court	11	0	0	0	11	117	128
V.B.	86	53	0	0	139	282	421
Readmission	19	18	0	0	37	107	144
Total	116	71	0	0	187	506	693

(B) Indoor Patients (Old)							
Old	Male	Female	Child		Total	Up to Last month	Progressive
			M	F			
Court	270	195			465	1983	2448
V.B.	169	84			253	736	989
Total	439	279	0	0	718	2719	3437

(C) Total Indoor Patients (A) + (B)							
Total No. of Pt.(A+B)	Male	Female	Child		Total	Up to Last month	Progressive
			M	F			
Court	277	195	3	0	475	2100	2575
V.B.	255	137	0	0	392	1018	1410
Readmission	19	18	0	0	37	107	144
Total	551	350	3	0	904	3225	4129

(5) Discharges							
Discharge Type	Male	Female	Child		Total	up to last month	Progressive
			M	F			
LOA	55	53			108	279	387
V.C.	4	1			5	18	23
Voluntary	55	23			78	219	297
DAMA	1	1			2		
Uncertify	0	0			0	0	0
Total	115	78	0	0	193	516	709

Image 7: Data on number of outdoor and indoor patients in August 2023

(8-A) Duration of stay August 2023									
Duration	Male			Female			Child		Total
	VB	RO	DO	VB	RO	DO	M	F	
up to 3 months	170	18	51	81	22	14	3	0	359
3 to 6 months	44	28	33	14	12	16	0	0	147
6 to 12 months	29	20	26	11	16	17	0	0	119
1 to 2 years	10	14	25	10	18	17	0	0	94
2 to 5 years	3	3	12	1	15	18	0	0	52
5 to 10 years	6	8	10	0	8	10	0	0	42
10 to 20 years	0	10	5	0	9	5	0	0	29
Above 20 years	0	13	13	0	16	20	0	0	62
Total	262	114	175	117	116	117	3	0	904


 Superintendent
 Regional Mental Hospital, Thane

Image 8: Data on duration of stay August 2023

 कर्मचारी चयन आरोग्य सेवा,	महाराष्ट्र शासन आरोग्य सेवा प्रादेशिक मनोरुग्णालय, ठाणे.
	EMAIL ID rmhthane@gmail.com पुढीलवरील क्र. ०२२ - २५६२०७२८/०२२ - ६६१२-७६ जा.क्र.प्रामरुठा/नियो/अतिक्रमण/ /२३ दिनांक :- ०३.०७.२०२३

प्रति,
 मा. जिल्हाधिकारी,
 ठाणे.

आवक महसुल स्हायक
 जिल्हाधिकारी कार्यालय ठाणे

विषय:- प्रादेशिक मनोरुग्णालय, ठाणे येथील मालकीच्या शासकीय भुखंडावर झालेले अतिक्रमण हटविणे बाबत....

- संदर्भ:- १) या कार्यालयाचे पत्र क्र. ११२७३-७६ दि. १५.१२.२०२२.
 २) या कार्यालयाचे पत्र क्र. २७९२-९६ दि. ३१.०३.२०२३.
 ३) मा. उच्च न्यायालयाच्या दि. १२.०८.२०१५ चे निर्देश.
 ४) शासन निर्णय क्र. संकीर्ण - २०२२/प्र. क्र. २८०/ आरोग्य - ३अ दि. १९ एप्रिल २०२३

उपरोक्त संदर्भित विषयान्वये आपणास कळविण्यात येते की, प्रादेशिक मनोरुग्णालय, ठाणे येथील शासकीय भुखंडावर साठेवाडी, धर्मवीर नगर, तसेच बंजारा वस्ती या ठिकाणी मोठ्या प्रमाणात अनधिकृत बांधकामे/झोपड्या वाढत आहे. तसेच शासकीय निवासस्थानाच्या लगत पक्क्या स्वरूपाचे अनधिकृत बांधकाम करून झोपड्या उभारण्यात येत आहेत. सदरील अनधिकृत बांधकामे करणाऱ्यांना आपल्या कार्यालयाकडून पाणी, विज, संडास या सारख्या सवलती पुरविण्यात येत असल्याने रोज एक नविन अनधिकृत बांधकाम करण्यात येत आहे.

दिनांक ०३ मार्च २०२३ रोजी मा. उच्च न्यायालयाने प्रादेशिक मनोरुग्णालय ठाणे यांचे ताब्यातील १४.८३ एकर जागा ठाणे महानगर पालीकेस उपलब्ध करून देण्यास सहमती दर्शविली होती. त्या अनुषंगाने प्रादेशिक मनोरुग्णालयाच्या जागेवर नविन रेल्वे स्थानकाच्या विस्ताराकरीता रुग्णालयाची जागा ठाणे महानगर पालीकेस उपलब्ध करून देणेबाबत वरिल संदर्भ क्र. ४ च्या शासन निर्णयान्वये परवानगी देण्यात आलेली आहे. परंतु सदरील रुग्णालयाच्या सरकारी भुखंडावर आजुबाजूच्या रहीवाडांनी मोठ्या प्रमाणात अतिक्रमण केलेले आहे. व सदर अतिक्रमण मा. उच्च न्यायालयाच्या दि. १२.०८.२०१५ च्या निर्देशानुसार, महानगरपालिका व मा. जिल्हाधिकारी ठाणे यांनी काढण्याची कार्यवाही करावी, असे वरिल शासन निर्णयात नमुद केलेले आहे. त्यामुळे रुग्णालयाच्या सरकारी जागेवरील अनधिकृत बांधकामे हटविण्याची कारवाई होणे आवश्यक आहे. अन्यथा अनधिकृत बांधकामांची इतरांकडूनही पुनरावृत्ती होण्याची दाट शक्यता आहे. याबाबत वरील संदर्भित पत्रान्वये आपणास कळविण्यात आलेले आहे. परंतु अद्याप रुग्णालयाच्या सरकारी भुखंडावरील अतिक्रमण

सबब आपणास विनंती करण्यात येते की, या रुग्णालयाच्या शासकीय भुखंडावरील साठेवाडी, धर्मवीर नगर, बंजारा वस्ती, तसेच शासकीय निवासस्थानाच्या लगत असलेल्या झोपड्यांना संरक्षण न देता, आपल्या विभागाकडून अतिक्रमण हटविण्याची तात्काळ कारवाई करण्यात यावी.

(डॉ. नेतकी मुळीक)

वैद्यकीय अधीक्षक

प्रादेशिक मनोरुग्णालय, ठाणे.

प्रत माहिती करिता सविनय सादर,

- १) मा.आयुक्त तथा आरोग्य सेवा राष्ट्रीय अभियान संचालक, मुंबई
- २) मा. संचालक, आरोग्य सेवा मुंबई.
- ३) मा. अतिरिक्त संचालक, (मा.आ) आरोग्य सेवा मुंबई
- ४) मा.उपसंचालक,आरोग्य सेवा, मुंबई मंडळ ठाणे.

3/7/2023

Image 9: Letter to District Collector about encroachment of land of Regional Mental Hospital, Thane

SECTION 89

FORM - J

REQUEST FOR ADMISSION WITH HIGH SUPPORT NEEDS

[See rule 35]

To,
The Medical Officer in-charge

Sir/Madam,

I, Mr. /Mrs. _____ residing at _____,
nominated representative of Mr. /Mrs. _____, aged _____
son/daughter of _____ request for his/her admission in your
establishment for treatment of mental illness.

Mr. /Mrs. _____ is having the following symptoms since _____

1. _____
2. _____
3. _____

The following papers regarding my appointment as nominated representative and related to
his/her illness are enclosed:

1. _____
2. _____
3. _____

Kindly admit him/her in your establishment as patient with high support needs.

Also I am informing that, My patient have / don't have Advance Directives for his / her
treatment.

Name

Address

Mobile and E-mail

Signature

Date

N.B.: - Submit self attested copy of ID proof of NR and Advance Directives if any.

Image 10: Admission Form for person with High Support needs

NOMINATED
ADMITTED AS

Form - J (2)

REQUEST FOR INDEPENDENT ADMISSION UNDER SECTION 86

(Change of status of admission from section 89/90 to section 86)

[See rule 35]

To

Medical Superintendent/ Mental Health Professional I/C

Regional Mental Hospital

Sir / Madam,

I Shri / Smt, Ageyears,
Gender hereby admitted in your institute as supported admission on date
and I have been informed that i no longer meets the criteria for supported admission on date

I hereby request you to continue my admission in your institute for treatment as an
independent patient / Admission under section 86 of Chapter XII of Mental Health Care Act 2017.

I know that I shall be bound to abide by order and instructions or bye-laws of the mental
health establishment and I am willing to pay the cost of treatment and maintenance in the mental
health institute as per the rules and regulations.

I have been informed that under section 86, I have right to leave the mental health
institution any time after written application to leave the institute.

My personal details are as follows

Address

Signature

Date

Name

N.B.:- Please strike off those which are not required.

Image 11: Independent Admission Form