

**Specialised Course for Prison Officers
(Asst. Jailor to Superintendent of Prisons)
on Human Rights in Prison Administration
(2022)**



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Capacity Building of the prison staff is one of the key components of Prison Reforms. This equips the Prison Officers and Staff with the essential knowledge, skills and attitude to diligently discharge their duties in varied and complex areas related to Prisons and Correctional Administration. The MHA has mandated the BPR&D to prepare Training Manuals which can be circulated to all States and UTs for training purposes.

Services of 11 Individual Consultants with subject matter expertise were hired in 2021 to prepare the 50 Prison Training Manuals for various categories of Staff in Prisons. Numerous rounds of stakeholder consultations were held to finalize the drafts. The Manuals have adopted the contemporary principles of training and learning for indoor and outdoor classes, field visits and practical sessions and these have been prepared in compliance with the national and international best practices, the laws of the land, and the technological advancements in Prisons & Correctional Administration. The drafts were also uploaded on the BPR&D website for inviting suggestions/feedback from the stakeholders and citizens.

I extend my special appreciation to the 11 Individual Consultants, the Special Consultant (Master Trainer, DoPT) and the members of the Monitoring Committee who were instrumental in the preparation of these 50 Prison Training Manuals.

I am sanguine that these Manuals will bring about standardization of the training procedures and contents to a large extent and also facilitate capacity building of the Officers and Staff of the Prisons and Correctional Administration in the country.

(Balaji Srivastava)

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DAY – 1

LEARNING UNIT (LU)

UNIT-1 INTRODUCTION TO HUMAN RIGHTS OF PRISONERS

DAY – 2

UNIT-2 INTERNATIONAL LEGAL INSTRUMENTS

DAY – 3

UNIT-3 INDIAN LAW FRAMEWORK PROTECTING HUMAN RIGHTS OF PRISONERS

DAY – 4

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Emergence of the course

The BPR&D has prepared 50 Prison Training Manuals for various ranks of Staff and Officers in Prison Administration under the categories viz., 05 Basic Courses, 08 In-Service Courses, 30 Specialized Courses, 02 Vertical Interaction Courses and 05 Handbooks for improving the quality and standardizing training of all Prison Officers and Staff across the country and to augment professional competency and capacity building of Prison Officers and Staff. These Prison Training Manuals are objective oriented, learner centric and are outcome of several brainstorming sessions, consultative meetings (Online and Offline) and workshops for conceptualizing the drafts. Comments of the Monitoring Committee, Reports of Training Needs Analysis (TNA) for Prisons & Correctional Administration, National Training Policy (2012) have also been taken into account. In addition, various national and international practices, MHA Advisories, Landmark Judgements of the Apex Court and the High Courts, Statutory Acts/Rules have also been referred to in course of preparation of these training manuals. The design perspective of the Department of Personnel & Training, Government of India, has been adopted.

Introduction-

The Training Manual titled “Human Rights in Prison Administration” covers aspects of human rights which must be considered while administering prison. Human rights protection of prisoners within prison is an important legal concern, insisted upon by Constitutional provisions and other laws. It is hence the obligation of prison officers to ensure that while administering prison, human rights of prisoners are also protected. On the other hand, human rights of prison administration officers and staff are also of immense importance. This training manual is hence designed to cover both these aspects in form of training course content.

The objective of the one-week course is to sensitize officers of the ranks of Assistant Superintendent to Superintendent of Prisons.

This training course which has five learning units focuses on understanding the ways and means of ensuring human rights protection through prison administration.

(FOR TRAINERS AND PARTICIPANTS)



COURSE GUIDE

**Specialised Course for Prison Officers
(Asst. Jailor to Superintendent of Prisons)
on Human Rights in Prison Administration**

INTRODUCTION

Prison is an important machinery administering criminal justice system. Hence prison administration is a crucial aspect of obligations of States/UTs. Constant and periodical training of prison officers adds to efficiency and effectiveness of the prison administration. Ensuring protection of human rights of prisoners in prisons is an important objective of prison administration. Though prison administration is a State subject, principles laid down in the Prisons Act of 1894 and State specific Prison Manuals are uniform on aspects related to human rights protection of prisons inmates. Additionally, guidelines issued by Central Government and precedents laid down by Indian judiciary on prison administration forms the basis for designing prison administration strategies. This training course focuses on understanding the ways and means of ensuring human rights protection through prison administration.

AIM OF THE COURSE

To impart Knowledge and Skills to officers on Human Rights in Prison Administration.

DESIGNED FOR

Assistant Superintendent or Deputy Jailor to Superintendent of Jails.

FACILITATORS

In -House or Guest Faculty who are subject matter experts relevant to the Course.

STYLE OF THE COURSE

This course encompasses a series of sessions with combination of theoretical session with adoption of Socratic Method of learning along with practical learning activities. The Course is delivered through multiple media, styles and activities with a 'self-directed learning approach that is simulated by the use of field-based situations and sharing of best practices in Prison Management. Therefore, participants are expected to take responsibility, both for their own learning and in helping the development of other participants. Participants will be encouraged to share their learning experience with others, and to give and receive support and feedback.

OBJECTIVES - At the end of training, participants will be able to -

Training Objective

Explain the concept of 'Human Rights'

Enabling Objectives

1. Define the concept of Human Rights.
2. Explain the scope and importance of Human rights
3. Explain constitutional provisions related to Human Rights
4. Explain prisoner's human rights as forms of fundamental rights.

Unit -2

Training Objective

Explain Human Rights from international legal instruments perspective.

Enabling Objective

1. List the international legal instruments relating to Human Rights
2. Explain principles of International standards related to prisoners' rights.

Unit - 3

Training Objective

Explain the Indian law framework relating to Human rights of prisoners.

Enabling Objective

1. Describe legal provisions related to human rights of prisoners from laws related to Prison Administration including Prisons Act and Prison Manuals.
2. Explain prisoner's rights from provisions of Criminal Procedure Code
3. State implication of Protection of Human Rights Act 1993 on Prison Administration.

Unit -4

Training Objective

Identify issues and concerns related to human rights of prison officers

Enabling Objective

1. State rights of prison officers
2. Identify challenges affecting effective protection of such rights
3. Suggest ways of ensuring protection of such rights.

Training Objective

Identify means and mechanisms of integrating human rights protection within prison administration strategies.

Enabling Objective

1. Identify effective ways of prison administration
2. Identify effective ways of protecting human rights of prisoners
3. Describe ways of redressing grievances of prisoners
4. Recognise ways of extending protection to prisoner's Human rights while administering prison

ASSESSMENT:

The priority during the Course is to assist participants to develop their skills. Assessment is, therefore, concerned with informal feedback and advice to individual participants.

DAY-WISE TIME TABLE

DAY/TIME	CONTENT	OBJECTIVES
DAY 1		
0915-1030	Registration Inauguration of the Course & UNIT 1	
1045-1200	Ice breaking Session and Ground rules	
1215 -1330	Introduction to the concept of “Human Rights” and its importance	1.1
1430 – 1530	Components of human rights and its scope and importance; Human rights of prison inmates – need and importance	1.2
1545 – 1645	Human rights as Fundamental rights and Indian Constitution	1.3 & 1.4
DAY 2		
0915-1030	Learning Points- Recap of Day 1 Introduction to International Legal Instruments and their importance.	2.1
1045-1200	UDHR, ICCPR AND ICESR and Human rights of Prisoners	2.1 & 2.2.
1215 -1330	Other related conventions of UNO including – on torture, CEDAW, UNCRC	2.1 & 2.2.
1430 – 1530	International instruments specifically guaranteeing protection of human rights of prisoners including - UN Standard Minimum Rules for Treatment of Prisoners, Nelson Mandela Rules & Bangkok Rules.	2.1 & 2.2.
1545 – 1645	Other conventions and instruments including: - UN’s body of principles for the protection of all persons under any form of detention or imprisonment (1988), - United Nations Basic Principles for The Treatment of Prisoners, - United Nations Standard Minimum Rules for The Administration of Juvenile Justice And - The European Convention for The Prevention of Torture and Inhuman or Degrading Treatment or Punishment	2.1 & 2.2.

DAY 3		
0915-1030	Learning Points- Recap of Day 2 Introduction to the Indian Law Framework protecting Human rights of Prisoners	3.1
1045– 1200	Human rights of prisoners and Prisons Act, 1894 & Prison Manuals.	3.1
1215 -1330	Criminal Procedure Code & rights of prisoner	3.2
1430 - 1530	Prisoners’ Rights and Protection of Human Rights Act of 1993	3.2
1545 - 1645	Human rights of prisoners in specific scenario such as in relation to the under trial prisoner, women prisoners and their children and juvenile inmates.	3.1, 3.2 &3.3.
DAY 4		
0915-1030	Learning Points- Recap of Day 3 Human rights of prison officers – the concern	4.1
1045– 1200	Rights recognized under law	4.1
1215 -1330	Challenges affecting effective protection of such rights - Discussion on related concerns by participants and finding out best ways of ensuring such protection	4.2 & 4.3
1430 - 1730	Field Visit to any prison / Juvenile Observation homes/ NHRC/SHRC office visit	
DAY 5		
0915-1030	Learning Points- Recap of Day 4 Human rights and prison administration	5.1
1045– 1200	Human rights of prisoners and administration of prisons – ways and means of integrating the two concerns	5.3
1215 -1330	Grievance Redressal Mechanism in Prison to ensure human rights protection of prisoners	5.4
1430 - 1530	Feed Back and Assessment	
1545-1645	Valediction	

Course Ends

Session I	0915-1030
Session II	1045-1200
Session III	1215-13.30
Session IV	1430-1530
Session V	1545-1645
Yoga	0630-0730
Library	1700-1730
Sports	1730-1830
Tea Break	1030-1045 1200-1215 1530-1545
Break Fast	0800-0845
Lunch	1130-1430
Dinner	1930-2100



TRAINER GUIDE

**SPECIALISED COURSE FOR PRISON OFFICERS
(ASST. JAILOR TO SUPERINTENDENT OF PRISONS)
ON HUMAN RIGHTS IN PRISON ADMINISTRATION
(ONE WEEK)**

INTRODUCTION

The ‘Trainer Guide’ is a comprehensive overview of the content and process of the Course. It is designed in a structured format that presents the assembled information and the planned activities with learning outcomes. Trainer Guide serves as a “Map” for sequential implementation of following content segments.

THE TRAINER GUIDE ALSO

- Helps continuous recall;
- Provides scope for storing illustrations, faculty questions, anticipated participants questions and appropriate responses ;
- Contains details of points for briefing & debriefing of case study, exercises, Films, etc.
- Serves as a reminder when to administer exercises; and
- Guides on the use of media

FOR TRAINERS

1. Trainer guide
2. Glossary of terms
3. References
4. Resources
5. MCQs with Answers.
6. List of case laws for group discussion

FOR PARTICIPANTS

1. Course Guide
2. Feedback Questionnaire

DAY-WISE TIME TABLE

DAY 1		
0915-1030	• Registration & distribution of course guide • Inauguration of the Course	• Format Registration Form – Appendix 1 • Address by the Chief Guest
1045– 1200	Ice breaking Session and Ground rules Self-Introduction of Participants • Name • Designation • Training Years of service • Distribute training material folders to participants Course Overview: Aims and Objects of the Course by the Training Coordinator	
1215 -1330	Introduction to the concept of “Human Rights” and its importance	Lecture and Discussion
1430 - 1530	Components of human rights and its scope and importance; Human rights of prison inmates – need and importance	Same as above
1545 - 1645	Human rights as Fundamental rights and Indian Constitution	Identified Case laws discussion to be used to identify legal provisions related to Rights - <u>Appendix A</u> [trainer to use this list to direct case law discussion] Distribution of handouts [Appendix A2] on case laws - <u>Appendix 2</u>

DAY2

0915-1030	Learning Points- Recap of Day 1 Introduction to International Legal Instruments and their importance.	Encourage each participant to say one learning point at least Lecture and Discussion mode. Distribute Handouts on List of International Instruments – Appendix 3
1045– 1200	UDHR, ICCPR AND ICESR and Human rights of Prisoners	
1215 -1330	Other related conventions of UNO including – on torture, CEDAW, UNCRC	Lecture and Discussion mode. MCQ at the conclusion of all the sessions of the day - Trainer can use to MCQ provided in Appendix 4 to conduct a quiz / class test
1430 - 1530	International instruments specifically guaranteeing protection of human rights of prisoners including UN Standard Minimum Rules for Treatment of Prisoners, Nelson Mandela Rules & Bangkok Rules.	
1545 - 1645	Other conventions and instruments including: - UN's body of principles for the protection of all persons under any form of detention or imprisonment (1988), - United Nations Basic Principles for The Treatment of Prisoners, - United Nations Standard Minimum Rules for The Administration of Juvenile Justice And - The European Convention For The Prevention Of Torture And Inhuman Or Degrading Treatment Or Punishment	

DAY 3		
0915-1030	Learning Points- Recap of Day 2 Introduction to the Indian Law Framework protecting Human rights of Prisoners	Encourage each participant to say one learning point at least Lecture and Discussion mode.
1045– 1200	Human rights of prisoners and Prisons Act, 1894 and Prison Manuals.	Lecture and Discussion mode.
1215 -1330	Criminal Procedure Code and rights of prisoner	Lecture and Discussion mode.
1430 - 1530	Prisoners’ Rights and Protection of Human Rights Act of 1993	Lecture and Discussion mode.
1545 - 1645	Human rights of prisoners in specific scenario such as in relation to the under trial prisoner, women prisoners and their children and juvenile inmates.	Lecture and Discussion mode.
DAY 4		
0915-1030	Learning Points- Recap of Day 3 Human rights of prison officers – the concern	Encourage each participant to say one learning point at least
		Quiz / groups to answer MCQ questions – Appendix 5
1045– 1200	Rights recognized under law	
1215 -1330	Challenges affecting effective protection of such rights and discussion on related concerns by participants and finding out best ways of ensuring such protection	
1430-1730	Field Visit	Field report format in Appendix 6

DAY 5		
0915-1030	Learning Points- Recap of Day 4 Human rights and prison administration	Encourage each participant to say one learning point at least
		Discussion / Group Discussion mode
1045– 1200	Human rights of prisoners and administration of prisons – ways and means of integrating the two concerns	Discussion/ Group Discussion mode
1215 -1330	Grievance Redressal Mechanism in Prison to ensure human rights protection of prisoners	Discussion cum lecture mode.
1430 - 1530	Feed Back and Assessment	Feedback Format Form – Appendix 7
1545 - 1645	Valediction Program	

The course coordinator should compile the feedback of the participant and submit to the head of the Training Institute

End of Course

Day Wise Tasks

DAY-1

1. Registration
2. Inauguration
3. Detailed Introduction
4. Expectations
5. Course Objectives and Ground Rules
6. Self-Assessment Questionnaire
7. Course Guide distribution
8. Training
9. Learning / Unlearning / Relearning

DAY-2

10. Recap of Day-1
11. Training Sessions
12. Lunch
13. Post Lunch
14. Training

DAY-3

15. Recap of Day2
16. Training
17. Post Lunch
18. Training

DAY-4

19. Recap of Day 3
20. Training
21. Post Lunch
22. Field Visit to prison/SHRC/NHRC

DAY-5

23. Recap day 4
24. Training

Feedback

25. Valediction
26. Certificate Distribution
27. Group photo with Chief Guest

PART – B

COURSE GRID

LEARNING EVENTS

COURSE GRID

COURSE GRID

1 INTRODUCTION TO HUMAN RIGHTS OF PRISONERS	2 INTERNATIONAL LEGAL INSTRUMENTS	3 INDIAN LAW FRAMEWORK PROTECTING HUMAN RIGHTS OF PRISONERS
4 HUMAN RIGHTS OF PRISON OFFICERS	5 PRISON ADMINISTRATION AND HUMAN RIGHTS	

LEARNING EVENTS

LEARNING EVENT

Unit	1						
Learning Unit	Introduction to Human Rights of Prisoners						
Training Objective	At the end of training, participants will be able to explain the concept of 'Human Rights'						
Enabling Objectives At the end of training, participants will be able to -	Content	Method	Media	Time (Mins.)	Trainer	Performance Aid	Assessment
1. Define the concept of Human Rights. 2. Explain the scope and importance of Human Rights 3. Explain the Constitutional provisions related to Human Rights 4. Explain prisoner's Human Rights as form of fundamental rights.	Introduction and importance of the concept of 'Human Rights'. - Components of Human Rights Scope and Importance - Human Rights of prison inmates - need and importance - Human Rights as Fundamental Rights and the Indian Constitution	Lecture-cum-Discussion	White Board, Marker, Projection System	45 each session	In-House /Guest Faculty		Formative Q/A

LEARNING EVENT

Unit	2						
Learning Unit	International Legal Instruments						
Training Objective	Explain Human Rights from International Legal Instruments perspective						
Enabling Objectives At the end of training, participants will be able to-	Content	Method	Media	Time (Mins.)	Trainer	Performance Aid	Assessment
1. List the International Legal Instruments relating to Human Rights 2. Explain principles of international standards related to prisoners' rights.	- Introduction to International Legal Instruments and their importance. - UDHR, ICCPR AND ICESR and Human Rights of Prisoners - Conventions of UNO including on torture, CEDAW, UNCRC - International instruments specifically guaranteeing protection of Human Rights of prisoners including - UN Standard Minimum Rules for Treatment of Prisoners, Nelson Mandela Rules & Bangkok Rules. - Conventions and Instruments including - UN's Body of Principles for the protection of all persons under any form of detention or imprisonment (1988) - UN Basic Principles for the Treatment of Prisoners - UN Standard Minimum Rules for the Administration of Juvenile Justice - European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	Lecture-cum-Discussion	White Board, Marker, Projection System	45 (each session)	In-House /Guest Faculty		QUIZ/ MCQ

LEARNING EVENT

Unit	3						
Learning Unit	Indian Law Framework Protecting Human Rights of Prisoners						
Training Objective	Explain the Indian Law Framework relating to Human Rights of Prisoners.						
Enabling Objectives At the end of training, participants will be able to-	Content	Method	Media	Time (Mins.)	Trainer	Performance Aid	Assessment
1. Describe legal provisions related to Human Rights of prisoners from laws related to Prison Administration, Prison Act and Prison Manuals. 2. Explain Prisoner's Rights from provisions of Criminal Procedure Code 3. State implication of Protection of Human Rights Act 1993 on prison administration.	- Introduction to the Indian Law Framework protecting Human rights of Prisoners - Human rights of prisons and Prisons Act, 1894 & Prison Manuals. - Criminal Procedure Code and rights of prisoner - Prisoners' Rights and Protection of Human Rights Act of 1993 - Human Rights of prisoners in specific scenario such as in relation to the under trial prisoner, women prisoners and their children and juvenile inmates	Lecture-cum-Discussion	White Board, Marker, Projection System	45 each session	Guest Faculty/ In-House		Formative Q&A

LEARNING EVENT

Unit	4						
Learning Unit	Human Rights of Prison Officers						
Training Objective	At the end of training, participants will be able to identify issues and concerns related to Human Rights of Prison Officers						
Enabling Objectives- At the end of training, participants will be able to	Content	Method	Media	Time (Mins)	Trainer	Performance Aid	Assessment
1.State rights of prison officers 2. Identify challenges affecting effective protection of such rights 3. Find ways of better ensuring protection of such rights.	- Human rights of prison officers – the concern - Rights recognized under law - Challenges affecting effective protection of such rights - Discussion on related concerns by participants and finding out best ways of ensuring such protection - Field Visit in the Afternoon [Post Lunch Session]	Lecture-cum-Discussion	White Board, Marker, Projection System	45 each session	In-House/ Guest Faculty		Group Discussion / Snap Test Field Visit Report to be submitted by Trainee the next day of Field visit.

LEARNING EVENT

Unit	5						
Learning Unit	Prison Administration and Human Rights						
Training Objective	Identify means and mechanisms of integrating human rights protection within prison administration strategies.						
Enabling Objectives	Content	Method	Media	Time (Mins)	Trainer	Performance Aid	Assessment
At the end of training, participants will be able to-							
1. Identify the ways of prison administration 2. Identify the ways of protecting Human Rights of prisoners 3. Describe ways of redressing grievances of prisoners 4. Identify ways of extending protection to prisoner's Human Rights while administering prison	- Human rights of prisoners and administration of prisons – ways and means of integrating the two concerns - Feed Back and Assessment - Trainer Guide - Valediction program	Lecture-cum-Discussion	White Board, Marker, Projection System	45	In-House/ Guest Faculty		MCQ

PART-C

TO BE DISTRIBUTED TO PARTICIPANTS

TRAINING MANUAL

“Prison staff receive individuals who are lawfully deprived of their liberty. They have the responsibility to hold them safely and then, in most cases, release them back to the community and this function involves carrying out extremely demanding and stressful tasks on behalf of society.”¹

¹ HUMAN RIGHTS AND PRISONS, Manual on Human Rights Training for Prison Officials, available on UN, 2005, available at <https://www.ohchr.org/documents/publications/training11en.pdf>

UNIT 1

Introduction:

Human rights are the most important rights a human being enjoys and hence is also legally protected. These are considered as the basic rights of any individual which are so important that every State is expected to extend protection of such rights of its subjects. These rights cannot be compromised unless there are just reasons, with due compliance to legal rules. Hence these are also to be protected in case of prison inmates in prison institutions to the maximum extent possible.

Concept and components of human rights:

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.²

According to UNICEF, human rights are standards that recognize and protect the dignity of all human beings and they govern how individual human beings live in society and with each other, as well as their relationship with the State and the obligations that the State have towards them.³

According to section 2(d) of the Protection of Human Rights Act of 1993, “Human Rights” means the rights relating to life, liberty, equality and dignity of the individual

² <https://www.un.org/en/global-issues/human-rights>

³ <https://www.unicef.org/child-rights-convention/what-are-human-rights>

guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

Scope and importance of human rights:

Human rights is a very wide concept, including under its ambit all such rights that are essential for a human being to lead a life of decency and dignity. It includes right to life, privacy, health, safe environment, liberty, fundamental freedoms, etc. Further right to fundamental freedom includes freedom of speech and expression, freedom of movement, freedom of association, etc. Right to practice religion of one's choice is also regarded as an important human right. Even though a prisoner cannot enjoy each of these rights to the extent to which any other person at liberty can enjoy, yet laws require protection of these to the extent to which it is possible. Hence the laws and institutions that aim at protecting these rights of prison inmates.

When people better understand human rights, it is easier for them to promote justice and the well-being of society.⁴ According to UNICEF, some of the salient features of human rights are as follows:

1. They are universal and hence apply everywhere to every individual
2. They are inalienable and hence cannot be alienated from a human being. Thus they cannot be taken away from individuals including inmates in prison
3. They are indivisible and hence human rights including civil, political, economic, social or cultural are all inherent to the dignity of every human person.⁵

⁴ <https://humanrights.gov.au/our-work/education/introduction-human-rights>

⁵ See: <https://www.unicef.org/child-rights-convention/what-are-human-rights>

4. These various forms of human rights are interdependent and inter related to each other. Hence to enjoy one, entitlement of another is essential.
5. They belong to every individual equally and hence stands on the principle of equality.

Hence every state must have laws and institutional mechanism in place to protect these rights of its subjects.

Human rights of prisoners- need and importance:

A prisoner does not cease to be a human being to be deprived of his right to life guaranteed under Article 21 of the Constitution.⁶ A prisoner like anybody else is entitled to enjoy some of fundamental and human rights. These rights include the following:

1. Right to life and personal liberty.
2. Right to privacy and right to live with dignity;
3. Right to health
4. Right to humane facilities
5. Right to live with dignity
6. Right to equality
7. Rights to freedom of speech and expression,
8. Right to freedom of religion, Etc.

⁶ Bombay High Court, <https://www.livelaw.in/news-updates/prisoner-human-right-to-life-bombay-hc-allows-palliative-care-alleged-naxal-181314>, last visited on 10th December 2021.

Indian Constitution and International legal instruments recognize various rights of prison inmates. Courts have also expressed the need to extend protection of such rights of prisoners. In fact, it is more important that there are more provisions for protection of such rights of prison inmates who are detained in state machinery's institutions of custodial detention. Hence the need of the laws and judicial precedents in extending such protection.

HUMAN RIGHTS AS FUNDAMENTAL RIGHTS – INDIAN CONSTITUTIONAL LAW PERSPECTIVE WITH SPECIAL REFERENCE TO PRISONER'S RIGHTS:

India has a wider legal framework guaranteeing human rights of all, including prison inmates. While general laws relating to human rights of all are also expected to be extended towards a prison inmate, there are additional legal rules integrated into the prison laws. Further, Indian judiciary time and again through its decisions has stood as a guardian of human rights of prisoners insisting on maximum extent of protection of human rights of prison inmates.

Human Rights as Fundamental Rights – Indian Constitutional Law Perspective:

Chapter III of the Constitution of India recognizes fundamental rights of citizens, some of which are also extended to foreigners present in India. These rights are also enshrined as fundamental human rights guaranteed by international legal instruments. Most of these rights are also extended to prisons and hence must be conferred even to a prison inmate to the maximum extent possible. A prisoner does not cease to be a

human being to be deprived of his right to life guaranteed under Article 21 of the Constitution.⁷

According to Article 14⁸ of the Indian Constitution, every person is vested with right to equality before law and equal protection of law. A prisoner hence is also empowered with right to equality, equal treatment and equal protection by law. Hence discrimination without legal justification is unconstitutional. The Constitution of India confers certain fundamental rights that are of value in a criminal justice system since they empower a person in fairly facing a criminal prosecution. According to Article 20, right against double jeopardy and right against self-incrimination are guaranteed. These are also procedural rights guaranteed to a person facing criminal prosecution. Additionally no criminal laws can have retrospective effect as per Article 20⁹. According to Article 22 a person if arrested, must be produced before magistrate within 24 hours of his arrest.

A prisoner [convict] is entitled to the precious right guaranteed by Article 21¹⁰ that he shall not be deprived of his life or personal liberty except according to the procedure established by law.¹¹ As per Article 20 and Article 21, an accused is conferred with

⁷ Bombay High Court, <https://www.livelaw.in/news-updates/prisoner-human-right-to-life-bombay-hc-allows-palliative-care-alleged-naxal-181314>, last visited on 10th December 2021.

⁸ According to Article 14 which guarantees "Equality before law": "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth."

⁹ According to Article 20, Indian Constitution: [Protection in respect of conviction for offences]:

(1) No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence

(2) No person shall be prosecuted and punished for the same offence more than once

(3) No person accused of any offence shall be compelled to be a witness against himself

¹⁰ According to Article 21: "No person shall be deprived of his life or personal liberty except according to a procedure established by law."

¹¹ Sunil Batra Etc. v. Delhi Administration And Ors, 1978 AIR 1675

rights to bail, right to legal aid, right against custodial torture, etc. It is important to note that in the case of *Maneka Gandhi v. Union of India*¹², the Supreme Court while interpreting ‘right to life’ has held that “the procedure contemplated by Article 21 must answer the best of reasonableness in order to be in conformity with Article 14. It must be "right and just and fair" and not arbitrary, fanciful or oppressive; otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied. How far natural justice is an essential element of procedure established by law.”

Since ‘right to life’ is a very wider term, under law it is meant to include all those rights that are essential for a person to live a life of dignity. Right to life in India connotes both the following:

- Rights related to procedures of laws that are procedural rights, such as right to fair trial.
- Rights that are substantive, that is right to health, right to drinking water, right to clean environment, etc.

Since Article 21 is regarded as an ‘umbrella’ provision through which various basic rights of human beings are guaranteed, it is wide enough to extend such guarantee to a prison inmate to the extent possible in the prison. Right to life under this provision includes right to health, right to sleep, right to shelter, right to water, right to education, right to internet, right to family, etc.

Right to health is paramount for living a life of dignity and decency. Right to health includes right to clean drinking water, hygienic atmosphere and clean sanitation. According to a statement issued by UN, “States must ensure that everyone, including people in detention, have access to safe sanitation. Without it, detention conditions are

¹² AIR 1978 SC 597

inhumane, and contrary to the basic human dignity which underpins all human rights.”¹³ Sanitation itself is increasingly recognized as a human right, which should be enjoyed without discrimination, in all settings, including detention.¹⁴

A prison is not only a place where prisoners live. It is also a place where staff work. The living conditions for prisoners are the working conditions for staff.¹⁵

According to the Model Prison Manual¹⁶ “Right to fulfillment of basic minimum needs such as adequate diet, health, medical care and treatment, access to clean and adequate drinking water, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment.” It also states “all accommodation provided for use of prisoners, particularly for sleeping, will meet basic requirements of healthy living.”¹⁷

Recently the Bombay High court recognizing the importance of right to life, directed for the shifting of an accused from prison to hospice for palliative care on account of her terminal cancer.¹⁸ The court in this case held “Article 21 of the Constitution is a basic postulate of human right. A prisoner, be he a convict or under-trial or a detainee, does not cease to be a human being, and even when lodged in the jail, he is not deprived of his right to life guaranteed to him under Article 21 of the Constitution, which includes the right to obtain medical treatment. A prisoner cannot be deprived of health services

¹³ Prisoner access to sanitation a human right, say UN experts on World Toilet Day, 19th November, 2009, available at <https://news.un.org/en/story/2009/11/321952-prisoner-access-sanitation-human-right-say-un-experts-world-toilet-day>, last visited on 10th December 2021.

¹⁴ Ibid.

¹⁵ Human Rights and Prisons, Manual on Human Rights Training for Prison Officials, available on UN, 2005, available at <https://www.ohchr.org/documents/publications/training11en.pdf>

¹⁶ Ministry of Home Affairs, Model Prison Manual, 2016, available at <https://www.mha.gov.in/sites/default/files/PrisonManual2016.pdf>

¹⁷ Ibid.

¹⁸ https://www.business-standard.com/article/current-affairs/move-terminally-ill-blast-accused-to-hospice-bombay-hc-to-maha-govt-121090901339_1.html, last visited on 10th December 2021.

as it would violate the guarantee conferred under Article 21 of the Constitution of India.”¹⁹

As per Article 19(1) (a) every citizen of India has right to freedom of speech and expression. This right must also be extended to a prisoner to the extent to which it does not interfere with prison administration. So is also the case with a person’s right to freedom of religion. Every prisoner has the right to speech and the right to freedom of religion to the extent that these rights do not interfere with their status as jail inmates.

20

The Supreme Court of India in *Sunil Batra Etc., v. Delhi Administration and Ors*²¹ had extended legal protection of human rights to prisoners in the context of solitary confinement. The Apex Court observed: ““Personal liberty of the person who is incarcerated is to a great extent curtailed by plaintive detention. It is even curtailed in preventive detention. The liberty to move, mix, mingle, talk, share company with co-prisoners, if substantially curtailed, would be violative of Art. 21 unless the curtailment has the backing of law. Section 30(2)²² establishes the procedure by which it can be curtailed but it must be read subject to the interpretation placed in this judgment. Once Section 30(2) is read down, its obnoxious element is erased and it cannot be said that it is arbitrary or that there is deprivation of personal liberty without the authority of law.”

¹⁹Nirmala Kumari Uppunganti v. The State of Maharashtra and Anr, Bombay High Court decided on 9 September, 2021.

²⁰N Kamini, Vellore Deputy Inspector General of Police, <https://timesofindia.indiatimes.com/city/chennai/where-do-prisoners-right-to-speech-and-freedom-of-religion-end/articleshow/73663261.cms>, last visited on 8th December 2021.

²¹1978 AIR 1675

²²Section 30(2) in The Prisons Act, 1894: “(2) every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.”

Thus Constitutional provision embodies various human rights in form of fundamental rights and hence forms to be an important legal document guaranteeing human rights of all including prison inmates. Unreasonable violations of these rights may be the ground to confer constitutional remedies under Article 226 and 32.

UNIT II

HUMAN RIGHTS OF PRISONERS

– A GLANCE THROUGH INTERNATIONAL LAWS:

The United Nations has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and to assist states in carrying out their responsibilities.²³ There are set of international laws that lays down human rights and obligates states with duty to protect such rights. These laws obligates ‘Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.’²⁴ The United Nations has created a comprehensive body of human rights law which is universal and internationally protected code, referred to generally as the International Human Rights Laws.

The UN Charter is the basis for this law framework. The Charter in its preamble emphasis on the need “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.”²⁵ Article 1(3) of the Charter states that the purpose of UN is “to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion’.

²³ <https://www.un.org/en/global-issues/human-rights>

²⁴ <https://www.un.org/en/global-issues/human-rights>

²⁵ <https://www.un.org/en/about-us/un-charter/full-text>

According to Article 13, the UN General Assembly is required to initiate studies and make recommendations for the purpose of “promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”. Similarly, the Economic and Social Council may under Article 62 take up studies and ‘make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all’.

Following are few international legal instruments recognizing and promoting human rights in general as well as in relation to human rights of prison inmates:

UDHR:

Various international legal instruments cover various rights, recognizing them as ‘human rights’. Hence these are also referred to as international human rights instruments. These instruments recognize human rights that are fundamental for any human being.

Considered as a milestone document in the history of human rights, the Universal Declaration of Human Rights [henceforth referred to as UDHR] sets up a ‘common standard of achievements for all peoples and all nations.’ According to the declaration, fundamental human rights must be promoted and protected by States. This Declaration was adopted by the UN General Assembly in Paris on 10 December 1948.

According to UDHR following rights are declared as human rights:

9. Right to be born free and right to equality in dignity and rights under Article 1.

10. Rights and freedoms provided under UDHR shall be ensured to all, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, under Article 2.
11. Right to life, liberty and security of person under Article 3.
12. Right against torture or cruel, inhuman or degrading treatment or punishment under Article 5
13. Right to equality before the law and right to equal protection of the law under Article 7
14. Right against arbitrary interference with privacy, family, home or correspondence, attacks upon one's honour and reputation under Article 12.
15. Right to freedom of thought, conscience and religion under Article 18
16. Right to freedom of opinion and expression under Article 19, etc.

ICCPR:

According the International Covenant on Civil and Political Rights, 1966[henceforth referred to as ICCPR], following rights are guaranteed:

17. Right of self-determination under **Article 1**
18. According to Article 2, each State should respect and ensure to rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
19. equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant under Article 3,
20. Right to life which shall be protected by law and not arbitrarily deprived under Article 6,

- 21.Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment under Article 7,
- 22.Right against slavery under Article 8,
- 23.right to liberty and security under Article 9,
- 24.right not to be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation and right to the protection of the law against such interference or attacks under Article 17,
- 25.right to freedom of thought, conscience and religion under Article 18,

Most importantly ICCPR recognizes rights of a person facing criminal prosecution and arrested. According to Article 9:

“1. 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.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for

trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.”

Further, Article 10 lays down as follows:

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

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons; (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.”

According to Article 14:

“1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (order public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have

legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

ICESCR:

International Covenant on Economic, Social and Cultural Rights [henceforth referred to as ICESCR], adopted in 1966 guarantees to every human being economic, social and cultural rights. To the extent best possible these rights should be safeguarded even in case of prison inmates. According to Article 1, everyone must have right of self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development. According to Article 3, States Parties must ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights.

Most importantly, Article 12 recognizes right to life of individuals which becomes a crucial issue with respect to prison inmates. According to this Article:

“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT WAS ADOPTED IN 1984:

This convention is adopted “having regard to Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” According to the convention, states must prevent torture of all forms. According to Article 2(3), ‘An order from a superior officer or a public authority may not be invoked as a justification of torture’. Following are some of the relevant provisions from the convention:

- *According to Article 10, State must “ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”*
- *According to Article 11, State should “keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”*
- *According to Article 12, state must “ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable*

ground to believe that an act of torture has been committed in any territory under its jurisdiction.”

- Article 13 requires State to “ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.
- Article 14 requires State to “ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.”
- According to Article 15, State should “ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

CEDAW:

According to the Convention on the Elimination of All Forms of Discrimination against Women (henceforth referred to as CEDAW), State must “undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;

- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- To ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.”

UNCRC:

In addition to the above, the Convention on the Rights of the Child (UNCRC) recognizes that the ‘inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” and further provides that “recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.” This is the basis for grant of various rights of children including those that must be ensured even in case of “child in conflict with law”. This is also the basis for the approach India has adopted through its Juvenile Justice laws as well.

According to Article 9, UNCRC, a child should preferably not be separated from parents. However if separation results “from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.”²⁶

²⁶Article 9(4), UNCRC.

According to Article 73, UNCRC: “States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”

In addition to Conventions related to human rights and other general rights, there are conventions especially relevant to the rights of prisoners. These provide guidelines for

member states to follow so as to ensure that prisoners are treated humanely while in custody.

UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS:

This Standard was adopted in 1955 by the United Nations First Congress on the Prevention of Crime and the Treatment of Offenders. The standard prescribes ‘good principle and practice in the treatment of prisoners and the management of institutions.’ Following are some of the rights guaranteed through the Standard:

26. Right to accommodation: the Standard states: “Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.” “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”
27. Right to sufficient light and fresh air: The Standard requires that “In all places where prisoners are required to live or work, (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation; (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.”
28. Right to sanitary and hygiene needs and right to clean environment: the standard states: “The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature and geographical region, but at

least once a week in a temperate climate.” It also states “All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.”

29. Right to Personal hygiene, this further requires access to water, toilet articles, etc. which are ‘necessary for health and cleanliness.’
30. Right to Clothing and bedding: This requires that “Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.” “If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.”
31. Right to bedding: this requires state to provide to every prisoner ‘a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.’
32. Right to food and drinking water: this further requires that the food provides has ‘nutritional value adequate for health and strength, of wholesome quality and well prepared and served.’
33. Right to Exercise and sport – since this is essential requisite of one’s right to life and health, prison administration must ensure facilities for inmates exercise and sports activities.
34. Right to medical services: this right also requires right to have ‘psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.’ Prisoner must also have access to ‘specialist treatment’ when necessary and the ‘services of a qualified dental officer shall be available to every prisoner.’

With regard to women and children in prison, the standard states as follows:

35.“(1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.”

- “The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.”
- Right to communicate with family and friends
- Right to library [books]. Since many inmates may be interested in reading as well as pursuing their education from within prison, essential facilities including reading space, library, etc. must be provided in prison. This helps in better achieving the objective of reformation
- Right related to property.
- This right includes right to own property, right to transfer property as well as right to retain property:
- A prisoner like anyone else has same right that of an owner of a property which he owns. He can retain his property as well as sell the same. In the case of *Soma Saha Sen v. State Of West Bengal* ²⁷, the Bengal High Court clarified this aspect, with

²⁷W.P. 5455(W) of 2017, decided on 23 March, 2017.

reference to a prisoners right to dispose his properties by saying: “right to carry on trade and profession including right to convey property in course of such business is an essential fundamental right enshrined under Article 19(i)(g) of the Constitution of India and the same do not stand eclipsed by the continuing incarceration of a prisoner. Hence, I am of the opinion that incarceration of the husband of the petitioner shall not disentitle him from executing sale deeds to convey flats in favour of intending purchasers in accordance with law.”

- While taking a prison inmate into custody, property he possesses may be collected and kept in safe custody so as to ensure that he retains his right over such property.

The standard makes a distinction between:

- Prisoners who are insane and mentally abnormal prisoners
- Prisoners under arrest or facing trial [that is under-trial prisoners]
- Civil prisoners
- Persons arrested without charge

The standards requires state ensure protection of all these category of prisoners to the possible extent.

The above principles were also reiterated in revised Rules of 2015, which is –
popularly known at the ‘UN Nelson Mandela Rules ‘

THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS OF 2015[NELSON MANDELA RULES]:

The Standard Minimum Rules are often regarded by states as the primary – if not only – source of standards relating to treatment in detention, and are the key framework used by monitoring and inspection mechanisms in assessing the treatment of prisoners.²⁸ This consists of 122 Rules covering all aspects of prison management and outline the agreed minimum standards for the treatment of prisoners – whether pre-trial or convicted and they are supplemented by the UN Bangkok Rules on women prisoners.²⁹

The 122 Rules cover all aspects of prison management and outline the agreed minimum standards for the treatment of prisoners – whether pre-trial or convicted. They are supplemented by the UN Bangkok Rules on women prisoners.]. Rule 1 states “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.”

The UN United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (popularly referred to as the Bangkok Rules):

The Bangkok rules were adopted by the General Assembly in 2011. It invites ‘Member States to take into consideration the specific needs and realities of women as prisoners

²⁸ <https://www.penalreform.org/issues/prison-conditions/standard-minimum-rules/>

²⁹ Ibid.

when developing relevant legislation, procedures, policies and action plans and to draw, as appropriate, on the Bangkok Rules'.³⁰ Most importantly the rules state the following:

- The right of women prisoners to medical confidentiality, including specifically the right not to share information and not to undergo screening in relation to their reproductive health history, shall be respected at all times. [Rule 8]
- If the woman prisoner is accompanied by a child, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided [rule 9]
- Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners. [Rule 10(1)]
- Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings. [Rule 12]
- Effective measures shall be taken to ensure that women prisoners' dignity and respect are protected during personal searches, which shall only be carried out by women staff who have been properly trained in appropriate searching methods and in accordance with established procedures. [rule 19]
- Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison. [rule 22]

³⁰See: <https://cdn.penalreform.org/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf>

- Instruments of restraint shall never be used on women during labour, during birth and immediately after birth [Rule 24]
- Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes [rule 26]
- Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men. [rule 27]
- Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible. [rule 28]
- Prison authorities shall put in place measures to meet the protection needs of juvenile female prisoners.[rule 36]

UN'S BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT (1988):³¹

These principles apply for the protection of all persons under any form of detention or imprisonment. According to these principles:

³¹See: <http://hrlibrary.umn.edu/instatee/g3bppedi.htm>

36. All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person. [Principle 1]
37. Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose. [Principle 2]
38. There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent. [Principle 3]
39. Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority. [Principle 4]
40. Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority. [Article 5(2)]
41. No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment. [Principle 6]
42. Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons. [Principle 8]

- 43.The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority. [Principle 9]
- 44.Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him. [Article 10]
- 45.A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations. [Article 19]

UNITED NATIONS BASIC PRINCIPLES FOR THE TREATMENT OF PRISONERS:

The Basic Principles for the Treatment of Prisoners was adopted by the General Assembly in 1990. According to the guidelines, following rights of prisoners are to be ensured by State:

- 46.Right to treated with the respect due to their inherent dignity and value as human beings
- 47.Right against discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- 48.Right to follow one's religious beliefs and cultural precepts
- 49.State must ensure that prisoner's well-being and development is promoted.

50.Right to retain all human rights and fundamental freedoms as far as possible in the situations of incarceration. This includes ‘human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto’

51.Right to take part in cultural activities and education aimed at the full development of the human personality

Guidelines also requires State to abolish solitary confinement as a punishment, or its usage should be restricted. The guidelines also requires that ‘Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families’. It further states that ‘Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation. 10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favorable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions’. The guidelines requires application of all the principles [stated above] impartially.

UNITED NATIONS STANDARD MINIMUM RULES FOR THE
ADMINISTRATION OF JUVENILE JUSTICE – BEIJING RULES:

United Nations Standard Minimum Rules for the Administration of Juvenile Justice, also referred to as “Beijing Rules” and were adopted in 1985. The rules require states to further the well-being of the juvenile and her or his family. The Rule 1.6 states that “Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.”

Rule 2.3 requires States to ensure that efforts are made “to establish, in each national jurisdiction, a set of laws, rules and provisions specifically applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed”, so as to “meet the varying needs of juvenile offenders, while protecting their basic rights.”³²

Rule 8 emphasises on the need to protect right to privacy of juveniles. According to the rule, “the juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.” Hence, “in principle, no information that may lead to the identification of a juvenile offender shall be published.”³³ This obligation to protect privacy of juvenile also lies on officers of correctional authorities. Parallel to this rule, rule 21 also requires that the “records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.” It also requires that the “Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.”

Further, according to rule 13:

³²<https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>, last visited on 16th July 2022.

³³Ibid.

52. Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

53. Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

54. While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality.

According to rule 15, throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country.

It is important to also understand and realize the object behind rule 19 according to which “The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.” Hence detention of prisoners should be the last resort of the state.

Need for specific training of officers handling juveniles in prison can be seen in Rule 22, according to which “Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.” The Rule further states that “Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.”

Rule 26 sets objectives for institutional treatment which are as follows:

55. The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.
56. Juveniles in institutions shall receive care, protection and all necessary assistance-social, educational, vocational, psychological, medical and physical-that they may require because of their age, sex, and personality and in the interest of their wholesome development.
57. Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
58. Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.
59. in the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.
60. Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

Rule 27 requires that the “Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication”. It further requires efforts to be “made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible

extent so as to meet the varying needs of juveniles specific to their age, sex and personality.”

Apart from the above international legal instruments relating to human rights in general and prisoners’ rights in specific, there are certain regional conventions too which emphasizes upon the need to protect rights of prisoners. One of such convention is the “EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT”. This convention apart from declaring certain rights of prisoners as their entitlement also focuses on preventing torture on prisoners thereby protecting them against inhuman and degrading treatment or punishments. This convention also provides for the Constitution of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This Committee is empowered as well as obligated to take care of concerns related to prisoners in relation to torture etc., The Committee in order to check on the issue, is empowered to visit prisons and prepare reports on the issue and make recommendations.

CONCLUSION:

The above international and regional legal instruments hence .set out guidelines essential to be complied with by States while administering prisons and other similar correctional institutions so as to ultimately lead to the protection of human rights of prisoners including juveniles.

It is important to note that though international laws do not directly bind a state, yet most of these rules are respected by states and hence are also implemented in India. In fact Indian constitution expressly gives due regard to international laws, by emphasizing it under Article 51 according to which State must endeavor to “foster

respect for international law and treaty obligations in the dealings of organized peoples with one another.”

UNIT III

INDIAN LAW FRAMEWORK PROTECTING HUMAN RIGHTS OF PRISONERS

In addition to the Constitution³⁴, India has various laws directly and indirectly recognizing and extending protection of human rights of prisoners such as prison laws including Prison Act and Prison manuals, Criminal Procedural laws, Human Rights Act, etc. the following is an overview of some of such law framework that India has:

PRISONS ACT, 1894:

The Act aims to provide rules for the regulation of prison and within such rules takes care of concerns of prisoners that contributes to the protection of rights of prisoners. Some of such rules are as follows:

61. Number of prisoners to be detained in prison shall be determined based on the concerns related to convenience and safety of prisoners.³⁵ In case of epidemic the authorities are required to provide temporary shelters and safe custody of such prisoners.
62. The Medical Officer of Prison is obliged to take care of 'sanitary administration of the prison' as per Section 13
63. Considering the importance of the mental health needs of a prisoner, section 14 obligates medical officer of prison to report cases of such prisoners about whom he has 'reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected'. Such

³⁴Note that the constitutional legal provisions guaranteeing fundamental rights that must also be extended to prisoners is explained in chapter 1.

³⁵Section 7

report must be submitted to the Prison Superintendent along with details of relevant observations made by him.

64. In case of death of any prisoner, the Medical Officer is required to prepare a detailed report as prescribed in Section 15.

65. Prison Jailers are also vested with various duties that contribute towards overall protection of prison inmates. Under section 18, a jailor is 'responsible for the safe custody of the relevant records including related to the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

66. According to Section 24(2), every prisoner upon admission, as soon as possible must be 'examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.'

67. Act also obligates for other medical needs to be provided within prison for prisoners who are sick. Act also requires every prison to have a hospital or proper place for reception of sick prisoners [Section 37 and 39]

PRISON MANUALS

According to the Model Prison Manual, prepared by the Bureau of Police Research & Development, Ministry of Home Affairs in 2003, "though the foundations of the contemporary prison administration in India were laid during the British period, the system has drastically changed over the years, especially since the dawn of Independence".³⁶ Today's objective of prison administration is not just limited to

³⁶ Model Prison Manual, available at <https://bprd.nic.in/WriteReadData/userfiles/file/5230647148-Model%20Prison%20Manual.pdf>

administering an institution of custodial detention and maintaining discipline in such institution. It is more about balancing the concerns of administration with an added objective of ensuring humane condition in the prison in general and protection of human rights of prison inmates to the maximum extent possible in specific. Thus, administration strategies must integrate all possible measure essential to promote and protect human rights of prison inmates.

As has rightly recognized by the Model Prison Manual, on the basis of various judgments, “the Supreme Court of India has laid down three broad principles –

- (i) a person in prison does not become a non-person.
- (ii) a person in prison is entitled to all human rights within the limitations of imprisonment.
- (iii) there is no justification in aggravating the suffering already inherent in the process of incarceration.”³⁷

According to the Model Prison Manual³⁸ “Right to fulfillment of basic minimum needs such as adequate diet, health, medical care and treatment, access to clean and adequate drinking water, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment.” It also states “all accommodation provided for use of prisoners, particularly for sleeping, will meet basic requirements of healthy living.”³⁹

³⁷ <https://bprd.nic.in/WriteReadData/userfiles/file/5230647148-Model%20Prison%20Manual.pdf>

³⁸ Ministry of Home Affairs, Model Prison Manual, 2016, available at <https://www.mha.gov.in/sites/default/files/PrisonManual2016.pdf>

³⁹ Ibid.

CRIMINAL PROCEDURE CODE:

Various provisions of Criminal Procedure Code implies/obligates essential duties to be discharged by the State machineries dealing with accused, including those in the prison institutions. Since custody determines being under safe and secured custody, custodial detention of a prisoner in a prison, imposes duties on the part of prison authorities to ensure safety and security of such prisoners. In case of under-trial prisoners, the code requires production of an accused before Court while deciding the questions of custodial detention. According to Section 167, such accused can be produced through video conference mode if he is produced after or from judicial custody. Such production and facilitation of hearing by Court and production of accused before Court during such hearing is the duty of the prison administration.

Similarly, in the course of trial too, it is the responsibility of prison administration to facilitate production of accused from their custody by the concerned Court, be it physical production or via video conference mode. Relevant provisions in this regard are as follows:

According to section 267 of the code:

“(1) whenever, in the course of an inquiry, trial or other proceeding under this Code, it appears to a Criminal Court,-

(a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him, or

(b) that it is necessary for the ends of justice to examine such person as a witness, the Court may make an order requiring the officer in charge of the

prison to produce such person before the Court for answering to the charge or for the purpose of such proceeding or, as the case may be, for giving evidence.

(2) Where an order under sub- section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub- section (2) shall be accompanied by a statement of the facts which, in the opinion of Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.”

According to Section 268:

“(1) The State Government may, at any time, having regard to the matters specified in sub- section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under section 267, whether before or after the order of the State Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under sub- section (1), the State Government shall have regard to the following matters, namely:-

(a) the nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;

(b) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison;

(c) the public interest, generally.”

According to section 269:

“Where the person in respect of whom an order is made under section 267:

(a) is by reason of sickness or infirmity Unfit to be removed from the prison; or

(b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

(c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or

(d) is a person to whom an order made by the State Government under section 268 applies

the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining: Provided that where the attendance of such person is required for giving evidence at a place not more than

twenty- five kilometres distant from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in clause (b). ”

According to section 270:

“ Subject to the provisions of section 269, the officer in charge of the prison shall, upon delivery of an order made under sub- section

(1) of section 267 and duly countersigned, where necessary, under sub- section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorizes him to be taken back to the prison in which he was confined or detained.”

Additionally, the court under section 271 is empowered to issue a commission for the examination of a person who is a prison inmate as a witness. “

Since it is also the right of prisoner to know about his legal rights including the rights essential for him to face a fair legal process such as court proceedings, it is the duty of the prison administration to facilitate delivery of legal services, legal aid and legal awareness to the possible extent to its prison inmates.

PROTECTION OF HUMAN RIGHTS ACT, 1993:

This Act aims to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights. This Act though does not directly lay down any specific rules to be adhered to in Prisons, yet recognizing the concern it empowers the commissions established under the Act to look into issues of human rights in prison. The commissions under Section 12 (c) is empowered to visit "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."

The role of NHRC, is 'to improve the quality of governance of authority and public functionaries, and indicate the areas of inefficiency. NHRC 's role is complementary to the judiciary. But it is not a Court – the Commission can only make recommendation for acceptance and implementation.'⁴⁰

With regard to the role of NHRC in relation to prisoner's rights, the chairperson remarked: "NHRC has been focusing its attention on the promotion and protection of human rights of prisoners, from its inception. The Commission has issued instructions/guidelines that mentally ill person should not be kept in prison and if during jail inspection by the Commission, mentally ill persons are found in the prison it would award compensation to them or to their kin. The State government could recover such compensation from the erring jail officials. The Commission has also written to Chief Justices of all High Courts, for effecting speedy trials of cases and release of under trials and to give appropriate instruction to district and Sessions Judges to ensure that they visit jails regularly as is envisages in the State Prison

⁴⁰Justice J.S.Verma, the then chairperson, NHRC, <https://nhrc.nic.in/press-release/nhrc%E2%80%99s-initiatives-prison-reforms>

Manuals. Again the Commission has issued instruction to all prison authorities requiring compulsory health screening of all prisoners and sending monthly report to the Commission. The issues of premature release of prisoners undergoing life imprisonment have also been taken up by the Commission.”⁴¹

HUMAN RIGHTS OF PRISONERS – WITH REFERENCE TO SPECIFIC SCENARIO:

Though in general human rights are to be enjoyed by all including all prison inmates, there are certain concerns that need to be addressed with respect to certain category of prisoners.

HUMAN RIGHTS OF AN UNDER TRIAL PRISONERS:

According to Justice J.S. Verma, the then chairperson, NHRC, More than 70 percent of prisoners of the jails in the country, are under trial and most of them have been under trial for years.⁴² Supreme Court of India in Sunil Batra Etc. v. Delhi Administration and Ors. Etc.⁴³, observed that under-trials shall be deemed to be in custody, but not undergoing punitive imprisonment. Hence law restricts unnecessary interventions into human rights of under – trial prisoners.

Since an under trial prisoner faces criminal proceedings while being in prison, it is necessary to ensure that he gets complete and fair chance to face such proceedings. His right to fairness of criminal process including fair trial can get compromised if his detention in prison becomes a hindrance to his effective participation in criminal process. From the time he is detained in prison till his release, he may have to prepare

⁴¹ Ibid.

⁴² <https://nhrc.nic.in/press-release/nhrc%E2%80%99s-initiatives-prison-reforms>

⁴³ [1979] 1 SCR 392

for his bail application and process, consult lawyer, appear before courts conducting hearing, etc. These are few of the examples of such criminal process an accused may face while being in prison. These are also legally recognized as ‘legal rights’ of an accused and hence laws and institutions must ensure its protection. So is also the need to ensure that an accused is provided with all possible opportunities to exercise these rights. Additionally, legal services and legal aid to such inmates leads to better guarantee of these rights. Hence the need to ensure that a prison inmate facing trial gets access to legal services and legal aid. Legal services clinics inside prisons hence are also of great importance.

Further production of accused before Court can be facilitated even through video conference. This helps an accused to appear before Court while being in ‘judicial custody’ that is, prison. Also, this even eases the prison authorities’ task of transporting under trial prisoners from prison to Court.

[Also see above notes under the title – CRIMINAL PROCEDURE CODE]

HUMAN RIGHTS OF WOMEN PRISON INMATES & THEIR CHILDREN:

International human rights instruments insists for equal protection of human rights of women. So is also insisted by Indian Constitution. Hence a woman like any male prisoner also has all human rights – including right not be discriminated on the basis on gender.

Though in India a woman is placed mostly in the same prison where male prisoners are detained, yet prison rules requires a separate cell for women prisoners. Hence she should be separately detained and be supervised only by women officers and staff.⁴⁴

Due to the gender related concerns, special care must be taken to protect and promote human rights of women prisoners. According to a research finding [Research on “Social, Psychological and Economic Problems of Women Prisoners and Their Accompanying Children and Status of Their Rehabilitation”]:⁴⁵ following problems are faced by women prisoners:

68. Women are vulnerable: Generally, Women prisoners come from economically and socially disadvantaged segments of the society. Many have histories of alcoholism and drug abuse. Most of the women prisoners experienced violence or sexual abuse before incarceration.

A woman prisoner also faces various gender specific problems and hence needs more a care in terms of sanitary and hygiene related needs. Their nutrition, health and safety requirements must be of paramount concern for prison administration. Women prisoner’s emotional and psychological stress is a matter of concern too. Many of them also suffer with stress caused due to fear of social stigma, family separation, etc. Children living in prisons with their mothers who are prison in-mates needs to be taken care of too, including with respect to such children’s health and education needs.

⁴⁴ Standard Minimum Rules for the Treatment of Prisoners [hereinafter “SMR”], rule 53.

⁴⁵ Study by Prof. Deepti Shrivastava, available at <https://bprd.nic.in/WriteReadData/userfiles/file/202108191109550214772researchstudiescompleted.pdf>

The BPRD's 2003 Model prison manual makes several suggestions with regard to women prisoners including the following:⁴⁶

69. Women offenders shall, as far as possible, be confined in separate institutions specially meant for them. Wherever such arrangements are not possible they shall be kept in separate annexes of prisons with proper arrangements. The staff for these institutions and annexes shall comprise of women employees only. Women prisoners shall be protected against all exploitation. Work and treatment programmes shall be devised for them in consonance with their special needs.
70. The existing enclosures for women in common prisons will be renovated to ensure that women prisoners do not come in view of male prisoners during their passage to and from these enclosures. These enclosures will have a double lock system – one lock outside and the other inside, the keys of the latter always remaining with a woman guard inside. The institutions/enclosures for women prisoners will have all the requisite facilities with reference to their special needs such as segregation, protection, pregnancy, child-birth and family care, health care, training and rehabilitation, etc.
71. During pregnancy and lactation, a woman needs more protein and minerals than otherwise. The extra protein can be obtained by substituting a part of the cereal portion of the diet with more milk, fish, meat and eggs, and in the case of vegetarians by concentrating more on milk and milk products. This would also ensure the necessary additional supply of minerals. Pregnant and nursing women need about 3100 calories every day
72. If the Medical Officer finds a women prisoner sentenced to death to be pregnant, the matter shall at once be brought to the notice of the Inspector General of Prisons who shall seek the order of the Government for commutation of the death sentence

⁴⁶Model Prison Manual,

or for postponement of execution till she gives birth to the child. The execution shall not be carried out before the orders of Government are received. When a woman prisoner sentenced to death declares herself to be pregnant, and Medical Officer is unable to certify the truth or otherwise of the statement, immediately, he shall state the interval of time necessary to enable him to satisfy himself on the point. The Superintendent should immediately report the case to the Government and seek orders. When execution of a capital sentence on a woman prisoner has been suspended under either of the situations mentioned above, the sentence shall not afterwards be executed without the express order of the Government for which the Superintendent shall apply.

73. Women under trial prisoner should normally be escorted by women police. When there are no women police available, they should be accompanied by woman Prison Guard. As far as is practicable, separate conveyance should be provided for the transport of women under trial prisoners. Women staff members shall be in charge of women under trial prisoners.

74. As far as possible, women under trial prisoners should be handed over to their relatives after release. If this is not possible, a woman police or woman prison guard should escort the released woman under trial prisoner to the nearest station or transport bus stand.

HUMAN RIGHTS OF JUVENILE INMATES

Like adults, a juvenile prison inmate too is entitled to enjoy all human rights. Additionally, it is essential to ensure that he is separated from adult prison inmate. Further his right to education and prison authority's duty to facilitate his

reformation is paramount in the context of a juvenile prison inmate. Following rules must be applied in case of juvenile inmates:⁴⁷

75.Children who are detained shall be treated in a manner which promotes their sense of dignity and worth, facilitates their reintegration into society, reflects their best interests and takes their needs into account.⁴⁸

76.Children shall not be subjected to corporal punishment, capital punishment or life imprisonment without possibility of release.⁴⁹

77.Children who are detained shall be separated from adult prisoners. Accused juveniles shall be separated from adults and brought for trial as speedily as possible.⁵⁰

78.Special efforts shall be made to allow detained children to receive visits from and correspond with family members.⁵¹

⁴⁷ Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁴⁸ CRC, Articles 3 and 37; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) [hereinafter “Beijing Rules”], rules 1, 5 and 6; United Nations Rules for the Protection of Juveniles Deprived of their Liberty [hereinafter “Rules for Juveniles”], rules 1, 4, 14, 31, 79 and 80, quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁴⁹ CRC, article 37 (a); Beijing Rules, rule 27; Rules for Juveniles, rules 64, 66 and 67, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵⁰ 1 ICCPR, article 10, para. 2 (b); CRC, article 37 (c); Beijing Rules, rules 13.4 and 26.3; Rules for Juveniles, rule 29, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵¹ 2 CRC, articles 9, 10 and 37 (c); Beijing Rules, rules 13.3, 26.5 and 27.2; SMR, rule 37; Rules for Juveniles, rule 59, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at

79. The privacy of a detained child shall be respected, and complete and secure records are to be maintained and kept confidential.⁵²
80. Juveniles of compulsory school age have the right to education and to vocational training.⁵³
81. Weapons shall not be carried in institutions which hold juveniles.⁵⁴
82. Disciplinary procedures shall respect the child's dignity and be designed to instil in the child a sense of justice, self-respect and respect for human rights.⁵⁵
83. Parents are to be notified of the admission, transfer, release, sickness, injury or death of a juvenile.⁵⁶

<https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵² CRC, article 40, para. 2 (b) (vii); Beijing Rules, rule 21.1, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵³ ICESCR, article 13; CRC, article 28; Rules for Juveniles, rules 38 and 42, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵⁴ Rules for Juveniles, rule 65, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵⁵ 6 Rules for Juveniles, rule 66, , quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

⁵⁶ CRC, article 37 (c) and article 40, para. 2 (b) (ii); Beijing Rules, rules 10.1 and 26.5; SMR, rules 37 and 44; Rules for Juveniles, rules 56 and 57, quoted in Human Rights and Prisons, - A Pocket book of International Human Rights Standards for Prison officials, UN, United Nations Publications, available at <https://www.ohchr.org/documents/publications/training11add3en.pdf>, last visited on 20th January 2022.

UNIT - IV:

HUMAN RIGHTS OF PRISON OFFICERS

RIGHTS OF PRISON OFFICERS – AN OVERVIEW:

Human rights issues are comprehensive and diverse to cover all essential facets of life of all human beings irrespective of their profession. The quality of life of an individual depends upon the dignity of life. Hence, minimum rights essential to provide quality life with dignity must be conferred upon all irrespective of their profession. Prison administration officers also deserve equal legal protection of securing minimum human rights.

Administering a prison that too in a legal system committed to democratic values is a complex proposition and a complicated assignment. A prison houses inmates including hardened criminals, repeated offenders, inmates suffering with mental health issues, inmates facing emotional trauma as well as inmates suffering with substance abuse. Women inmates have their own gender related concerns which also must be taken care of by the prison authorities. Hence prison administration involves obliging prison officers with complicated and overburdened duties, raising often questions related to their own rights protection. Effective and efficient discharge of their duty is possible only if they receive sufficient legal protection of their rights. Hence the concern.

PRISON STAFF'S RIGHTS AS HUMAN RIGHTS

Human rights are “the rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status and they include the right to life and liberty, freedom from slavery and torture, freedom of opinion and

expression, the right to work, education, social origin, birth, and many more.”⁵⁷ They are “inherent in all human beings by virtue of their humanity alone.” Human rights are derived from the inherent dignity and worth of the persons and they are universal, inalienable and equal. These rights cannot be taken away from or surrendered by any person. Everyone including a prison officer is “entitled to these rights, without discrimination”⁵⁸. However, in reality law and policies often focus on the rights of the citizens and seldom on the human rights of State agents like police or prison officer.

Human rights is a comprehensive term covering under its ambit basic rights [by virtue of being a human being] inevitable for a human being to live including those which belongs to a member of law enforcement agency – the police. Thus this term is widely defined to include such rights of police. It is regarded as “*inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being*”. They are inalienable within qualified legal boundaries and equally applicable to all.

According to the Universal Declaration of Human Rights under Article 2: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

⁵⁷<http://www.un.org/en/sections/issues-depth/human-rights/>. last accessed on 16th May 2018.

⁵⁸Ibid.

Section 2(1) (d) of the Indian Protection of Human Rights, 1993 defines “human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

In our criminal justice system, the prisons play a pivotal role as an agent of the State. They are the correctional institutions which impose correctional sentences prescribed by Courts upon the offenders. They are the institutions that house under trial prisoners who are still facing criminal prosecution. Hence prisons play a very important role in administering criminal justice system. Hence the purpose of this institution is well-concerned.

However, it is a fact that Indian criminal justice administering agencies including prisons and police are even today largely influenced by the colonial system. The Austin’s concept of “authority” of State is even today visible in respect of the police as well as prison agency thus exposing subordinates to authoritative atmosphere. They are exposed to State control, compulsive atmosphere of work which is hardly respectful of human rights of their staff [prison officers].

A prison officer is required to discharge various complex duties:

- They have to administer prison and ensure an atmosphere that is safe and secure for all inmates.
- They have to ensure discipline amongst prisoners including mutual safety of each prisoner and prevent any untoward and violent acts or clashes between prisoners.
- They have to ensure protection and promotion of human rights of all prison inmates

- They have to facilitate criminal process including production, safe custody and execution of courts orders in respect of every inmate. On the whole they are required to ensure that prison's role as a machinery of state in administering criminal justice system is effectively discharged.
- They have to ensure humanistic approach towards each inmate including children staying with women inmates
- To contribute effectively towards reformation of prisoners.

Prison officers, like police are expected also to:⁵⁹

- uphold the rule of law which is the basis of a democratic society.
- act as an executive arm of the Government.
- be the protector of rights and liberties of the citizens' guaranteed by the Constitution and protect the weak and poor from oppression and exploitation [with in the prison]
- to act as an agency of social service and as an instrument for social change.

All these duties are also expected to be discharged by prison authorities and its staff. But it is a fact that prisons are exposed to greater number of challenges in the current era. Day by day an alarming increase in the number of crimes is being observed as a result of increasing population, scarcity of resources, lack of education, employment, poverty changing societal values and norms, etc. This has a direct bearing on prison institutions as number of prison inmates are also increasing at an alarming rate. Thus more crimes would lead to more responsibilities on the police and correctional agencies which would inevitably lead to more stress on their personnel.

⁵⁹Parvesh K. Atri, "Sociology of Crime and Criminology" Anmol publications New Delhi 1st edn. 1998 at p. 140

SOME OF THE FORMS OF ABUSE OF HUMAN RIGHTS OF PRISON OFFICERS:

“Stress is inherent in uniform services. There have been several studies conducted on officers in different parts of the world and some in India, which reveal that the present working conditions and several other factors have led to increased level of stress among officers.”⁶⁰ Hence work related stress is one of the common form of violation of human rights of prison officers.

Since most of the prisons are overcrowded today, the work load on the prison staff is also huge.

Denial of holidays and leaves also is very common problem faced by prison officers. This also adds to problems associated with work related stress both physical as well as mental. Prison staff often have to strive to work with a large number of the stressful peculiarities countered by them in day-to-day functioning.

There are many unheard plights of the prison staff, especially of the lowest cadre police – a wing expected to ensure safety and security of the inmates. Human rights of such officers are often at peril, due to various reasons including those relating to systemic defects and deficiencies.

IMPORTANT HUMAN RIGHTS OF PRISON OFFICERS:

⁶⁰Varun Kapoor & Dr. Yamini Karmarkar, “Police Investigators – Stress Study”, The Indian Police Journal, Vol. LXI, No. 2., April – June 2014, BPRD, India, available at <http://www.bprd.nic.in/WriteReadData/userfiles/file/5392398545-April%20June%202014.pdf>, retrieved on 30th December 2018.

The following are some of the important human rights guaranteed by the Indian Constitution and international legal instruments - but is hardly enjoyed by a prison staff especially those officers working at lower cadre:

- Right to life: Article 21 of the Indian Constitution and Article 3 of UDHR – including right to liberty and security.
- Right to Equality and Dignity: Article 14, Indian constitution as well as Article 7, UDHR.
- Right to Freedom: Article 2 of UDHR [everyone is entitled to all the rights and freedom set forth in their declaration].
- Article 4 of UDHR proclaims that everyone has the Right to be free from slavery or servitude
- Right to freedom of thought and conscience – under Article 18 of UDHR
- Right to freedom of opinion and expression – under Article 19 of UDHR
- Right to freedom of assembly and association – under Article 20 of UDHR
- Right to be free from cruel inhuman or degrading treatment or punishment: - Article 5 of UDHR
- Right to equal protection of law – under Article 7 of UDHR
- Right to an effective remedy or grievance – under Article 8 of UDHR
- Right to family and children – under Article 12, UDHR
- Right to freedom of Movement – under Article 13, UDHR
- Right to exercise franchise
- Right to Social Security – under Article 22, UDHR
- Right to rest and leisure – under Article 24, UDHR
- Right to standard of living adequate for health and well-being – under Article 25, UDHR
- Right to education, training and development – under Article 26, UDHR

- Right to participation in cultural and religious life of community – under Article 27, UDHR
- Right to perform duty to the community with dignity without any interference – under Article 29, UDHR

Though the above are the list of rights legally recognized as rights of ‘all’ yet State agents like Police and prison officers and their human rights are hardly spoken about issues. They are rather often criticized as violators of human rights. But in reality – it’s a one side of the coin. On the other side – we see gross violations of human rights of prison officers.

An effective prison administration requires not just an environment safer to prisoners but also to staff who work there without time limits. Hence measures essential to ensure protection of rights of prison authorities must be taken so as to make the entire prison atmosphere more humane.

UNIT – V

PRISON ADMINISTRATION AND HUMAN RIGHTS

*“Human rights are an integral part of
good prison management”⁶¹*

PRISON ADMINISTRATION AND HUMAN RIGHTS CONCERNS:

An effective criminal justice administration requires effective prison administration. Since protection of human rights of prison inmates is an important duty of the State and its agency, prison also is required to priorities the same. Hence the need to integrate human rights protection with prison administration. While laws including Indian Constitution and International legal instruments impose this obligation of human rights protection on prison authorities, prison laws such as Prisons Act, Rules and Prison Manuals to provide for such integration into the prisons administration strategies.

Prison staff receive individuals who are lawfully deprived of their liberty. They have the responsibility to hold them safely and then, in most cases, release them back to the community and this function involves carrying out extremely demanding and stressful tasks on behalf of society.”⁶²

⁶¹ Andrewcoyle, A Human Rights Approach to Prison Management, a Handbook for Prison Staff, second edition, International Centre for Prison Studies, United Kingdom, available at https://www.prisonstudies.org/sites/default/files/resources/downloads/handbook_2nd_ed_eng_8.pdf

⁶² Human Rights and Prisons - Manual on Human Rights Training for Prison Officials, available on UN, 2005, available at <https://www.ohchr.org/documents/publications/training11en.pdf>

The Prisons Act of 1894 mandates adherence to such regulations at every stage and in every aspect related to prison administration. For example, section 4 requires state Governments to construct and regulate prisons as per the requirements of Act including requirements related to separation of prisoners. Officers are to be appointed as per the Act's requirements to take care of prison administration. Extent of accommodation of prisoners in a prison must be decided based upon their convenience and safety related factors. In cases of epidemic diseases prisoners must be transferred to convenient places. This way the Act takes care of prisoners concerns and imposes obligations to take care of such concerns upon prison administration authorities.

Further, according to Prison Act, 1894, certain acts of prisoners affecting prison administration are recognized as 'prison offences' under Section 45. According to the section,

“the following acts are declared to be prison-offences when committed by a prisoner:—

(1) such willful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;

(2) any assault or use of criminal force;

(3) the use of insulting or threatening language;

(4) immoral or indecent or disorderly behavior;

(5) willfully disabling himself from labour;

(6) contumaciously refusing to work;

- (7) filling, cutting, altering or removing handcuffs, fetters or bars without due authority;*
- (8) willful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;*
- (9) willful mismanagement of work by any prisoner sentenced to rigorous imprisonment;*
- (10) willful damage to prison-property;*
- (11) tampering with or defacing history-tickets, records or documents;*
- (12) receiving, possessing or transferring any prohibited article;*
- (13) feigning illness;*
- (14) willfully bringing a false accusation against any officer or prisoner;*
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and*
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.”*

These offences are made punishable under Section 46.

The Act further mandates separation of prisoners on the grounds of gender and age, thus taking care of concerns specific to women and juvenile prison inmates. Act also

requires prisons to have sufficient medical facilities within the prison and insists for appointment of medical staff for the same. Even though criminal laws of India provides for solitary confinement of prison inmates whenever essential, this Act imposes conditions upon prison administration to ensure that such solitary confinement does not lead to an unreasonable interference with human rights of such detainee.

According to Section 29 of the Act, “No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.” Similar care is also taken with respect to an inmate who is under sentence of death.

According to section 30, “(1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession. (2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.”

Prison administration is a very comprehensive task. While ensuring discipline of prison inmates within prison, the administration must also ensure that there is no unnecessary restraint imposed upon rights of prisoners. It is essential to balance the two conflicting concerns of firstly, ensuring disciplining within prison and secondly protecting human rights of prison inmates. While the first one may require imposition of certain restrictions on prisoners the second one necessitates such restrictions to be

fair and reasonable and not unnecessarily harsh or illegal. Thus it is illegal to impose restrictions that are unnecessary and legally unauthorized.

In *Sunil Batra Etc. v. Delhi Administration and Ors. Etc.*⁶³ Supreme Court of India held “Fetters, especially bar fetters, shall be shunned as violative of human dignity, within and without prisons. The indiscriminate resort to handcuffs, when accused persons are taken to and from court and the expedient of forcing irons on prison inmates are illegal and shall be stopped forthwith save in small category of cases where an under-trial has a credible tendency for violence and escape a humanely graduated degree of "iron" restraint is permissible if - other disciplinary alternatives are unworkable. The burden of proof of the ground is on the custodian. And if he fails, he will be liable in law. Reckless handcuffing and chaining in public degrades, puts to shame finer sensibilities and is a slur on our culture.” Supreme Court of India in 1995 in ‘*Citizens for Democracy v. State of Assam*⁶⁴, the Court while summarizing its observations on handcuffing of prisoners, directed as follows:

“We declare, direct and lay down as a rule that handcuffs or other fetters shall not be forced on a prisoner - convicted or under-trial-while lodged in a jail anywhere in the country or while transporting or in transit from one jail to another or from jail to court and back. The police and the jail authorities, on their own, shall have no authority to direct the hand- cuffing of any inmate of a jail in the country or during transport from one jail to another or from jail to court and back.

⁶³[1979] 1 SCR 392

⁶⁴ Writ Petition (civil) 22 of 1995

“Where the police or the jail authorities have well-grounded basis for drawing a strong inference that a particular prisoner is likely to jump jail or break out of the custody then the said prisoner be produced before the Magistrate concerned and a prayer for permission to handcuff the prisoner be made before the said Magistrate. Save in rare cases of concrete proof regarding proneness of the prisoner to violence, ‘his tendency to escape, he being so dangerous/desperate and the finding that no other practical way of forbidding escape is available, the Magistrate may grant permission to handcuff the prisoner.

In all the cases where a person arrested by police, is produced before the Magistrate and remand - judicial or non-judicial - is given by the Magistrate the person concerned shall not be handcuffed unless special orders in that respect are obtained from the Magistrate at the time of the grant of the remand.

When the police arrests a person in execution of a warrant of arrest obtained from a Magistrate, the person so arrested shall not be handcuffed unless the police has also obtained orders from the Magistrate for the handcuffing of the person to be so arrested.

Where a person is arrested by the police without warrant the police officer concerned may if he is satisfied, on the basis of the guide-lines given by us in para above, that it is necessary to handcuff such a person, he may do so till the time he is taken to the police station and thereafter his production before the Magistrate. Further use of fetters thereafter can only be under the orders of the Magistrate as already indicated by us.

We direct all ranks of police and the prison authorities to meticulously obey the above mentioned directions. Any violation of any of the directions issued by us by any rank of police in the country or member of the jail establishment shall be summarily punishable under the Contempt of Courts Act apart from other penal consequences under law.”

Prison administration is also supposed to take care of each of its inmates. Since a prison inmate is said to be in care and custody of prison authority. Legally care and custody implies obligation to take care of safety and security concern of the person who is in such custody. Hence prison authorities are duty bound to ensure such protection. Prison authorities are also legally restrained from subjecting prison inmates to any kind of cruelty or torture.⁶⁵

Thus prison administrative strategies should be devoid of measures that may lead to custodial torture. “A prison system may make rational distinctions in making assignments to inmates of vocational, educational and work opportunities available but it is constitutionally impermissible to do so without a functional classification system. Courts cannot be critical of the administration if it makes a classification between dangerous prisoners and ordinary prisoners. A distinction between the under trials and convicts is reasonable. In fact lazy relaxation on security is a professional risk inside a prison.”⁶⁶

• ⁶⁵See also - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁶⁶Charles Sobraj v. The Suptd., Central Jail, Tihar, 1978 AIR 1514

While administering prison it is essential to create and provide such opportunities that better reforms a prison at the same time also reasonably classifying the inmates for this purpose on the basis of necessity and practicality. It is also important to ensure that prison has an atmosphere catering to the need of reforming and rehabilitating prison inmates. Thus is also to need to ensure that a prison inmate gets facilities that lead to his enjoyment of right to education, liberty, freedom, etc. laws also insists for measures such as Parole, furlough⁶⁷, remission, etc. through which the curtailment of rights of prisoners are limited. These also resolves the issues of long period of detention of prisoners, overcrowding of prisons, etc. Many State Governments have formulated guidelines on parole in order to bring out objectivity in the decision making and to decide as to whether parole needs to be granted in a particular case or not and such a decision in those cases is taken in accordance with the guidelines framed.⁶⁸

While explaining the importance of these options of pre-term or temporary release from custody, the Supreme Court in *Asfaq v. The State Of Rajasthan*⁶⁹ observed that: “A convict, literally speaking, must remain in jail for the period of sentence or for rest of his life in case he is a life convict. It is in this context that his release from jail for a short period has to be considered as an opportunity afforded to him not only to solve his personal and family problems but also to maintain his links with society. Convicts too must breathe fresh air for at least some time provided they maintain good conduct consistently during incarceration and show a tendency to reform themselves and

⁶⁷Furlough means ‘a brief release from the prison. It is conditional and is given in case of long term imprisonment. The period of sentence spent on furlough by the prisoners need not be undergone by him as is done in the case of parole. Furlough is granted as a good conduct remission’. See: *Asfaq v. The State of Rajasthan*, (2017) 15 SCC 55.

⁶⁸*Asfaq v. The State of Rajasthan*, (2017) 15 SCC 55

⁶⁹ (2017) 15 SCC 55

become good citizens. Thus, redemption and rehabilitation of such prisoners for good of societies must receive due weightage while they are undergoing sentence of imprisonment.”

THE UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS:

This Standard was adopted in 1955 by the United Nations First Congress on the Prevention of Crime and the Treatment of Offenders. The standard prescribes ‘good principle and practice in the treatment of prisoners and the management of institutions.’⁷⁰ with regard to the need of balancing the need of disciplining the prison inmates and punishing them as prescribe by courts as well as ensuring on the other hand that their rights are not unnecessarily compromised, the Standard states as follows:

“Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

(1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.”

⁷⁰See:

“The following shall always be determined by the law or by the regulation of the competent administrative authority:

- (a) Conduct constituting a disciplinary offence;
- (b) The types and duration of punishment which may be inflicted;
- (c) The authority competent to impose such punishment.

It further states:

“(1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.”

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

(3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.”

Additionally, the Standard states “Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.”

The standard provides that

“(1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.”

*With regard to the Instruments of restraint, the standard states as follows:
“Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:*

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

(b) On medical grounds by direction of the medical officer;

(c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.”

The standard also says that “The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.”

In addition to the above mentioned standards, medical personnel in prison have been obliged to “ensure the maintenance of minimum standards of hygienic conditions in the prison premises”. Ministry of Home Affairs’s Model Prison Manual of 2016 has also laid down guidelines relating to [chapter VII] management of prison hospitals.⁷¹

According to the UN’s Manual on Human Rights Training for Prison Officials:⁷² prison administration’s duty to protect human rights of prison inmates is summarized as follows:

“All law enforcement officials, including prison staff, shall respect and protect human dignity and maintain and uphold the human rights of all persons.

The administration of the prison system should be in civilian hands. It should not be part of a military structure. Personnel shall be carefully selected for their integrity, humanity, professional capacity and personal suitability.

The prison administration should be diligent in informing the personnel and the public that prison work is a social service of great importance.

Personnel shall be appointed as full-time prison officers, with civilian status, salaries adequate to attract and retain suitable men

⁷¹ See: Chapter VII of the Model Prison Manual, Ministry of Home Affairs, 2016, available at <https://www.mha.gov.in/sites/default/files/PrisonManual2016.pdf>

⁷² See: <https://www.ohchr.org/documents/publications/training11en.pdf>

and women, and favourable employment benefits and conditions of service.

Both law enforcement agencies and prison authorities shall not discriminate against women in recruitment, hiring, training, assignment, promotion, salary and other career and administrative matters.

Both law enforcement agencies and prison authorities shall recruit sufficient numbers of women to ensure fair community representation and the protection of the rights of women prisoners.

Personnel shall have an adequate standard of education and intelligence and shall be trained before entering on duty and while they are in service. Personnel shall conduct themselves in a manner which commands the respect of prisoners.

Personnel shall include, as far as possible, sufficient numbers of specialists such as psychiatrists and psychologists, as well as social workers, teachers and trade instructors.

The director of an institution should be adequately qualified for his or her task, appointed on a full-time basis and resident on the premises or in the immediate vicinity.

The director, his or her deputy and the majority of the other personnel shall be able to speak the language of the majority of the prisoners.

There shall be adequate medical personnel resident close to the institution. In an institution for both men and women, the part of the

institution set aside for women should be under the authority of a responsible woman officer and women prisoners shall be attended and supervised only by women officers Prison officers shall not use force, except in self-defence or in cases of attempted escape or active or passive physical resistance to an order based on law or regulations.

Officers who have recourse to force must use only minimum force and must report the incident immediately to the prison director.

Staff in direct contact with prisoners should not usually be armed. Law enforcement officials shall respect the confidentiality of information in their possession unless the performance of their duty or the needs of justice strictly require otherwise.

Law enforcement officials shall ensure the full protection of the health of persons in their custody.

Firearms shall not be used against persons in custody or detention except in the following circumstances:

84. In self-defence or defence of others against imminent threat of death or serious injury;’’

85. When strictly necessary to prevent the escape of a person presenting a grave threat to life.

Intentional lethal use of force or firearms shall be permitted only when strictly unavoidable in order to protect human life.’’⁷³

⁷³Ibid.

RIGHTS OF PRISONERS AND GRIEVANCE REDRESSAL MECHANISM IN PRISONS:

Effective administration of prisons requires strong grievance redressal mechanism within prison through which grievances of prisoners related to violation of their rights and other such concerns are redressed. According to Mulla Committee, prisoners' right includes right to effective presentation of individual complaints and grievances during confinement in prison to the appropriate authorities. Hence a robust grievance redressal mechanism should be put in place in all prisons to ensure the rights of prisoners are not violated and their concerns are heard impartially and there should be both internal and external mechanisms for inmates to represent their grievances.⁷⁴

The Mulla Committee also recognized prisoners right to “communicate with prison administration, appropriate government and judicial authorities, as the case may be, for redressed of violation of any or all of prisoner's rights and for redressed of grievances” as an important right.⁷⁵

According to the National Prison Manual⁷⁶:

86.the District Judge should visit every prison in his/her jurisdiction at least once a month and give prisoners the opportunity to represent their grievances in the absence of prison officials. The Board of Visitors should also be activated to ensure regular visits to prisons. The non-official members of the Board including members of the Legislative Assembly, nominee of the State Human Rights Commission and social workers of the District/Sub-Division should be encouraged to visit the prison at least once a month. Most importantly in order

⁷⁴ <https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled.pdf>

⁷⁵ Quoted in <https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled.pdf>

⁷⁶ <https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled.pdf>

to redress the grievances of women prisoners it is necessary that the Board of Visitors must contain a certain percentage of women members to improve the redressal of grievances specific to women inmates.

87. The National Model Prison Manual prescribes the creation of a Prisoners' Panchayat to organise events and activities for prisoners as well as provide an avenue to represent concerns and seek redress of grievances. A 'Mahapanchayat' should be held at least once a quarter with the Superintendent in attendance for the redressal of prisoners' grievances and implementation of their suggestions. The practice of fortnightly or weekly 'Nari Bandhi Sabhas' (women prisoners' councils) should also be encouraged.
88. The Prisons Manual also provides for the setting up of a Grievance Redressal System in every prison, with complaint boxes to be prominently installed, especially accessible to female prisoners. A Grievance Redressal Committee is to examine the complaints twice every week.⁷⁷
89. An additional complaint box should also be in place for serious complaints such as sexual abuse, torture etc. which only Board of Visitors can open. A register can be placed at an accessible spot in the prison for submitting grievances. Apart from the prisoner herself, her legal adviser or family members should be allowed to make complaints regarding her stay in prison. In case the lady medical officer notices signs of torture during medical examination, she may, with the consent of the woman prisoner, raise a complaint on her behalf.
90. Prisoners should also be able to represent their grievances verbally or in writing during visits by Board of Visitors, DLSA, State Commissions for Women, District Magistrate, etc.

⁷⁷Ibid

91. Prisons that house women inmates must have a senior female officer as part of the Grievance Redressal Committee, which should examine complaints in an unbiased manner. Women prisoners should have a chance to raise their concerns to the Superintendent during weekly parades. In managing the grievance redressal mechanism, steps should be taken to avoid the risk of retaliation, and to ensure that the complaints are not censored.

Since prison administration is a state subject for law making purpose, States have adopted their own strategies to protect rights of prisoners by way of establishing grievance redressal mechanism.

STATE OF KERALA:

Kerala Prisons & Correctional Services (Management) Act 2010 stipulates that each jails shall constitute a grievance redressal committee and it shall be convened once in three months giving prior intimation to the inmates. Such committee shall receive complaints or representation from the prisoners in order to redress their grievances.⁷⁸ The grievances and complaints are being looked into by the concerned Superintendent and Prison Officers at different levels. The sealed Complaint boxes of the DGP & CS and concerned District and Sessions Judges have been installed in all prisons which are opened once in a month by the Director General of Prisons & Correctional Services and District and Sessions Judges respectively. The prisoners are free to send representations and complaints to National Human Rights Commission, State Human Rights Commission, Govt. Departments, Courts etc. through the Superintendent of Prisons. More over the General Public can meet the concerned Prison Superintendents, Zonal Deputy Inspector Generals of Prisons and DGP&CS in

⁷⁸ <https://keralaprison.gov.in/grievance-redressal-system.html>

connection with any of their grievances for redressal. The phone numbers of Director General of Prisons & Correctional Services and other senior officers are exhibited in the website of Prisons Department and the public and close relatives of inmates are free to call in emergency situations to invite attention to any grievances for urgent redressal.⁷⁹

CONCLUSION

The focus of prison administration is not just in ensuring a safer detention atmosphere but extends also to ensuring an atmosphere where prison inmate's human rights are guaranteed. This also requires adoption of 'reformatory' approach within administrative strategies. The Gujarat High Court in **Aniruddhsinh Mahipat Singh Jadeja v. State of Gujarat and Ors.**⁸⁰ had rightly observed: *"Reformation, not vindictive suffering, should be the purpose of the penal treatment of prisoners. The prisoner should be made to realize that his destiny is in his own hands:*

- *Prison discipline should be such as to gain the will of the prisoner and conserve his self-respect;*
- *The aim of the prison should be to make industrious free men rather than orderly and abetment prisoners."*

While addressing the questions that arises in relation to the issue of protection of prisoners' rights in prison, the court in a case has rightly remarked: "What are the governing principles, decisionally set down by this court in *Batra and Sobhraj*? Has the court jurisdiction to decide prisoners' charges of violation of rights? If it has, can it meddle with the prison administration and its problems of security and discipline from

⁷⁹Ibid.

⁸⁰(2002) 1 GLR 594

an 'innocent' distance? Put tersely, both the 'hands off. doctrine and the 'take over' theory have been rebuffed as untenable extremes and a middle ground has been found of intervening when constitutional rights or statutory prescriptions are transgressed to the injury of the prisoner and declining where lesser matters of institutional order and man management, though irksome to some, are alone involved.”⁸¹

This manual has already listed and described the rights a prisoner will have as per International and Indian laws, including human rights and constitutionally guaranteed fundamental rights. It is hence essential to ensure that the prison is administered in a manner in which such rights are given due importance and recognition in all its administrative strategies.

** ** *

⁸¹Charles Sobraj v. The Suptd., Central Jail, Tihar, 1978 AIR 1514

References

Reference Material

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- Model Prison Manual, 2016, Ministry of Home Affairs,
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- Justice J.S. Verma, the then chairperson, NHRC, <https://nhrc.nic.in/press-release/nhrc%E2%80%99s-initiatives-prison-reforms>
- Prof. Deepti Shrivastava's study,
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- <https://cdn.penalreform.org/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf>
- <https://timesofindia.indiatimes.com/city/chennai/where-do-prisoners-right-to-speech-and-freedom-of-religion-end/articleshow/73663261.cms>.
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- <https://www.prisoninspectorscotland.gov.uk/>
- <https://www.un.org>
- <https://www.unicef.org>
- <https://www.ohchr.org>

Further Reading:

Training and Learning Resources

- Indian Constitution
- Prisons Act 1894
- Prisoners Act, 1900
- Criminal Identification of Persons Act, 2022
- The Prisoners (Attendance in Courts) Act, 1955.
- The Transfer of Prisoners Act, 1950.
- Indian Penal Code, 1860.
- Criminal Procedure Code
- The Probation of Offenders Act, 1958.
- Protection of Human Rights Act, 1993
- The Mental Health Act, 1987.
- The Representation of People's Act, 1951.
- Model Prison Manual, 2016, BPR&D, New Delhi
- Human Rights And Prisons, A Pocketbook of International Human Rights Standards for Prison Officials, United Nations, New York and Geneva, 2005

- The Staff Handbook, The Code of Conduct and Discipline
- UN Standard Minimum Rules - Mandela Rules 2015
- Judicial precedents
- Committee reports [All India Committee for jail reforms, Mulla Committee, Krishna Iyer Committee, etc.]
- Government guideline

APPENDICES

1. **REGISTRATION FORM**
2. **PRE-COURSE ASSESSMENT**
3. **POST-COURSE ASSESSMENT**
4. **FEEDBACK FORM**
5. **COURSE COORDINATOR'S REPORT**
6. **FIELD-VISIT FORMAT**
7. **NOTE FOR THE FACILITATOR ON PANEL DISCUSSION**
8. **PRISON STATISTICS, 2021 (IN BRIEF)**

APPENDIX- 1

(Name of the Training Institute)
(Name of the Course)
(Dates)

REGISTRATION FORM

PARTICIPANT DETAILS

1. Name :
2. Date of birth :
3. Male/Female
- 4.. Qualifications :
(a) Academic
(b) Professional
5. Designation :

ORGANIZATION DETAILS

6. Department/Organization :
7. Address
8. Telephone No.
9. E-mail id :

RESIDENTIAL DETAILS

10. Address
11. Telephone No.
12. Mobile No.
13. Emergency contact details:

Signature
Name
Date

APPENDIX- 2

PRE-COURSE ASSESSMENT EXERCISE

Answer the following –

S. No.	Name of Unit (As given in the Course Grid)	Pre-Assessment (Knowledge-level before training)		
		Absolutely Yes	Not Sure	No knowledge
1.	Are you aware of.....			
2.	Do you have an understanding of.....			
.....				

APPENDIX- 3

POST-COURSE ASSESSMENT EXERCISE

Answer the following –

S. No.	Name of Unit (As given in the Course Grid)	Post-Assessment (Knowledge-level after-training)		
		Absolutely Yes	Not Sure	No knowledge
_____	_____	_____	_____	_____
1.	Are you aware of.....			
2.	Do you have an understanding of.....			
.....				

APPENDIX- 4

(Name of the Training Institute)
(Title of the Course)
(Dates of the Course)

FEEDBACK FORM

(To be filled-in by individual participants at the end of the Course)

1. To what extent the Objectives of the Course were met

To a great extent 4	To some extent 3	To a limited extent 2	Not at all 1

2. Did you receive advance intimation from the Institution about the Course. if so, did you respond to the Institution?

Yes

No

3. What do you think about the structure and organization of the Course to meet the objectives?

Very well Structured 4	Well Structured 3	Some-what structured 2	Un-structured 1

4. How useful this training would be to you immediately in your job?

Very Useful 4	Quite Useful 3	Of limited Use 2	Not at all Useful 1

5. How useful this training is likely to be for the future jobs you may handle?

Very Useful 4	Quite Useful 3	Of limited use 2	Not at all Useful 1

6. Practical Orientation of the course.

Highly Practical Oriented 4	Practically Oriented to a Great extent 3	Practically Oriented to a Limited extent 2	Not Practically Oriented 1

7. How far have you been benefited from interaction with the other participants in the Course?

Substantially 4	Considerably 3	Fairly 2	Not at all 1

8. How far was the Course Material supplied relevant and related to the Course Contents?

Extremely Relevant 4	Considerably Relevant 3	Fairly Relevant 2	Not at all relevant 1

9. To what extent are you satisfied with the following:
(The Training Institution may please block the parameters not applicable)

Satisfied fully 4	Satisfied to a large extent 3	Satisfied to a limited extent 2	Not satisfied 1

- a) Reception & Transport
- b) Residential Accommodation
- c) Food Quality & Service
- d) Classroom facilities
- e) Library facilities
- f) Computer facilities
- g) Interaction with the staff

of the Institute

10. Feedback on the Training/Faculty:
(Kindly fill up the Annexure)

11. Which parts of the Course did you find most helpful?

12. Which parts of the Course did you find least helpful?

13. Your overall impression of the course:

Excellent 4	Very Good 3	Good 2	Fair 1

14. Did the Course give you any specific ideas about improvements in your working situation when you get back. Yes/No

15. If yes, kindly spell them out briefly?

16. Any other comments/observations you wish to make about the Course

Date:

Place:

Name
Designation
Organisation

APPENDIX- 5

COURSE COORDINATOR'S REPORT on (Name of the Training Course) (Duration)

1. Name of the Training Institution :
2. Whether the Course was conducted :
In the Institute's Campus or elsewhere
3. Title of the Course :
4. Duration of the Course :
5. Number of participants :
(Attach final list of participants)
6. Details of Training Facilitators :
(Name/Designation/Organization)
(In-House/Guest)
7. States/UTs represented :
8. Details of Sessions with working hours :
9. List of Training Material distributed :
10. Details of Methods/Methodology used:
11. Feedback of participants :
(Attach copies of Feedback Forms)
12. Summary of the Feedback :
13. Summary of the Pre/Post Assessments :
14. Any areas of improvement noticed :
15. Overall impression of the Course :
Coordinator

Signature
(Name of the Course Coordinator)
Designation
Date
(Mobile Number/E-mail)

APPENDIX-6

FIELD VISIT REPORT FORMAT

Format of Field Visit Report

Name of the trainee officer :
Batch No. :
Officer in charge of the visit :
Name of the Institute/organization visited :
Time and Date of visit :
Subject for which visit is made :

Signature of the trainee

Signature of the officer in charge of the visit

Structure of the Report

- Introduction about the institute
- Origin and history of the institute
- Primary duties and functions of the institute
- Officer with whom interacted
- Report of the Visit [write summary of learnings from the visit] \
- Any other Comments/ remarks about the visit and the learnings from the visit.

APPENDIX-7

NOTE FOR THE FACILITATOR ON THE PANEL DISCUSSION

Instructions to Course Coordinator

Invite a member from each of the agencies to have a panel discussion

While conducting the panel discussion, faculty should act as a Moderator

The Moderator should introduce the theme and then the panellists. Each panellist can be given around 15 minutes time to speak and discuss the role of their agencies and areas where coordination is required. After all panellists have spoken, the panel should be open for discussion with question from the participants. The key points of each speaker should be summed up by the moderator and the discussion should be concluded by the moderator well within time. The participants should be instructed to ask specific questions to the panellists.

Group Discussion :

Each Participant should be encouraged to participate. Establish Ground Rules first.

Cull out the important points that emerge from the discussion

Action Plan : Group Work Activity

Prison based Rehabilitation programs

Participants should be divided into groups of 5-6 members of all ranks (warder, to Superintendent) and all should brainstorm and discuss what goals to set for prisoner rehabilitation programs in a particular prison. Action Plan should be time bound and can be short term, medium term and long term. Work Sheets, Flip chart sheets and sketch pen should be distributed to all the groups and facilitator should ensure that all contribute their ideas. Each goal should make clear the responsibility-what you can do at your level (e.g. at Deputy Superintendent level), what can be done by others (e.g. at headquarters). Further review of action is essential. Make clear that there is a start and end date to the action, so the Plan is time bound.

PRISON STATISTICS INDIA – 2021

Total Number of Prison Inmates as on 31.12.2021

Male	:	5,31,025
Female	:	22,918
Transgender	:	91
Prison Population	:	5,54,034

Prisoner Types and Demography

Convicts		Undertrials		Detenues		Others	
Male	117846	Male	409346	Male	3381	Male	452
Female	4990	Female	17745	Female	88	Female	95
Transgender	16	Transgender	74	Transgender	01	Transgender	00
Total	122852	Total	427165	Total	3470	Total	547

Number of Jails, Capacity, Population and Occupancy Rate in India at the end of 2021

Type of Jail	Number	Authorized Capacity	Population of Inmates	Occupancy Rate (%)
Central Jail	148	193536	239311	123.7
District Jail	424	163606	254214	155.4
Sub Jail	564	45436	46736	102.9
Special Jail	41	7473	6582	88.1
Open Jail	88	5953	2178	36.6
Women Jail	32	6767	3808	56.3
Borstal School	19	1775	745	42.0
Others	03	1063	460	43.3
Total	1319	425609	554034	130.2

Source : NCRB, MHA (2021) <https://ncrb.gov.in/en/prison-statistics-india-2021>