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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ISSUE AND CHALLENGES OF ABUSE OF PRISONERS RIGHTS IN INDIA: A CRITICAL ANALYSIS

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Abstract

Correctional facilities are a type of social institution that functions as a means of rehabilitation for individuals who have committed crimes or caused harm to the community. Prison facilities are not immune to criminal activities, particularly those of a physical nature. Prisons typically fulfil four primary purposes, namely retribution, incapacitation, deterrence, and rehabilitation. The experience of residing within the dark and humid confines of an Indian correctional facility is one that places significant cognitive and physical strain on individuals. While some individuals make a voluntary decision to engage in a particular activity, others may feel obligated or coerced to participate. The experience of incarceration is inherently challenging, and instances of harassment and mistreatment exacerbate the difficulties faced by prisoners, leading to feelings of despair and vulnerability.

The correctional facilities in India are widely known for their inadequate living conditions. The employment of physical violence and torment as a means of extracting information or eliciting confessions is a common practise. Furthermore, the present study centres on distinct domains of inmate conflict and inmate rights, namely privatization, correction, prison function, administration, socialization, and subculture. The concluding chapter of the text analyses the prospects of correctional facilities and their associated concerns, including but not limited to, the problem of overpopulation, the intersection of race and violence within prisons, the rights of incarcerated individuals, the prison industry, and additional correctional programming.

1. Introduction

“हर संत का एक अतीत होता है और हर पापी का भविष्य होता है।”¹-ऑस्कर वाइल्ड

“Every saint has a past and every sinner has a future.”² –Oscar Wilde

The rights of the prisoner seemed to be unimportant when punishment was the primary justification for incarceration. They seldom ever returned to society since it was thought that prisoners lacked basic rights and that neither they nor their loved ones wanted to fight to defend such rights. However, the total restriction of rights became unacceptable when penology shifted its emphasis to rehabilitation and reintegration. The importance of the human rights that prisoners are entitled to in addition to being deprived of their freedom is made plain by the national, international, and regional human rights treaties. The real challenge today is not so much determining what rights prisoners have as it is determining what obligations the government has to uphold those rights because prisoners are frequently put in situations where they are defenceless against assaults, attacks, or other crimes that are frequently much worse than the crimes for which they were found guilty. This argues that in order for criminals to really use their rights, the state must deliberately provide the appropriate conditions. On the other hand, when someone's right to freedom is protected as a human right, it usually just requires the government to keep its word. Prison managers must not only follow the rules that prohibit torturing inmates but also provide convicts with certain living circumstances so they may exercise their other rights. In a General Comment on Humane Treatment of Persons Deprived of Liberty, the Human Rights Committee emphasises that States have a responsibility to protect people who are especially vulnerable as a result of their status as PDLs. This duty entails ensuring that inmates get humane treatment and that their inherent dignity is upheld. A fundamental, widely accepted goal is to treat everyone who is denied their freedom with compassion and respect for their dignity. Because of this, not even the State party's substantial resources can create the structure required to meet this condition.³

i) Statement of Problem

1. Due to trial delays, under trial prisoners (UTP) are detained behind bars for a lengthier period of time as they wait to learn the result of their case. When a case is on remand, delays are most often caused by the failure to present UTP in court.
2. Inmates do not have access to the same degree of medical expertise as those who live in the

¹ <https://www.zindagiwow.com/2019/06/10/oscar-wilde-quotes-in-hindi/>

² *ibid*

³Kumar, Manoj, Human Rights: Some Concerns in India, 99 (An Kumar, Manoj, Human Rights: Some Concerns in India, 99 (Anmol Publication, New Delhi 3rd edn 2017) Anmole Publication, New Delhi 3rd edn 2017)

community. Additionally, they experience mistreatment within the prison, limited food, worn-out clothing, and torture. They are unable to see their favourite doctor, seek second opinions, or consult several specialists because of their confinement.

3. Because there is no communication with the outside world, the fourth problem is that even the inmate's closest relatives are unaware of what is going on. This makes the pain worse.

4. While attempting to be sympathetic and understanding of the prisoners, it is important to interpret their constitutional rights in a way that does not jeopardize the wider public interest.

5. The second concern is that keeping up a relationship while behind bars leads to emotional issues.

6. The sixth concern is Indian prisoners' ability to continue their studies and get a degree while serving time

ii) Research Methodology

The study employs historical, comparative, statistical, and analytical hypothesis methodologies and is based on primary and secondary sources.

iii) Objectives of the study

The object of this research is to analysis of incorporating the rights guaranteed to ordinary citizens under the constitution which are extended to the prisoners, in the exciting relevant statutes, laws, rules, and regulations regarding the management of prisons and treatment and supervision of prisoners.

2. The Existence and Persistence of Prisoner Abuse

We examine a handful of the most shocking, most recent cases of inmate mistreatment that have occurred in jails around the country in the pages that follow. They emphasise the need of researching the social psychological dynamics and processes that negatively and problematically "distort and re-channel" correctional officers' conduct while they are on duty. Amazingly, there is surprisingly few state or federal agencies that deal with these concerns and no reliable statistics are kept on the prevalence of prisoner mistreatment despite calls for government monitoring and in-depth examinations of prisoner torture. According to Chaplain Sister Antonia Maguire, the worst case prison culture views inmates as "animals, without souls, who deserve whatever they get." Steve Martin, a former employee of the Texas Department of Corrections who is now an attorney, offered an alternative viewpoint on these problems. Martin is regarded as one of the top

authorities in the nation when it comes to a specific type of inmate abuse known as the unjustified or excessive use of force. Martin bemoaned the appalling ignorance on the use of force in American jails. Even fewer municipal or state attempts to restrict people "use a standardised and comprehensive data collection system to evaluate use of force patterns or practise," according to the report. According to reports, people in charge of the prison system were aware of these and comparable allegations for a number of years, but "a broad effort by corrections officials to hide the concerns of prisoners and of the department's own experts" who had also looked into and validated the accusations. As soon as the reporting was made, the Office of the Inspector General (OIG), the state's independent government watchdog organization, started its own investigation. The findings of this inquiry were corroborated by an analysis published in 2015 (Office of the Inspector General, 2015). The OIG described how a "gang" of guards operated within a larger "culture of indifference to inmates," where guards regularly participated in or tolerated actions like destroying inmates' appeals, using "profane and derogatory language" toward them, exhibiting "little regard for vulnerable inmates," "tacit acquiescence of custody staff" to prisoner-administered "abuse and punishment," and extorting money from them.⁴

3. Prison Abuse and Human Rights of Prisoners

Though the concept of "Human Right" is not very old, the word itself is. Certain liberties and rights that come with being a human and are founded on honouring the worth and dignity of every individual are inherent to being a human. They are neither gifts nor favours that are given to individuals at the whim of a ruler or a government. Therefore, no oppressive power may take them away. All of these international instruments oblige the Government and its institutions to manage its people in conformity with the standards and ideals of the international frameworks. It suggests that everyone must abide by these guidelines. Nobody is allowed to restrict people's rights in any other manner than in compliance with the guidelines provided by these international accords.⁵

4. Constitutional Protection to the Prison Inmates: Human Rights Approach

Human rights belong to everyone, and understanding those calls for a certain way of living. In order to further development, economic and social success, inclusive growth, as well as national

⁴ Kumar, Naresh, *Constitutional Rights of Prisoners: A Study of Judicial Trends*, 100(LexisNexis, publication Gurgaon 5th edn 2017)

⁵ Lakkaraju, *Women Prisoners in Custody*65(Mc graw Hill publication Noida 2nd 2001)

and international peace and security, human rights are a must. No nation can consider itself to be growing without emphasising these rights since only these rights can make citizens aware of their obligations to the nation. All persons have certain rights since they are human and thus share certain characteristics. For the moral and material advancement of humanity, these rights are inalienable and cannot ever be taken away from anybody at any time in their life. Every legislation seeks to in some way advance and safeguard human rights.⁶

Justice Dwivedi and Justice Chandrachud correctly said in the case of *Kesavananda Bharti v. State of Kerala* that "Constitutional provisions should be interpreted in such a manner and such that the ordinary people may comprehend and appreciate it. They come to love and enjoy it even more as they get a greater understanding of it. The right to a speedy trial, appropriate medical care, privacy, free legal services for the poor, the right to good health, the right to a clean environment and clean water, the right to payment of wages, the right to a fair trial, the right to an early release, compensation for unjustified detention, and other rights are guaranteed by a number of constitutional provisions. This wording may be found in Articles 14, 19, and 21. Article 21 of the Indian Constitution also guarantees the right to life and personal liberty, which includes the right to respect for one's self-respect, independence, and privacy. Thus, engaging in sexual activity without the other person's consent violates their human rights and is seen as harassment, exploitation, humiliation, and cruel and inhumane treatment. With reference to the conclusions of several Committees and Commissions, a number of incidents have been described, including inadequate food and water, physical and sexual abuse, crimes committed in jails, systemic corruption, and instances of death concealment. These instances show how the rights guaranteed by the Constitution have been disregarded. A clear violation of the prisoner's human rights would be the preparation of a fraudulent medical report by jail employees at the commanding jail medical officer's order, which often happens in Indian jails.⁷

5. Fundamental Rights and Constitution of India

Due to a few very good reasons, the Fundamental Rights were mostly required to be included in the Constitution. To begin with, the Congress, the country's main political party, has long battled British Rule by advocating for these rights. When India was ruled by the British, major human rights violations occurred. Because many of the individuals who worked on drafting the Constitution had spent a significant amount of time in jail under the British Regime, they had a

⁶ Malik, *Law and Social Transformation* 100 (JBA Publishers, Karol Bagh 2nd edn 2006)
⁷ Ibid

highly positive opinion of these rights. Since Indian society was split into several religious, cultural, and linguistic groups, it was crucial to establish fundamental rights in order to provide the populace a sense of security and confidence.⁸ The need of giving people specific rights to utilize against an occasionally arbitrary government was then recognized. Even when democracy was being created in India, there remained a chance that the majority in the legislature may approve laws that were oppressive to individuals or minority groups. A Bill of Rights might be adopted in order to lessen this danger. At the founding assembly, the need for basic rights was so widely understood that the question of whether or not to include them in the Constitution was never even brought up. The fight has truly always been against the constraints imposed on them, and the ultimate objective has always been to have the Fundamental Rights enforced as widely and comprehensively as is humanly possible.

6. National Perspective with Reference to Women Prisoners

From a national perspective, the rights that are particularly protected by Indian jail legislation have been examined, along with the duties that other criminal justice system authorities and prison staff members have in regard to those rights.

i) The Prisons Act, 1894

A crucial piece of legislation that governs prisons almost everywhere in India is the Prison Act of 1894.⁹ This act defines the duties of prison authorities, including medical officers, admission, removal, and release of convicts, as well as worries for their health and employment while detained. The rules that follow specifically address how to protect female inmates from abuse and torture.

ii) Indian Penal Code, 1860

Violence in prisons is terrible in any society. Even more troubling is the fact that it is being committed by people who are supposed to be the citizens' protectors. It is strange and amazing that crimes against persons in detention are usually committed behind the four walls of a police station or jail, leaving the victim absolutely helpless.

The European Court of Human Rights acknowledged the following in a case between a prisoner

⁸ Mambeim, Herman, *Comparative Criminology*, 88(Routledge Publication, London 2nd edn 1995)

⁹Ibid

and a government representative in 1997: Rape of a prisoner by a state official must be regarded as an extremely heinous and repulsive form of ill-treatment given the ease with which the offender may take advantage of the victim's weakness and decreased resistance. Like other forms of physical and psychological abuse, rape also leaves its victims with long lasting psychological scars that take longer to heal. Custodial rape is among the worst crimes that law enforcement personnel perpetrate against women. Sections 376-B, 376-C, and 376-D were added to the Indian Penal Code, 1860 by the Criminal (Amendment) Act of 1983 to protect women against involuntary sexual assault that does not constitute rape. The society as a whole has been impacted by this form of sexual attack by the guardian of the law on the helpless lady. Out of these three sections (376-B, 376-C, and 376-D), Section 376-C is relevant to the on-going inquiry. According to Section 376-C of the Indian Penal Code, 1860, "Whoever, being the superintendent or manager of a jail, remand home, or other place of custody established by or under any law for the time being in force, or of a women's or children's institution, taken advantage of his official position and induces or seduces any female inmate of such sexual intercourse not amounting to offence of rape, shall be punished with imprisonment.¹⁰

iii) The Criminal Procedure Code, 1973

The high court has the authority to stay the execution of a woman who has been given a death sentence and is discovered to be pregnant at the time of execution, in accordance with Section-416 of the Cr. P.C., 1973.

7. Judicial Approach regarding the Rights of Prisoners

According to Article 141 of the Constitution,¹¹ which states that the Supreme Court's legal pronouncements are obligatory on all courts sitting within the borders of India, the state is bound by the rights recognized by the judiciary. One of the most significant articles of the Indian Constitution, Article 14, which disembodies the equality principle, is often carried out through the courts. The idea of fair categorization as stated in Article 14 and the tenet that "like should be treated like" have been very helpful instructions for the courts in establishing the category of convicts and their justification for classifying in distinct categories. According to Article 19 of the Constitution, Indian people are entitled to six rights. Due to their nature and their state of captivity, prisoners are unable to exercise a vast number of these freedoms, including "freedom of

¹⁰ Memon, Ganestic C, Genesis and Role of NGO in Protecting Human Rights, 96 (Central Law Publication, Uttar Pradesh 4th edn 2012)

¹¹ Ibid

movement, freedom to reside and to settle," and "freedom of profession, occupation, trade, or business." However, a prisoner may continue to exercise other freedoms while in custody that are unrelated to their incarceration or term, such as "freedom of speech and expression," "freedom to join an association," etc. However, they will be constrained by jail regulations. Regarding prisoner rights, Article 21 of the Constitution has been a prominent cause of debate. It represents the idea of liberty. The Indian Supreme Court has used this Article to defend some significant prisoner rights. In the ManekaGandhi case, this article has been used to counteract executive arbitrary behavior, particularly that of the jail officials.

The Indian Supreme Court was crucial to achieving the founding fathers' aspirations. The preservation of the people's most prized freedoms was made possible by the Supreme Court's support for human rights.¹² The highest court not only recognized inmates as human beings and on occasion upheld their basic rights in rulings, but it also actively pushed for prison reform by ordering the government to provide suitable conditions for convicts. Adopting this tendency may be motivated by the knowledge that criminals are, first, created, not born, and that they are curable human beings rather than irredeemably brutish brutes. Second, because crime is a disease and the majority of criminals are psychiatric patients, these anti-social diseases must be treated by medical and legal means in prisons or other institutions with a philosophy intended to awaken rather than extinguish the repressed social being behind bars. The crucial constitutional safeguards for human rights in sentencing, together with the indisputable value of therapeutic pragmatism and medical humanism above traditional legal torture, make up the new evidence in criminology. The third defence claims that court sanctions should be motivated by the philosophy of change rather than retribution; however studies have shown that this is ineffectual. For the reasons listed above, the Supreme Court firmly decided that "Convicts are not, by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess." After being found guilty, a person may be legally sentenced to a life in jail, which instantly leads in the loss of fundamental rights like the freedom to travel about India as one pleases or the ability to pursue a career. A professional guy would thus be unable to provide counsel to clients while they were incarcerated. The freedom to possess, acquire, and dispose of property is one right that is protected by the constitution and whose exercise is not restricted by imprisonment. The priceless right that even a criminal defendant is entitled to is also protected by Article 21 of the Constitution, which states that no one may be deprived of their life or their personal freedom other than in accordance with a valid process.

¹²Nath, Birenda, *Judicial Administration in Ancient India*, 52 (Authors Press, Delhi, 1st edn 2002)

8. Prisoners' Right against Solitary Confinement

A person loses all communication with the outside world while they are incarcerated. In *Sunil Batra v. Delhi Abuse*,¹³ the Supreme Court was asked whether keeping him in a separate, solitary cell may further isolate him from his fellow inmates. It was contended that solitary confinement violated many Indian constitutional provisions, including Article 21. The Supreme Court noted that holding prisoners in such solitary confinement within the jail's walls would violate their constitutional rights to "personal liberty" and "privacy" under Article 21.

9. Measures to be taken regarding Prisoners' Rights

The trouble in administering maltreatments in police limit and in the impediment workplaces is exacerbated by the decentralization of expert in India. An interest to address these maltreatments at the focal government level wouldn't do what ought to be done. The straightening out plans of the different states would need to choose to end torment by the police and to end the abuse of lower class Indians who make up a monstrous piece of the jail individuals, and sponsorship those choices.¹⁴

Assuming that such ways are to be found, it should be through assessment between specialists of the Indian standard doorways improvement and untouchables worried about focal entries in India. We express our energy to partake in such an appraisal. In unambiguous regards, the issues in the control working conditions, like their get-together framework, have the stores of being all commonly powerless to change. One explanation is that the jail individuals are on an extremely fundamental level nothing. Again we see that it isn't just India's positively low terrible direct rate that records for the low speed of objective; it is other than the replacement of graph discipline by the police for prerequisite. Considering everything, with a bit of jail individuals, the expense of making changes ought not to be restrictive. This is of clear significance in a country that isn't raised. The 24-hour rule should be executed; free ensured help should be given to diverted disputants at pre-starter structures, including bail hearings and remand hearings; judges should utilize arraignments to sort out the states of being of prisoners ; the assumption ought to be that prisoners ought to then be completely finished bail or on secret recognizance expecting the conditions show they can be sensibly depended upon to seem to stand key; bail ought not be utilized as a reformatory help against out for the count people; and those prisoners who don't post

¹³ AIR 1579, 1980 SCR (2) 557

¹⁴ Nirmal, C.J Human Rights in India, Historical, Social and Political Perspective, 89(Oxford University Press, London,2nd edn.,2007)

bail, or who are not conveyed pushing toward establishment pondering a sensible legitimization for moving past that they could escape, ought to be remanded to pre-certifiable control working circumstances under the district of the courts, not the police.

Under starters who are not brought to head in something like a half year to a year (reliant upon the realness of the supposed offense) ought to be liberated except for in case suspensions are a short consequence of the endeavors of respondents and their affirmed lace. Thusly, basic police or different experts who misuse prisoners ought to be unsteadily charged; and that free master ought to work with after death evaluations that are made open the families and avowed accomplices of people who to crash and burn furiously angrily in guardianship. The advancements we propose as for police restraint will require more key updates than those we call for concerning the recuperating work environments. Notwithstanding changes are beating. Police containment in India is a shame. Notwithstanding India's a ton of spread out showing of be the world's most fundamental bigger part leads government, the prepared torment of prisoners by the police is more horrible than we have experienced in a huge store of the world's most crazy unfeeling systems.

10. Human Right Women Prisoners and Abusive Factors Affecting Them

The social structures of the institution, which are impacted by both popular culture and the particular prison subculture, have a range of effects on institutional sexuality. The experience of jail only makes these issues more complicated since there are several environmental, biological, psychological, and social factors that have an effect on sexuality in society. ¹⁵Investigations into the realm of sexuality within the walls of women's prisons have turned up evidence of masturbation, consenting sex, restricted sex, and other sexual practices. For classifying the range of sexual direct seen in female treatment settings, there is presently no comprehensive paradigm. Sexual violence in women's prisons may be characterized by the large number of offenders who harm others, the three control, consistency, and pressure structures, as well as the comparison behaviours that emerge within the culture of female incarceration. Inmates have the choice to report sexual assaults specifically perpetrated against personnel, other prisoners, and rehabilitation professionals.

¹⁵Padia, Chandrakala,, Women in Dharmasastras: A Phenomenological and Critical Analysis, 89 (A. P. H. Publishing Corporation, Delhi 2nd edn 2003)

11. Need for Reforms in Abuse of Victimization of Women Prisoners

The public's understanding and perception of sexual behavior are significantly influenced by social scientist. The general public, policymakers, social research scientists, and practitioners all lack sexual competency in the area of women's imprisonment. Studies on sex in prison have often been treated with skepticism, discussion, and contempt (Hensley, 2002). This viewpoint asserts that "those who conduct research on prison sex frequently experience marginalization from professional peers and are met with skepticism by both colleagues and the public." Additionally, as men conducted the majority of this research, the findings may just represent a male viewpoint on a typically female criminological topic. Prison sex research may be dismissed as meaningless and limited by methodological restrictions, but new viewpoints and an emphasis on evidence-based science may offer insight on the subject of prison sex reform.

12. Legal aspects of human rights and abuse protecting women prisoners

The international prison system and its obligations to female convicts are structured after the highest standards set out by international law, which also serves as a framework for review. At the First United Nations Congress on the Prevention of Crime and Treatment of Offenders in 1955, the most well-known non-treaty wording on imprisonment within the framework of international law was adopted. The UNSMR (United Nations Standard Minimum Rules for the Treatment of Offenders) is a document that lays out the essential principles that countries must follow in order to uphold their obligations to individuals who are incarcerated. However, the UNSMR focuses solely on the preparations for children to be imprisoned with their mothers, the separation of men and women, and the medical care for expectant prisoners. Between 1988 and 1990, the UN ratified three further prison-related accords.¹⁶

13. The Problems of Prisoners

As was previously said, prisons are having a tough time achieving the goals of the criminal justice system. The following are the main issues that Indian jails are now facing.

¹⁶ Ibid

i) Overcrowding in jail

The issue of overcrowding in Indian jails is not new, and it is related to all the other issues associated with incarceration. Its effects are too severe and blatant to be overlooked, and they hinder efforts to improve prisoner living conditions. However, the phenomena have not been well explained for more than a century. Practically every jail has daily swings in occupancy due to the influx of new detainees and those who are undergoing trials, as well as the release of older prisoners and those who are serving sentences. Estimating the number of prisoners at the end of a year, however, provides a valid indication of the size of the prison population. The proportion of convicts compared to the maximum capacity allowed in each jail is known as the occupancy rate, which is determined by multiplying the inmate population by 100 and dividing it by the total jail capacity. This rate reveals how tightly everything is packed.

For a few of the main nations in 2010, the equivalent incarceration rate (prisoners per 100,000 residents) is as follows. When compared to comparable rates in the United States (743 prisoners), Russia (598 prisoners), South Africa (316 prisoners), Canada (117 prisoners), the United Kingdom (132 prisoners), France (96 prisoners), Japan (58 prisoners), Thailand (328 prisoners), and Australia (133 prisoners),¹⁷ India's incarceration rate of 32 prisoners per 100,000 people is incredibly low. In prison communities in Indian prisons, overcrowding is a problem. This is a result of the current correctional system's uneven population distribution. There are likely many convicts who have already been convicted waiting to go on trial in Indian prisons as a result of a delay in the police investigation, prisoners who are unable to post bail, and witnesses who fail to show up in court on the scheduled hearing dates.

Although there has been some improvement with fast track courts, the issue of pendency has not significantly improved. As long as the existing "adjournments culture" exists, adding extra courts won't provide the desired outcome. By offering alternatives to incarceration for non-violent and civil offenders, the growth of the prison population might be halted. The aforementioned data demonstrates that there is still obvious evidence of overcrowding even if the percentage of occupancy rate has declined since 2005 and is still beyond the jails' exact capacity. That even prison officials acknowledge this is regrettable, but it is the reality. One of the lowest worldwide rates of prisoners per 100,000 people is seen in India. The enormous number of prisoners awaiting trial—rather than the increased rate of imprisonment—is the main cause of jail overcrowding in India. According to a study of the jail population, 69% of all inmates who had been convicted in

¹⁷ Dastidar, R.G, Crime and Women96((Butterworth, New Delhi 4th edn 2000)

the previous five years are now awaiting trial.¹⁸

ii) Deaths in jails

Important questions about possible jail maltreatment are raised when a prisoner dies. The populace sometimes protests such tragedies in the streets. It receives criticism from the press, the Human Rights Commission, and non-governmental organizations (NGOs) that advocate civil rights. The two main kinds of deaths in prisons are Natural Deaths and Unnatural Deaths. Unnatural fatalities include those caused by lethal injection, prisoner murder, fire, self-inflicted gunshot wounds, incompetence on the part of jail staff, etc. One of the most amazing and laudable aspects of these jails is the fact that ambulances are genuinely accessible for use in an emergency. It's important to observe that Karnataka constantly has fewer deaths in imprisonment than other states.

iii) Unsatisfactory living conditions

Living circumstances become difficult as a consequence of overpopulation. Inhumane living circumstances persist in numerous prisons around the nation, despite the fact that many of the prison reforms previously described concentrated on matters like nutrition, clothes, and sanitation. The 10,000 prisoners housed in India's high-security Tihar Central Jail faced serious health risks, including overcrowding, "appalling" sanitary conditions, and a lack of medical staff, according to the 1997 report of a special commission of inquiry that was established after a well-known businessman died there in 1995. One of the most urgent issues resulting from overpopulation in prisons in Karnataka is poor sanitation. Even when not overcrowded, the present jails cannot offer adequate conditions since their structural design does not meet the minimum requirements. However, the prisons have been holding twice as many convicts as they need for years.

No jail may claim that it has the same amount of water available as what is needed for daily usage as stated in the prison handbook. In the jails in Madikeri, Bidar, Gulbarga, Bellary, and Bangalore, 75 inmates are required to use a single restroom on any given day due to inadequate facilities and high levels of overcrowding. The Model Prison Manual recommends one toilet for every seven convicts, yet the majority of newly built prisons only have two toilets available for use by 60 detainees at night. In certain institutions, there are no functional restrooms available outside the barracks throughout the day.¹⁹

¹⁸ Raj, Udai, *Fundamental Rights and Their Enforcement*98(Author's Press, Delhi edn 2002)

¹⁹ Rajawat, Mamta, *Burning Issues of Human Rights*89(Deep & Deep Publications New Delhi, 2011)

14. Poor Spending on health care and welfare

In India, prison professionals consistently spent a standard of Rs. 17725.90 per prisoner in 2009, with funds designated for things like food, clothes, medical costs, education, and other things. Compared to the US, where the average annual working cost per state prisoner in 2001 was \$ 22,650 (the only remaining indicator of reality except the average pay rates of prison employees), this is. The most recent illogical usage in Indian labor conditions is for food. During that year, clinical costs were expended more than was anticipated in West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi, while planned and edifying activities were fairly more expensive in Bihar, Karnataka, and West Bengal. Spending on government assistance projects was found to be somewhat greater in Tamil Nadu, Orissa, and Chhattisgarh. A person's perception of their experience may change if they enter jail unexpectedly.

15. Shortage of staff and poor training

There are 49030 jail employees working undercover working settings in India under diverse circumstances, with over 40000 of them being consumers. The ratio of jail inmates to prison personnel is around 1:7. It suggests that just one prison guard is available for every seven inmates, but in the UK, two guards are available for every three inmates. One of the main supervisor difficulties affecting the state's cover working conditions is the lack of adequate clinical professionals. On the basis of a rare understanding of the needs of more than 12,000 convicts, the public power really spared 83 gifts for the medical staff. This would equate to one clinical staff member for every 144 inmates, but only 42% of the complete scale remained aware of power is finally functioning, leaving various positions open. With the exception of the stable workplaces in Bidar and Shimoga, the majority of the specialists available are in the central improving working circumstances. There is no resident expert at a regional jail, so use your best judgment. All things considered, these sturdy workplaces are built by visiting teams made up of trained professionals and paramedical employees. Since roughly 2000, there have been no specialists assigned to the Raichur Area Prison.

16. Abuse of Prisoners

Another on-going issue is guards physically abusing prisoners. There are no words to describe the pain of those incarcerated. On several times, prison guards have killed inmates by beating them. Even worse, the authorities were able to get forged medical records in order to show that the dead committed suicide, the circumstances within Karnataka's prisons. In New Delhi, India, is where

the Commonwealth Human Rights Initiative is located. The methods used by prison guards to abuse prisoners include brutal assault, solitary confinement, blindfolding them with clothing soaked in glycerine, forcing them to bend for long periods of time, frightening them with bursts of tear gas, forcing them to stand in water for hours, forcing them to remove their moustache or tonsure from their heads, keeping them naked, frightening them with sudden gunshots, depriving them of water, food, or medical facilities, and more. In India, sexual attacks on female inmates are rather typical. While the convicts' hands are shackled behind their backs, the main grounds of Indian Jail are often exploited for torture.

17. Health Problems in Prisons

The likelihood of health issues in jails is increased by overcrowding, unsanitary environment, a lack of mental and physical stimulation, and inadequate medical treatment. Prisons are "excellent venues for infectious disease screening and intervention," according to Kazi and others, given the conditions of poverty and drug addiction. The lack of information on the prevalence of health disorders in prisoners is astonishing and very concerning given the size of the jail population in India. Letter in the Indian Judiciary Community Medicine, Bella and others 2007, 2007, examined 850 inmates at the Central Jail in Hindalga, in the Karnataka province of Belgaum.²⁰

Anemia (54.82%) was shown to be the most prevalent chronic morbidity in these convicts after a year of follow-up, followed by respiratory tract infections (21.75%) and diarrhea (13%) for acute morbidity. HIV and pulmonary TB contributed 2% and 1.5%, respectively, to the total. Diabetes (3.6%), senile cataract (7%), pyoderma (12%), and other morbidities were among the other morbidities. There are very little easily accessible facts about this study, such as the studies carried out or the diagnostic criteria used. A different research found that anemia is the most prevalent physical ailment in jails. The following standards for prisoners' health rights are accepted internationally: In accordance with Article 12 of the International Covenant of Economic, Social, and Cultural Rights, "everyone has a right to the enjoyment of the highest attainable standard of physical and mental health." Prisoners still have access to this basic right and medical treatment that is at least on par with what is offered to the general public.

²⁰Sastry, T.S.N., India and Human Rights: 86(Book well Pub. Delhi edn 2004)

i) TB, HIV and STI's, TUBERCULOSIS (TB):

Prisons have far greater TB reporting rates than the general community does. Inmates across the world are thought to die most often from tuberculosis. In spite of TB, the 1990 UNHRC's Basic Principles for the Treatment of Prisoners. This is stated in Principle 24 of the UNHCR's Body of Principles for the Protection of All Persons in Imprisonment or Detention. Little is known about TB among convicts, despite the fact that it is widespread throughout Asia. Prisoners are at risk for developing TB due to the following factors: They belong to the socioeconomic groups in society that are most economically disadvantaged; they are often young guys; and it is possible that they already had the illness before entering jail. Before and throughout their confinement, poor food and nutrition play a part in this. They could have previously injected drugs and had symptoms of the human immunodeficiency virus. Up to 70% of inmates with TB and HIV infection are found in certain nations. Prisoners may be more susceptible to punishment and sexual assault, which might raise their chance of contracting HIV and speed the disease's development to TB. ²¹

ii) Human immunodeficiency virus /Sexually Transmitted Infection:

Due to the Human Immunodeficiency Virus/AIDS pandemic, prison populations throughout the globe reported egregiously disproportionate proportions of recorded AIDS cases and HIV infections. Prisoners all throughout the globe often died from AIDS while they were behind bars, sometimes without even the most basic medical treatment. Human immunodeficiency virus infection rates among inmates are two to fifteen times higher than those in the general population in places like India,68 Indonesia, and Thailand. This might be as a result of dangerous relationships, whether forced or chosen, with heterosexuals or homosexuals, the use of injectable drugs, interpersonal violence, or customs like tattooing (reported from other nations). It is also widely known that TB and the human immunodeficiency virus may infect people. Human immunodeficiency virus infection and acquired immunodeficiency syndrome are far more common among prisons in India (1.7-6.9%, versus 0.36%) than in the general population. Female inmate prevalence rates have been reported to range from 9.5 to 14.2%. The majority of offenders get infected with the human immunodeficiency virus when they first join the facility. This is a particularly difficult problem to handle since high-risk sexual activity is so common in prisons, and there is a lack of knowledge on how HIV and other STDs spread as well as a lack of resources.²²

²¹ *ibid*

²² Sabhahit, G.N., *Sentencing by Courts in India*, (Dixit Publications, Bangalore, 1st, ed., 1975.)

18. Problems of Women Prisoners

Between 2% and 9% of those incarcerated globally are women, a relatively tiny proportion of the total prison population. In the whole globe, there are just 12 prison systems with a greater rate. Sadly, this shows that the majority of prison regulations are male-centric and disregard the issues and needs of female inmates. Women's health issues are often overlooked in prison rules and procedures since prison systems have historically been mostly designed for men, who account for more than 95% of the inmate population in most nations. Since the majority of jail statistics do not take gender into account, there is little information available on the health of women in prison and the medical treatment that is given to them. Women with mental health issues are jailed in large numbers all around the globe.²³

As well as a major drug or alcohol addiction, they cover a range of mental illnesses. Numerous women experience violence and sexual assault before to, during, or after incarceration. Women's unique healthcare requirements and other difficulties brought on by their parental responsibilities are often disregarded. When they were imprisoned, many of the women in jail had small children for whom they were sometimes the single or primary source of support (United Nations Office on Drugs and Crime, 2009).

Prior to being locked up, a large number of the women in jail endured physical and sexual abuse, alcohol and drug addiction, and poor health treatment (Penal Reform International, 2008). They often also originate from low-income families. Women are more likely than males to enter jail in poor mental health, which is commonly tied to earlier experiences of physical and sexual abuse as well as marital violence, according to the United Nations Office of Drugs and Crime (2009).

²⁴According to statistics, 70% of female criminals doing time in British jails had at least two mental illnesses⁷¹. According to estimates, this group has a 14% incidence of psychotic illness, which is 14–23 times greater than the rate in the overall population. Statistics from the prison services show that in 2005, 597 out of every 1000 women self-harmed. Even while there aren't many women in jail, those that do are more likely to face family rejection because of their poor social position and economic hardship. Women are more likely to serve lengthier jail terms due to their lower levels of education and legal knowledge. According to studies conducted in developed nations, mental illness affects women who are confined at an unacceptably high

²³ Sexena, Rekha, , *Women and Crime in India: A Study in Socio-cultural Dynamics*, 56(Author's Press, Delhi 1st edn 2002)

²⁴ Sharma, P.D.. *Criminal Justice Administration*, 89(Deep & Deep Publications New Delhi, 2011)

frequency. This group's poor health is severely impacted by the harmful impacts of trauma and drug use disorders, which are often brought on by prior victimization.

Self-harm and suicidality are two examples of psychological discomfort that may be linked to mental illness, and both are more common in women than in either the general population or males. By ignoring the underlying trauma and the unique mental health needs of female convicts, the prison experience often exacerbates this disadvantage and psychological suffering. Women are unable to get legal representation and are not equipped to defend themselves.

19. Corruption and Extortion in Prisons

Tainting is all over in confinement working circumstances, especially in low-pay countries, where prison staff get low compensation rates, and control structures are deficient. In various countries, prisoners can participate in their most focal entries as a set out some sensible set out some sensible set out some sensible split the difference for settlements. The titanic fragments that ought to be purchased can solidify getting common necessities, getting to an arranged proficient, to a reliable educator, getting a trade to another cell or establishment, among various others. In low-pay countries, where staff pays are given up or not paid, these may be worked with by well prisoners as a put out some reasonable put down fundamentally a reasonable put down conclusively a reasonable set out some reasonable put down some a reasonable compromise for respects. In unambiguous abuses, debasement may be systemised, containing a chain starting from the least position prison staff and connecting with strikingly gigantic levels. Accepting that defilement is made due, the unselfish and fair abuse of detainment working environments is generally vexed. More grounded prisoners will see the value in better standard conditions and amazing cutoff points, while the possible results of the slight will be cleared.

20. Inadequate Prison Programmers

Despite what the issues of plug up, work supply need and other definitive difficulties, imaginative drives have been endeavored in unambiguous obstacle working circumstances. For instance the Specialty of Living has been doing a Sharp program in Tihar Jail. This affiliation two courses constantly and pursue up surely arranged events dependably. Two courses are yearly made game arrangements for prison staff. Notwithstanding, these are more through chief cases and tests. A Srijan project there is made giving social recuperation. Anyway, tries are fundamental. Different fundamental working circumstances have fit status works out, yet these are just at times old.

Barely any of the control working circumstances have a lot of worked with prison programs giving made standard activities, gifted status, pre-discharge bearing and post-prison taking note.

21. Role of judicial review on rights of Prisoners in India

Every nation's judicial system is required by its constitution to uphold citizens' human rights. The Supreme Court of India and High courts are given the authority to carry out this duty under the terms of the Indian Constitution. When it comes to cases involving the defence of human rights, the Supreme Court of India is arguably one of the most active tribunals. It enjoys a strong reputation for credibility and independence. The idea of the separation of powers, in which the executive, legislature, and judiciary comprise three departments of the government, is the foundation of the independent judicial system. The effectiveness of the court in defending the rule of law and human rights depends on this separation and the resulting independence. Every society must have prisons for those who break the law because it has a judicial system to safeguard its law-abiding citizens. The convicts do not, however, have any rights. Additionally, inmates have rights. The Supreme Court of India has established human rights jurisprudence for the preservation and protection of prisoners' rights to maintain human dignity by interpreting Article 21 of the Constitution. The provisions of Article 14 of the Constitution, which upholds the right to equality and equal treatment under the law, are invoked in the event that this right is violated. Additionally, the Prison Act of 1894 and the Criminal Procedure Code (CRPC) particularly address the issue of inmate mistreatment. Any abuse by police authorities toward a prisoner draws the attention of both the legislative and the judiciary. The Indian judicial system, in especially the Supreme Court, has recently been very watchful against infringement of the convicts' human rights.²⁵

22. Human Rights of Prisoners Abuse Judicial Initiatives

The Supreme Court of India has taken a consistent view that right to legal aid, speedy trial, right to have interview with friend, relative and lawyer, protection to prisoners in jail from degrading, inhuman, and barbarous treatment, right to travel abroad, right to live with human dignity, right to livelihood, etc. though specifically not mentioned are Fundamental Rights under Article 21 of the Constitution. Thus, the Supreme Court of India has considerably widened the scope of Article 21 and has held that its protection will be available for safeguarding the fundamental rights of the prisoners and for effecting prison reforms. The Supreme Court of India in the recent past has been very vigilant against encroachments upon the Human Rights of the prisoners. Article 21 of the

²⁵ ibid

Constitution of India provides that —No person shall be deprived of his life and Personal Liberty except according to procedure established by law. The right to life and Personal Liberty is the back bone of the Human Rights in India. Through its positive approach and Activism, the Indian judiciary has served as an institution for providing effective remedy against the violations of Human Rights.

By giving a liberal and comprehensive meaning to —life and personal liberty, the courts have formulated and have established plethora of rights. The court gave a very narrow and concrete meaning to the Fundamental Rights enshrined in Article 21. In A. K. Gopalan's case, the court had taken the view that each Article dealt with separate rights and there was no relation with each other i.e. they were mutually exclusive. But this view has been held to be wrong in Maneka Gandhi case and held that they are not mutually exclusive but form a single scheme in the Constitution, that they are all parts of an integrated scheme in the Constitution. In the instant case, the court stated that —the ambit of Personal Liberty by Article 21 of the Constitution is wide and comprehensive. It embraces both substantive rights to Personal Liberty and the procedure prescribed for their deprivation and also opined that the procedures prescribed by law must be fair, just and reasonable. In the following cases namely Maneka Gandhi, Sunil Batra, M. H. Hoskot and Hussainara Khatoon, the Supreme Court has taken the view that the provisions of part III should be given widest possible interpretation. It has been held that right to legal aid, speedy trial, right to have interview with friend, relative and lawyer, protection to prisoners in jail from degrading, inhuman, and barbarous treatment, right to travel abroad, right live with human dignity, right to livelihood, etc. though specifically not mentioned are Fundamental Rights under Article 21 of the Constitution.²⁶

i) Right to Speedy Trial

The right to speedy trial has become a universally recognized human right. The main procedure for investigation and trial of an offence with regard to speedy trial is contained in Section-309 of the Code of Criminal Procedure. If such provision is followed in its letter and spirit, then there would be no question of any grievance. But it is not properly implemented in its spirit. Therefore in A. R. Antulay v. R. S. Nayak,²⁷ the Supreme Court has laid down following propositions which will go a long way to protect the Human Rights of the prisoners. In the instant case the Apex Court held that the right to speedy trial flowing from Article 21 of the Constitution is available to accused

²⁶ *ibid*

²⁷ 1988 SCR Supl. (1) 1

at all stages like investigation, inquiry, trial, appeal, revision and retrial. Taking the principle of fairness and reasonableness evolved in Maneka Gandhi cases, the Supreme Court in Hussainara Khatoon vs. Home secretary case held that —Obviously procedure prescribed by law for depriving a person of his liberty cannot be reasonable, fair, or just unless that procedure ensures a speedy trial for determination of the guilty of such person. No procedure which does not ensure a reasonably quick trial can be regarded as reasonable, fair or just and it would fall foul of Article 21. There can be no doubt that speedy trial and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the Fundamental Right to Life and Liberty enshrined in Article 21. Thus, the right to speedy trial is implicit in broad sweep and content of Article 21 of the Constitution.

ii) Rights against Hand Cuffing

In Prem Shankar vs. Delhi Abuse,²⁸ Justice V.R. Krishna Iyer held that hand cuffing is prima facie inhuman and therefore, unreasonable, is over harsh and at the first flush, arbitrary. The Supreme Court found the practice of using handcuffs and fetters on prisoners violating the guarantee of basic human dignity, which is part of the constitutional culture in India and thus not standing the test of Equality before Law (Article 14), Fundamental Freedoms (Article 19) and the Right to Life and Personal Liberty (Article 21). The Supreme Court observed: —To bind a man hand-and-foot“, fetter his limbs with hoops of steel; shuffle him along in the streets, and to stand him for hours in the courts, is to torture him, defile his dignity, vulgarise society, and foul the soul of our constitutional culture. Strongly denouncing handcuffing of prisoners as a matter of routine, the Supreme Court said that to —manacle a man is more than to mortify him, it is to dehumanize him, and therefore to violate his personhood....The rule thus laid down was reiterated in the case of Citizens for Democracy vs. State of Assam &Ors.

iii) Rights against Inhuman Treatment

Human Rights are part and parcel of Human Dignity. The Supreme Court of India in several cases has taken a serious note of the inhuman treatment on prisoners and has issued appropriate directions to the concerned authorities for safeguarding the rights of the prisoners. The Supreme Court read the right against torture into Articles 14 and 19 of the Constitution. The Court observed that —the treatment of a human being which offends human dignity, imposes avoidable torture and reduces the man to the level of a beast would certainly be arbitrary and can be questioned under Article 14.

²⁸ 1980 SCR (3) 855

iv) Rights against Solitary Confinement and Bar Fetters

The Supreme Court has also reacted strongly against putting bar fetters to the prisoners. The court observed that continuously keeping a prisoner in fetters day and night reduced the prisoner from human being to an animal and such treatment was so cruel and unusual that the use of bar fetters was against the spirit of the Constitution of India. The courts in India have consistently taken the view that imposition of solitary confinement is highly degrading and dehumanizing effect on the prisoners. It can be imposed only in exceptional cases where the convict was of such a dangerous character that he must be segregated from the other prisoners. The Supreme Court in Sunil Batra considered the validity of solitary confinement. The Supreme Court has also reacted strongly against putting bar fetters to the prisoners.

The Court observed that continuously keeping a prisoner in fetters day and night reduced the prisoner from human being to an animal and such treatment was so cruel and unusual that the use of bar fetters was against the spirit of the Constitution of India. The Supreme Court in Sunil Batra diluted the rigour of solitary confinement and bar fetters to a considerable extent by specifying the procedural norms to be followed when resorting to sections 30 (2) and 56 of the Prisons Act, 1894.

v) Right to have Interview with Friends, Relatives and Lawyers

The potential of the human rights movement is expanding. Prisoners' rights have been respected in order to keep them safe from harm—both physical and mental—and to stop it. Article 21's distinctness and existence clauses do not just apply to animal life. More than only preserving one's physical life is involved.

The right to question one's family and friends is one of the most significant parts of the Personal Liberty protected by Article 21. According to Article 22(1) of the Constitution, no one should be refused the chance to speak with and be represented by counsel of their choosing after being detained. Additionally, this legal privilege is provided for by Section 304 of the Code of Criminal Procedure. The Directive Principles of State Policy, which are a part of Article 39 A of the Constitution, and sub-section 1 of Section 304 of the Code of Criminal Procedure, were added by the 42nd Amendment Act of 1976 to reinforce the right to counsel guaranteed by Article 22 (1) of the Constitution.

23. Conclusion and suggestions

In order to solve the numerous issues the Indian prison system is now facing, reforming prisons and the criminal justice system is essential. Each of these issues must be rectified before moving forward. Crimes need to be committed, looked into, suspects need to be put in jail, cases need to be tried, and punishments need to be given. The choices made by the criminal justice system have a big impact on how many people end up in jail or prison, which has a direct impact on how prisons are run. On the other side, the criminal justice system is impacted by current political and governmental policies, which are mostly decided by the people who elect governments in democracies. It is important to understand that many parties, not simply the prison administration, are responsible for the management and humane conditions in jails while evaluating the prison system. What happens in jails is significantly influenced by how the criminal justice system runs and by the demands that the general public and political leaders place on it. Initiatives for prison reform must be part of a larger strategy to address issues with the criminal justice system as a whole. The challenges faced by the convicts show that incarceration is more than just an animal existence. It is indisputable that the inmates' spirits still exist. Under Article 21 of the Constitution, everyone has a right to it, and neither the State nor anyone else has the power to infringe on it. Regardless of whether they are charged, found guilty, or given a prison term, all defendants maintain their humanity. They enjoy all the privileges that come with living in a free society, but with certain limitations. One's fundamental rights are not instantly taken away when they are imprisoned. He continues to exercise all of his fundamental rights while incarcerated. India's recidivism rate is a respectable 7% and is constantly declining. If jails are to become manageable, it is undoubtedly necessary to combine liberal bail with an amnesty programme for those who have been detained for at least a year but are not charged with violent crimes against persons or the State. There isn't any other sensible choice out there. However, doing so requires political cunning and moral strength. Legislation that allows alternatives to jail is another action that could, at the very least, slightly ameliorate the situation. One of the earliest organisations to work on a model jail bill to replace the Prisons Act of 1894 was the All India Commission for Jail Reforms, sometimes known as the Mullah Committee after its leader Justice Mullah. The prolonged, three-year project was completed between 1980 and 1983. Along with human rights violations against prisoners, the horrifying accounts of physical torture that still occasionally surface received special attention. The States received a drafted bill from the Home Ministry in 1998, and many of them afterwards passed additional legislation. Following the 1996 decision by the Supreme Court in *Ramamurthy v. State of Karnataka*, a committee was formed at the Bureau of Police Research and Development (BPR&D). The group's objectives were to standardise jail rules across the country

and produce a model prison guidebook. The Central government approved the committee's design for the prison handbook, which was then made available to the State governments in late December 2003. It is difficult to predict the total number of participants with perfect accuracy. The 1977 National Police Commission recommended that the State Security Commission be established and that a new Police Act be created to replace the Law of 1861. The individual States were responsible for putting these recommendations into action.

Therefore suggestions are that there is a growing trend among female convicts to engage in advocacy and resistance to safeguard their rights and improve their living conditions, it is unclear if these actions have had a wholly positive effect. In actuality, societal structures, rates of cultural crime, and overall well-being are significantly impacted by the management and treatment of prisoners in jails. Prisons have an effect outside of their immediate vicinity. Popularity-based social systems are founded on values upheld and protected by the law, such as societal standards. Change efforts must start with jail and security agencies that have been granted the authority to hold individuals in order to guarantee the treatment of female criminals in various nations. In India, the number of women behind bars is rising quickly. Prisons are ineffective in achieving their goal of reformation, thus many of the women who are now being held there are going to court. It is crucial to comprehend the problems that women prisoners' experience, acknowledge their rights, and make sure that these rights are upheld. The situation for women is made worse by these problems, as well as the fact that they have less access to legal representation, less contact with the outside world, and are more likely to be attacked by other prisoners and guards. It will be challenging for them to reintegrate into society after they are freed. It is critical to modify services, procedures, and infrastructure when there are more women in jail to meet their unique demands. It is more challenging to maintain hygienic conditions when convicts are kept isolated from the outside world. To promote rule compliance, it must be practical to conduct objective inspections often. To assist them make better judgments about how to handle female convicts, gender sensitive training should be required of all prison staff and administration. In order to prevent any form of discrimination against immigrant women, women with disabilities, and women from minority groups, they must also be aware of their needs. To address rights violations in prison and give convicts a way to report mistreatment, a legitimate and efficient grievance redressal mechanism should be put into place. The issue of female criminality in India may be solved more successfully by enhancing prison conditions, increasing support after release, and, most significantly, avoiding women from entering formal prison systems as much as is practically practicable.

BIBLIOGRAPHY

- The Prisons Act, 1894.
- Indian Penal Code, 1860.
- Model Prison Manual, 2003
- The Criminal Procedure Code, 1973.
- The Prisoners (Attendance in Courts) Act, 1955.
- The Transfer of Prisoners Act, 1950
- The Constitution of India, 2019
- Steiner, B., The Impact of Inmate and Prison Characteristics on Prisoner Victimization, (Kamal Law House, New Delhi. 3rd edn 2012)
- Wolff, N.; Contextualization of physical and sexual assault in male prisons (Eastern Book Company, New Delhi 2nd edn 2011)
- All India Jail Manual Committee of 1957-59.
- National Expert Committee on Women Prisoners, 1986. 135th Report of the Law Commission of India, 1989.
- Parliament Committee on Empowerment of Women, 2001 02.
- A.P. Bhatnagar Committee on Prison Reform, 2006
- International Journal of Prisoner's Health
- Supreme Court Law Journal
- www.policeone.com/investigations/articles
- <http://wispd.org/attachments/article>