

Doctor and Prisoner

Indian Prison Manual

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THE Prison Manual contains several provisions relating to the health and well being of the prisoner. The duties of the Medical Officer are set out in Chapter IV. He has to keep a check on the medicine and the water supply. He shall oversee general sanitation. He shall examine and treat prisoners.

Under the provisions of Chapter XXXVI, when a prisoner dies, a report is to be made and submitted and the doctor plays an important role in this. If the prisoner is seriously ill and dies the relatives must be informed. If the death of the prisoner is "under circumstances raising a reasonable suspicion that some other person had committed an offence" this has to be reported to court in order that an inquest be held. Notices of death must also be sent to the municipal officer of health.

Immediately on the death of the prisoner the medical officer must be informed. The body must be left in the position found until the doctor examines the body. The medical officer is to prepare a report relating to the background of the prisoner and the circumstances of his death. This report along with the history of each prisoner is preserved for two years. Chapter XLV is titled 'Lunatics'. Normally most sick persons are to be sent to mental asylums. The provision most often relied on however, is the one which permits the government to keep the prisoner in a jail if no mental hospital is available for treatment of the prisoner. The exception to the rule has become the rule itself. Records are required to be maintained of the condition of the patient and the treatment given for a period of two years.

Criminal Procedure Code

Section 53 of the Code is as follows:

"When a person is arrested on a charge of committing an offence... that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of the police... and for any other person acting in good faith in his aid (emphasis added)..., to make such an examination of the person..."

Often this section is misused by the police. After torture the accused is sent to a doctor specially known to the police and co-operating with them for a medical report that the person was fit or for a report that injuries were found but they were inflicted by fellow prisoners.

Section 54 of the Code provides for medical examination of the arrested person at the request of the accused.

When a person who is arrested alleges... at the time when he is produced before a magistrate or at any time during the period of his detention in custody, that the examination of his body will afford evidence... which will establish the com-

mission by any person of an offence against his body, the magistrate shall, if requested by the arrest person... direct the examination of the body... by a registered medical practitioner...

Section 174 relates to the mode of inquiry to be conducted by the police in the case of deaths.

When the officer-in-charge of the police station... receives information that a person has committed suicide, or has been killed by another... or by accident, or has died under circumstances raising a reasonable suspicion that some other persons has committed an offence... he shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body...

Note that the medical officer is not involved at any stage in this investigation. A complete medical examination is expected to be done by a lay person.

In the case of the death of a woman however, the section provides for an examination by the "nearest civil surgeon or other qualified medical men appointed in this behalf by the state government (emphasis)".

It would be interesting to study the background and performance of the doctors appointed by the government. In many cases it appears that these persons appointed must 'qualify' in that, they must be willing write reports and conduct examinations according to the bidding of the police. The need for an independent body of doctors free from the intrusive forays of government is most necessary.

Some Cases

Veena Sethi's Case (AIR, 1983, SC. 339) drew the attention of the Supreme Court to the atrocious conditions of the prisoners in the Hazaribaug Central Jail rendering them insane. The prisoners were detained in jail for very long periods of time though they were declared insane because "there were no adequate institutions for treatment of the mentally sick". The judge's were told that there was only one institution in the state of Bihar, for the treatment of the mentally sick and that was the Mansik Arogyashala but that was overcrowded. The judges said "we have had occasion to see lunatic asylums in one or two states and we find that the conditions in these is wholly revolting and one wonders whether they are placed for making insane persons sane or sane persons insane".

The court then took up the case of Gomia-Ho. He was convicted in 1945 and sentenced to three years in prison. In 1948 he was found to be of unsound mind and directed to be kept in the Hazaribaug Central Jail since there was no place in the mental hospital. Half yearly reports regarding his mental conditions were required to be submitted

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Press Reports on Human Rights Violations in India

A Tiny Sample Study

ALERT citizen's groups in many places over the world have contributed much to exposing human rights abuses by state organs and to biases in reporting through forming 'media watch' groups. The idea is to carefully scan media reports and, (as somewhat we have done here) classify the data collected. Such scanning also clearly highlights policy biases in reportage by government-controlled or other partisan media.

In order to make a small random study of press-reports on human rights violations, we turned to two files maintained by the Centre for Education and Documentation Bombay, one on police atrocities/encounters/combing operations/brutality and the other on 'civil liberties/democratic rights/infringements/organisations/enquiries etc'. There were no direct reports on specific instances of violation in the second category for the period we looked up: July-September 1988. The first file yielded 32 items from nine major dailies and five magazines. We did an exercise on classifying these reports in two ways i) statewise and ii) by type of human rights violation—an arbitrary but marginally useful exercise.

What we drew from our classification is as follows: 8 reports from Maharashtra (2 from Bombay but most others also from areas nearby), 3 from Orissa, 2 from Bihar and UP and 1 each from Delhi, Gujarat, Karnataka, Nagaland, Punjab, Rajasthan and West Bengal. (4 items were 'repeat' reports not counted here and 3 not clear). Three reports covered the whole country. (Of course, it must be pointed out that at CED we receive more dailies

from Bombay than anywhere else. Hence perhaps the large number of instances reported for Maharashtra).

The 'type of human right violation' exercise yielded the following results:

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| 1. Torture/death in lockup | 6 |
| 2. Police beatings/assault | 5 |
| 3. Illegal arrests/detention/seizure | 4 |
| 4. Marauding, terrorism, oppression of depressed sections | 3 |
| 5. Direct killing/shooting | 2 |
| 6. False encounters | 3 |
| 7. Sexual abuse (including gangrape) | 3 |
| 8. Framing false charges | 2 |
| 9. General reports on human rights abuse on state/nation basis. | 5 |

(one report has been counted under both 3 and 7).

Scanning these reports, there seem to be two major categories of 'motives' for these acts. In half the cases, the victims have clearly been earmarked for political repression through the use of violence (and abuse of machinery that is supposedly meant to protect the rights of common citizens). Roughly another half are simply victims of the police machinery blatantly overstepping its brief: either out on a drunken, marauding spree or unleashing calculated brutality against weak, marginalised sections and/or person(s) who have in some way (sometimes unwittingly) exposed the weaknesses in the state machinery.

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but were not. He was, however, examined in 1966 and found to be sane. Yet he rotted in jail. In 1981 after news of his detention was published in a newspaper he was once again mentally examined and found to be sane. He was released in 1983 almost 35 years too late.

Like Gomia-Ho there were cases of many other prisoners who were kept in jail as the mental hospitals were full.

In *Charles Sobhraj's* case (1978, 4.SCC.494) the prisoner was kept day and night under bar fetters. The doctor examining the prisoner had noted:

09.2.1977: Multiple infected wounds on right ankles. Bar fetters be removed from right leg for 15 days (Sd) Dr. Mittal R.M.O.

12.2.1977: Bar fetters also to be removed from left foot. (Sd) Dr Bokra.

The supreme court severely restricted the use of bar fetters and condemned their generalised and indiscriminate use. Case of torture in police lock-ups and prisons are routine and endemic. The role of doctors in this is dubious. They are mainly used for cover up purposes.

Appeal to Subscribers/Readers

We regret that the last few issues of the *Radical Journal of Health* have been delayed. This has been because of printing and other difficulties, none of which fortunately are insurmountable. We hope to bring the publication up-to-date in the next couple of months. Please bear with us!

The RJH is for you and is sustained mainly by the support of regular readers like you. So far the journal is being subsidised by donations from concerned individuals. We would not like to pass on the burden of the extra cost to our readers by increasing the subscription rates. The Socialist Health Review Trust, the publisher of RJH has started a campaign for creating a corpus fund which can continue to absorb the extra cost as far as possible.

We appeal to you and your friends to generously contribute to this fund. *All donations may be made payable to the Socialist Health Review Trust and are exempted from Income Tax under Section 80G of the Income Tax Act.*