

# **FOOD SERVED AMONG THE INMATES IN ‘PRESCRIBED PRISONS’: AN ANALYSIS IN THE BACKGROUND OF HUMAN RIGHT NORMS**

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## **ABSTRACT**

Food is a basic requirement of human life. Article-11 of International Covenant on Economic, Social and Cultural Rights, recognizes the right of everyone to an adequate food and drinking water. Right to food (or absence of hunger) and nutrition is an integral part of right to life mentioned in Article 21 of the Constitution. Rule-4, of Standard Minimum Rules for the Treatment of prisoners states that every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Model Prison Manual (2003), deals with preparation, distribution and quality of food provided to the prisoners and an average man requires approximately 2,000 to 2,400 calories a day. According to medical science, an average man needs at least 2000 calories a day. Rule-983 & 993 of Orissa Jail Manual, 1942, states that “All prisoners shall have three meals a day. It is of great importance that the dietary should be varied as much as possible”. However, the prison administration and management have been subjected to criticism by courts, prisoners and public for not maintaining the basic minimum standards of human dignity, and for the poor living condition of inmates in place of human confinement like prison. The paper examines the ‘food served’ by the prison administration at the usual hours and the adequacy of nutritional value for health and strength of the prisoners in the light of human right norms.

## INTRODUCTION

Kuldip Nayar, who was incarcerated during the emergency in 1975 and got first-hand information of prison life has the following to say regarding the food served in prisons<sup>1</sup>:

*“The dal (lentils) was watery and the chapattis half-baked..... I could see a few flies floating on the surface..... After some days I became so accustomed to finding flies in food that I would simply fish them out and start eating without a qualm.....”*

Several arguments can be raised for not providing good food to the prisoners. The first is that the quality and quantity of food supplied must relate to the objective of the imprisonment. It is, therefore, argued by the proponents of the deterrent theory that providing good food in the prisons would be inconsistent with the very purpose of punishment.<sup>2</sup>

The other argument, even if the deterrent aspect is dismissed, is regarding the justification of providing food to prisoners of a quality superior to what the majority of law-abiding citizens may be getting outside the prisons. The Indian Jails Committee of 1836 had the above issues in mind when it recommended<sup>3</sup>:

*“...no greater provision ought to be made in each district than may be sufficient for purchasing the staple article of the prisoner’s food, the coarsest grain on which the mass of the people of that district lives”.*

To the assertion that a prisoner should not be served better food than an honest labourer the counter-argument given is that prisoners are required to do much hard work in the jail and the diet must be nutritious enough to be commensurate with the needs of the prisoners. The present policy, at least in theory, is to provide standard diet sufficient enough to preserve health and strength. But how much of the prescribed food and of what quality eventually reaches the prisoner is a matter of speculation for it is common knowledge that corruption is rampant in jail administration. On the violations regarding food, Kuldip Nayar has the following observations to make:<sup>4</sup>

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<sup>1</sup> Kuldip Nayar, *In Jail* (1978) at 29

<sup>2</sup> Ahamad Siddique, *Criminology-Problems & Perspectives* 4<sup>th</sup> ed. (Lucknow: E B C, 1997) at 176

<sup>3</sup> Quoted in R. N. Datir, *Prison as a Social System* (1978) at 357

<sup>4</sup> *Supra* Note 1

“The wheat and rice given to prisoners were adulterated. There would be dust, stones and other elements mixed with them to increase the weight. The wood given to us for the fuel was soaked in water for the same purpose. And the weighing machine was also tampered with...

Perhaps the way almost everyone had his cut was most evident in our milk supply. It came in bulk to the main gate (phatak); there, enough milk for the top officials was taken out of the cans which were then topped up with water. And as the cans moved to the wards, all those who handled them appropriated their share, again topping up with water. Once, when we complained to the warder that milk was more watery than usual, he laughingly said that everyone from the superintendent downwards shared the milk.....”

If this has been the experience of the well-known public figures that political prisoners were kept in “better conditions” the plight of ordinary criminal prisoners can well be imagined.<sup>6</sup>

Indian Council for Medical Research has prescribed the energy requirement of Indian and it mentioned below the table:

Table-I

|       | Category       | Body weight kg. | Net energy (kcal/d) |
|-------|----------------|-----------------|---------------------|
| Man   | Sedentary Work | 60              | 2320                |
|       | Moderate Work  |                 | 2730                |
| Woman | Sedentary Work | 55              | 1900                |
|       | Moderate Work  |                 | 2230                |
|       | Pregnant Women |                 | +350                |
|       | 0-6 months     |                 | +600                |
|       | 6-12 months    |                 | +520                |

*Sources: Indian Council for Medical Research, Nutrient Requirements and Recommended Dietary Allowances for Indians.*

In recent notification, the Home Department of Odisha,<sup>5</sup> released the revised diet menu in which per day per person intake has been pegged at 2,816 kilo calorie. There are 86 jails in the state with a total inmate count of over 15,000. ‘From the old system of evaluating the nutritional intake on the basis of weight, the Government has moved to calorie estimation. It has been

<sup>5</sup> Orissa spelling got changed as Odisha, the Orissa (Alteration of name) Bill, 2010

scientifically done as prescribed by the Indian Council for Medical Research (ICMR), 'says ADG, Prisons and Director of Correctional Services Binayananda Jha. According to 68<sup>th</sup> Round National Sample Survey Office, the per capita calorie intake in rural odisha stands at 2,215 whereas in urban areas, it is 2,233 and 2,206 for rural and urban areas respectively.<sup>6</sup>

***International Instruments and adequate food served:***

Article-11 of the International Covenant on Economic, Social and Cultural Rights ensures the right to adequate food as a component of the right of everyone to an adequate standard of living. Article-11, paragraph-2, specifically provides that States parties recognize the fundamental right of everyone to be free from hunger.

The right to adequate food is further developed by the Committee on Economic, Social and Cultural Rights in its General Comment No. 12 (1999) on the Subject,<sup>7</sup> which provides:

The right to adequate food is realized when every man, women and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.....

The Committee considers that the core content of the right to adequate food implies: (a) the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; (b) the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

Free from adverse substances sets requirements for food safety and for a range of protective measures by both public and private means to prevent contamination of food-stuffs through adulteration and/or through bad environmental hygiene or inappropriate handling at different stages throughout the food chain; care must also be taken to identify and avoid or destroy naturally occurring toxins.

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<sup>6</sup> "No compromise on food nutrition for jails inmates" Indian Express, Bhubaneswar (26<sup>th</sup> March 2018) at 30

<sup>7</sup> Official Records of the Economic and Social Council, 2000, Supplement No. 2 and corrigendum (E/2000/22 and Corr. 1).

..... *Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfill (provide) that directly.....*

Violation of the Covenant occurs when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply. Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, the State has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations. This follows from article-2, paragraph-1, of the Covenant, which obliges a State party to take the necessary steps to the maximum of its available resources, as previously pointed out by the Committee in its General Comment No. 3 (1990), paragraph 10. A State claiming that it is unable to carry out its obligation for reasons beyond its control therefore has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.

Furthermore, any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant.

Rule-20 of the Standard Minimum Rules for the Treatment of Prisoners requires:

- (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
- (2) Drinking water shall be available to every prisoner whenever he needs it.

Furthermore, rule-26 of the Standard Minimum Rules requires:

- (1) The medical officer shall regularly inspect and advise the director upon:
  - (a) The quantity, quality, preparation and service of food.

In countries where the quality of food available to many law-abiding members of the community is inadequate, the question may be asked why prisoners should be guaranteed adequate food. The answer is rooted in a respect for the right to adequate food. If the State has taken from prisoners the opportunity to provide for their own basic needs, these must be supplied by the States.<sup>8</sup>

UN Minimum Rules prescribe that the food for prisoners was rather a contentious issue in the nineteenth century. Many enquiry committees and commissions deliberated on the subjected and made recommendations. As a result, for quite some time, scale of food-stuff like flour, rice, cooking medium, sugar, etc. has been laid down in jail manual. Moreover, in many states and UTs prisoners panchayat committees oversee the issue of ration and cooking and distribution of food.

Though the rules, recommendation of different committees provides for adequate diet, but actually it shows that the food which are supplied to the prisoners are not in accordance with the quality and quantity of prescribed.

Statutory provisions relating to food:

Section 31-32 of the Prison Act, 1894, provides for the food, cloth etc. for civil & under trail prisoners. It allows such prisoners to procure or receive their goods from private sources. It also imposes restriction on transfer of such belongings to other category of prisoners. The Provisions are as follows:

Maintenance of certain prisoners from private sources U/S-31- A civil prisoners or an un-convicted criminal prisoner shall be permitted to maintain himself; and to purchase, or received from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Restriction on transfer of food and clothing between certain prisoners U/S-32- No part of any food, clothing, bedding, or other necessaries belonging to any civil or un-convicted criminal prisoners shall be given, hired or sold to any other prisoners, and any prisoners

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<sup>8</sup> Office of the United Nations High Commissioner for Human Rights, Human Rights and Prisons, A manual on Human Rights Training for Prison Officials, Professional Training Series No. 11, at 56-58.

transgressing the provisions of the section shall lose the privilege of purchasing food or receiving it from private sources, for such time as Superintendent thinks proper.

But the West Bengal Correctional Services Act, 1992, also imposed similar restriction in transferring of fund etc. Section 20 of the Act, provides as follows:

- (1) No part of food, clothing, bedding or other articles belonging to prisoners or issued to a prisoner from the correctional home for his own use be given, let out or sold by him to any other prisoners.
- (2) The Superintendent of a correctional home may permit any civil prisoner or any under-trial or convicted political prisoners or political detenus to have his food supplied by his relative or friend from outside. When such permission is granted, the Medical Officer of the correctional home shall examine the food so supplied and shall not allow such food to be issued to the prisoner if, in his opinion, the same is likely to be injurious to the health of the prisoners and thereupon the said food shall be returned to the supplier thereof.<sup>9</sup>

Model Prison Manual, 2003 and prescribed Food:

The various dimensions of barest minimum needs prescribed by the Model Prison Manual for the Superintendence and Management of prisons in India formulated by Bureau of police Research and Development, Ministry of Home Affairs Government of India are as follows:

- Food should be cooked in clean and hygienic environment in a modern kitchen. The kitchen walls should be provided tiles up to a height of 2 meters for easy cleaning. The kitchen should have sufficient number of exhaust fans; fly—proof wire mesh all around; and floor made of an impermeable material. The kitchen should be modernized with the introduction of LPG/hot plates, kneading machines, chapatti making machines and grinders.
- The kitchen should have sufficient space for storage of provision articles, vegetables, containers and cooking utensils etc.

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<sup>9</sup> Kavita Singh & Sarfaraz Ahmed Khan, Background Paper on Prison Reforms, (School of Criminal Justice and Administration, the West Bengal National University of Juridical Science: 2005) at 36-37.

- The kitchen should be well lighted and ventilated and kept clean and tidy. The provision stores should be kept clean, well arranged and well ventilated and grain stores should be treated with suitable insecticides to prevent the growth of weevil.
- The food should be cooked in stainless steel utensils; cooked food should be kept in stainless steel covered utensils until it is distributed and served in stainless steel utensils.
- Cooking should be done by cooks with due care and attention. However, inmates undergoing imprisonment up to six months may be employed to clean rice, peel and cut vegetables, clean cooking utensils and keep the kitchen and cooking utensils clean and tidy.
- The scales of diet for prisoners may be prescribed by the State Government by taking into consideration the calories requirement, classified needs, and climatic conditions of the place.
- The Superintendent on recommendations of the Medical Officer may order special diet, or add extra calories in diet of prisoners on health grounds with due approval of the Inspector General.
- An average man requires approximately 2,000 to 2,400 calories a day and a person who does heavy work will require 2,800 calories per day. An average woman having a body weight of 45 Kg requires about 2,400 calories, because her weight is less than a man and she is expected to do less heavy work than male laboring prisoners. The pregnant and nursing mothers need about 3,100 calories every day.
- A suitable hospital diet may be prescribed by the State Government according to local food habits on the advice of the Medical Officer (In-charge). When meat is recommended by the Medical Officer as an extra diet, the weight of meat should be taken without bones.
- Prisoners may be given extra dietary items on occasion of festivals as specified by the State Government. Prisoners observing fasts may receive extra articles of food, or may have the whole or part of their meal at a place and time of the day, as may be allowed by orders of the government for proper observance of fasts by them.

- Every prisoner shall have three meals a day according to the prescribed scales. The timings of serving morning, mid-day and evening meals will be prescribed by the Inspector General. The three meals will include a light meal in the morning before the hour of work; a midday meal; and an evening meal before prisoners are locked up for the night.
- Prisoners should wash their hands and face and stand in queue. Food should be fresh and hot by the cooks in the presence of a responsible prison officer not below the rank of an Assistant Superintendent. The floors and platforms shall be cleaned immediately after the prisoners finish their meals.
- The Superintendent and Medical Officer shall exercise vigilance in the supervision of food served to the prisoners by checking the cooked food without prior notice once a week to ensure that the food is properly cooked and full quantity reaches the prisoners. Medical Officer or in his absence his medical subordinate shall inspect the quality of all articles issued for consumption and quality of cooked food.<sup>10</sup>

Model Prison Manual, 2016 and scales of diet:

The scales of diet for prisoners may be prescribed by the State Government following the scales prescribed below (drawn from the ICMR guidelines on the same). The scales may vary according to local customs and dietary habits in each state but should, so far as possible, be in compliance with the prescribed standards. Due consideration is to be given to the principles mentioned above, to the classified needs, habits and modes of living of prisoners and the climatic conditions of the place, while prescribing the scale of diet for prisoners. The State Government may also modify the scales at any time if it deems fit.

The scales of diet schedules to be followed per prisoner per day:

(a) For all prisoners

Table-II

|    | Items of diet              | Quantity |
|----|----------------------------|----------|
| 1. | Cereals (including millet) | 600 g.   |

<sup>10</sup> National Human Rights Commission in India, Living Conditions and Human Rights of Inmates-Status in 18 Prisoners of the four States in Southern Region, Vol. I, (10th December, 2013) at 21-23.

|     |   |                                      |              |
|-----|---|--------------------------------------|--------------|
| 2.  | Pulses  | 100 g.                               |              |
| 3.  | Vegetables<br>a. Green Leafy<br>b. Roots and Tubers<br>c. Other | 250 g.                               |              |
| 4.  | Fish or Meat or<br>Milk<br>Ghee<br>Groundnut                    | 100 g.<br>500 ml.<br>15 g.<br>100 g. | Twice a week |
| 5.  | Milk<br>Curd  | 50 g.<br>100 g.                      |              |
| 6.  | Grams (Roasted)   | 60 g.                                |              |
| 7.  | Jaggery   | 20 g.                                |              |
| 8.  | Oil   | 30 g.                                |              |
| 9.  | Salt  | 30 g.                                |              |
| 10. | Tamarind  | 15 g.                                |              |
| 11. | Jeera orTejpata   | 5 g.                                 |              |
| 12. | Turmeric  | 2 g.                                 |              |
| 13. | Coriander   | 5 g.                                 |              |
| 14. | Chillies  | 5 g.                                 |              |
| 15. | Onion   | 25 g.                                |              |
| 16. | Coffee or tea   | 3 g.                                 |              |
| 17. | White sugar   | 50 g.                                |              |
| 18. | Pepper  | 3 g.                                 |              |
| 19. | Mustard   | 2 g.                                 |              |
| 20. | Garlic  | 2 g.                                 |              |
| 21. | Coconut   | 1/20 Nos.                            |              |

All prisoners may be provided as like lemons, pickles, chutney etc.

- (b) For pregnant and nursing women prisoners, add the following special diet to the above diet:

Table-III

|    | Items of diet        | Quantity                   |
|----|----------------------|----------------------------|
| 1. | Milk                 | 250 ml.                    |
| 2. | Sugar                | 60 g.                      |
| 3. | Vegetables           | 100 g.                     |
| 4. | Fish/Meat or<br>Curd | 300 g. or 200 g.<br>50 ml. |

Fresh fruit is also provided to the pregnant and lactating mothers as per the quantity prescribed by the Medical Officer.

Arrangements for heating and boiling water/milk shall be made available for lactating mothers.

- (c) For children between three and six years:

Table-IV

|    | Items of diet                                   | Quantity                  |
|----|---|---------------------------|
| 1. | Cereals   | 300 g.                    |
| 2. | Pulses  | 60 g.                     |
| 3. | Vegetables (Leafy, Roots &<br>Tubers and Other) | 125 g.                    |
| 4. | Fish or meat or Curd                            | 150g. or 100 g. or 50 ml. |
| 5. | Milk  | 150 ml.                   |
| 6. | Salt  | 20 g.                     |
| 7. | Oil   | 30 ml.                    |
| 8. | Jaggery   | 30 g.                     |
| 9. | Tamarind  | 10 g.                     |

Fresh fruit be also provided to the children between 3 to 6 years of age as per the quantity prescribed by the Medical Officer.

(d) Children below three years age may be allowed such diet as the Medical Officer may order for them.

No reduction or alteration in the prescribed diet and scales shall be made except under special circumstances and with the prior approval of the Inspector General. If, on the recommendation of the Medical Officer, the Superintendent considers the prescribed diet to be unsuitable or insufficient for a prisoner for reasons of his health or his peculiar mode of living, he may order, in writing, a special diet, or add extra calories in the diet of such a prisoner, subject to formal approval of the Inspector General.<sup>11</sup>

The Orissa Jail Manual, 1942 and Food:

The Orissa Jail Manual, 1942 provides some rules for food served among the inmates in following points:

- ✓ All prisoners shall have three meals a day. It is of great importance that the dietary should be varied as much as possible.<sup>12</sup>
- ✓ The superintendent and medical officer shall exercise the utmost vigilance in the supervision of food supplies, when the food is cooked, ready for issue, and also after distribution into the prisoners' plates. It shall be inspected by the superintendent and the medical officer, at least every week without prior notice.<sup>13</sup>
- ✓ All items of the dietary shall be weighed out to the cooks in a fully prepared state, or if this is impossible, with full allowance for any loss which must occur in preparation by cooks. All food shall be issued within one hour of its being cooked.<sup>14</sup>
- ✓ No rice less than three months old shall be issued.<sup>15</sup>
- ✓ All articles issued for rations shall be frequently inspected frequently by the medical officer, and any defect of quality noted by that officer shall be reported at once to the superintendent by the jailor.<sup>16</sup>

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<sup>11</sup> Ministry of Home Affairs, Government of India, Model Prison Manual, (2016) para 6.04-06 at 64-67.

<sup>12</sup> The Orissa Jail Manual, (1942) Rule 983 & 993.

<sup>13</sup> Ibid. Rule 995.

<sup>14</sup> Ibid. Rule 996.

<sup>15</sup> Ibid. Rule 996 (1).

<sup>16</sup> Ibid. Rule 1003.

- ✓ The superintendent and jailor shall be held responsible for making arrangements for timely purchase of grain in the cheapest season. Grain of such kinds as are required, shall be purchased in sufficient quantity to last until the following years' crop.<sup>17</sup>

Indian Jail Committees' recommendations regarding improvement the diet of prisoners:

The jail Committee of (1980-83),<sup>18</sup> the extremely unsatisfactory conditions regarding the food supplied to the prisoners and its being the root cause of the some troubles arising in the jails. So this committee has given below some recommendations in this regard:

- (1) The system of purchasing food articles through contract system should be discontinued. Food articles should be purchased from Government distribution agencies or cooperative societies. Fuel should be purchased from the forest department.
- (2) Food articles should be god medium quality. The system of purchasing cereals/pulses of the cheapest wherever in vogue should be discontinued.
- (3) There should be two types of diet for laboring and non-labouring prisoners.
- (4) Adequate and nutritious diet should be given to nursing women and to children accompanying women prisoners.
- (5) Norms of prison diet in terms of calorific and nutritional value, quality and quantity should be laid down. Adequate check should be provided to ensure that prisoners get diet as per rules.
- (6) Brass/aluminum utensils of thick gauge should be used for cooking food in prison kitchens. Pressure cookers may also be used wherever possible. Serving utensils should also be these metals. Bread containers should be of zinc. Iron utensils should be discarded forthwith.
- (7) Management of kitchens or cooking food on caste or religious basis should be totally banned in prisons.
- (8) Prisoners should get special diet on religious, festival and national days as may be specified in rules.

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<sup>17</sup> Ibid. Rule 1010.

<sup>18</sup> Ministry of Home Affairs, Government of India, All India Committee on Jail Reforms, (1980-83), Vol.-I at 72.

- (9) Prisons kitchens should be decentralized. Each kitchen should cater for not more than 200 prisoners.
- (10) There should be two shifts of workers in the kitchen. Paid cooks should be employed wherever necessary.
- (11) Scale of fuel should be sufficient for proper cooking of food. Prison kitchens should be modernized in terms of substitutes of fuel by the introduction of new and modern devices. Pattern of 'chulhas' in vogue in the army kitchens should be adopted and introduced in prison kitchens.
- (12) To break the monotony of prison diet menus should be prepared in advance, under the guidance of nutrition experts.
- (13) In some States prisoners' *panchayats* are associated with the management of prison kitchens such as receipt of daily rations, preparation of menus, preparation and distribution of food, etc. The system has, however, not been an unqualified success. We feel that if this system functions under proper supervision of the prison staff, it will help not only in improving the quality of food but would also provide training to prisoners in self-management and would generate in them a sense of self-confidence. The system, to begin with, may be introduced in other prison institution also. We should, however, like to emphasize that the introduction of this system should not absolve the prison staff of their responsibilities in this regard.
- (14) Some prison official should be given special training in dietary and management of kitchens and such officials should be put in-charge of supervising kitchens.
- (15) Prison officers including superintendent must supervise every aspect of the prison diet system, i.e. issue of rations, management of kitchens, distribution of food, immediate redressal of complaints about food, etc. The Deputy Inspector General of Prisons should pay special attention to this aspect during their inspections.
- (16) Medical officer should ensure that food is cooked under hygienic conditions and is nutritious.
- (17) Prisoners should be given food which is normally eaten by people in that area. However, prisoners coming from other areas with different food habits should be given as far as possible a diet they are accustomed to. Prisoners who are accustomed to non-vegetarian food should be given such food at least once a week and those who are vegetarian should be given some sweet dish in lieu thereof. *Dal* and vegetable should

generally be served for both the principal meals along with *roti* or rice as the case may be.

- (18) Clean drinking water should be supplied to prisoners and it should be tested periodically.
- (19) Prisoners should be served food in clean, hygienic and covered places. The officer in-charge of the yard/area must necessarily be present when meals are served to prisoners.
- (20) At present prisoners get their evening meal at about 5 p.m. They get something to eat again at 7.30 the next morning. This leaves a gap of 14 to 15 hours without food which is too long. We have suggested that the time of lock up should be shifted further by 2 to 3 hours. In view of this, the time for evening meals should be 7.30 p.m. To such prisoners as are locked up at sun set for security reasons, evening meals should be served inside their barrack, dormitory or cell.
- (21) Bartering of food article for other items such as gur, oil, etc., should be totally banned in prisons.
- (22) Prisoners should not be allowed to have their own mini kitchens inside the prison/barrack.<sup>19</sup>

The Government of India has constituted another committee on 26<sup>th</sup> May, 1986, namely, National Expert Committee on Women Prisoners under the chairmanship of justice Krishna Iyer who has submitted its report on 18<sup>th</sup> May, 1987. This report has also been circulated to all States for taking necessary follow-up action. It is, however, a pleasant surprise that the Committee did not find a few points to commend regarding the functioning of the prisons in the context of female prisoners:

- (1) Generally, health care of women prisoners in the few separate institutions for women was observed to be satisfactory. A certain element of concern and care was visible in respect of the expectant mother and some amount of enhanced diet and nutrition in the pre and post-natal period were being offered. The same institution also had a reasonable well-organized *crèche* or *balwadi* for children of women prisoners.<sup>20</sup>

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<sup>19</sup> Ibid. para 6.8.1-22 at 72-74.

<sup>20</sup> Ministry of Home Affairs, Government of India, National Expert Committee on Women Prisoners, (1986-87), at 131.

(2) In general, jails are comparatively less violative of women's dignity and right to basic necessities of life than are some other non-prison custodial institutions.<sup>21</sup>

Circle/Central Jail Baripada, in the district of Mayurbhanj (Northern part of Odisha):

The Circle/Central Jail, Baripada was established during the year of 1885. This institution was originally meant for confinement of all classes of prisoners including detenus.

I visited circle jail Baripada to analyze the food provided to the prisoners in their day to day affair. Sri P. K. Nayak, superintendent, Sri Manaranjan Pratihari, Jailor along with other officers of the prison took me around the kitchen. The distribution of food to the inmates was observed in comparison with the requirement of calorie as per the diet menu.

Prison population as on 30/06/2015:

The Sanctioned capacity and the present strength of prisoners are given in the following tables:

Table-V

| Sanctioned Capacity As on 30/06/2015 | Male | Female | Total |
|--------------------------------------|------|--------|-------|
| Convicts                             | 296  | 17     | 313   |
| U.T.Ps                               | 257  | 00     | 257   |
| Others                               | 18   | 00     | 18    |
| Total                                | 571  | 17     | 588   |

Source: Circle Jail, Baripada

Prison statistic from 31/12/2009 to 31/12/2015:

Table-VI

| As On | Male     |        |        | Female   |        |        | Total    |        |        |
|-------|----------|--------|--------|----------|--------|--------|----------|--------|--------|
|       | Convicts | U.T.Ps | Others | Convicts | U.T.Ps | Others | Convicts | U.T.Ps | Others |
|       |          |        |        |          |        |        |          |        |        |

<sup>21</sup> Ibid. at 143.

|            |     |     |    |    |    |    |     |     |    |
|------------|-----|-----|----|----|----|----|-----|-----|----|
| 31/12/2009 | 245 | 262 | 00 | 16 | 16 | 00 | 261 | 278 | 00 |
| 31/12/2010 | 205 | 221 | 00 | 19 | 05 | 00 | 224 | 226 | 00 |
| 31/12/2011 | 171 | 222 | 01 | 19 | 05 | 00 | 190 | 227 | 01 |
| 31/12/2012 | 157 | 249 | 00 | 16 | 14 | 00 | 173 | 263 | 00 |
| 31/12/2013 | 203 | 300 | 01 | 17 | 17 | 00 | 220 | 317 | 01 |
| 31/12/2014 | 205 | 361 | 04 | 16 | 20 | 00 | 221 | 381 | 04 |
| 31/12/2015 | 201 | 412 | 00 | 16 | 18 | 00 | 217 | 430 | 00 |

Source: Circle Jail, Baripada

The above table shows that the population of inmates was overcrowded at the end of 2012 to 2015 and the population of inmates was within the sanctioned limit from the end of 2009 to 2011.

#### Calories and diet cost of Food:

As the model prison manual has recognized, 'an average man requires approximately 2000 to 2400 calories a day'. A person who does heavy work requires not less than 2800 calories per day. The scales of diet for prisoners have prescribed by Govt. of Odisha per day Rs.60/- per prisoner (CP & UTPs) from the year 2015-16. Now the government of Odisha has enhanced to the daily diet cost (per prisoner & per day) from Rs. 60/- to Rs. 64/ Vide Order No. 36478/ Home-JAIL-RC MDN -002-2015 dt. 31.10.2015.. By taking into the consideration the calories requirement classified needs and climatic condition of the place have mentioned below the table.

Calculation of average cost of diet per prisoner per day for the year – 2015-16 in respect of circle jail, Baripada:

Diet cost Calculation basing on 100 prisoners.

Tea (morning diet)

Table-VII

| Items    | Prisoners | Quantity(g) | Unit Rate    | Total |
|----------|-----------|-------------|--------------|-------|
| Tea Dust | 100       | 2           | 280.00 P.Kg. | 56.00 |

|       |     |   |        |       |        |
|-------|-----|---|--------|-------|--------|
| Sugar | 100 | 5 | 37.00  | P.Kg. | 18.50  |
| Amul  | 100 | 5 | 340.00 | P.Kg. | 170.00 |
|       |     |   | Total  |       | 244.50 |

Hence, the cost of Tea diet per Prisoner –  $(244.50/100) = 2.45$

Suji Upama (3days a week)

Table-VIII

| Items     | Prisoners | Quantity(g) | Unit Rate |       | Total  |
|-----------|-----------|-------------|-----------|-------|--------|
| Suji      | 100       | 100         | 26.00     | P.Kg. | 260.00 |
| Vegetable | 100       | 25          | 19.16     | P.Kg. | 47.50  |
| R.Oil     | 100       | 5           | 69.00     | P.Kg. | 34.50  |
| Onion     | 100       | 5           | 23.00     | P.Kg. | 11.50  |
| Salt      | 100       | 1           | 13.00     | P.Kg. | 1.30   |
|           |           |             | Total     |       | 355.20 |

Hence, the cost of Upama diet per Prisoner –  $(355.20/100) = 3.55$

Chuda Santula (4 days in week)

Table-IX

| Items    | Prisoners | Quantity(g) | Unit Rate |       | Total  |
|----------|-----------|-------------|-----------|-------|--------|
| Chuda    | 100       | 100         | 26.00     | P.Kg. | 260.00 |
| R.Oil    | 100       | 5           | 69.00     | P.Kg. | 34.50  |
| Onion    | 100       | 10          | 23.00     | P.Kg. | 23.00  |
| Futana   | 100       | 1           | 100.00    | P.Kg. | 10.00  |
| Turmaric | 100       | 1           | 140.00    | P.Kg. | 14.00  |
| Salt     | 100       | 1           | 13.00     | P.Kg. | 1.30   |
|          |           |             | Total     |       | 342.80 |

Hence, the cost of Chuda Santula diet per Prisoner –  $(342.80/100) = 3.43$  Ghuguni (all day)

Table-X

| Items      | Prisoners | Quantity(g) | Unit Rate |       | Total  |
|------------|-----------|-------------|-----------|-------|--------|
| Peas       | 100       | 50          | 36.00     | P.Kg. | 180.00 |
| R.Oil      | 100       | 2           | 69.00     | P.Kg. | 13.80  |
| Condiments | 100       | 3           | 122.00    | P.Kg. | 36.60  |
| Ginger     | 100       | 5           | 77.00     | P.Kg. | 38.50  |
| Onion      | 100       | 2           | 23.00     | P.Kg. | 4.60   |
| Salt       | 100       | 1           | 13.00     | P.Kg. | 1.30   |
|            |           |             | Total     |       | 274.80 |

Hence, the cost of Ghuguni diet per Prisoner –  $(274.80/100) = 2.75$

Meals (both mid day & evening)

Table-XI

| Items           | Prisoners | Quantity(g) | Unit Rate |       | Total   |
|-----------------|-----------|-------------|-----------|-------|---------|
| Rice            | 100       | 600         | 10.10     | P.Kg. | 484.80  |
| Atta            | 100       | 600         | 24.00     | P.Kg. | 288.00  |
| Dal             | 100       | 100         | 94.00     | P.Kg. | 940.00  |
| R.Oil           | 100       | 20          | 69.00     | P.Kg. | 138.00  |
| Condiments      | 100       | 5           | 122.00    | P.Kg. | 61.00   |
| Salt            | 100       | 25          | 13.00     | P.Kg. | 32.50   |
| Onion           | 100       | 5           | 23.00     | P.Kg. | 11.50   |
| Ginger          | 100       | 2           | 77.00     | P.Kg. | 15.40   |
| Tamarind        | 100       | 5           | 50.00     | P.Kg. | 25.00   |
| Vegetable       | 100       | 150         | 19.16     | P.Kg. | 670.60  |
| leafy vegetable | 100       | 30          | 16.00     | P.Kg. | 48.00   |
| Fuel (Gas)      | 100       | 130         | 57.73     | P.Kg. | 698.29  |
|                 |           |             | Total     |       | 3413.29 |

Hence, the cost of both meals per Prisoner –  $(3413.29/100) = 34.13$

Protein diet (chicken on Wednesday & Sunday including last Sunday of each month)

Table-XII

| Items      | Prisoners | Quantity(g) | Unit Rate |       |         |
|------------|-----------|-------------|-----------|-------|---------|
| Chicken    | 100       | 150         | 170.00    | P.Kg. | 2550.00 |
| M. Oil     | 100       | 10          | 117.00    | P.Kg. | 117.00  |
| Onion      | 100       | 10          | 23.00     | P.Kg. | 23.00   |
| Condiments | 100       | 4           | 122.00    | P.Kg. | 48.80   |
| Ginger     | 100       | 2           | 77.00     | P.Kg. | 15.40   |
| Salt       | 100       | 1           | 13.00     | P.Kg. | 1.30    |
|            |           |             | Total     |       | 2750.50 |

Hence, the cost of protein diet per Prisoner –  $(2755.50/100) \times 92 \text{ weeks}/365 \text{ days} = 6.94$  per prisoner per day.

Protein diet Egg (Only last Sunday of each month)

Table-XIII

| Items      | Prisoners | Quantity(g) | Unit Rate |       |         |
|------------|-----------|-------------|-----------|-------|---------|
| Egg        | 100       | 2           | 5.75      | each. | 1150.00 |
| M.Oil      | 100       | 10          | 117.00    | P.Kg. | 117.00  |
| Condiments | 100       | 4           | 122.00    | P.Kg. | 48.80   |
|            |           |             | Total     |       | 1315.80 |

Hence, the cost of Egg (for last Sunday) per Prisoner –  $(1315.80/100) \times 12 \text{ week}/365 \text{ days} = 0.43$

Night food

Table-XIV

| Items        | Prisoners | Quantity(g) | Unit Rate |       |      |
|--------------|-----------|-------------|-----------|-------|------|
| Biscuit/Loaf | 100       | 100         | 78.00     | P.Kg. | 7.80 |
|              |           |             | Total     |       | 7.80 |

Hence, the cost of Night food – 7.80

Paneer (Only thursday of each week)

Table-XV

| Items      | Prisoners | Quantity(g) | Unit Rate |       |         |
|------------|-----------|-------------|-----------|-------|---------|
| Paneer     | 100       | 50          | 240.00    | P.Kg. | 1200.00 |
| R.Oil      | 100       | 10          | 69.00     | P.Kg. | 69.00   |
| Condiments | 100       | 5           | 122.00    | P.Kg. | 61.00   |
| Ginger     | 100       | 5           | 77.00     | P.Kg. | 38.50   |
| Salt       | 100       | 1           | 13.00     | P.Kg. | 1.30    |
|            |           |             | Total     |       | 1369.80 |

Hence, the cost of Paneer diet per Prisoner –  $(1369.80 \times 12 \text{ weeks} / 100) / 365 \text{ days} = 1.95$

Calculation of average cost of diet per prisoner per day for the year – 2015-16 in respect of circle jail, Baripada

Table-XVI

|   |                             |     |       |   |
|---|-----------------------------|-----|-------|---|
| 1 | Tea Diet                    | Rs. | 2.45  | Suji – $3.55 \times 3 \text{ days} / 7 \text{ days} = 1.52$ .<br>Chuda – $3.43 \times 4 / 7 \text{ days} = 1.96$ (1.52+1.96)<br>= 3.48 for both |
| 2 | Suji Upama/Chuda<br>Santula | Rs. | 3.48  |   |
| 3 | Ghuguni                     | Rs. | 2.75  |   |
| 4 | Both meals                  | Rs. | 34.13 |   |
| 5 | Chicken Protein             | Rs. | 6.94  |   |
| 6 | Sunday Protein              | Rs. | 0.43  |   |
| 7 | Paneer Protein              | Rs. | 1.95  |   |
| 8 | Night Food                  | Rs. | 7.80  |   |
|   | Total                       | Rs. | 59.93 |   |

Source: Circle jail, Baripada

Total Cost of Diet per Prisoner per day comes to Rs. 59.93.

#### Observed:

I observed that the jail kitchen is not overall neat and clean. Cooked rice for the prisoners was found stacked on a cemented platform and covered by a mosquito net to ward off flies. This arrangement seems to be unhygienic. Cooked rice is stored in bamboo baskets. Further I observed that the quality of rice and dal supplied to the prisoners was very poor. It is

evident from the above tables, that the rate of dal is taken to be Rs 94/- per Kg, in the department's assessment, but the market rate of dal at that time (as on 30.06.2015) was Rs.150/- and above. There is no available contingency by the department of jail to meet such problems. And hence the calorie value of the food provided to the inmates is adversely affected.

### **Judicial trends:**

The Supreme Court and High Court have always commented upon the deplorable living conditions prevailing inside the prisons with archaic prison laws which resulting the violation of prisoners' rights. Some judgment of courts enumerated the basic living conditions includes food served among the inmates in prisons.

In *Chameli Singh V. State of Uttar Pradesh*,<sup>22</sup> referring to Article 21 of the Constitution held that the requirements of a decent and civilized life would include the right to food, water and decent environment, and ruled that:

“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”

In *Ramamurthy v. State of Karnatak*,<sup>23</sup> the Supreme Court has dealt with the issues relating to general living conditions. A prisoner in the Central Jail, Bangalore sent a letter to the Chief Justice of India explaining against the “non-eatable food, mental and physical torture in prisons and denial of rightful to the prisoners”. The court observed that there were nine major problems, which afflicted the prison system and its management in India and they require immediate attention.

In *Madhukar Jambhale's case*,<sup>24</sup> the petitioner complained of bad food in the Dhule district jail. The food contained worms etc. He also challenged Section 59 of Prisons Act, classifying prisoners into Class-I and II based on higher status, education and standard of

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<sup>22</sup> (1996) 2 SCC 549.

<sup>23</sup> AIR 1997 SC 1739.

<sup>24</sup> 1987 Mah. LJ 68.

living. When the petition came up for hearing the divisions into different classes was already abolished. The petitioner also challenged various rules of the Maharashtra Prison (facilities to prisoners) Rules, 1962, which restricted the right to correspond and provided for strict censorship. The Bombay High Court held that there was no justification for the above restrictions.

In *Asgar Yusuf Mukadam and others v. Maharashtra and the Superintendent of Prison*,<sup>25</sup> the petitioners were lodged in Bombay Central Prison at Arthur Road, as under-trial prisoners in *Bomb Blast Cases* for a period exceeding seven years. The petition relating to the claim of home food was filed after such facility was denied to the under-trial pursuant to the amendment brought to Section 31 and 32 of the Prisons Act, 1894. It was contended that the amended provision in Section 31 of the Prisons (Maharashtra Amendment) Act, 2000 seek to classify the non-convict prisoners in three categories viz. un-convicted criminal prisoners, *satyagrahis* and civil prisoners. Though the *satyagrahis* are also defined as un-convicted criminal prisoners having participated in non-violent public agitation, there is a clear discrimination sought to be made in their favour and against the petitioners inasmuch as that the *satyagrahis* and civil prisoners are permitted to have home food and other necessaries whereas no such facility is available to the un-convicted criminal prisoners.

### **Conclusion:**

The Prison facilities have not been defined by the Indian legislature. Although Chapter-VI, Chapter-VII, Chapter-VIII and Chapter-IX of the Prisons Act, 1894 deal with only Food, Clothing and Bedding for civil and un-convicted prisoners. A uniform central law should be enacted on prison by replacing the Prisons Act, 1894 based on human right norms and not only it for civil & under-trials prisoners but also all types of inmates. The existing Rules of Orissa Jail Manual, 1942 have not mentioned the quality and quantity of food with calories value. It should be revised according to the Model Prison Manual, 2016. In spite of various jail committees' recommendations (specific in Mulla Committee, 1980-83) and Courts directions (specific living Conditions-Ram Murthy case), the quality and quantity of food, the arrangements regarding preparation of food, management of kitchens, distribution of food eating place etc. were all seemed to be not satisfactory. Prison authorities should be aware of

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<sup>25</sup> 2004 Cri LJ 4312.

the poor quality and mismanagement in preparation and distribution of food. Served food should be clean, fresh, hygienic and healthy with calorie value in prescribed guidelines of Indian Council for Medical Research.

