

PRISON ADMINISTRATION IN INDIA ITS REFORM
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CHAPTER 1

INTRODUCTION

Crime is a social and economic phenomenon and is as antique as human society. It is eternal. It continuously exists with in the society. With extrude of time, the concept of crime has moreover exceeded via changes. In the early information of human civilization, crime have become regarded as a wrong in competition to the individual. But after sometime, crime have come to be seen as an injustice competing with the State.

Law enforcement Framework is a coordinated response of the general public in contest to the wrongdoing and the crook. Criminal activity and punishment are intertwined. Different speculations of discipline had been practiced at different times. The most important goal of punishment is to keep society safe from potential wrongdoers, usually by getting rid of the reasons for the crime.

In early data, discipline have become never provided with the object of rectification and the hoodlums had been taken care of as the people who can't be revised. However, the imprisonment sentence is now viewed as a form of correction. Because of the reality, the old theories of punishment have been abandoned and replaced with the idea of reformation. The prisons are not being used as prisons but rather as reformatories. Rehabilitating, reintegrating, and reforming the offender into society are the primary goals of correctional control. The rule of thumb that a criminal must begin reforming and rehabilitating himself as soon as he enters a prison, and that this cannot be postponed until the time he is released.

"New Dimensions of the Rights of the Prisoners - A Critical Study" is the topic of the study. For a better understanding of the issue, the researcher would like to briefly discuss the related aspects of prisoners' rights, such as prisons, prison reforms, prison administration, prisoners, treatment of prisoners, and the rights guaranteed to an ordinary citizen under the Constitution.

1.1 PRISONS

The actual term for prison is "penitentiary," "gaol," or "jail." Jail has been characterized as "a spot good to go and coordinated for gathering of people who through way of approach of prison techniques are devoted to it for consistent care on the equivalent time as looking forward to preliminary or for discipline".¹

A "Prison"² or "Jail"³ Is an office where individuals are effectively confined and denied a lot of opportunities beneathneath the power of the State as a type of discipline. The most now no longer unusualplace utilization of detainment facilities as a component of the law enforcement framework, is in which people are formally accused of or sentenced for wrongdoings are confined to a Prison or Jail until they might be each acquainted with preliminary to decide their culpability or complete the term of imprisonment they were condemned to, subsequent to being situated responsible at their preliminary. As a result, the prison, in its initial locale, came to be regarded as a location where criminals were held until their trial, judgment, and execution.

Area 3 of the Detainment facilities Act, 1894 (Act IX of 1894) characterizes jails as: " "Prison" refers to any jail or location used entirely or in short pursuant to elegant or specific orders of the State Government for the detention of prisoners, including all lands and houses attached thereto; however, it does not include any location used exclusively for the confinement of prisoners who are entirely in the custody of the police; any location specifically appointed by the state government in accordance with section 541 of the Code of Criminal Procedure, 1882; or any location that has been designated as a subsidiary jail by the State Government in accordance with elegant or specific order.

In historical times, distinctive locations had been used as Prisons. The Prison in historical Athens become called Desmoterion (area of chain).⁴In Rome, steel cages, basement of public building and quarry were used as prisons. In India, the antique forts and castles

¹ The Oxford English Dictionary Vol. VIII P. 1385.

² From the old French prisoun (see Douglas Harper2001 to 2013) "Prison" on line etymology dictionary, Douglas Harper retrieved 28th June 2013.

³ From the old French prisoun (see Douglas Harper2001 to 2013) "Prison" on line etymology dictionary, Douglas Harper retrieved 28th June 2013.

⁴ Roth, Michael.P. 2006 Prisons and Prison Systems; A Global Encyclopaedia.Greenwood Publishing. p. 26

were used as Prisons. The modern-day Prison in India originated as speedy as Lord Macaulay came to India in 1835. Views of Gandhiji on Prisons

It was Gandhiji who said that prisons should be like hospitals because offenders are like sick people who need to be treated. Mahatma Gandhi wrote, "Lord Lytton in presently speaking about Jails to the Rotarians of Calcutta said that certainly as we deliver our sick in body to hospitals and now not to Jails, so we ought to "provide moral medical doctors and moral clinic" for sick in mind, i.e. criminals," quoting Lord Lytton regarding prisons. His Excellency presented his topic:

"The five star I decision to set ahead of time than me, expressed withinside the briefest and just shape, is unquestionably this,- the replacement of transformation for revenge as the possibility of our Correctional Code. While it can instill fear and influence behavior, punishment cannot inspire goodness. As a result, as a means of moral regeneration, it is far worse than useless and longs to be abandoned. A false morality is one that is only enforced through the use of pains and consequences, and those who would like to maintain the popularity of moral requirements would like to rent specific methods.

Of the purposes and situation of discipline Ruler Lytton expressed: " If punishment is used at all, it should always be used to teach behavior that is essential to the character's well-being or a problem that is essential to the community's well-being; however, I do not guarantee that punishment will always work; In any given instance, the type of punishment decided upon may be appropriate or inappropriate for achieving its goal. Again, I'm not saying that punishment is the best way to achieve this goal; rather, I'm saying that those are the best things that can be obtained using the resource of punishment. The only thing that can never be obtained through the use of coercion is goodness or moral behavior. Therefore, any punishment that aims to teach goodness or correct wickedness is completely malicious. Goodness is a situation of brain as wellbeing is a situation of casing. Character flaws or moral flaws cannot be remedied through punishment in the same way that physical flaws cannot. A person with an infectious disease may need to be physically isolated if the community's health is at stake; it very

well may be fundamental on the equivalent ground to isolate guys and females whose ethical deformities are a threat to the general public".⁵

1.1.2 Types of Prisons

As predictable with the NCRB Reports in 2013 there are roughly 1391 elite types of Prisons in India viz., Central Jail (130), District Jail (346), Sub-Jail (780), Women's Jail (19), Borstal School (21), Open Jail (53), Special Jail (38) and others (4) can handle 3,47,859 inmates, with 3,23,573 male and 24286 female inmates.

There are approximately one hundred thirty-five distinct types of jails in Tamil Nadu, namely, There are nine Central Jails, nine District Jails, nine Sub-Jails, three Women Jails, twelve Borstal Schools, two Open Jails, and five Special Jails. with the capacity to handle 21,951 inmates, of which 19510 are male and 2441 are female.

1.2 PRISON REFORMS

As soon as Lord Macaulay arrived in India in 1835, the Prison Reforms began in Indian prisons. The first Indian Committee, namely: "The Jail Discipline Advisory group" concerning Jail Change transformed into delegated within a year 1836 with Master Macaulay as its Part. In 1838, the Committee issued its report, which served as the foundation for subsequent Prison Progress. Among its recommendations were the creation of right buildings, maintenance of health care, and intra-ethical employment. The subsequent committee to address the issue of jail management and discipline was established in 1864. In addition to reiterating the recommendations of the Lord Macaulay Committee of 1836, this committee made specific recommendations regarding the housing of prisoners, improvements in diet, clothing, bedding, and hospital therapy, among other topics. In 1877, there has been a show of experts to research into Jail Organization wherein it transformed into proposed to establish a Jail Regulation and a draft receipt transformed into ready. The recommendations of the Fourth Jail Committee in 1888 resulted in the passage of the Prisons Act of 1894, the Prisoners Act of 1900, and

⁵ Report of the All India Committee on Jail Reforms (Mulla) 1980-83 Vol.1 Preface, p.xix para 43.

numerous other statutes dealing with prisons. The following Boards of trustees to see in shape are:

The Tamil Nadu Jail Reforms Committee from 1950 to 1951, the Indian Jail Committee from 1919 to 1920, Dr. W.C. Wreckless Committee at the observe of Prison Administration in India from 1951 to 1952, The All India Jail Manual Committee from 1956 to 1957, Seminar on Correctional Services with the Inspector General of Prisons and Correctional Administrators in 1969, Conference on Probation and Allied Measures from 1971 to 1972, Justice Ismail Enquiry Commission from 1977 to 1978, The Tamil Nadu Prison Reforms Commission from 1978 to 1979, A.N. Mulla Committee (All India Committee on Jail Reforms) from

At this point, it will no longer be out of place to cite the following statements about Mahatma Gandhiji's jail reforms in his book "Young India" and Pandit Jawaharlal Nehru's in his book "Prison Land" Appendix I:

1.2.1 Mahatma Gandhiji's view on Prison Reforms

“It should be borne in mind that we are not attempting to harm jails as such. I worry that even under Swaraj, we will need to keep jails open. If we allow the actual criminals to believe that they may be released or handled significantly better once Swaraj is established, it will be difficult for us. Even in the reformatories through which I would like to update every prison under Swaraj, field may be required”.⁶

1.2.2 Pandit Jawaharlal Nehru's view on Prison Reforms

Any change ought to be fundamentally based absolutely at the idea that a detainee isn't generally rebuffed anyway transformed and made into a wonderful resident. The jail system may undergo a complete overhaul if this objective is immediately accepted. At present, very few jail personnel have even heard of this idea.

Another mistakess which humans take pleasure in is the worry that ‘if gaol situations are stepped forward humans will flock in! This suggests a unique lack of information of

⁶ Report of the All India Committee on Jail Reforms (Mulla) 1980-83 Vol.1 Preface, p.xx para 48.

human nature. No one desires to visit jail but desirable the jail may be. To be disadvantaged of liberty, own circle of relatives lifestyles, pals and domestic environment is a horrible thing. It is widely recognized that the Indian peasant will pick to paste to his ancestral soil and starve as opposed to pass somewhere else to higher his condition. To enhance jail situations does now no longer imply that jail lifestyles must be made soft; it method that it must be made human and sensible.

There should be troublesome compositions, yet at this point presently not the boorish and inefficient work of the oil siphon or water siphons or plant. Products must be produced in both large-scale, cutting-edge factories where prisoners paint and small-scale cottage industries in the prisons. The work must be paid at the market rate, less the cost of the prisoner's upkeep, and it must be beneficial to the jail as well as the prisoner's future. The inmates must be encouraged to participate together in a variety of activities, including games, sports, reading, recitals, and lectures, after an exhausting eight-hour day of work. They must be especially encouraged to laugh and make more personal connections with the jail staff and other inmates. Every prisoner's education should be taken care of, not just in terms of the three R's (Reformation, Re-Socialization, and Reintegration), but also in any other way that is feasible.

The prison library, to which all inmates should have free access and which must have a lot of interesting books, must be used to cultivate the prisoners' minds. Reading and writing must be promoted in every way possible, which means that every prisoner should be allowed to have books and writing materials. Nothing is more harmful to a prisoner than spending twelve to fourteen hours at a time every night locked up in a mobile or barrack with nothing to do. A Sunday or an excursion technique, for him a miles longer length of securing.

“Selected newspapers are essential for keeping the prisoner in touch with the outside world, and interviews and letters must be as informal as possible.

Actually, I guess that week by week meetings and letters should be allowed. The detainee should be checked out as far as reasonable that she or he is a man or ladies and severe and corrupting disciplines ought to be stayed away from".⁷

1.3 PRISON ADMINISTRATION

Jail the board is one some of the 4 wings of the Law enforcement Framework viz. Legislative, Executive, Judiciary, and Correctional Administration The Jails are situated as State issue beneathneath article 246 of the Constitution of India, alongside it withinside the Seventh Timetable, Rundown II (i.e) State Rundown, and Section IV which concentrate as follows: Correctional Facilities, Borstal Institution, and other institutions of a similar nature and character; arrangements with various States for utilizing Detainment facilities and Organizations.

The Prisons Act of 1894 and the Prisoners Act of 1900 were enacted by the Indian government for the benefit of all state governments with the purpose of carrying out the control of Indian prisons. According to the power granted by section 509 of the Prisons Act of 1894, every state government overstepped its own rules regarding prison supervision.

If a state no longer has its own prison manual, the current Central Act, also known as the Prisons Act of 1894, is used. Model Jail Manual, 1960 is being taken as steerage withinside the Jail Organization.

In addition, the Draft National Prison Manual, 2003, has been prepared by the Bureau of Police Research and Development to bring about uniformity in India's prison administration. The viewpoint of numerous state governments was incorporated into this Draft National Prison Manual, but it has yet to be implemented. The fundamental thing of the fresh out of the box new Manual is to dispose of sure incongruities among sure States and revamp jails into restorative foundations.

⁷ Report of the All India Committee on Jail Reforms (Mulla) 1980-83 Vol.1 Preface, p.xx & xxi, para 48.

In a nutshell, the management of the jail ought to have the following goals: To make prison a solid area through method of method for safeguarding security and field in objective terms;

to keep prisoners' dignity by providing basic facilities; to make good use of jail life for prisoners' reformation, rehabilitation, reintegration, and socialization.

1.3.1 Existing statutes concerning law and control of prisons in India

Indian Correctional Code, 1860; The 1894 Prison Act; The 1900 Prisoners Act; The 20th Century Identification of Prisoners Act; The Tamil Nadu Borstal Schools Act, 1925; The 1948 Act on the Exchange of Prisoners; The Indian Constitution of 1950; The 1950 Transfer of Inmates Act; The 1951 Act on the Representation of the People; The 1955 Prisoners (Attention in Court) Act; 1958's Probation of Offenders Act The Extradition Act of 1962; The Model Prison Manual of 1960; The Code of Criminal Method, 1973; The 1987 Mental Health Act; The Care and Protection for Children Act of 2000; The 2000 Repatriation of Imprisoned Persons Act; The Draft Public Jail Manual, 2003 (To be executed).

1.3.2 Prison Manual in Tamil Nadu

I. The statutory rules adopted by the Government of Tamil Nadu for the inspection and supervision of prisons within the State are found in the Tamil Nadu Prison Manual, Volume II, 1985 (Revised as of December 31, 1982).

II. Volume III of the Tamil Nadu Prison Manual, 1985 (updated as of December 31st, 1982), which includes the rules drafted in accordance with various laws, including Cr. P.C 1973 (Suspension of Sentence Rules), Detainees (Participation in Courts) Act, 1982, Indian Lunacy Act, 1912 and different non legal Guidelines.

III. The government and administrative orders and guidelines that are periodically issued by the Government and the Inspector General of Prisons for the inspection and supervision of prisons within the State are included in the Tamil Nadu Prison Manual, Volume IV.

1.4 PRISONERS

The term "prisoner" typically refers to a person who is restricted or kept in custody. According to the Oxford Dictionary's definition of the Prisoner method, "someone who is being saved in jail".⁸

1.4.1 Kinds of Prisoners

As indicated by Segment three of the Jails Act, 1894, Detainees are arranged into 3 gatherings. They are Civil Prisoners, Criminal Prisoners, and Convicted Criminal Prisoners. Criminal Detainee" strategy any Detainee properly committed to care beneathneath the writ, warrant or request of any Court or authority exercise hoodlum ward or through method of method for request of a Court - Military. " The term "convicted criminal prisoner" refers to anyone who has been incarcerated in violation of the provisions of Chapter VIII of the Criminal Procedure, 1882 (X of 1882) or the Prisoner's Act, 1871 (V of 1871) of the Criminal Procedure Act. Any prisoner who isn't always a criminal is subject to the "civil prisoner" method. In addition, prisoners can be broadly categorized according to their length of confinement, illness, age, sex, political motivation, civil cases, and preventive arrests, such as Prisoner on remand, prisoner awaiting trial, prisoner who has been convicted, prisoner who has been imprisoned for a short period of time (Rigorous Imprisonment), prisoner who has been imprisoned for a long period of time (Rigorous Imprisonment), prisoner who has been sentenced to Simple Imprisonment, prisoner who has been sentenced to life in prison, prisoner who has been sentenced to death, prisoner who is a

1.5 TREATMENT OF PRISONERS

Crime is an final results of the diseased minds and prison need to have an surroundings of medical institution for remedy and care. One have to endure in thoughts that "prisoner is a ward and now no longer the slave of the State".⁹The Prisoners are despatched to jail "now no longer for punishment however as punishment." But alas prisoners are dealt

⁸ The Oxford English – English – Tamil dictionary, page 1109 ,Oxford University press 2009

⁹ As quoted by of Dr. W.C.Wreckless in The Tamil Nadu Prison Reforms Commission, Vol.II Chapter XL, p.83.

with as though they had been despatched to jail now no longer only “as punishment” however even “for punishment.” The procedure of remedy ought to start proper from the time of admission of the inmate in jail. A newly admitted inmate faces some of troubles of adjustment with new environment. Study of the person inmate, preliminary type of prisoners, their care and welfare, company and fine area in jail represent important pre-neededful for making plans balanced remedy programme.

The routine of institutional life, the frequency and length of meals served there, and worries about one's own health, family, and home issues like land disputes, keep up with irritating him. He tries to make amends with the inmate organization, jail staff, and the work that has been assigned to him. The inmate may experience a great deal of relief if these pressing needs are investigated, diagnosed, and addressed by sympathetic and understanding jail staff. Employees at the jail will even be able to develop a rapport with the inmate as a result of this, ensuring his continued cooperation with the effective implementation of the treatment program.

As a result, the criminal's sentence in prison should be evaluated from three perspectives: 1. the crucial prerequisite for completing a suitable treatment plan that is beneficial to the perpetrator's rehabilitation reach and items in cure projects and 3. advancement of the viability of cure program.

From these perspectives, the following factors and components of a rehabilitation program in prisons can be identified: a pleasant, upbeat environment within the facility; positive employee-inmate relationships based solely on mutual confidence; individual inmate research; Care and well-being of inmates, firm and fine environment, meeting immediate and long-term needs, planning a comprehensive and varied education and treatment program that includes a variety of educational, artistic, vocational, recreational, and cultural activities, etc. assisting the prisoner in maintaining consistency in his behavior with his own family, friends, and the outside world. An exact machine of impetuses for restraint along with reduction, leave, moves to semi-endlessly open foundations and pre-mature send off, individual steerage, directing and case canvases, association exercises, association steerage and association compositions, social

implantation of right propensities, perspectives and approaches, training for social living, Psychotherapy, Strong treatment, confidential fine affect of institutional workers, periodical evaluation of progress, renaming, evaluation of sentence and pre-mature send off, making arrangements for send off, pre-send off instruction, after care and follow-up and organize investment.¹⁰

1.6 HUMAN RIGHTS

Positive necessities like food, water, clothing, shelter, and fitness are essential to maintaining one's life and are desired by all. Without them, one cannot survive. Similarly, everyone has the right to positive fundamental rights and essential freedoms, without which they cannot remain human.

Every society and way of life has developed a set of rights and ideas that must be protected and respected. These rights are based on a few fundamental ideas that are universally accepted and have helped improve human rights.

The rights of man—natural rights, civil rights, political rights, financial rights, social rights, and cultural rights—that have evolved over time with varying degrees of emphasis all share a common feature: "Human Dignity," which is regarded as essential for the development of an individual's healthy personality. As a result, these rights include the right to start and are applicable to every person in the arena regardless of race, color, sex, language, political opinion, or other factors.

1.7 FUNDAMENTAL RIGHTS

A technical term, essential proper is used. At the point when good common freedoms are recorded in a Constitution and are covered with the guide of utilizing Established ensure, they might be known as fundamental privileges withinside the vibe that they might be situated withinside the stunning or fundamental guideline of the land which has a mind blowing holiness over various legitimate rules of the land. Therefore, even though the

¹⁰ Report of the All India Committee on Jail Reforms (Mulla) 1980-83 Vol.1, Chapter X, Treatment Programme p.124

written charter guarantees human rights, these rights may be referred to as essential rights.

Not at all like a standard legitimate, a fundamental legitimate is an interest, that is covered and justified with the guide of utilizing the composed Constitution. Such freedoms are known as 'fundamental' because of the reality simultaneously as a normal appropriate can be changed with the guide of involving governing body in its way of rules anyway the fundamental privileges, being guaranteed with the guide of utilizing the sanction can't be adjusted with the guide of utilizing any way fast of revising the actual Constitution. The most important rights that every citizen has are listed below.

I. Right to Equality – Article 14,15,16,17, & 18

II. Right to Freedom - Article 19, 20, 21, & 22

III. Right in opposition to Exploitation – Article 23 & 24.

IV. Right to Freedom of Religion. - Article 25, 26, 27 & 28

V. Cultural and Educational Right – Articles 29 & 30

VI. Right to Constitutional Remedies – Article 32.

1.8 RIGHTS OF PRISONERS

Detainees are basically individuals. People are entitled to constitutional rights and human rights in addition to those that are always denied because of their imprisonment. Under the Constitution, it is the duty of the state to uphold and protect their rights, particularly their right to live in dignity.

People who are referred to as "accused," "underneath trials," "suspects," or "convicts" no longer cease to be people. As a result, their human rights must be protected and respected. The Indian Constitution specifically does not specify the essential rights that inmates are entitled to. The judiciary, on the other hand, has expanded the range of freedoms granted to prisoners through judicial activism by expanding the scope of article

21 of the Indian Constitution and taking into account the applicable provisions of International Covenants designed for tracking and supervising prisoners.

1.8.1 A.K.Gopalan vs. State of Madras (1950)

In the beginning, the Supreme Court was unaware of the prisoner's rights' protection. It tried the trouble immediately after the graduation of the Constitution. It suggested that the prisoners are not real people and that their incarceration prevents them from exercising fundamental rights guaranteed by the Constitution. The Court proclaimed that somebody loses his legitimate to non-public freedom with the guide of utilizing way of confinement beneathneath genuine guideline established with the guide of utilizing an in a position governing body and as long as he stays beneathneath such detainment, he stops being qualified for revel in his different fundamental privileges.¹¹

1.8.2 State of Maharashtra vs. Prabhakar Pandurang Sangzgiri (1966)

Under the Defense of India Rules, the respondent was detained. He wrote a medical book in Marathi called "Anucha Antarangaat" (Inside the Atom) while he was detained in jail. However, he is no longer permitted to submit it to the jail authorities.

Pandurang was granted permission to submit the ee-e book after the Bombay High Court issued a writ. In its appeal to the Supreme Court, the State Government argued that the detainee's freedom of speech and expression had been violated by his detention, and as a result, he was unable to exercise his right to submit his e-book due to a statement made in the A.K. Gopalan case. Without going into the question concerning the general places of Articles 19 and 21, the Court found that the view held in Gopalan case become now at this point not a definitive expression at the subject.

The Court held the view that the proper to 'Personal Liberty' below Article 21 blanketed the proper to write down ee-e book and get it posted and the refusal with the aid of using the State Government to ship the petitioner's manuscript for publication, infringes his private liberty manifested below Article 21. The Court observed that there has been not

¹¹ A.K. Gopalan vs. State of Madras A.I.R 1950 827 = 1950 SCR 88,= 1950 CrLJ 138

anything withinside the Bombay Detention Order 1951, prohibiting a detenu from writing or publishing a book and while a detenu sporting events his proper, its denial with out authority of law, might violate Article 21. Dismissing the enchantment of the State, the courtroom docket similarly held that the book being the only close to medical hobby which might now no longer in any other case be adverse to public hobby or protection as envisaged below the Defense of India Rules (1962).

1.8.3 Charles Chopra vs. The State of Bihar (1978)

The Supreme Court noted in Charles Chopra's case that "prisoners maintain all rights loved by using free residents besides the ones misplaced always as a result of confinement."¹²

1.8.4 Sunil Batra vs. Delhi Administration (1978)

Sunil Batra (ii) vs. Delhi Administration (1980)

Even when deciphering Articles 14, 19, and 21, the Supreme Court has assured the prisoner of numerous substantial rights in the Sunil Batra cases. The drawn out size given to article 21 has ended up being multi-faceted. The appropriate to ways of life revered in Article 21 has been generously deciphered as to mean a bonus than endurance and simple creature presence. As a result, it encompasses all of the components that contribute to making a man's life meaningful, complete, and truly worth living. The prisoner's rightful property emerges as a result of this component of judicial pronouncement.

The big regions of extension had been the rights now no longer to be handcuffed, placed on bars and solitary confinement until surely necessary. The proper in opposition to custodial torture, proper to fast trial, proper to counsel, right situation of detenu, proper to fulfill relatives, buddies and lawyer, proper to wages or even the proper to reimbursement for violation of rights. Beginning with Sunil Batra case, the Court has

¹² W.P No. 4305 of 1978 delivered on 31st August 1978 – PRC Report Vol.II Chapter XXXVIII Rights of Prisoner p.73 para 38.2.

armed itself and embraced the jurisdiction to wait the grievance of the prisoners wherein their rights both below the charter or below the regulation are violated.¹³

1.8.5 Nilabati Behera vs. State of Orissa (1993)

“It's miles axiomatic that convict prisoners or below-trials aren't denuded of essential rights below Article 21 and it's miles most effective such restrictions, as are approved by using regulation, which may be imposed at the amusement of the essential rights with the aid of using such persons,” the Supreme Court found in Nilabati Behera vs. State of Orissa. While a citizen is in the custody of the nation, it is the responsibility of the nation to ensure that the citizen's inalienable rights to life are protected and complied with.

This significant legitimate guaranteed with the guide of utilizing Article 21 of the Constitution of India can't be denied to convict, underneath preliminaries or various detainees in guardianship, other than reliable with the procedure attached with the guide of utilizing guideline¹⁴.

1.8.6 State of Andhra Pradesh vs. Challa Rama Krishna Reddy (2000)

The Supreme Court ruled in Challa Rama Krishna Reddy v. State of Andhra Pradesh that even a prisoner has essential rights, including other human rights, in the case. The claimant and his father had been imprisoned in that case. They requested that the police offer insurance to them catching gamble to their reality from their rivals. Despite being questioned, the police did not provide adequate protection. The claimant suffered severe injuries and the father passed away during the bomb attack on their prison cell. The application for reimbursement was rejected by the lower court, but the High Court awarded Rs. 1,44,000 in reimbursement. The Court reiterated in the immediate instance, disregarding the enchantment filed by the State Government:

"Right to existence is one of the fundamental human rights. It is assured to each person with the aid of using Article 21 of the Constitution and now no longer even the State has

¹³ Sunil Batra vs. Delhi administration (1978) 4 SCC 494 = AIR 1978 SWC 1675 = 1978 CrLJ 1741. Sunil Batra (ii) vs. Delhi Administration (1980) 3 SCC 488 = AIR 1980 SC 1579 = 1980 CrLJ 109

¹⁴ Nilabati Behera vs. State of Orissa (1993) 2 SCC 746 = AIR1993 SC 1960 = 1993 (2) SCJ 487.

the authority to violate that proper. A prisoner be a convict or beneathneath-trial or detenue, does now no longer give up to be a human being.

Indeed, even while stopped withinside the jail, he keeps up with to encounter all fundamental freedoms which incorporate the appropriate to presence guaranteed to him beneathneath the Constitution. On being sentenced for a criminal offense and burdened in their freedom concurring with the framework mounted with the guide of utilizing regulation, detainees regardless hold the buildup of protected privileges."¹⁵

1.8.7 Further developments in Prisoner's Rights

As a result of the Supreme Court's landmark decisions in this area, which included observations, comments, instructions, and pronouncements regarding the protection of prisoners' rights in comparison to those of ordinary citizens, numerous Commissions were established to ensure that prisoners' rights were strictly implemented in prisons. Additionally, efforts are being made to amend the current statutes pertaining to jail management, which will include the rights of prisoners and make them mandatory.

Additionally, the Protection of Human Rights Act of 1993 established the National Human Rights Commission, State Human Rights Commission, and Human Rights Court, all of which made significant contributions to the protection of prisoners' rights.

Under modernization of Prison Administration, the Indian government provided financial assistance to all States in the form of Five Year Plans and Matching Grants (at a rate of 50:50) to improve the prison environment and living conditions, such as additional housing, food, clothing, and bedding, hygiene and sanitation, health care, water supply, electricity, and work centers, among other things. Using those funds, the state government made every effort to improve prison conditions and expand all prisons so that prisoners could maintain their dignity.

¹⁵ Challa Rama Krishna Reddy (2000) AIR 2000 SC2083=2000 (5) SCC 712=2000 (4) Supreme 741 (2)

1.8.8 Prisoner's Rights and International Covenants

After the two world wars, some international treaties recognize the right of prisoners in international law. Because of the broad refusal of social equality and freedoms on the reason of racial, otherworldly and political separation had a significant effect at the overall guideline of detainee's legitimate. All areas of global regulation, including prisoners' rights, began to change as a result of the systematic use of violence, which included wanton homicide and eventually genocide, the use of slave labor, the abuse and murder of prisoners of war, extensive deportation, and property confiscation. At gift, there are different overall gadgets which set down codes through which detainees should be managed. The majority of them are as follows:

1. Third Geneva Show (arrived into tension in 1924 considerably revised in 1949).
2. Sanction of Joined Countries (1945).
3. Declaration of Human Rights (Universal)
4. Standard Minimum Rules of the United Nations for the Treatment of Prisoners
5. Worldwide Contracts on Common and Political Privileges (1966).
6. Convention Against Torture and Other Forms of Punishment That Are Cruel, Inhuman, or Degrading
7. Concepts fundamental to the treatment of prisoners
- eight. Essential ideas on utilizing Power and Guns through Policing (1990).

1.9 NEED OF THE PRESENT STUDY

In the modern era, the principle of treating criminals has shifted from penal to reformative. As a result, the prisons of the past have undergone significant expansion in recent years, resulting in increased transparency within the prison administration. As soon as Lord Macaulay arrived in India in 1835, prison reforms began to take root. During the post-independence period (from 1951 to 1952), the Dr. W.C. Wreckless

Committee conducted research on the Indian prison administration. During this time, numerous improvements were made in Indian prisons. The raising discernment limit of the now no longer unusual place public and the domain on the need to safeguard the common freedoms of the detainees conveyed around the death of several Joined Countries Instruments along with the Widespread Announcement of Common freedoms, 1948, Joined Countries Standard Least Guidelines for the Treatment of Detainees, 1955, Global Contracts on Common and Political Privileges 1966, Show nearer to Torment and explicit Awful Cruel or Debasing Treatment or Disciplines, 1984 and Fundamental Rule for the Treatment of Detainees, 1990. The human rights of prisoners are explicitly recognized in a number of democratic nations' instruments and constitutions, as well as in India's. But this does not mean that there will never be violence. Instances of overabundances through policing bringing about common freedoms infringement come to slight appropriate here and there once in a while. The fact that the higher judiciary has intervened and ordered corrective measures whenever such violations have been brought to its attention is a pleasant relief. The High Court of India, which isn't wonderful the mind boggling authority withinside the Legal progressive system, however besides the watchman of the Constitution and the defender of the significant privileges certain underneath our Constitution, in exercise of its enormous and fluctuated Protected powers has consistently given writs or orders to concerned specialists and those in-expense of and liable for control of law enforcement, giving course and suggestions with a perspective on forestalling the encroachment of any pivotal right, to which each resident of the us along with the denounced/detainee are additionally qualified for. In every way, the Apex Court's judicial activism has a significant impact on criminal control and the protection of prisoners' rights. As a result of the orders from the Supreme Court, a number of Prison Reforms Commissions were established at the Central and State levels. These commissions supported a number of ideas to improve prison conditions and provide better treatment to inmates. The researcher deemed it necessary to investigate the rights of Indian prisoners in light of this circumstance.

1.10 SCOPE OF THE STUDY

In the modern era, the principle of treating criminals has shifted from penal to reformative. As a result, the prisons of the past have undergone significant expansion in recent years, resulting in increased transparency within the prison administration. As soon as Lord Macaulay arrived in India in 1835, prison reforms began to take root. During the post-independence period (from 1951 to 1952), the Dr. W.C. Wreckless Committee conducted research on the Indian prison administration. During this time, numerous improvements were made in Indian prisons. The raising discernment limit of the now no longer unusual place public and the domain on the need to safeguard the common freedoms of the detainees conveyed around the death of several Jointed Countries Instruments along with the Widespread Announcement of Common freedoms, 1948, Jointed Countries Standard Least Guidelines for the Treatment of Detainees, 1955, Global Contracts on Common and Political Privileges 1966, Show nearer to Torment and explicit Awful Cruel or Debasing Treatment or Disciplines, 1984 and Fundamental Rule for the Treatment of Detainees, 1990. The human rights of prisoners are explicitly recognized in a number of democratic nations' instruments and constitutions, as well as in India's. But this does not mean that there will never be violence. Instances of overabundances through policing bringing about common freedoms infringement come to slight appropriate here and there once in a while. The fact that the higher judiciary has intervened and ordered corrective measures whenever such violations have been brought to its attention is a pleasant relief. The High Court of India, which isn't wonderful the mind boggling authority withinside the Legal progressive system, however besides the watchman of the Constitution and the defender of the significant privileges certain underneath our Constitution, in exercise of its enormous and fluctuated Protected powers has consistently given writs or orders to concerned specialists and those in-expense of and liable for control of law enforcement, giving course and suggestions with a perspective on forestalling the encroachment of any pivotal right, to which each resident of the us along with the denounced/detainee are additionally qualified for. In every way, the Apex Court's judicial activism has a significant impact on criminal control and the protection of prisoners' rights. As a result of the orders from the Supreme Court, a number of Prison Reforms Commissions were established at the Central and State levels.

These commissions supported a number of ideas to improve prison conditions and provide better treatment to inmates. The researcher deemed it necessary to investigate the rights of Indian prisoners in light of this circumstance.

1.11 OBJECTIVES OF THE STUDY

1. To look at whether the Protected freedoms of a typical resident which can be drawn out to the detainees are undeniable in all viewpoints, other than the ones which may be to be constantly kept because of the situation from getting detainment.
2. To analyze the need of integrating the freedoms guaranteed to typical inhabitants underneath the Constitution which can be drawn out to the detainees, with inside the ongoing pertinent resolutions, regulations, rules, and approaches concerning the control of penitentiaries and cure and management of detainees.
3. To look at whether there might be any opening among the standard and practice in overwhelming the Freedoms of Detainees withinside the ordinary administration of Penitentiaries.
4. to determine whether the jail administration's decision to grant prisoners rights is regarded as a mercy, reluctance, or denial on their part.
5. to determine whether there is sufficient funding to organize the rights of prisoners in prisons in such areas where financial commitment arises.
6. to support initiatives and recommendations for enhancing prisoner rights implementation.

1.12 RESEARCH METHODOLOGY

The study is a doctrinal study that uses the historical, comparative, statistical, and analytical methods to conduct primary and secondary assessments.

1.13 SOURCES USED

The Primary Sources are:

The Statutes, Laws and Rules referring to the Prison Administration and remedy of Prisoners like:

- Tamil Nadu Prison Reforms Commission Report 1978-1979
- A.N.Mulla Committee Report (All India Committee on Jail Reforms), 1980-1983
- Kapoor Committee Report, 1986
- Justice Krishna Iyer Committee Report, 1987 Justice Verma Committee, 2013
- Commentaries, Journals
- Statistics of the National Crime Records Bureau
- Statistics of the Bureau of Police Research and Development, New Delhi
- Statistics of the Prison Authorities of Tamil Nadu
- Materials are available within the websites.

CHAPTER -2

REVIEW OF LITERATURE

Dr. Vidya Bhushan, 1970, Prison Administration in India, with Particular Reference to Uttar Pradesh The author of this e-book has conducted a comprehensive survey of Prison Administration in India, with Particular Reference to Uttar Pradesh, which he claims to have been a pioneer State in the country for progressive prison reforms. His commitment in monetary debacle I under heading "Verifiable Resume" is amazing. His talk about the motivation of jail and jail changes ahead of time than and after 1951 demonstrates the unsparing exertion. He has detailed the organization and control of prisons in the opportunity chapters; separating and classifying prisoners;

the categorization of prisons; Management and discipline in prisons; Hygiene and medical attention in prisons; education in prison; Jail work and released detainees. He has addressed all elements of jail control in India and expressed the regions wherein correspondingly reformative measures can be presented.

Criminology and Criminal Administration, J.P.S. Sirohi, 1995 - This e-book is the brainchild of J.P.S. Sirohi, an Advocate of the Supreme Court in Delhi. He went into great detail about crime, the reasons for it, some of the causes, how to control it, how to punish it, the Indian and foreign prison systems, probation and parole, juvenile delinquency, juvenile justice, and other topics. The fundamental skills related to the theoretical aspects of criminology and penology are maintained in this ebook. It incorporates fundamental picks of the Great Courts and High Court associated with the problem depend wherever important. Students, educators, researchers, members of the bench, bar, and opportunity officers in the fields of sociology, criminology, anthropology, psychology, police corrections, and public administration stand to gain greatly from this e-book.

Dr. HyderVali, "Rights of the Innocent in Criminal Trial," 2003. This e-book is largely based on the author's doctoral thesis, which was approved by the Shri Krishna Devaraya

University. Ananthapur for a Ph.D. in the subject of "Self-incrimination and Supreme Court of India" in 1995. The maker in his ee-digital book has clearly expressed the right in rivalry to self - implication, cross examination, recognizable proof of suspects and seizure. In order to provide a comparative perspective of the Indian Constitution, sufficient references have been made to other countries' constitutions, particularly those of the United Kingdom and the United States. In order to save readers and researchers like me from constantly having to travel to the reports, pertinent facts about important times and a summary of the law that was enacted at those times have been included in the text's body. The right in contest to self-implication of a charged is a Protected basic right. On this point, the creator has attempted his certification incredible to convey within the Legal translation.

Rights and Privileges of Accused, Shivanna 2003 - The author, who is a prominent member of the Bangalore Bar and has a lifelong interest in academia, has published this helpful e-book on all relevant aspects of "Rights and Privileges of Accused." The author has organized all of the rights, privileges, and guarantees of the accused for the purpose of comfort and ready reference in his work under distinct headings, such as the accused's constitutional rights, procedural rights under the Criminal Procedure Code and Penal Code, rights under the Law of Evidence, rights of the accused to bail, right to acquittal, etc. In addition, the author has meticulously and eloquently stated the central issue of the problem with the assistance of judicial precedent, particularly those of the Apex Court, which includes several landmark cases. He has brought to front the unobtrusive subtleties of the problem and several horrendous and Established privileges of blamed concisely and in an enumerative way.

Human Rights of the Accused Within the Criminal, 2003, by M. Abdul Hannan. Process: The ebook is a revised version of the author's Ph.D. thesis, "Human Rights of the Accused Under International Law and Municipal Law" through a Case Study in Bangladesh (1990-2000), which was completed in 2005 at Rajshahi University, Bangladesh's Department of Law and Justice. The author has gone into great detail about the constitutional and human rights of the accused, the rights of the arrested and detained, the right to a free investigation, questioning, searching, and seizure, the right to a fair

trial, and the rights of Bangladeshi prisoners, based on the Universal Declaration of Human Rights (UDHR) and International Covenants on Civil and Political Rights.

Rights of the Accused, 2009, by Dr. Ashuthosh, whose author is an advocate in the Delhi High Court. He has featured the privileges of blamed in all regards eparticularly almost around Criminal Method Code, Constitution of India and freedoms of charged in jail. He has described in detail the accused's rights as envisioned by the Code of Criminal Procedure, 1973. These rights include the right to an open trial, the right to examine and byskip examine all prosecution and safety witnesses, double jeopardy, enchantment, and other similar rights. He has also described the right to production in advance than a Magistrate, bail and anticipatory bail, the right to a recommendation from a Counsel, and free legal aid. Indeed, even aleven however his ee-digital book is named as 'Freedoms of charged' he has now not neglected to talk roughly the 'privileges of detainees in jail'.

Pandit Kamalakar 2010, Common liberties and Law enforcement - The maker being a speaker of SBRTM Regulation School, Kadapa has taken due care to address the difficulty in a deliberate manner, essentially so even the novices can follow the difficulty and as a matter of fact, it's miles a comparatively expansion to the legitimate writing engaged with basic freedoms statute too. He has written extensively about human rights, double jeopardy, the right to self-incrimination, the right to life and liberty, the right to freedom from arbitrary arrest, the right to bail, the right to torture, the right to a speedy trial, the right to plea bargaining, the right to legal aid, the right to compensation, the right of prisoners, and the Protection of Human Rights Act. He vividly recalled that the prisoner rights movement began as a result of judicial activism in the 1960 Prabhakar Pandurang case and developed into a multifaceted movement under Sunil Batra in 1978 and 1980. The craving engaged with the difficulty has been treated in an organized style.

A. Sirajudeen, Advocate, Madras High Court, 2010 Law and Practice of Prisoner Rights - Although prison holds the most significant place in any society, there is currently no comprehensive ebook on the subject. In India, the law governing prisoners from the time of their arrest until their release from prison or the police remains a contentious issue. While there are different legal decisions accessible in regards to the capture, remand, bail,

sentence and so forth. the appropriate legal statement regarding the rights of prisoners and the issues pertaining to the execution of their sentences, their treatment, their release, and their post-release care are no longer available. Remembering this the author in his amazing fine art has extensive a distant memory indepth into the Law overseeing the detainees from the on the spotaneous of their capture till their delivery each from police care or from the jail (i.e.) capture, remand, bail, sentence, execution of sentence including set-off, pardon, parole, leniency, reduction and freedoms withinside the jail. The maker has safeguarded in the best places Legal options now not easiest that of the Great Courts of different States and High Court in India however besides far off places Courts numbering around 1400 case crime ideas on the whole.

CHAPTER 3

TRACING THE HISTORY OF PRISONS, EVOLUTION AND MANAGEMENT OF PRISONS AND TREATMENT OF PRISONERS

3.1 INTRODUCTION

Criminal science is, normally, the mechanical skill of wrongdoing and the person that exploration wrongdoing in a logical manner might be precisely characterized as Crime analyst. The study of specific causes of crime and the development of effective strategies for dealing with criminals in order to reintegrate them into society as productive members of society is the focus of criminology.

3.2 STUDY OF CRIMINOLOGY

Criminology is a very big problem. It knows no boundaries and will become concerned in all fields of science that deal with man and his social organization. As a result, criminology is involved in the study of antisocial and criminal behavior, as well as the control of crime, prevention, and treatment and rehabilitation of criminals.

3.3 CRIME

Paul W. Tappan described crime as “an institutional act or omission in violation of crook regulation, dedicated without protection or justification and sanctioned via way of means of the regulation as prison or misdemeanor”¹⁶. Crime is an act of warfare against community touching new depths of lawlessness.

3.4 CONCEPT OF CRIME

Crime is a felony idea and has a sanction of law. It is likewise referred to as a residing idea. The “Changing idea” of crime relies upon the social evolution of the person

¹⁶ Paul W. Tappan Crime, Justice and Corruption, p.10

everywhere in the world. It seems in exceptional lighting fixtures in exceptional nations at exceptional instances what's crime in a single country, might not be a criminal offense in any other. What is a criminal offense at one time might not be a criminal offense at any other and vice-versa

3.5 GENERAL CAUSES OF CRIME

The reasons of wrongdoing are one of the basic phases of wrongdoing both that calls for additional conversation, exploration and studies and telephone for additional social and Government activity. There cannot be a single cause for criminal behavior and delinquency. In any case, it's far an outcome of numerous components. Consequently the question whether a certain something or some other reasons misconduct and wrongdoing is an unstable one. The idea of inner and external pressures and inhibitions must be replaced with the perception of unitary crime causation. Dr. Jyotsha H. Shah has broadly broken down the causes of delinquency into the following parts: I). The damaged home, criminality within the own circle of relatives, the impact of crook convictions, psychological tensions and emotional disturbances at home (II), and environmental factors, community, and school are examples of things that occur outside the home.

3.6 PUNISHMENT

A method of social control is punishment. Together with Mr. Prof. and Bean Five aspects of Flew's definition of "punishment" are as follows: i) It must involve pain or other common outcomes; ii) It must be for a violation of criminal statutes. iii) For his offense to be valid, he must be an actual or intended wrongdoer. iv) It must be deliberately administered by people other than the wrongdoer. v) It must be imposed and administered by a professional constituted by the criminal device against which the offense is committed.¹⁷

¹⁷ H.L.A. Hart's Essay, "Pinciples of Punishment" published in Crime and Justice, Vol.II, Edited by Sir Leon Radzinowics and M.E. Wolfgang, p.3.

3.7 CONCEPT OF PUNISHMENT

The possibility of discipline is that of causing a couple of type of throb at the culprit for his infringement of guideline. A tool of public justice is this. To show, in the event that a hoodlum is arraigned and taken sooner than a Court, his case heard, discipline gave the guide of utilizing the Court and sometime accomplished with the guide of utilizing the State, then this will turn into a discipline with inside the lawbreaker sense. It will presently as of now not be a discipline in guideline, on the off chance that father beats his child for committing a burglary in his home or killing of Naxalites with the guide of involving the State for their enemy of countrywide leisure activity without arraigning them.

3.8 THEORIES OF PUNISHMENT

Within the normal criminal and penal structures of a society, all punishments occur. There had previously been a variety of justifications offered for the imposition of punishment. One of those thought processes is retaliation. Another purpose, traditionally associated with utilitarianism, is that punishment serves as a deterrent, or means of keeping others from breaking the law. A 0.33 object is to some degree that discipline or an activity of treatment, gets that less offenses might be devoted withinside the future, yet at this point no longer by means of discouragement. This could be described as a reformative issue that advocates for people's "ethical regeneration" as a stop and a means of preventing crime. Theories of justification for punishment were these three motives, each with its own variations and complexities.

3.8.1 Theory of Retribution

Retaliation may be the most established and greatest memorable legitimization for discipline. " It literally means, "If you harm me, I will also harm you." The crook is to be truly punished because he committed a crime, which is the justification for the retributive punishment concept. At first, it is solely motivated by retaliation. Using whom to carry out revenge? The victim can't take the guideline in his own arms withinside the current day vote based set up. In today's society, the LexTelionis, "an eye fixed for an eye fixed,

a teeth for a teeth," cannot be used as a justification for punishment. Punishment is regulated in part by legislators using a scale that solves the scale of consequences and in part by judges and magistrates using a scale that awards consequences after lawful consideration of the perpetrator's and his or her family's well-being or the well-being of society as a whole, in the scale constant with legislators.

3.8.2 Theory of Deterrence

Discouragement is by and large depicted on the grounds that the preventive effect that is genuine or compromised discipline of guilty parties that has upon the capacity wrongdoers. The concept of deterrence has a long history and has consistently stood out in criminal justice systems. Sir John Salmond defines deterrence as "punishment is before all things deterrent, and the leader cease of the regulation of crime is to make the evil-doer as an example and a caution to all who are like him."¹⁸

3.8.3 Theory of Reformation

With the cutting edge disclosures of Sigmund Freud and with the increment of Brain science withinside the nineteenth hundred years, reformative idea of discipline arose. The ongoing penology recognizes that the discipline that is presently not showed up as retributive or obstruction as reconstruction or restoration. "the attempt to repair a person to society as a higher and wiser guy and an amazing citizen" is the definition of reformation. "The Gandhian analysis of the offenders as sufferers and his idea of prisons as hospitals – intellectual and moral -is a key to the pathology of delinquency and healing function of punishment," according to progressive criminologists around the world. Therefore, it stands to reason that breaking the law is a pathological anomaly, that a criminal can basically be redeemed, and that a kingdom must rehabilitate rather than exact revenge.

The Indian Prison Board, 1919-1920 depicted the quests for restorative administration as 'the counteraction of moreover wrongdoing and the recuperation of the hooligan to the general public as an improved person'.

¹⁸ Sir Jon Salmond, "Jurisprudence", 1947 p.111

The Reformatory Theory's rehabilitative ideal holds that measures taken against a convicted criminal serve a healing purpose; that these measures need to be made so that they change the way the convicted person acts in the interest of his own happiness, fitness, and pleasure as well as in the interest of social protection.

The Indian Constitution and international human rights conventions both take into account the reformatory principle of punishment. The Indian Constitution's Article 21 dealing with "existence" and "private liberty" guarantees a dignity-filled existence that is actually higher than that of an animal.¹⁹

Hon'ble Justice Krishna Iyer says, "If you're going to punish someone retributively, you should hurt him." If you want to change him, you should make him better. Additionally, men do not progress as a result of injuries."²⁰

3.9 HISTORY OF PRISONS

The prison machine, which is a way to deal with criminals, is the result of ancient accidents. It no longer functioned as a carefully planned strategy. Prison has existed throughout history. Protecting society from criminals is a well-known requirement of every civilized nation. However, the civilized state does not support excessively harsh punishment. One of the mysterious parts of the jail machine is the jail. There have been jails and prisons for a long time, but until the eighteenth century, they were rarely used to hold convicted criminals. In addition to serving as "secure keeping" facilities for those awaiting trial, jails are frequently used as rehabilitation facilities for those who have been convicted of a crime. Every year, thousands of men, women, and children are incarcerated for crimes ranging from save lifting to homicide, political demonstration to treason, or are awaiting trial.

¹⁹ Shyokaran vs. State of Rajasthan 2008 Cr.LJ 1265 Raj

²⁰ Justice Krishna Iyer in his book on "Perspectives in Criminology Law and Social Change" (1980).

3.10 PRISONS IN THE WORLD SCENARIO

This is discussed under the following three headings: 1) Prehistoric Times. 2) The Middle Ages and 3) The Present Day

3.10.1 Ancient Times

The beginning of prisons can be traced back to the rise of the State as a form of social organization. Corresponding with the advent of the State was the development of written language which enabled the creation of formalized legal codes as official guidelines for society. The most well-known of these early legal codes is the code of Hammurabi, written in Babylon around 1750 B.C. The penalties for violation of the laws in Hammurabi's Code were almost exclusively centered on the concept of "lex talionis" i.e. law of retaliation where people were punished as a form of vengeance, often by the victims themselves. This notion of punishment as vengeance or retribution can also be found in many other legal codes from earlier civilization, including the ancient Sumerian codes, the Indian Manu Dharma Sastra, Hermes, Trismegistus of Egypt and Mosaic Code²¹. The Gall slave was a common punishment in Early Modern Europe.

Some Ancient Greek Philosophers like Plato, started out to expand the concept of the usage of punishment to reform offenders in place of honestly the usage of it as retribution. Imprisonment as a penalty changed into used to begin with for folks who couldn't have enough money to pay their fines. Eventually, on the grounds that impoverished Athenians couldn't pay their fines, main to indefinite durations of imprisonment, closing dates had been set instead.²² The prison in Ancient Athens was known as the Desmoterion (Place of chains).²³

The Romans have been a few of the first to apply the prisons as a shape of punishment instead of in reality for detention. A sort of current systems have been used to residence prisoners, consisting of metallic cages, basements of public homes and quarries. One of

²¹ Welch, Michael (2004). "A Social History of the Punishment and Corrections". Corrections: A Critical Approach. McGraw-Hill.

²² Allen, Danielle S. "Punishments in Ancient Athens" Harvard University, Center for Hellenic Studies

²³ Roth, Michael P. 2006." Prisons and Prison Systems;A Global Encyclopedia". Greenwood Publishing.

the maximum superb Roman prisons became the Mamertine Prison, hooked up round 640 B.C. via way of means of Ancus Marcius. This jail became placed inside a sewer machine under Ancient Rome and contained a huge community of dungeons wherein prisoners have been held in squalid situations infected with human waste. Forced labour on public paintings tasks became additionally a not unusualplace shape of punishment. In many cases, residents have been sentenced to slavery, frequently in Ergastula (primitive shape of jail) wherein unruly slaves have been chained to workbenches and completed difficult labour.

3.10.2 Middle Age

During the center Ages in Europe castle, fortresses and the basement of public homes have been frequently used as makeshift prisons. The ownership of the proper and the functionality to imprison residents, however, granted an air of legitimacy to officers in any respect ranges of Government , from Kings to Regional Courts to town councils; and the cappotential to have a person imprisoned or killed served as a signifier of who in society possessed energy or authority over others²⁴. Another not unusualplace punishment became sentencing humans to gally slavery wherein they have been chained collectively withinside the backside of deliver and compelled to row on naval or service provider vessels. However, the idea of the Modern Prison in large part remained unknown till the early nineteenth Century. Punishment generally consisted of bodily sorts of punishment, along with capital punishment, mutilation and whipping and non-bodily punishments consisting of public shaming rituals just like the stock.²⁵

3.10.3 Modern Era

During the 18th century, famous resistance to public execution and torture have become extra good sized each in Europe and United States and Rulers commenced searching out

²⁴ Turning, Patricia (2012)..”Competition for the Prisoner’s Body: Wardens and Jailers in Fourteenth-Century Southern France.” In Classe, Albrecht&Scarborough, Connie. Crime and Punishment in the Middle Ages and Early Modern Age: Mental-Historical Investigations of Basic Human Problems and Social Responses. Walter de Gruyter.

²⁵ Spierenburg, Peter (1998) “The Body And The State: Early Modern Europe” In Morris, Norval& Rothman, David J. The Oxford History of the Prisons: The Practice of Punishment in Western Society. Oxford University Press.

method to punish and manage their topics in a manner that did now no longer purpose human beings to companion them with spectacles of tyrannical and sadistic violence. They commenced to appearance closer to growing machine of mass incarceration as a solution.²⁶The jail reform motion that arose at the moment become closely inspired via way of means of incredibly contradictory philosophies. The first become primarily based totally on Enlightenment thoughts of utilitarianism and rationalism, and recommended that prisons must clearly be used as a extra powerful alternative for the punishments inflicted in public corporal punishments which include whipping, putting etc. This principle regularly known as deterrence, claims that number one motive of jail is to be so harsh and terrifying that they deter humans from committing crime out of worry of going to jail. The 2nd principle which noticed prisons as a shape of rehabilitation or ethical reform become primarily based totally out of spiritual thoughts that equated crime with sin, and noticed prisons as an area to train prisoners in Christian Morality, obedience and right behaviour. The later reformers believed that Prisons may be built as humane establishments of ethical instruction, and that prisoners' conduct may be 'corrected' in order that after they have been launched they could be version individuals of society.²⁷

Penal transportation of convicted criminals to penal colonies withinside the British Empire withinside the America from 1610 to 1770 and in Australia among 1788 and 1868 become frequently provided as an opportunity to loss of life penalty, which might be imposed for plenty offences.²⁸ France also sent criminals to tropical penal colonies including Louisiana in the early 18th Century.²⁹Penal Colonies in French Guiana operated until 1951. Katorga prisons were harsh work camps established in 17th Century in Russia in remote, under populated area of Siberia and the Russian Far East that had few towns or food sources. Siberia quickly gained its fearful connotation of

²⁶ Foucault, Michel (1995). "Discipline & Punish: The Birth of the Prison." Vintage Books.

²⁷ Lewis, W. David (2009). From Newgate to Dannemora: The Rise of the Penitentiary in New York, 1796 – 1848. Cornell University Press.

²⁸ For a more detailed look at the English "transportation" system, and the transition from penal colonies to prisons, see: Hostettler, John (2009). "A History of Criminal Justice in England and Wales." Waterside Press.

²⁹ Taylor, Alan, American Colonies, Penguin: London(2001)

punishment.³⁰ One reform of the 17th Century had been the establishment of London Bridewell as the house of correction for women and children.

The first State Prison in England became the Millbank Prison hooked up in 1816 with the potential for simply fewer than one thousand inmates. By 1840s penal transportation and use of hulks became at the decline and the Surveyor-General of the convict prisons Joshua Jebb, set an bold programme of jail constructing withinside the country, with one big jail commencing according to year. Pentonville jail opened in 1842, starting a fashion of ever growing incarceration fee and using jail because the number one shape of crime punishment.³¹In 1855 engraving of New York's Sing penitentiary, which additionally observed the "Auburn or (or Congregate) system" wherein jail cells had been positioned interior of square constructing that lent themselves greater to large-scale penal labour.

In 1786, the State of Pennsylvania surpassed a regulation which mandated that every one convicts who've now no longer been sentenced to demise might be positioned in penal servitude to do public works tasks together with constructing roads, forts and mines. Besides the monetary advantages of offering a loose supply of tough labour, the proponents of recent penal code additionally concept that this deter crook pastime with the aid of using creating a conspicuous public instance of effects of breaking regulation. However what honestly ended up going on became common spectacles of disorderly behavior with the aid of using the convict paintings crews, and the technology of sympathetic emotions from the residents who witnessed the mistreatment of the convicts. But this regulation speedy drew grievance from the humanitarian perspective (as cruel, exploitative and degrading) and from a utilitarian perspective (as failing to discourage crime and delegitimizing the nation withinside the eyes of the public). Reformers together with Benjamin Rush got here up with an answer that could permit the ongoing use of compelled labour, even as maintaining disorderly behavior and abuse out of the eyes of the public. They recommended that the prisoners be despatched to be secluded "Houses of repentance" wherein they might be subjected (out of the view of the public)

³⁰Jonathan W. Daly, *Autocracy under Siege: Security Police and Opposition in Russia, 1866-1905* (1988)

³¹ Fox 1952, p.46

to “physical pain, labour, watchfulness, solitude and silence joined with cleanliness and a easy diet”.³²

Pennsylvania soon put this theory into practice, and turned its old jail at Walnut Street in Philadelphia into a State Prison in 1790. This Prison was modeled on what became known as Pennsylvania system or 'separate system' and placed as prisoners into solitary cell with nothing other than religious literature and forced them to be completely silent to reflect on their wrong.³³ New York soon built the New Gate State Prison in Greenwich Village, which was modeled on the Pennsylvania system³⁴ and other states followed. This system's fame spread and attracted visitors to the U.S.

The use of Prisons in Continental Europe was never as popular as it became in the English speaking world, although State Prison system were largely in place by the end of the 19th Century in most European countries. After the unification of Italy in 1861, the Government reformed the repressive and arbitrary prison system they inherited and modernized and secularized criminal punishment by emphasizing discipline and deterrence.³⁵ Italy developed an advanced penology under the leadership of Cesare Lombroso (1835-1909).³⁶

3.11 SPECIAL TYPES OF PRISON

This topic is dealt with fewer than five sub-titles like the prison for juveniles, women prisons, military prisons, and prisoners of war camps, political prisoners and psychiatric facilities prison.

³² McClennan, Rebecca M. (2008). “The Crisis of Imprisonment: Protest, Politics and the Making of the American Penal State”, 1776 -1941. Cambridge University Press.

³³ Murty, Komanduri S.(2004). Voices from Prison: An Ethnographic Study of Black Male Prisoners. University Press of America. p. 64. ISBN 9780761829669.

³⁴ Lewis, W. David (2009). “From Newgate to Dannemora: The Rise of the Penitentiary in New York”, 1796-1848. Cornell University Press p. 30

³⁵ Mary Gibson , “ Women’s Prisons in Italy: A Problem of Citizenship, “ Crime Histoire et, Societes (2009) 13#2 pp 27-40

³⁶ Paul Knepper and Per Jergen Ystehede, eds, The Cesare Lombroso Handbook (2012)

3.11.1 Prison for Juveniles

Prisons for Juveniles are known by a variety of names including 'youth detention facilities', 'Juvenile detention centers' and 'Reformatories'. The idea of separately treating youthful and adult offenders is a relatively modern idea. The earliest known use of the term 'Juvenile delinquency' was in London in 1816, from where this quickly spread to the United States. The first Juvenile Correctional Institution in the United States opened in 1825 in New York City. By 1917, Juvenile Courts have been established in all but 3 States. It was estimated that in 2011 more than 95000 Juveniles were locked up in prisons in the United States (the largest youth population in the world). Besides prison, many other types of residential placements exist within Juvenile Justice System including Youth Homes; Community based programmes, Training Schools and Boot camps.³⁷

3.11.2 Women Prisons

A developing focus that lady prisoners had special desires than male prisoners caused the status quo of first jail for girls in Canada in 1874 (Andrew Mercer Reformatory, Toronto, Canada). The goal of this Reformatory turned into to create a homelike ecosystem for its lady inmates and to educate them the ability vital to steer a first rate lifestyles as soon as their sentence expired. The Training provided turned into meant to instill female Victorian virtues which includes obedience and servility.

Female inmates revel in excessive fees of rape and sexual violence at the same time as incarcerated. Sexual aggression and abuse via way of means of male jail group of workers turned into widespread. In the USA in 2008 (in line with Bureau of Justice statistics) greater than 216,six hundred humans have been sexually abused in prisons.³⁸ Sexual offences in opposition to girls prisoners consists of rape, attack and groping for the duration of pat frisks. Male correctional officers frequently violate girls prisoners privateness via way of means of looking them undress, bathe and visit the bathtub room. It is found in a studies that "girls with histories of abuse are much more

³⁷ Welch, Michael (2004). "Juveniles in Corrections. Corrections: A Critical Approach." McGraw-Hill.

³⁸ Kaiser, David; LouvisaStannow(24th March 2011). "Prison Rape and the Government". The New York Review of Books: 1-19

likely to simply accept sexual misconduct from jail group of workers due to the fact they're already conditioned to reaction to coercion and threats via way of means of acquiescing to guard themselves from similarly violence".³⁹In federal ladies's correction facilities, 70% of guards are males, reinforcing woman inmates' powerlessness. Incarcerated ladies go through disproportionately from HIV/AIDS, infectious disease, reproductive problems and continual diseases. Within the American Prison System, HIV have become greater popular amongst ladies than amongst men. In 2007, the Bureau of Justice Statistics said that an average, 5% of ladies who entered into State Prison are pregnant and in Jail6% of ladies are pregnant.⁴⁰

3.11.3 Military Prisons and Prisoner of War Camps

Captives at camp X-ray is a U.S. Military Prison placed in Guantanamo Bay, Cuba in which many human beings have been being indefinitely detained in solitary confinement as a part of the "War on Terror" The Prisoners have been compelled to put on goggles and headphones for sensory deprivation and to save you them from speaking with different prisoners.

Prisons have shaped a part of Military structures for the reason that French Revolution. France installation its gadget in 1796. They have been modernized in 1852 and that they have been used variously to residence prisoners of battle, illegal warring parties the ones freedom is deemed a countrywide protection threat via way of means of army or civilian government and individuals of the army observed responsible of a extreme crime. In the American Revolution, British Prisoners held via way of means of the U.S. have been assigned to nearby farmers as labourers. The British stored American sailors in damaged down deliver hulks with excessive dying rate. In the American Civil War, at the start prisoners of battle have been released, when they promised now no longer to combat once more until officially exchanged. When the Confederacy refused to change black prisoners, the gadget broke down and every facet constructed large-scale prisoner of battle (POW) camps. Conditions in phrases of housing, meals and hospital treatment have

³⁹ Law, Victoria (2009), Resistance Behind Bars: The Struggle of Incarcerated Women, Oakland:PM Press. p.61

⁴⁰Shackling of women in custody. The Rebecca Project Retrieved 2011-04-27

been horrific withinside the Confederacy, and the Union retaliated via way of means of implementing harsh conditions.⁴¹

By 1900 the criminal framework of the Geneva and Hague Convention supplied massive protection. In the First World War, hundreds of thousands of prisoners had been hung on each sides, and not using a primary atrocities. Officers obtained privileged remedy. There became an boom withinside the use of compelled labour at some stage in Europe. Food and scientific remedy had been usually akin to what energetic obligation squaddies obtained, and housing became tons higher than front-line conditions.⁴²

3.11.4 Political Prisons

Political prisoners are human beings who've been imprisoned due to their political beliefs, sports and affiliation. There is a great deal debate approximately who qualifies as a 'Political Prisoner'. The class of 'Political Prisoner' is frequently contested and plenty of regimes that incarcerate political prisoners frequently declare that they may be merely 'criminals'. Others who're now and again categorized as 'political prisoners' consist of prisoners who had been politicized in prisons and finally punished for his or her involvement with political causes.⁴³

Many nations hold or have withinside the beyond had a device of prisons specially supposed for political prisoners. In a few nations, dissidents are detained, tortured, achieved and/or disappeared with out trial. This can take place both legally or greater legally or every now and then at the same time as falsely accusing humans or fabricating proof in opposition to them.⁴⁴

Single cells withinside the B phase Court backyard of Robben Island Maximum Security Prison changed into used to residence political prisoners in South Africa from 1961 to

⁴¹ Michael B. Chesson, "Prison Camps and Prisoners of War", in Steven E. Woodworth, ed. *The American Civil War* (1996) p.466-78.

⁴² Heather Jones, "A Missing Paradigm, Military Captivity and the Prisoner of War, 1914-18, Immigrants and Minorities" (2008)

⁴³ James, Joy, ed. (2003). *Imprisoned Intellectuals: America's Political Prisoners Write on Life, Liberation and Rebellion*. Rowman & Littlefield.

⁴⁴ Wu, Yenna (2011) "Introduction". In Livescu, Simona et al. *Human Rights, Suffering, and Aesthetics in Political Prison Literature*. Lexington Books.

1991. Many of the humans which include Nelson Mandela who have been concerned in resistance towards the apartheid Government have been restricted in Robben Island.

3.11.five Psychiatric Facilities Prisons

Some Psychiatric centers have traits of prisons, mainly whilst confining sufferers who've dedicated against the law and are taken into consideration dangerous. Many prisons have psychiatric devices committed to housing offenders identified with extensive form of intellectual disorder. The United State Government refers to psychiatric prisons as 'Federal Medical Centre'. (FMC).

3.12 MODERN PRISONS

To save you escapes through the Prisoners, Prisons are surrounded through fencing, big walls, earthworks, geographical capabilities or different boundaries. Many cutting-edge prisons relying on the extent of safety are having more than one boundaries like a fringe of excessive walls, razor cord or barbed cord, concertina cord, electrified fencing, movement sensors, protect towers, secured and defensible major gates, safety lighting, puppies and roving patrols on the way to save you prisoners from escape.⁴⁵ Remotely controlled doors, CCTV monitoring, alarm, cages, restraints, lethal and non-lethal weapons, riot control gear and physical segregation of units and prisoners must be present within a prison to monitor and control the movement and activity of prisoners within the facility.⁴⁶

Modern jail layout has an increasing number of sought to limitation and manipulate the motion of prisoners at some stage in the ability and additionally to permit a smaller jail team of workers to screen prisoners directly. Smaller, separate and self-contained housing gadgets recognized as 'pods' or 'modules' are designed to preserve sixteen to 50 prisoners and are organized round exercising yards or help centers in a decentralized 'campus' pattern. A small variety of jail officers, occasionally a unmarried officer, supervise every pod. The pods incorporate degrees of mobileular organized round a principal manipulate

⁴⁵Hanser Robert D. (2012) Introduction to Corrections.SAGE.

⁴⁶ Latessa, Edward J. (1996). "Technology".In McShane, Marilyn D. & Williams, Frank P. Encyclopedia of American Prisons.Taylor and Francis.

station or table from which a unmarried officer can screen all of the cells and the complete pod, manipulate mobileular doorways and speak with the relaxation of the jail.

3.13 PRISON POPULATION

It is estimated that in 2010 at least 10.1 million people were imprisoned worldwide.⁴⁷The United States had the world largest prison population over 2.3million (one in every 100 American adult was in prison) people in American prisons or jails in 2012 whereas it was 744,000 in 1985.⁴⁸ In California, nearly 158,000 inmates were detained in 2009 whereas the prisons were designed to hold 84,000 inmates only. The incarceration rate in California prisons was at an increasing rate and new prisons could not be built fast enough.⁴⁹ In 2009 China's prison population is about 1.6 million while the prison population in India was 3, 32,112.⁵⁰

3.14 PRISONS IN INDIA

In India, the early prisons were only place of detention where an offender was detained until trial and judgment and the execution of the latter. The structure of society in ancient India was founded on the principles enunciated by Manu and explained by Yajnavalkya, Kautilya and others.⁵¹ In Arthshastra, we find a long list of offences and the penalties therefor. The crimes which offended against person, property, the institution of marriage and administration of justice were regarded very heinous. The punishment for these crimes usually inflicted was mutilation, death and penance. Trials by ordeal were frequently resorted to. In some cases the accused was made to take⁵² a caustic drink and it was believed that if he spoke the truth the drink would do no harm.⁵³Expiation was recognized as a form of punishment.⁵⁴

⁴⁷ Walmsley, Roy (October 2010), "World Prison Population List (Ninth Edition)" (PDF) Retrieved 2012-12-17

⁴⁸ Michael Myser (15th March 2007). "The Hard Sell" CNN Money, Time Warner Company, Retrieved 28 June 2013

⁴⁹ Engdahl, Sylvia (2010). Prisons. Farmington Hills: Greenhaven Press.

⁵⁰"World Prison Population" BBC News. 2009 Retrieved 28 June 2013

⁵¹ Aiyangar, K.V.R., Some Aspects of Ancient Indian Polity. P.94

⁵² Aiyangar, K.V.R., Some Aspects of Ancient Indian Polity. P..95

⁵³ Jayaswal,K.P., "Hindu Polity" p.134-139

⁵⁴ Rapson, E.J., "Cambridge History of India", Vol.I, p.485

Among numerous sorts of corporal punishments branding, hanging, mutilation and death, imprisonment become the mildest type of penalty recognized in historic Indian penology. Imprisonment occupied an everyday vicinity many of the penal remedy and this form of corporal punishment become counseled withinside the Hindu Scriptures. The evil doer become positioned into jail to segregate them from the Society. The foremost goal of imprisonment become to maintain away the incorrect doer in order that they won't defile the individuals of the social order. These prisons had been completely darkish dense, cool and damp, unlighted and unwarmed and that no right preparations for sanitation and no manner of facility for human dwelling.

Kautilya is a forerunner for the jail reforms which might be being finished today. In his Arthashastra he has prescribed that prison have to be built in a capital and offer separate lodging for guys and women. He has mentioned the troubles of prisoner's existence and their welfare. He is of the opinion that each 5th day a few prisoners have to be made unfastened who pay a few cash as first-class or undergoes a few different moderate corporal punishment, promise to paintings for social upliftment. He has additionally counseled wellknown amnesty at the delivery of Prince, Royal Monarch or coronation of Royal Heir and at the event of Social Festivals.

In the early years of Asoka there has been an unreformed jail wherein maximum of the conventional fiendish tortures had been inflicted and from which no prisoner got here out alive. In the later duration of his rule, especially while he become encouraged via way of means of Buddhism many reformatory measures in prisons had been taken.

During the duration of Sultanates there had been no ordinary prisons. Only antique Forts and Castles had been used as Prisons. During the time of Akbar there had been styles of prisons. One for criminals who've devoted critical offence and different for everyday criminals. Important nobles and princess responsible of treason and rebellions had been imprisoned in fortresses located withinside the exceptional elements of the country.

The criminal gadget withinside the medieval India resembles that of historic India and the Muslim Sovereigns seldom tried to tamper with the every day management of Justice. Crimes had been divided into 3 companies viz. (a) Offences towards God (b) Offences

towards the State (c) Offences towards non-public classes. The punishment for those offences had been of 4 classes: (a) Hadd (b) Tazir (c) Qisas and (d) Tashhir. Hadd manner a punishment prescribed via way of means of canon law, Tazir is punishment meant to reform the culprits and relying at the discretion of the judge; Qisas is the private proper of the sufferer or his subsequent of relatives to inflict punishment; Tashhir is public degradation.⁵⁵ The punishment for these offences were fines and confiscation, forfeiture of rank and title, subjecting to humiliations, banishment, whipping, mutilation of offending limbs, execution and other corporal punishments.⁵⁶ Imprisonment turned into now no longer resorted to as a shape of punishment in case of everyday criminals. It turned into used usually as a method of detention handiest. There have been fortresses located in specific components of the us of a wherein the criminals have been detained pending trial and judgment. During the technology of cutting-edge prisons, imprisonment have become conspicuous and the maximum usually used tool of penal remedy.

3.14.1 Types of Prisons

As according to the NCRB Reports of 2012, there are approximately 1394 specific varieties of Jails in India viz., Central Jail (127), District Jail (340), Sub-Jail (806), Women Jail (20), Borstal School (21), Open Jail (46), Special Jail (31) and others (3), with a ability to house 3,47,859 Prisoners out of which 3,23,573 are Male Prisoners and 24286 are Female Prisoners.

In Tamil Nadu there are approximately a hundred thirty five specific form of Jails viz., Central Jail (9), District Jail (9), Sub-Jail (95), Women Jail (3), Borstal School (12), Open Jail (2), and Special Jail (5). With a ability to house 21,951 out of which Male Prisoners are 19510 and Female Prisoners are 2441.

3.15 PRISON REFORMS IN INDIA (PRE INDEPENDENCE PERIOD)

The prisons in India have been in a horrible circumstance while the East India Company took over a number of the provinces of India. The East India Company, however, turned

⁵⁵ Sarkar, J.N., "Moghul Administration", p.116-124

⁵⁶ Saran, P., "The Provincial Government of the Moghul", p.382

into additionally now no longer so eager to make investments cash on jail development being a non-worthwhile welfare programmes. Moreover the jail machine withinside the extra enlightened international locations together with U.S.A and U.K. have been additionally horrible in the ones days as deterrence turned into the handiest intention of a jail sentence.

3.15.1 Prison Discipline Committee (Lord Macaulay Committee) -1836

Our state of the art prison the board is a tradition of the English Rule. In a note to the Legislative Council in India on December 20, 1935, Lord Macaulay, who would go on to write the Indian Penal Code, which makes imprisonment the most common form of retribution, spoke for the first time about the terrible conditions that existed in Indian prisons at the time. "The great crook code may be of little or no use to a network except there be properly equipment for the infliction of punishment," he insisted fervently. That's what he forced "it is, consequently, of the best importance to set up such guidelines as will make detainment a dread to transgressors and will on the equivalent time save you it from being gone to through any circumstances amazing for mankind."

Lord Macaulay advocated for the appointment of a committee to recommend measures to improve subject matter in prisons. As a result, on January 2, 1936, Lord William Bentick appointed a committee to investigate the conditions of prisoners in Indian prisons. Ruler Macaulay and a couple greatest exceptional Legislators and Law specialists of the day comprised the council. In 1838, Lord Auckland, the Governor General at the time, received the report from this committee, which was referred to as the Prison Discipline Committee. In its report, the Committee expressed its total disapproval of the system of employing prisoners for extra-mural labor on public roads, the widespread corruption within the subordinate establishment, and subjectivity. The Committee rejected all notions of reforming criminals through ethical and spiritual teaching, education, or any system of praise for properly conduct, probably under the influence of the response from those officials. It favored the establishment of principal prisons and sought to impose

sentences in such a way as to deter both the actual and potential perpetrators of crimes from committing them.⁵⁷

3.15.2 Commission of Enquiry into Jail Management and Discipline-1864

The board is a legacy of the English Rule in our modern prison. "Lord Macaulay, who would later write the Indian Penal Code, which makes imprisonment the most common form of retribution, spoke for the first time about the terrible conditions that existed in Indian prisons at the time in a note to the Legislative Council in India on December 20, 1935." The incredible criminal code might be of next to zero use to an organization besides there be appropriately hardware for the curse of discipline," he demanded intensely. He constrained "it is, subsequently, of the best significance to set up such rules as will make confinement a fear to violators and will on the same time save you it from being gone to through any conditions astounding for humanity that."

Lord Macaulay pushed for the creation of a committee to suggest ways to improve prison subject matter. Subsequently, on January 2, 1936, Master William Bentick named a board to explore the states of detainees in Indian jails. Ruler Macaulay and a couple most noteworthy excellent Lawmakers and Regulation experts of the day contained the board. In 1838, Ruler Auckland, the Lead representative General at that point, got the report from this advisory group, which was alluded to as the Jail Discipline Council. Subjectivity, widespread corruption within the subordinate establishment, and the system of employing prisoners for extra-mural work on public roads were all condemned by the Committee in its report. The Board of trustees dismissed all thoughts of improving lawbreakers through moral and otherworldly instructing, training, or any arrangement of acclaim for appropriately lead, most likely affected by the reaction from those authorities. It advocated for the establishment of major prisons and sought to impose sentences that would discourage both actual and potential criminals from committing crimes.⁵⁸

⁵⁷Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter II, Review of Prison Reforms, p.7, paras 2.1. & 2.2.

⁵⁸Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter II, Review of Prison Reforms, p.7,& 8 para 2.3.

3.15.3 Conference of Experts in 1877

In 1877, a Conference of Experts was set up to look into how the jail was run. By that time, the United States had enacted the subsequent five laws governing the management of prisons in various states. An Act for the law of jails within the City and Presidency of Bombay and enforcement of subject therein (1864), An Act for the law of jails and enforcement of subject therein (Bengal – 1864), and an Act for the higher control of the jails within the Presidency of Bombay (1856). Prisons Act and Madras Jails Act (1860).

The Prisons Act of 1870 was enacted with the help of the Governor General in Council, and it was relaxed with the help of the Governors in Council for each jurisdiction. These Acts differed on a number of important points governing jail control concepts and practices. The solution that was suggested by the convention of 1877 was to enact a jail regulation that could at least maintain uniformity of procedure on fundamental issues like calculating sentence lengths. A draft invoice was actually put together on the advice of the convention, but the issue was put off because "situations had been unfavorable."⁵⁹

3.15.4 Fourth Jail Commission-1888

The Fourth Jail Commission was established in 1888 by Lord Dufferin to investigate prison records. In light of the fact that we are still searching for a solution to the same problem nearly a century after the Resolution appointing the Commission, the item and scope of the Commission are fascinating to examine.

The Governor-General in Council has held a cautious interest for decades in the management of jails with consideration for economy, sanitation, and field. Under the direction of the Indian government, three commissions were set up in 1836, 1864, and 1877 to look at the overall ideas that should be used to manage Indian prisons. There is at the a piece of Lead representative General in Chamber no need to reexamine the statute so set down, but a test of current realities of Correctional facilities in restrictive territories or even of penitentiaries withinside the indistinguishable territory demonstrates that top

⁵⁹Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter II, Review of Prison Reforms, p. 8 para 2.4.

notch scope of activity exists in wearing the ideas into impact. When it comes to prison management, the Governor-General in Council should not always be interpreted as advocating for total management uniformity across all provinces. He acknowledges that community events must continuously encourage exercise diversity. However, a test of the common record for a couple of years rehearsed through him that the divergences with respect to the benefit of protecting detainees as to their sterile circumstances and as to handle element to the ways of life of imperfections that is material to eliminate. His Excellency in Council believes that a careful and in-depth examination of professionals immediately into the reasons that work in positive provinces and positive Jails to provide a variation is the best way to achieve development because there is no doubt about the concepts and the question is certainly one of practice.

The Jail Commission of 1888 traveled to numerous provinces and conducted in-depth research on all aspects of prison administration. The Commission happened to the assessment that consistency wasn't possible with out establishment of an unmarried detainment facilities act. A consolidated Prison Bill was drafted based on the Jail Commission of 1888's recommendations. A convention of experts on prison control from all provinces convened for the purpose in 1892 in Calcutta tested the Commission's guidelines regarding prison offenses and punishments. They outfitted withinside the Bill for such prison discipline as gunny clothing, burden of iron helpful and feet, correctional eating routine, isolation and whipping.

The draft receipt became circled to the local specialists with a letter tended to through Mr. C.J.Lyall, the then Secretary to the Public authority of India, Home Division in Walk 25, 1893 requesting for the local specialists to ahead their perceptions on it and subsequent to consolidating such perceptions as had been important, the Bill became proposed to the Lead representative General's Chamber. As a result, the Prisons Act of 1894 was enacted, which is the current law governing the management and control of Indian prisons. The British had observed that operating prisons in accordance with this Act was beneficial to their political objectives. Although there has been a lot of recent questioning regarding the goals, control, and management of prisons, it has barely ever gone through any significant change within the hands of our own authorities, even though

it has been independent for sixty-six years. The Prisoners Act of 1900 was also enacted as a result of this Commission's recommendation.⁶⁰

3.15.5 Indian Jails Committee 1919-1920

The Indian Jails Committee conducted the first comprehensive investigation of jail issues. This Committee examined the conditions of prisons not only in India but also in England, Scotland, the United States, Japan, the Philippines, and Hong Kong. It produced a document with up to 584 suggestions, which is a landmark in the history of India's jail reforms. To be fair, it can be considered the foundation of cutting-edge prison reform in the United States. For the essential time withinside the records of detainment facilities 'reconstruction' and 'restoration' of guilty parties had been perceived in light of the fact that the objectives of prison the board.

The Committee argued that criminals should be cared for by competent, well-trained staff chosen and hired after careful consideration. It argued that the profits of the jail staff ought to be sufficient to maintain and sustain devoted service. It dismissed the idea of unbalanced work of convict authorities and pushed the markdown of such extreme business. Separation of executive and administrative duties had been advocated. Additionally, the Committee advocated for the introduction of technical group employees into the jail service. Concerning the deterioration of physical conditions, the Committee called for the establishment of distinct jails designated specifically for various categories of inmates. According to inmates, it recommended a minimum area of 75 rectangular yards within the prison wall. It recommended corrective measures to avoid overcrowding and criticized it. The Committee strongly rejected the placement of children in jails intended for individual prisoners. It called for the establishment of a Children's Court to hear all cases involving underage offenders and their housing remand home. The Board made a strong supplication for making of caution, probation, and outstanding for canvases in lieu of brief time frame period detainment. With a view to persevering with the system of evolution of prisons troubles and bringing in prison reform the Committee

⁶⁰ Prison Reforms Commission, 1978-70 Vol.1 Chapter II Historical Background p.5 Para 2.3

advocated that a convention of Inspector General of prisons be held each opportunity year.

Even though it was radical in light of the sociological theory of the time, the Indian Jail Committee's recommendations could not be implemented for specific reasons. In the first region, the diarchical system established by the Government of India Act of 1919 left the issue of prisons in the hands of the provincial authorities, who had no strong control over them. As a clear consequence, the majority of provincial authorities gave prison management a lower priority, disregarding the valuable suggestions for jail reforms provided by the Committee. The different rationale why the exhortation of the Council could never have a huge impact at the prison the executives withinside the US of america turned into the political environmental elements that won eventually of the state all through the numerous years following the accommodation of the report. The issue of jail reforms was overshadowed by widespread political agitations and the authorities' pre-career efforts to quell them. Individuals had been generally pre-considering the more extensive and extra urgent issue of arriving at political autonomy and their advantage became keen on the triumphant horrendous circumstances of penitentiaries best after they had been detained all through the political battle.

However, the Bombay, Calcutta, and Madras Presidency should benefit from some innovation in the field of criminal justice by enacting the Children Act in the early 1920s, in accordance with the recommendations of this Committee. Section 560 of the Criminal Procedure Act of 1898 was further amended in 1923 to make it easier to suspend a sentence in specific circumstances.

As a result of the Government of India Act of 1935, the Indian Jail Committee's recommendations were less likely to be uniformly implemented throughout the United States of America, and the challenge of jail was transferred to the control of provincial authorities as a result of the Constitutional changes. The years 1937 to 1947 were pivotal in the history of Indian prisons because they sparked public interest in prison reform, at least in some contemporary states. The Governments of these modern States were persuaded to hire committees to also inquire into jail situations and to indicate

development in accordance with the local circumstances thanks to the efforts of a number of prominent freedom fighters who had recognized the circumstances in jail. A portion of the Boards of trustees selected and the cutting edge regulation outperformed all through this period had been: Uttar Pradesh Jail Reforms Committee, 1946; Mysore Committee on Prison Reforms, 1940-2004. The Madras Probation of Offenders Act, 1936, and the Bombay Jail Reforms Committee, 1946-1948. The Bombay Probation of Guilty parties Act, 1936 The C.P. what's more, Berar restrictive send off of Detainees Act, 1936.

In addition, the essential Prison Preparing School became introduced at Lucknow in 1940 for the tutoring of Prison Officials and Jailers.⁶¹

3.16 PRISON REFORMS IN INDIA (POST INDEPENDENCE PERIOD)

When India gained independence in 1947, political leaders' memories of terrible conditions in prisons were fresh in their minds, and when they assumed power, they implemented significant jail reforms. However, when the Indian Constitution became law in 1950, it kept the Government of India Act of 1935 within the category of prisons and maintained "Prisons" as a national issue by including it in listing II - State listing of the VII schedule. The use of arduous efforts for development in housing situations in Jails marked the first decade of independence. A scope of Prison Changes Councils have been named with the guide of utilizing the State Legislatures apparently to get positive level of refinement of prison circumstances and to put the cure of wrongdoers on a precise balance. The following committees provided excellent recommendations for those traces: East Punjab Prison Changes Advisory group 1948 - 49, Madras Prison Changes Board of trustees, 1950 - 51, Prison Changes Council of Orissa, 1950 - 55, Prison Changes Panel of Travancore and Cochin, 1953 - 55, Uttar Pradesh Prison Enterprises Request Panel, 1955 - 56. Maharashtra Prison Businesses Re-partnership Board, 1958 - 59.

⁶¹Report of the All India Committee on Prison Reforms (MullaCommittee) 1980-83, Vol. I, Chapter II, Review of Prison Reforms, p.9 & 10 Para 2.7-2.7.3 & 2.8.

Unfortunately, the enthusiasm and enthusiasm with which various governments approached the issue of jail reforms did not last long. Even though these committees' reviews and recommendations were excellent and critical, they were no longer carried out effectively. However, the following are some fresh ideas for jail reform that have been implemented in the United States: The establishment of open prisons that serve as a half-manner residence for long-term prisoners for their transition from jail to open society, the development of open prisons that serve as a half-manner residence for long-term prisoners for their transition from jail to open society, the availability of furlough and parole with the assistance of prisoners, the grant of nominal wages to prisoners for the work they perform, and the establishment of a Jail Officers Training School in Pune.⁶²

3.17 TYPES OF PRISONER

According to the Prisons Act of 1894, inmates are typically categorized as either a criminal, a civil, or a prisoner. "Criminal Prisoner manner any prisoner duly devoted to custody under the writ warrant or order of any Court of authority workout crook jurisdiction or with the aid of using order of the Court martial," reads Subsection 2 of Section 3's Head "Definition" of the Prisons Act of 1894. In accordance with Section 3(3) of the aforementioned Act, a "Convicted Criminal Prisoner" is defined as a person who has been imprisoned in violation of either the Prisoners Act of 1871 (five of 1871) or Chapter VIII of the Criminal Procedure Code of 1882 (ten of 1882). In accordance with Section 3(4) of the aforementioned Act, "Civil Prisoner" conducts any prisoner who is not a crook. Detainees can likewise be arranged with regards to the time span of detainment, disease, age, sex, political reason, cases of common nature and occurrences of Preventive capture.

3.18 PRISON ADMINISTRATION IN INDIA

In the phrases of Mahatma Gandhi, "Crime is the final results of a diseased thoughts and prison should have an surroundings of health center for remedy and care." Imprisonment as a style of managing offenders has been in trend due to the fact time immemorial.

⁶²Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter II, Review of Prison Reforms, p.10 &11, para 2.9, 10 & 11.

Despite the fact that the current Prison Administration in India was established during the British period, the system has undergone significant change over time, particularly since independence, as it is discussed in detail above under the headings "Prison Reforms Pre-Independence" and "Post-Independence Period."

The four hyperlinks that shape the chain of Criminal Justice Administration are

1. The Assembly 2. The three policemen. The Courts. The Judiciary. The issue of jails was included in the valuable list prior to the passage of the Government of India Act, 1935, and it was transferred to the provincial government following the Act's passage. The prisons are now classified as a State Subject under Article 246 of the Indian Constitution, which places them on the Seventh Schedule, List II, and State List Entry IV, which examine the following:

"Jails, Reformatories, Borstal Organizations and various Foundations of the like nature and character kept in that, arrangements with various States for utilizing Penitentiaries and Establishments."

The guiding instrument for the control of prisons in all of India's states is the Prisons Act, 1894 (Act IX of 1894) enacted by the Indian government. The Prisoners Act of 1900, the Identification of Prisoners Act of 1920, the Tamil Nadu Correctional Institutions Act of 1925, the Exchange of Prisoners Act of 1948, the Transfer of Prisoners Act of 1950, the Representation of Peoples Act of 1951, the Prisoners (Attendance in Courts) Act of 1955, the Probation of Offenders Act of 1958, the Extradition Act of 1962, the Mental Health Act of 1987, the Juvenile Justice (Care and Protection) Act of 2000

3.18.1 Prisons Act, 1894

The best law for any state to use to run the prison system after independence is the Prisons Act of 1894, which dealt with prisoners and subjects in jail. Even after a period of one hundred twenty years, the Act has never been subject to a significant extrade. The Act deals with the interests of prisoners as well as their living conditions, with the exception of the control of prisons provisions. Since the issue of Penitentiaries and partnered foundations is covered withinside the Seventh Timetable of the Constitution of

India, in compatibility of Area 59 of the Demonstration the State Government with the guide of utilizing notice withinside the Authority Paper is engaged to make rules beneath this Demonstration.

3.18.2 Model Prison Manual, 1960

The Model Prison Manual, a commendable guide to prisons, was produced by the All India Jail Manual Committee between 1957 and 1959 and was released in 1960. The Model Jail Manual, 1960, presently as of now not best articulates statute for a green control of detainment facilities anyway furthermore sets down clinical pointers for restorative cure of different preparation of detainees.⁶³

3.18.3 Institutions connected with Prison Administration

The Central Bureau of Correctional Services, which was established by the Indian government and placed under the Ministry of Home Affairs in 1961, was given the responsibility of managing Indian prisons. In 1964, the newly established Department of Social Security, which is now known as the Ministry of Social Welfare, took over the Central Bureau of Correctional Services from the Ministry of Home Affairs. However, the Bureau continued to collaborate with the Ministry of Home Affairs on a variety of jail management and reform-related issues. The Bureau changed its name to the National Institute of Social Defense in 1975. While through the Service of Home undertakings, the Establishment offers with the executives and The board of Detainment facilities and on the grounds that the specialized association of the Service of Social Government assistance, it helps the Public authority withinside the avoidance and oversee of youth misconduct, government assistance contributions in penitentiaries and probation and united points.⁶⁴ By way of the Ministry of Home Affairs in 1995, the work that was associated with the Management of Prisons was given to the Bureau of Police Research and Development.⁶⁵

⁶³Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter II, Review of Prison Reforms, p.12, para 2.14.1.

⁶⁴Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter II, Review of Prison Reforms, p.12 - 16, para 2.15 & 2.16.

⁶⁵ Draft Model Prison Manual, 2003, by Bueau of Police Research and Development - Introductory Chapter

3.19 TREATMENT OF PRISONERS

The philosophy of reformation and rehabilitation that is based on prisons, the obligation to use offenders' time in prison for treatment in an effort to improve their behavior and reintegrate them into society, and the contents of prisons' daily routines need to be planned in such a way that inmates' lives tend to follow the path that leads to the ultimate goal of their rehabilitation within society. The total environment of penitentiaries, comprehensive of the way of behaving of the prison work force, should be overcharged with excellent qualities and the detainees should be uncovered to an empowering environmental factors wherein they can hindsight and change themselves. A welcoming ecosystem is a crucial prerequisite for the implementation of any reformative treatment. In addition, the inmates must participate in individualized treatment plans tailored to their specific needs and personality traits.

However, the fact that Indian prisons lacked a healthy environment for the implementation of a long-term behavior modification program or a unique treatment plan was undoubtedly a disappointing revelation. Even among Indian jail directors, there was no comprehension of the benefits of correctional treatment. Directors of prisons were the least affected by this important aspect of jail work. In truth no regard has been paid both to the record of the All India Prison Manual Panel 1957-59 wherein the question of remedial cure and training has been extravagantly referenced or to the Model Jail Manual, 1960, wherein some of the major thought and technique for cure programs had been consolidated.⁶⁶

In light of Pandit's words, it might be appropriate to mention the ignominy of imprisonment at this point. From "Prison Land," Jawaharlal Nehru.

"The small portion of the jail is separated from the vast outside space by high partitions and iron gates. Here on this prison worldwide the whole is unique; there aren't any tones, no changes, no development, no expectation, and no delight for the lengthy timespan detainees, the 'lifer'. Life runs its stupid spherical with a horrible monotony; it's

⁶⁶Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter X, Treatment Programmes, p.127, para 10.1 & 10.2.

miles all flat desolate tract land and not using a excessive factors and no oasis to quench one's thirst or refuge one from the burning heat. Days run into weeks, and weeks into months and 12 months until the sands of existence run out.

They have the full support of the state, and none of the usual tests are available. The scream of pain cannot be heard beyond the high walls, even though the ache's voice has quietened. In theory, there are a few tests and inspections by traffic and outside officers. However, it is extremely uncommon for a prisoner to dare to complain to them, and those who do so must endure the consequences. The visitor leaves, the legitimate petty jail continues to exist, and he must skip his days with them for miles. It isn't unexpected that he likes to put up together alongside his issues rather than danger an expansion to them".⁶⁷

In this association Equity Krishna Iyer appropriately found that hardship of private opportunity should be point orientated and accommodatingly helpful, beside being hindrance. If correction is a social purpose, as Gandhiji frequently insisted, the isolated years behind the insensitive bars must own a hospital. In prison cure need to in this way, be outfitted to mystic mending, send off of stresses, recovery of self-appreciate and social standardization beside training to develop oneself to the ways of life outside.⁶⁸

It is the top obligation of the Jail machine to store the basic, receptive first wrongdoers from the hazardous and dehumanizing influences of the engaged sub-custom of the prison comprising of prison grape plant, prison code language, under-worldwide withinside the prison, undesirable games comprising of betting, homosexuality, auto-sexual practices, mastery of goondas detainees, bias, debasement and so on. Notwithstanding this safeguarding component, there might be moreover the reformative component which calls for prison chiefs to pleasantly design the day to day normal of detainees and to

⁶⁷Jawaharlal Nehru, India and the world, P.108-129.

⁶⁸ Phul Singh vs. State of Haryana, (1979) 4 SCC 413:(AIR 1980 SC 249: (1980 1 SCR 589: 1980 CrLJ 8:1980 SCC (Cri.) 1.

increment adjusted, stimulating and different cure programs for assorted classes of wrongdoers requiring cure and reorganization.⁶⁹

3.20 STATUS OF PRISON AND PRISONERS IN INDIA:

As a state subject covered by item 4 of the state list in the Seventh Schedule of the Indian constitution, Indian prisons and their administration fall under the State List. The administration and organization of jails falls in the space of the State Legislatures and penitentiaries are represented by the Jail Act 1894. States have the authority and responsibility to modify the outdated and antiquated prison laws, rules, and regulations currently in place. In order to improve prison security, medical facilities, and the repair and renovation of old prisons, the Central Government provides assistance in various prison-related fields. The government also works to improve prison schools, provide facilities for female offenders, and provide other reformation training.

Additionally, the judiciary demonstrated its crucial role in various aspects of prison administration. In a number of its decisions, the Supreme Court of India established three broad principles regarding prisoners' and prison conditions that serve as guidelines for the higher judiciary. An individual in jail, right off the bat, doesn't turn into a non-individual. Besides, an individual in jail is qualified for all basic liberties inside the impediments of detainment. Finally, there is no support for irritating the enduring currently innate during the time spent imprisonment⁷⁰.

3.20.1 Types of prison inmates

In India, prisoners are classified as Detenues, under-trials, or convicts. A person who has been sentenced to prison for a crime is known as a convict. A person who is currently being tried in a court of law is called an undertrial. A detune is an individual who is in legal care⁷¹.

⁶⁹Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter X, Treatment Programmes, p.127, para 10.3.

⁷⁰NCRB Prison Statistics India 2011 available at <http://ncrb.gov.in/PSI-2011/PrisonStat2011.htm>

⁷¹National Crime Records Bureau. Available at <http://ncrb.gov.in/PSI-2013/PrisonStat2013.htm>

There are some more prison inmates in relation with non- Indian Penal Code, they are called the civil prisoners. And such civil prisoners consist of convict and under-trial only.

3.20.2 Status of prisoners in prison

The state of detainees are entirely hopeless and they are dealt with comparable to creatures. It's difficult to survive in jail because there aren't any basic amenities available. They are not available to the essential circumstances fundamental for endurance. The food that is provided to them is of poor quality, making it impossible for them to eat it. Both the staff at the jail and their fellow inmates may sometimes sexually assault them. Their grievances have not been addressed. They are dependent upon the ruthless treatment by the no-nonsense lawbreakers who are in the ruling situation in the prison. They are required to work long hours without receiving any compensation. The existence in jail is only identical to damnation. This issue has been brought up numerous times but has not been properly addressed by the parliament. The jail is too full, which means there are too many people inside. This is a big problem. The absence of responsiveness with respect to courts as well as the lawmaking body ought to be relieved right away. They should comprehend that the detainees are likewise having similar privileges which each individual is having which incorporates the option to live and right to get the equity moreover. If the rights of prisoners are not addressed, the preamble's equality aspect and justice principle will be undermined.

3.21 LACUNE IN LEGISLATION:

Starting around 1894 , extra than 10 years has been surpassed anyway it's miles the lacuna of authoritative inclusion best that there might be no guideline related with privileges of detainees. The establishment of nationwide coverage of prisons and prisoners was supported by the Mulla committee on prison reform. After that, numerous attempts were made, and the government even collaborated with the NHRC (NATIONAL HUMAN RIGHTS COMMISSION) to draft a new bill. However, the plan to keep it in parliament has not been realized as of yet. Legislative inactivity in the area of prison regulation has forced the judiciary to step into the shoes of policymakers and played a significant role in ensuring that prisoners' natural human rights are protected.

The Human Rights Charter is the parent document of the Charter, but no specific provisions are made for the rights of prisoners. However, the judiciary's interpretation of these rights from the charter's exceptional provision was crucial. The legislature is tasked with enacting laws in a variety of areas, but the issue of prisoners' rights falls squarely outside of its purview.

Part III of the charter provides the essential rights to its residents and inmates, who are also covered by it. As a result, they also had these rights, but they are more difficult to restrict than an average person. The majority of the rights are derived from Part III of the charter, but they are no longer explicitly stated. India is one in everything about generally significant vote based u .s .a .withinside the worldwide and it having a quality of detachment of solidarity which engage the lawmaking body to order the definite legitimate rules and change. As we can see, the parliamentary form of the presidency combined with the federal apparatus made the legislature's enacting apparatus more complicated. When it comes to enacting legislation, there may be a specific procedure that must be followed by the legislature. The procedure became more complicated as a result of the multiple events that are equal within the parliament in India. There are numerous occasions withinside the opposition aspect which reprimand the guideline through method of method for translating it withinside the inaccurate way which achieve intricacy withinside the enacting procedure. Consequently guideline didn't establish the legitimate rules in like of the privileges of the detainees, there aren't anyt any investigate and balances withinside the prison for the appropriately running of the jail authority. However, despite the Supreme Court's numerous recommendations for prisoners' rights and confinement, we can see that they are no longer accompanied. In rare instances, the Supreme Court of India provides certain guidelines for protecting prisoners' rights. Prison is an organization for the reformation of such rule breakers, but we are aware that prisoners are rule breakers and a threat to society due to the lack of legislative oversight. Therefore, it is the legislature's sole responsibility to provide reform-appropriate regulations. The Prison Act of 1894 was amended until January 1, 1957, but it is not always sufficient for the cause of prisoners' rights. As it currently stands, it does not include any provisions regarding the rights of prisoners. Even the Act's provisions are poorly implemented.

3.21.1 Reforms Required

The modification will be made withinside the jail act, 1864, which fails to addressed the problems withinside the gift days. The society has modified with the passing of time.

- New regulation are required for the reformation of the prisoners in Jail.
- New jails will be made to erase the hassle of overcrowding or overcapacity withinside the Jail.
- Proper prison assist will be furnished to the prisoners withinside the prison.

CHAPTER 4

HUMAN RIGHTS WITH REFERENCE TO

CONSTITUTION OF INDIA, HUMAN RIGHTS

COMMISSION AND INTERNATIONAL

COVENANTS

4.1 HUMAN RIGHTS

Human rights have always been one of the most important aspects of any democratic society. It is generally distinguished that vote based system can't live on and keep up with itself without regard for Common liberties and genuine endeavors to advance and safeguard them. Despite the fact that the concept of human rights can be nurtured and developed within a number of political systems, statistics has convincingly demonstrated that they will only be confident if older people in positions of power exercise pleasant and transparent decision-making. However, one must first understand the concept and meaning of "Human Rights" before considering this aspect.

4.1.1 Concept and Meaning

Human is a concrete concept which refers to us and “Right” manner identified and protected interest with the resource of the use of law. So it can be said that our interest this is identified with the resource of the use of law is human rights.⁷² Every human being strives for a few basic necessities—food, water, clothing, a place to live, shelter, and health—without which life is impossible. Similarly every fellow or young ladies is qualified for specific simple privileges and crucial opportunities and withinside the shortfall of which one can't live as individuals. Along these lines 'Basic freedoms' are those privileges which are fundamental for individuals to live as fellow or young ladies.

⁷² Dr. N.C. Patnaick, Misuse of Police Power; A Strain on Human Rights Indian Bar Review Vol. XXIII 2002 at p.85

All societies and life-style have advanced some idea of rights and ideas that ought to be protected and respected as such rights superior on some easy standards which have been universally not unusual and contributed to the development of human right. Rights of guy – natural rights, civil rights, political rights, economic rights, social rights and cultural rights which superior with one in every of a type tiers of emphasis shows one now no longer unusualplace feature – 'Human Dignity' it's considered essential for the attainment of person's wholesome person . Thus the ones rights encompass starting and are applicable to anyone during the arena no matter the race, colour, sex, language or political or one of a kind opinion.

Human dignity is the foundation of all human rights and is inextricably linked to the concept of human rights. Human rights are those rights that are necessary for the preservation of a person's dignity and create the conditions necessary for each person to fully develop himself or herself.⁷³ The creation of the human rights standards was intended as a means of ensuring that everyone's respect is preserved and enhanced. Human rights should be violated by any action that has the potential to affect or violate a person's inherent dignity.

Human Rights are the most basic rights that every person must have in opposition to the State or other public authority on the basis of his or her status as a "member of the human family," regardless of any other factors.⁷⁴ However, the meaning and concept of "Human Rights" are not as straightforward as stated above. Professor Upendra Baxi claims that the very term "Human Rights" itself is problematic.⁷⁵ The articulation of rights-talk frequently obscures attempts to reduce the variety of its implications and provide a false total. One such endeavor compares human "poise," "prosperity," and "thriving" to the solidarity of all human rights to a few careful entires of opinion. Another mode encourages us to discuss fundamental freedoms as "essential," arguing that some of them are debatable or even unnecessary. Those who're denied, denied and confiscated may likewise also absolutely find it intense to just acknowledge and defenses for a totally

⁷³ Observation of Hon'ble Justice P.N. Bhagawathi in *Menaka Gandhi vs. Union of India* AIR 1978 SC 597 p.619 = 1978 (1) SCC 248

⁷⁴ Professor D.D. Basu: *Human Rights in Constitutional Law* (1994) p.5.

⁷⁵ UpendraBaxi, *The Future of Human Rights* p. 5-13.

impression of Human Rights that can surrender or refusal in their privileges to be human. However some other method of aggregation causes us to surrender to a human ghost that the assortment of Human Rights is bound to individuals, the pristine rights to climate (for sure's amazingly improperly, even savagely, called 'practical turn of events') take us far past this sort of thin insight as illustrative endeavors, such attempts at aggregation diminished to a 'cognizant' class forbiddingly various worldwide of really current Human Rights.⁷⁶ As a prescription business, these modes clearly prioritize particular preferred values over others. Human Rights norms and requirements are made to yield their ancillary functions to the requirements of a uniform narrative in each instance, despite their existential reach and normative complexity. Overall, this makes the contradictory nature of "Human Rights" improvement difficult to comprehend. There is no such thing as a "Human Rights" international, only a variety of contradictory terms.

The majority and assortment of the fertile articulations 'Basic freedoms' is worth of birthday celebration best assuming we're equipped for assign selective methods of the keeping up with organizations of that implies and rationales of well known development that dissent contrary to a wide range of human infringement. On the off chance that the thought 'Basic freedoms' way many stuff to particular individuals, those implications need to be designed in a couple of styles with out disregarding the wealth of distinction. It is tentatively examined by Professor Baxi under the following distinct criteria.⁷⁷ viz. Human Rights as a Moral Requirement; Governance as a Grammar of Human Rights; Basic liberties as Dialects of Worldwide Administration; Sharing sovereignty as a syndrome of human rights; Common freedoms as insurrectionary intermediaries; Human Rights as a way of life and as a way of life

4.1.2 Human Rights in step with Justice Palok Basu

Established regulation and global regulation make up the structure of the possibility of common freedoms. Along these lines, it not set in stone to "watch with the guide of utilizing systematized technique the privileges of people against maltreatments of

⁷⁶ Andrew Rowell Green Backlash: Global Supervision of the Environmental Movement 1996 p. 4-41. and for the Extraordinary Relation between Nazism and Deep Ecology = Luc ferry, the New Ecological Order, (1992) P.91-107

⁷⁷ Upendra Baxi, The Future of Human Rights p. 5-13.

solidarity devoted with the guide of utilizing the organs of the State and at the same time to sell the state of affairs of human everyday environments and the multi-layered advancement of human character."

A nearby examine the above definition suggests that Basic liberties, address, claims which people or ventures make at the overall population. They wrap the genuine to freedom from torture, the fitting to reside, severe fix freedom from oppression and obliged work, the authentic of opportunity and security, chance of development and need of home, suitable to fair starter, real to security, chance of thought, sensation of good and terrible and religion, chance of evaluation and enunciation, the real to marry and impact a family, the authentic to take part in one's Administration both rapidly or haphazardly or thought picked specialist, the proper to personality and correspondence sooner than regulation. These freedoms can not be compromised all over. Fundamental liberties are the fundamental rights of those in charge. Hence their thriving really does now by and by don't lie withinside the duplicate of the social occasion of the unparalleled world, anyway at the care withinside the creating scene, to make specific the honor and prosperity of Basic freedoms. This will prevent their refusal from being interpreted as a genuine primary change episode.⁷⁸

4.1.3 Origin of Human Rights

Fundamental opportunities are the ones unchangeable minima which has a spot with each person from mankind while pitted towards the State or particular public government or association and packs and different harmful organizations, Being a person from a human own circle of relatives he has the suitable to be overseen as human when he is taking beginning or is alive withinside the paunch with a capacity name to personhood. At a time when criminal considerations were still obscured, illustrious Pandits thought of the convention as if natural rights were based on natural law. This is because natural rights are now established, despite the fact that they unavoidably have a place with each individual as imagined in enlightened political social orders. The unprejudiced considerations of fellow communicate disappointment and challenges when the religious

⁷⁸ Justice PalokBasu, Law Relating to Protection of Human Rights under the Indian Constitution and Allied Laws. p. 5

request prevents this legitimate use from receiving confidence assent and authority. There was a contraction of natural guidance that typified reason, equity, and acknowledged morals when rulers, sovereigns, various diadems, and oppression attempted to smother the individual's opportunity and fascination with natural rule on the assumption that previous profound bosses and beat heads.⁷⁹ Anyway the chance of Basic liberties is as classical considering the way that the prominent statute of "Typical Freedoms relies upon normal rule the verbalization Basic liberties" is of latest start, climbing from (set up 2d overall clash) Worldwide Contracts and Shows. Common liberties are earned through poise and are inherent to each person. Common freedoms are natural rights that come with the process of starting as a person. These rights can be essential, indissoluble, fundamental, and part of who a person is when they are born. In a broader sense, human rights can be defined as the fundamental rights that can be affected by the use of every individual. Such rights, which employ their detached nature to address the insignificant, are necessary for a person to remain in common and political society as a loosened individual treated with respect and nobility.⁸⁰

4.1.4 Human Rights in Ancient India

Western civilization has advanced the universalistic understanding of human rights. The fight, hobby, or challenge to defend, hold, and sell human rights may be as old as human civilization itself. In point of fact, the concept of human rights is neither entirely western nor currently contemporary. It's exciting to know that the goal of human rights isn't always foreign to ancient India, which has a long history of honoring human rights. It tends to be reviewed that from days of yore Indians have known as their practice with the guide of utilizing call of human custom (Manava Dharma or Manava and sanskriti and it's miles innate withinside the Hindu presence.

"Vasudhaika Kutumbam," which means "we are all one human family," was preached for many centuries. The ideals of human existence were echoed by "Sarve Jana Sukhinobhavanthu," which means "allow everyone to be happy," which was proclaimed

⁷⁹ V.R.KrishnaIyer, *The Dialectics and Dynamic of Human Rights in India (Yesterday, Today and Tomorrow)*, p. 54

⁸⁰ Justice D. Murugesan in *Tamil sakthi vs. State of Tamilnadu and others*, 2010 CLJ 245 Mad (1)

from this land. However, the way of thinking of human life become comprehensively and precisely referenced on otherworldly establishments and might be clear withinside the Apparatus Veda.

"Nobody is superior or inferior." They're all brothers. All must pursue the common interest and develop selectively. The original Sanskrit text, which reads "Ajyestasoakanishtasa etc.," is taken from Mandala five Sukta 60 Mantra 5. sambhratova vridhuuhu sowbhogya According to Apparatus Veda "there might be one race of people" and legitimacy of different customs, profound in deed of ways to truth, has consistently been trustworthy and the directing statute 'Sarva Dharma samanana' (all religions are equivalent).

Three civil rights are mentioned in the Rig Veda: Tana (body), Skridhi (living region), and Jibhasi (existence). The story of Mahabharatha discusses the significance of individual freedoms—also known as civil liberties—in a state. U.N. Ghosal, an eminent historian,⁸¹ pointed to a number of civil rights that people in ancient India had. He claims that they play a significant role in the Smritis literature. The ancient Indians either explicitly understood these rights as part of the dharma or inferred them from the concept of duties. Human rights and humanitarian law were established in ancient Indian texts like the Manu Smriti, or code of Manu (200 B.C. - 100 A.D.), the Mahabharatha (1000 B.C.), the Arthasashtra of the Koutilyas (300 B.C.), and the Sukranitisara of Sukracharya.⁸²

Manu says that no one should be killed who is asleep without or with his armor, without his weapons, engaged in combat with another character, or only looking at the conflict while not fighting. Further, all such areas of profound love, homes of individuals couldn't be gone after or obliterated. According to the Mahabharata, an enemy captured in battle should not only be properly treated but also killed. According to Koutilya's Arthasashtra, Chandragupta Mourya released prisoners captured during battle. The traditional way of doing battle was that it had to be planned out in advance and had to take place only at dawn and dusk. Civil and criminal rights were elaborated upon in Koutilya's Arthasashtra

⁸¹ U.N.Goshal, Studies in Indian History and Culture (1957), P.293

⁸² Chiranjivi.J.Nirmal: "Human Rights in India - Historical, Social and Political Perspectives (1999)" p. 3

in the fourth century B.C. In addition, the idea of the State's social and financial responsibilities was that the King was responsible for providing protection to orphans, the sick, the disabled, and the helpless, as well as food for mothers and children.

Equality and nonviolence were emphasized in both Buddhism and Jainism. The Mauryan Empire Ashoka, the great king, persuaded a respectable coverage of Ahimsa (non-violence) and the safety of human rights as his leader concern throughout his reign. The Buddhist doctrine of non-violence is a humanitarian doctrine par excellence, relationship back to the third century B.C. Ashoka outlined the fundamental ideas of nonviolence, tolerance for all religions, and the recognition that all religious and ethnic groups had the right to religious freedom and equality.

4.2 FUNDAMENTAL RIGHTS

The state, prepared by individual choice to provide security, eventually emerged as a prepared sovereign power that violated individual rights. This extrade pushed the political idea closer to coming up with a way to bind the sovereign's unwritten will. As a result, a written charter was organized. A written charter of this kind may represent rights and be necessary to protect individual rights, liberties, and freedoms from the state's arbitrary and absolute movement.

The term "Fundamental Rights" refers to something technical. At the point when positive basic freedoms are recorded in a contract and are covered through protected guarantee they're known as fundamental privileges withinside the experience that they're situated withinside the eminent or Major Rule that everyone must follow which has a wonderful sacredness over various lawful rules of the land. As a result, human rights are referred to as essential rights even though they are guaranteed by the written charter. Not at all like a regular legitimate an Essential Right is an interest, that is covered and guaranteed through the composed Constitution. Such privileges are known as "Central" because of the reality even as a regular legitimate can be adjusted through governing body in its strategy of regulation, but the Major Freedoms, being guaranteed through the contract can't be modified through any method brief of altering the actual sanction. Because the charter is the fundamental law of the land, guaranteeing human rights in a written document

ensures that any state action or law that violates fundamental rights will be overturned by the courts. A legitimate can't be expressed to be 'fundamental' in the event that it isn't generally enforceable towards the State through the Courts. Because a written constitution is the fundamental law of a state, human rights that are guaranteed by a written constitution are referred to as "Fundamental Rights..⁸³ Constitution is not to be construed as a mere law⁸⁴ or simply as a Statute⁸⁵ It is the fountain head of all the Statutes the Supreme Court of India, in a nine Judge Bench⁸⁶.

Choice has held that alevn however India has a composed Constitution its composed literary substance isn't the comprehensive inventory of Protected Regulation that is enforceable withinside the Court of guideline. Accordingly even custom or usage while introduced could have the strain of guideline and may be enforceable if presently as of now not conflicting with the fundamental freedoms ensured. " Shows" as such could furthermore clear a surer premise to such privileges as may be enforceable as guideline. It is possible to assert that the doctrine of Natural Rights arose from the Fundamental Rights, just as a written Constitution evolved from the concept of herbal regulation as a superior regulation. As the Indian High Court has put it "Principal Freedoms are the contemporary-day call for what had been generally viewed as 'natural privileges'."⁸⁷

4.2.1 Fundamental Rights and Constitution of India

The Constitution's enumeration of the Fundamental Rights was almost certainly necessary for a few specific reasons. For one angle the essential ideological group, the Congress had for extensive been horrible those freedoms contrary to the English Rule. Human rights were violated on a massive scale with the assistance of the ruler during British rule in India. Hence, the composers of the Constitution fellow of whom had experienced extensive detainment all through the English System had an absolutely

⁸³ Durga Das Basu, Comparative Constitutional Law (1984) p. 159-160

⁸⁴ GoodyearIndia vs. State of Haryana, AIR 1990 SC 781 (791): (1990) 2 SCC 71: JT 1989 (4) Sc 229: (1989) 2 SCALE 982: (1990) 1 Comp- LJ 23: (1989) Supp 1 SCR 510: (1991) 188 ITR 403.

⁸⁵ Uttarpradesh State Co-operative Land Development Bank Limited vs. ChandrabhanDubey, (1991) 1 SCC 741 (para.27):AIR 1999 SC 753: (1998) 6 SCALE 670: (1998) 9 Supreme 535: (1999) 1 UPLEBC 296

⁸⁶ Supreme Court Advocates on Records Association vs. Union of India, AIR 1994 SC 268 (Para352), per Kuldeep Singh, J: (1993) 4 SCC 441: JT 1993 (5) SC 479: (1993) Supp SCALE 67: (1993) 5 SLR 337.

⁸⁷ GolakNath vs. State of Punjab, AIR 1967 SC 1643 (1656) (para.16): (1967) 2 SCR 762: 1967 SLR 301.

profitable outlook toward those privileges. Besides, the Indian culture as divided into numerous religions, social and etymological gatherings, and it changed into vital to guarantee Key Privileges to give to give to the people groups an encounter of insurance and certainty.

Then, it was thought to be important for people to have some rights that can be enforced against the government, which can sometimes be arbitrary. However, a majority rule government changed into being caused in India, yet fair customs have been missing, and there has been risk that practically all withinside the council may likewise sanction legitimate rules which can be harsh to individuals or minority gatherings, and the kind of peril will be limited with the guide of utilizing having a Bill of Privileges.

In the constituent meeting, it was no longer even considered whether or not to include these rights in the Constitution. Instead, the desire to have the Fundamental Rights became so ingrained in everyone's minds that it was no longer even a consideration. In point of fact, the struggle was not only against the regulations that were being imposed on them, but also against the efforts to make the Fundamental Rights as widespread and ingrained as possible.⁸⁸

The Essential Privileges are a significant consequence of the declaration withinside the prelude to the Constitution that the people of India have seriously made plans to address India into Sovereign, Majority rule Republic and to stable to every one of its inhabitants equity, social, monetary and political; freedom of thought, articulation, conviction, religion and love, uniformity of notoriety and opportunity.⁸⁹

The Fundamental Rights in India apart from guaranteeing certain basic Civil Rights and freedom to all also fulfilled the important function of giving a few safeguards to minorities, outlawing discrimination and protecting religious freedom and Cultural

⁸⁸ For an Analysis of discussion on Fundamental Rights in the Constituent Assembly; Granville Austin, *The Indian Constitution of a Nation*, 1966, p.50-113.Chapter I

⁸⁹ For an Analysis of discussion on Fundamental Rights in the Constituent Assembly; Granville Austin, *The Indian Constitution of a Nation*, 1966 p.50-113, see Chapter I. *supra*

Rights. During emergency, however some curtailment of the Fundamental Rights does take place⁹⁰. But all these curtailments of Fundamental Rights are of a temporary nature.

The Preface, Major Privileges and Order Standards of State Strategy together accommodate the essential Common liberties for individuals of India which are talked about underneath exhaustively.

i. Preamble

The preamble sets out the main object of the Constitution; the object which at the Constitution-makers intended to be realized through it.⁹¹ It is a key to open the mind of the Constitution makers.⁹² The preamble is a legitimate aid in the construction of the provisions of the Constitution. The framers of the Constitution set out two purposes in the preamble. First, to constitute India into a Sovereign Democratic Republic. Second, to secure its citizens justice: social, economic, and political; liberty of thought, expression, faith and worship; Equality of status and opportunity; and to promote among the people of India fraternity, assuring dignity of the individual and the unity and integrity of the nation.⁹³ Although the expressions 'justice', 'equality' and 'fraternity', may not be susceptible to exact definition, yet they are not mere platitudes. They are given content by the enacting provisions of Constitution particularly by the Fundamental Rights and the Directive Principles of State Policy.⁹⁴ Thus the preamble declares the great rights and freedom which the people of India intended to secure to all citizens and basic type of Government and polity which was to be established.⁹⁵

⁹⁰ For an Analysis of discussion on Fundamental Rights in the Constituent Assembly; Granville Austin, *The Indian Constitution of a Nation*, 1966 p.50-113, see *Supra*, Chapter XIII, Sec.B (b) also *infra*. Chapter XXXIII, Sec F

⁹¹ The Preamble contains in a nutshell its ideals and its aspirations" per SubhaRao, C.J.in *L.C. GolakNath vs. State of Punjab*, AIR 1967 SC 1643 (1655): (1967) 2 SCR 762: 1967 SLR 301.

⁹² *Berubari Union and Exchange of Enclaves, Re*, AIR 1960 SC 845 (856): (1960) 3 SCR 250: 1960 SCJ 933

⁹³ On the Concept of Dignity see GovindMisra, "The Concept of Human Dignity And the Constitution of India", in M.P. Singh (Edn.), *Comparative Constitutional Law*, p.353, 1989.

⁹⁴ B. Sivaramayya, 'Reflections on the Preamble of the Constitution', XVII *Indian Bar Review*, p.32 (1990); Peter sack, 'Legal Technology and Quest for Fraternity: Reflection on Preamble of Indian Constitution', 32 *Journal of Indian Law Institute*, p.294 (1990).

⁹⁵ *KesavanandaBhartiSribbadgalvaru vs. State of Kerala*, (1973) 4 SCC 225; AIR 1973 SC 1461; (1973) Supp SCR 1; per Shaelat and Grover , JJ. at p.424, 425; *contra* see Mathew, J. at p.845 Beg.J at p.904

ii. Fundamental Rights

The Constitution's articles 12 to 35 deal with the people's fundamental rights. These freedoms are memory of some of the arrangements of the Bills of Privileges within the US Constitution anyway the previous cowl a miles more extensive floor than the last option. Additionally, the Fundamental Rights are stated in numerous and well-known phrases in the US Constitution. However, because no right is absolute, the courts have historically imposed restrictions on these rights. However, the Indian Constitution employs a novel approach, as only a few rights have been stated generally up until this point; In regard to some Fundamental Rights, the exceptions and limitations were formulated and expressed in a compendious manner within the Constitution itself, and in regard to other rights, the Constitution grants the Legislature the authority to impose barriers. As a direct consequence of employing this strategy, the provisions of the Constitution that deal with fundamental rights have become rather singular and intricate.

Based on their experiences in the United States, the Indian Constitution's drafters saw a great deal of problems with the way the fundamental rights were stated in plain language and left to the courts to carry them out, such as The process of regulation will become more difficult as a result of the Legislature no longer being able to comprehend the perspectives of the Courts regarding a particular enactment; there emerges a major mass of suit roughly the legitimacy of the legitimate rules and Legal Assessment is habitually changing over all together that guideline will become questionable; The judges cannot be changed and are not chosen; Because of this, they are no longer as sensitive to the needs of the public in the social or financial sphere as elected legislators, and as a result, they cannot exercise a complete and unqualified veto over regulation. And still, at the end of the day, positive privileges explicitly monetary freedoms have required to have been corrected once in a while to store a couple of monetary projects.⁹⁶

4.3 HUMAN RIGHTS COMMISSION AND HUMAN RIGHTS COURTS

The rationale of setting up the Common liberties Commission is to build up the gear for extra strong authorization of the Principal Freedoms of individuals. The motivation

⁹⁶B.N. Rau, *India's Constitution in the Making*, 245.

behind the proposed enactment was made clear by the assertion of item and motives attached to the Bill, which later became the Act. Despite the fact that India joined the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights on December 16, 1966, each was followed by the United Nations General Assembly. The Privileges epitomized during the ones Contracts stood apparently covered through method of method for the Constitution of India; According to the Statement, "developing challenge within the United States of America and concerning problems pertaining to Human Rights" existed. Having looked at this, as well as the changing social realities and emerging changes in the nature of crime and violence. It has been deemed essential to examine the current legal guidelines, management strategies, and management tools that facilitate increased efficiency and openness. The Security of Basic liberties Bill changed into surpassed through method of method for the Lok Sabha and Rajya Sabha on eighteenth and twenty second December 1993 separately. It gained the President's consent on eighth January 1994. The Act was extended to include the charters of the National Human Rights Commission, State Human Rights Commission, and Human Rights Courts in order to improve human rights protection and address issues that are related to or incidental to them.

4.3.1 National Human Rights Commission

Under the Human Rights Act of 1993, the National Human Rights Commission was established as a statutory framework. The Commission incorporates An Executive who has been the Main Equity of the High Court of India; One member who is or has been a Supreme Court judge; One member who currently serves as or has served as the Chief Justice of a High Court: Two individuals who will be appointed from among those who are knowledgeable about or have real-world experience with human rights-related topics.

The Executive and the people of the Commission are to be delegated through method of method for the Leader of India. After obtaining the suggestions of a Committee, with the Prime Minister serving as the Chairperson, every such appointment is to be made; The Lok Sabha Speaker; Serve in-expense of the Service of Home Undertakings, Legislature

of India; Head of the Resistance within the Lok Sabha; Head of the Resistance within the Rajya Sabha; also, Appointee Administrator of the Rajya Sabha.

The National Commission for Minorities, the National Commission for Women, and the National Commission for Scheduled Castes and Tribes are all considered members of the Commission for (NHRC) the release of the numerous features assigned to it, except for the features pertaining to investigation into proceedings of human rights violations, namely the characteristic stated in S.12(a)(i) and (ii) of the Act.

The elements to be released through method of method for the Commission are ordered in S.12 of the Go about as given underneath:

a. To ask, suo saying or on a request proposed to it through method of method for a victim or any man or lady for his benefit, into analysis of-

I. Infringement of the common liberties abetment thereof, or

ii. a lack of diligence on the part of the public servant in preventing such a violation;

b. to interfere with any plan related to an allegation of human rights violations that is pending before a court without the approval of that court;

c. to visit any prison or other group under the control of the State Government where people are detained or lodged for the purposes of treatment, reformation, or safety, upon notification to the State Government, to examine the inmates' living conditions and provide advice on them:

d. to examine the safeguards provided by the Constitution or any regulation in the interim to ensure the protection of human rights and recommend effective measures for their implementation;

e. to examine the factors, including terrorist acts, that prevent people from using human rights and suggest appropriate solutions;

f. to view Arrangements and different Worldwide Instruments on Basic liberties and make ideas for their strong execution ;

g. to use and sell studies in the field of human rights;

h. to unfurl common liberties proficiency among various segments of society and offer focal point of the protections to be had for the security of those privileges to be had through distributions, the media, classes and different to be had implies;

i. to motivate non-governmental organizations and establishments working in the field of human rights;

j. any other features that might be relevant to the promotion of human rights.

The Commission has been granted sufficient authority under Section 13 of the Act to effectively carry out its functions. The Commission has its own special abilities to change its strategies. In addition to investigating proceedings under the Act, it has the powers of a civil court trying to comply with the Code of Civil Procedure, particularly in regard to the following topics:

i. Inviting and mandating the attendance of witnesses, as well as examining them under oath;

ii. document production and discovery;

iii. receiving affidavits and evidence;

iv. Demanding of any open report or imitation thereof from any Court or office;

v. Giving Commissions for the test of witnesses or reports;

vi. any other requirement that may be prescribed;

In addition, the Commission shall have the authority to entitle any person in dispute to any privilege claimed by that person, in accordance with any regulation in force at the time of the pressure; to provide records on factors or topics that, in the Commission's

opinion, are relevant to or helpful to the issue at hand in the investigation. Any man or lady so required is legitimately certain to give such keeps in the which method for areas 176 and 177 of the Indian Reformatory Code.

The Commission or any of its acknowledged authorities can likewise moreover enter any developing or region wherein the Commission has thought process to believe that any record alluding to the issue depend of the enquiry not set in stone, and could catch this kind of record. This force makes it difficult to divide the Criminal Procedure Code into 100 distinct sections.

It is thought that the Commission is a civil court. In the presence of the Commission, if an offense in accordance with sections 175, 178, 179, or 228 of the Indian Penal Code is committed, the Commission may also forward the case to a Magistrate with jurisdiction to try the same offense after recording the information that constitutes the offense and the accused's statement in accordance with section 346 of the Criminal Procedure Code. The Magistrate to whom this kind of case is forwarded must continue to listen to the accused's criticism as though the case had been 1983.

In accordance with sections 193 and 228 of the Indian Penal Code and for the purpose of section 196, any intent before the Commission will be treated as a judicial proceeding, and the Commission will be treated as a civil court for all purposes of section 195 and bankruptcy xxvi of the Criminal Procedure Code.

Section 18 of the Act stipulates that the Commission may initiate any subsequent action during the course of an investigation.

- i. In the event that the investigation reveals a violation of human rights, the Commission can also suggest that the involved government or authority initiate complaints for the prosecution or some other action against the involved person or people;
- ii. ii. Approach the Supreme Court or the involved High Court for such course, or orders or writs as that Court deem important;

- iii. Recommend to the involved authority the provide of an meantime comfort to the sufferer or the individuals of his own circle of relatives because the Commission can also additionally recollect important;
- iv. Provide a duplicate of the enquiry document to the petitioner or his representative;
- v. Send a copy of the inquiry document along with his suggestions to the relevant government or authority, and the relevant government or authority will submit its comments on the document, including any action taken or proposed to be taken on it, to the Commission within one month or such other time as the Commission may also allow;
- vi. Will present its enquiry report altogether with the comments of the elaborate Government or authority if any, and the movement taken or proposed to be taken through method of method for the elaborate Government or authority on the counsel of the Commission.

Through its rulings in *Paramjit Kaur v. the State of Punjab*, the Supreme Court has given the NHRC a much wider scope of measurement. According to the Court, the Supreme Court has the authority, under Article 32, to refer any matter for investigation to the Commission, which then acts independently of the Supreme Court and is not bound by the NHRC Act's restrictions or challenges. The Commission is "a completely unique and professional frame in itself," according to the Court. The fundamental human rights that each person possesses are the fundamental human rights that are guaranteed by the Constitution. The High Court's ward underneath Article 32 "can not be shortened through method of method for any legal test" comprehensive of the ones contained withinside the various arrangement of NHRC Act. The Court has underlined that each one government withinside the US of america are certain through method of method for the rules of the High Court and ought to act in asset of the Court (Article 144). As a result, even though Article 32 of the Court's jurisdiction entitles the NHRC to handle positive depend in the manner specified in the Court order, the Commission may operate in accordance with the Supreme Court's instructions rather than the Act that established it. The Court has determined:

"NHRC is given a free hand in determining the subjects referred by this Court and is not restricted by any circumstance in any way." As a result, the Commission's jurisdiction over those subjects is unique, not subject to enactment or regulation, and as a result, acts sui generis."(?)

In order to protect human rights, the NHRC acts as a watchdog. Playing an enthusiastic situation in completing infringement of common freedoms is expected. The Commission's ability to independently investigate instances of human rights violations is its most important function. The Commission can act suo adage with out looking forward to any conventional utility if any infringement of human legitimate includes its notification.

The National Human Rights Commission's Contribution to Prison Management and Reforms Members of the commission continue to visit various detention facilities in specific regions of the United States. Officials of the Commission further explicitly mentioned to examine the circumstances of penitentiaries in Bihar (Sarai Kale, Bhagalpur), Punjab (Patiala) and Uttar Pradesh (Agra, Basti, Meerut and Muzaffarnagar). The findings were accompanied by a now-common and depressing pattern: stuffing, loss of sterilization, abuse and bungle. Officers of the Commission learned that the Basti prison staff was physically torturing inmates, that prisoners didn't get enough drugs to treat them, and that people who came to visit them wanted money. The Commission sent the Inspector General of Prisons for Uttar Pradesh to New Delhi and instructed him to put the depend right. The Commission's investigators found widespread corruption in the Meerut prison. Upon the mediation of the Commission medicinal advances, comprehensive of disciplinary and different movement has been started contrary to the culpable labor force. It turned out that prisoners at Bikaner prison had been forced to pay bribes in order to get out on time; researcher detainees similarly expected to offer incentive that permits you to be equipped for appear for test.

The fact that innocent people with intellectual disabilities were occasionally being held in prisons was the other extreme issue pertaining to the control of jails in the United States that drew the attention of the Commission. Without making an effort to deal with the

particular issue, other inmates with intellectual disabilities were treated like any other inmate. The Commission tends to a letter to every one of the Main Pastors on 11th September 1996 expressing the right arrangements of the guideline in appreciate of the way wherein people with scholarly inadequacy must be taken care of. The letter said that if the Commission went to the jails and found that people with mental disabilities were still being held there, it could suggest the cost of paying back those people and their families. Because of that letter, a lot of inmates and people with intellectual disabilities were moved to facilities where they could get psychiatric help. In this regard, the Commission strongly recommends that the United Nations Standard Minimum Rules for Prisoner Redress, rules 82 (1) and 82 (4), be accompanied. "Folks who're determined to be insane shall now no longer be detained in prisons and preparations will be made to take them to intellectual establishments as quickly as possible," is the requirement outlined in Rule 82(1). "clinical or psychiatric provider of the penal establishments shall offer for the psychiatric treatment of all other prisoners who're in need of such treatment," states Rule 82(4). The Commission furthermore supports the ideas made ahead of time through method of method for the Mulla Panel which said that assuming that a convict present cycle detainment have become intellectually debilitated he must be obliged withinside the mental wing assuming that such wing exists withinside the prison center, or he must be despatched to the nearest scholarly facility for cure. In addition, the State Government must keep track of the prisoner's case if he or she does not overcome intellectual contamination even after serving half of the maximum sentence.

The situation of female prisoners remained the focus of the Commission's continued attention. Some female prisoners in Uttar Pradesh's Nari Bandi Niketan expressed concern to Commission researchers that their husbands might not receive them when they were released from prison. Others lamented that they received very little communication from their children. The Commission was of the opinion that there is a pressing need for regular opportunities for female prisoners to interact with or join their own family. In this regard, the Commission also believed that the following important recommendation from the National Expert Committee on Women in Prison, which met under Shri. Between the years 1986 and 1987, Justice V.R. Krishna Iyer must be accompanied with greater care.

There must be a personal and stable environment in every facility that houses female prisoners.

Qualified female clinical specialists and medical caretakers must be associated on a venturing establishment to each prison for young ladies and custodial community for young ladies detainees.

The size of food plan for young ladies detainees must be as per clinical standards; If prescribed by a physician, a unique additional meal plan must be provided.

All custodial premises for young ladies detainees must have an individual and stable climate.

Qualified female clinical specialists and medical caretakers must be associated on a venturing establishment to each prison for young ladies and custodial community for young ladies detainees.

The size of food plan for young ladies detainees must be as per clinical standards; If prescribed by a physician, a unique additional meal plan must be provided.

Overcrowding in jails, largely caused by the large number of people awaiting trial, continued to create conditions that were completely at odds with the need for human dignity. For instance, a visit to Meerut prison by way of the Commission's staff revealed the presence of a few thousand people in spite of the jail's stated capacity of 650. The Commission had expressed the hope that the Supreme Court's decision in *Common Cause v. Union of India* (W.P. no. 1128/1986) would significantly speed up the resolution of criminal cases pending in the United States. However the situation appears regardless to be terrible. Because of this, the Commission has requested that all inspectors general of prisons submit monthly reports to it detailing the variety of below-trial cases within the prisons. The realities obtained throughout a time span could be mindfully broke down through method of method for the Commission that permits you to check the impact of the judgment, and notice what resulting wants to be accomplished.

In an outright exhilarating current improvement the Mumbai High Court in *Muktaram Sitaram Shinde versus Territory of Maharashtra* in W.P. no. 3899/96 has asked the State Government to employ National Human Rights Commission nominees as ex-officio or unreliable visitors to the State's prisons. The Commission is aware of this dependence and will soon announce its nominee. The Commission is of the opinion that taking such a step will boost the Commission's efforts to improve the situation of jails in the United States of America and increase transparency in jail management.

During his go to detainment facilities in various states the Commission found that Meeting Judges had been presently done venturing prisons withinside the ordinary way this is required through method of method for Jail Manual. As a result, on September 25, 1996, the Chairperson wrote to the Chief Justice of the High Court in each State, requesting that they instruct the Session Judges to perform their duties with greater diligence. A number of Chief Justices responded by stating that they had been given appropriate instructions.

Justice V.R. Krishna Iyer, on the other hand, says that the National Human Rights Commission is prestigious but powerless because it has done amazing things beyond what it can legally do. The National Human Rights Commission could be beneficial to the growing number of victims of violations if it were granted additional powers to bite rather than just bark(3).

4.3.2 State Human Rights Commission

A State Commission is to consist of five members, including a Chairperson who has been the Chief Justice of a High Court and one member who has been a Judge of the High Court. This is in accordance with section 21 of the Act, which states that a State Government may also represent a frame to be referred to as the call of the country Human Rights Commission to exercise the power conferred upon and carry out the features assigned to a State Commission under bankruptcy V. One member will be a former district judge, and the other members will be chosen from people who are knowledgeable about human rights issues and have an understanding of them.

After receiving suggestions from a Committee, including the following, all participants will be appointed by the Governor: 1) the Chief Minister (as Chair); Legislative Assembly Speaker; (iii) Minister of Home; iv) Head of the Resistance within the Regulative Gathering; (v) The Legislative Council Chairman, if any; iv) The competition's leader, if any, in the Legislative Council.

A large portion of the arrangements pertinent to the Public Commission moreover follow to the State Commission. A State Commission may likewise ask into infringement of basic liberties handiest in respect of points in regards to the sections counted in Records II and III of the VII plan to the Constitution.

Helping the State Human Rights Commission is beneficial for a variety of reasons. India is a monstrous usa, and thusly, there should be State Commissions as appropriately further to the Public Commission. The redressal of complaints of break of common freedoms should be quick and economical; the message of common liberties need to accomplish the gross root level. By establishing distinct National and State Human Rights Commissions, the federal government of the United States must demonstrate credibility.

In a number of States, such Commissions were established. In that order, state commissions on human rights were established in West Bengal, Himachal Pradesh, Madhya Pradesh, Assam, and Tamil Nadu. The Constitution of the Commission has been notified by Uttar Pradesh, but the appointment of the chairperson and participants has not begun. The Public authority of Jammu and Kashmir has outperformed rules to set up a State Common liberties Commission and this has gotten the consent of the Lead representative; It is planned to announce appointments. The established order of the State Level Commission is not taken into consideration by the Kerala and Punjab governments.

4.3.3 Human Rights Courts

In accordance with Section 30, the State Government may also, with the approval of the Chief Justice of the High Court, designate a Court of Session to serve as the Human Rights Court for each district in order to expedite the trial of crimes arising from

violations of human rights. The State Government is required to appoint a Public Prosecutor or hire an endorse for each such Human Rights Court via notification in order to handle cases in that Court. This endorse must have been in practice for no less than seven years as a Special Public Prosecutor.

4.4 INTERNATIONAL COVENANTS RELATING TO HUMAN RIGHTS WITH SPECIAL REFERENCE TO PRISONS AND PRISONERS

Though there are various global devices which lay down codes through which prisoners need to be dealt with, the subsequent are the most amongst them.

4.4.1 The Third Geneva Convention-1924

The 1/3 Geneva Show characterizes philanthropic securities for detainees of strugglefare. Participants of everyday militia who profess allegiance to a party now not acknowledged by the detaining strength, people accompanying militia but are not participants, and population of a non-occupied territory who absorb hands in resistance who are captured by an enemy strength are all considered prisoners of struggle. Participants of the militia or participants are militias or volunteer corps forming a part of the militia belong to a party to the conflict. Detainees of strugglefare will not leave freedoms got through the show. These rights include the right to humane treatment, which prohibits particularly violence that kills or critically harms a person's health, bodily mutilation, medical or clinical experiments, protection from acts of intimidation, insults, and public interest, protection from reprisals, physical or mental torture, adequate bodily and mental treatment, the right to keep personal belongings and money, the right to be evacuated if the area where they are held becomes too dangerous, adequate food, water, a safe haven, sanitary In the event of escape, detaining authorities should have the authority to apply appropriate pressure, require prisoners to provide information about their rank and call, and employ prisoners for labor. The 1/3 Geneva Show arrived into strain in 1924 anyway different into eminently corrected in 1949. The final international tribunal for all issues pertaining to the Geneva Conventions is the United Nations Security Council. Through the Geneva Convention, the United Nations Charter's 193 signatories are guaranteed.

4.4.2 The Charter of United Nations-1945

The primary narrative utilization of articulation 'Common freedoms' is to be situated in Contract of the Unified Country which changed into adjusted (after the second one global strugglefare) at San Francisco on June on June 25, 1945 and endorsed through greater part of its signatories in October that year. The United Nations Charter, which was drafted to prevent a repeat of the destruction and struggle of the second world war and establish the global organization known as the United Nations, stated that the organization's "purposes" will be, among other things, "To gain global cooperation in selling and inspiring admire for Human Rights and for essential freedoms for all without distinction as to race, sex, language or religion..."

4.4.3 Universal Declaration of Human rights-1948

The initial substantial step through way of figuring out the different common liberties changed into taken up through the Unified Countries General Gathering in December 1948 through adjusting the Widespread Announcement of Basic freedoms. It changed into intended to be seen through a worldwide receipt of freedoms which can be legitimately restricting at the covenanting parties. Of the worldwide endeavors in general, the natural declaration of common liberties, 1948 has acquired an honorable area as an essential worldwide code of conduct through which by and large execution in selling and cautious basic freedoms is to be estimated. The main idea of this device can be seen through the preamble to the well-known Human Rights, 1948 announcement. It embodies human expectations as well as the foundation for freedom, justice, peace, and safety against tyranny and oppression through the rule of law. The prelude lays accentuation on indistinguishable freedoms of men, women and young people and the need to remain with poise. Coming up next are the impeccable arrangements withinside the General Statement in regards to people in battle of words with guideline:

Five Articles: No one will be subjected to cruel, inhuman, or degrading punishment or treatment.

9th Article: No one will be detained, exiled, or arrested arbitrarily.

10th Article: Everybody is qualified in complete fairness for a legitimate and public paying attention to through a fair-minded and impartial court, withinside the commitment of his freedoms and obligations and of any evildoer rate contrary to him.

Article 11:

1. In accordance with law, anyone accused of a crime has the right to be presumed innocent until proven guilty in a public trial with all necessary safeguards for his defense.

2. No one will be held accountable for any criminal act or omission that did not constitute a criminal act at the time it was committed, regardless of whether the act or omission was in violation of national or international law. A heavier penalty than the one that was in effect at the time of the offense cannot be imposed either.

four.four.four United Nations Standard Minimum Rules for the Care of Imprisoned Persons— 1955 The United Nations Standard Minimum Rules for the Care of Imprisoned Persons came under fire on August 30, 1955. The necessities set out through the Unified Countries aren't legitimately restricting anyway give ideas in worldwide and metropolitan guideline with appreciate to any individual held in any state of guardianship. They are regularly showed up as having right statute and exercise for the control of custodial office. Registration, categorization, housing, personal hygiene, clothing and bedding, food, exercise and sports, medical services, field and punishment, restraint device, records to and compliance by prisoners, contact with the outside world, books, religion, retention of prisoner's property, notification of death, illness, transfer, elimination of prisoners, institutional employees, and facility inspection are all included in the record. It also provides recommendations for prisoners who are still serving time, including treatment, individualization, privileges, work, education, hobbies, social relationships, and aftercare. In addition, there are special provisions for prisoners who are insane or mentally ill, prisoners who are under arrest or awaiting trial, civil prisoners, and people who are arrested or detained without a warrant.

4.4.5 International Covenants of Civil and Political Rights-1966

After all, universal declarations essentially functioned as declarations of beliefs that no longer possessed the force of a legally binding Covenant and had no means of enforcement. That lack changed into tried to be wiped out through the Unified Countries far reaching Gathering through taking on in December 1966, pledges for the recognition of Common liberties:

a. The United Nations Covenants on Civil and Political Rights

b. The Economic, Social, and Cultural Rights International Covenants

The first set out people's rights that could be enforced by law, while the second asked the states to enforce them through regulations. After the considered necessary number of member states (35) ratified the Covenants, which stood at sixty-nine at the end of 1981, the Covenants came into force in December 1976. The Public authority of India sanctioned the Agreements on 1979. It is massively unfortunate that america of America, the variant for the guidance of the Worldwide Pledges on Common liberties, which has moreover taken a ton leisure activity withinside the internationalization of Basic freedoms, has now no longer to this point endorsed the Global Contracts of 1966.

Even though the Covenant itself is not part of the home regulation of the ratifying State, the rights embodied in the applicable rules are enforceable through the home courts as a result of this ratification. The ratifying State is obligated to develop legislative measures to put the Covenant into effect to ensure the right proclaimed within the Covenant. The International Bill of Rights is seen as a collection of the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights, and the International Covenants on Economic, Social, and Cultural Rights. Under articles 7, 9, 10, 11, 12, 14, and 15, the most important aspects of criminal law are highlighted. They are a necessary part of life and a death sentence; no cruel, inhumane, or degrading punishments or methods; legitimate to freedom and insurance, no erratic capture or confinement , treating with mankind the people hindered of freedom; The goal of the prison system will be to separate those who have been convicted from those who have not been convicted,

provide separate remedies, separate juveniles from adults, fast adjudication, reformation, and social rehabilitation, and there will be no imprisonment for incapacity to meet contractual responsibility. equity sooner than guideline, legitimate and public paying attention to through an able, fair-minded and unprejudiced council; demonstrating responsible consideration of the law in daily life at the time of the offense, a penalty that is not more severe than the one that is prescribed, and the ability to receive a lighter penalty while provisions are made prior to the offense. Article 14 of the 1966 International Covenant on Civil and Political Rights established the right to reimbursement for a wrongful conviction. This at long last achieved the order of Law enforcement Act, 1988 which particularly provided beneathneath fragment 133, for expense of repayment for unsuccessful labor of Equity.

On December 16, 1966, the United Nations General Assembly accepted a request to submit communications or proceedings from individuals opposing State parties to the Human Rights Committee for consideration. This idea was implemented simultaneously in the form of the optional protocol to the International Covenants on Civil and Political Rights. On March 23, 1976, however, the protocol came under pressure. India has now presently not marked this elective convention. On December 15, 1989, the General Assembly adopted the second elective protocol with the goal of abolishing the death penalty. India has stopped signing anything, not even this optional protocol.

The Covenants on Economic, Social, and Cultural Rights of 1966 recognized a wide range of rights that are now not recognized, including the right to work, the right to just conditions of work, the identical pay for the same work, a high-quality life, a safe and healthy work environment, social protection, the right to form change unions, and the right to strike.

4.4.6 Convention in opposition to Torture and different Cruel Inhuman or Degrading Treatment or Punishment-1984

On December 10, 1984, the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment was adopted by the United Nations General Assembly. State Parties are required by the Convention to make torture a criminal offense

and to prosecute and punish those who are found to be responsible. This Show is yet to be sanctioned through India.

4.4.7 Basic Principles for the Treatment of Prisoners-1990

The following are the fundamental ideas that have been presented for the treatment of prisoners within the global device:

Because of their inherent dignity and cost as human beings, all prisoners will be treated with respect.

There will be no separation at the grounds of race, variety, sex, language, religion, political or different assessment, countrywide or social beginning, property, starting or different status.

When local circumstances call for it, it is appropriate to admire the religious ideals and cultural principles of the institution to which prisoners belong.

Obligation of detainment facilities for the guardianship of detainees and for the security of society contrary to wrongdoing will be released in sync with a State's different social objectives and its fundamental commitments for selling the appropriately being and improvement of all members of society.

All prisoners are required to uphold the fundamental freedoms and human rights outlined in the Universal Declaration of Human Rights, the International Covenants on Economic, Social, and Cultural Rights, and the International Covenants on Civil and Political Rights and the optional protocol thereto, as well as any other rights outlined in other United Nations Covenants, unless the reality of incarceration clearly requires otherwise.

All Detainees will have the legitimate to take part in social games and tutoring designed for the whole improvement of the human character

Endeavors addressed to the nullification of single situation as a discipline, or to the limit of its utilization, should be embraced and energized.

In order to make it easier for prisoners to reintegrate into the labor market in the United States and allow them to contribute to their own and their families' economic well-being, conditions will be created that will allow them to take on high-paying jobs. Additionally, prisoners will have access to the health care services that are available throughout the United States without discrimination based on their prison status.

With the investment and help of the organization and social foundation, and with due respect to the quests for casualties, valuable circumstances will be made for the reintegration of the ex-detainees into society beneathneath the incredible possible circumstances.

The aforementioned ideas will be implemented without bias.

four.four.eight Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, July 27-September 7, 1990, United Nations Document A/Conf.144/28/Rev.1 at 112-1990

The police have a significant capability withinside the security of legitimate to life, freedom and insurance of the person as guaranteed withinside the Widespread Statement of Basic liberties and reaffirmed withinside the Global Contracts at the Common and Political Privileges. The Standard Least Principles for the cure of detainees offer for the events wherein prison officials may likewise involve pressure withinside the heading in their obligations. Article three of the Overarching set of principles for Regulation for Policing offers that Policing may likewise utilize pressure handiest while stringently significant and to the amount expected for the general presentation in their obligation. The gathering of the seventh Joined Countries Congress at the Anticipation of Wrongdoing and Treatment of Guilty parties, held at Varenna, Italy, settled on variables to be thought about withinside the course of likewise works of art on restrictions on utilizing strain and guns through cops. The meeting's Resolution 14 emphasized, among other things, that police use of force and firearms must be proportional to respect for human rights. The fundamental ideas presented on this device, which were created to assist Member States in their mission of ensuring and selling the proper function of law

enforcement officers, should be taken into consideration and revered by governments in the framework of their national legislation and practice. They should also be made available to law enforcement officers as well as other individuals, such as judges, attorneys, members of the government department and the legislature, and the general public. The general and specific provisions, rules, and regulations pertaining to the use of pressure firearms by regulation-implementing officers are included in this device. policing people in custody or detention, policing illegal gatherings, and training, education, and counseling for law enforcement groups; The procedures for reporting and evaluating the incidents are also thoroughly addressed. Coming up next are the Standards concerning the policing people in authority or detainment.

15th Principle: The use of force by law enforcement officers or their family members while interacting with people who are in custody or detention is now prohibited, with the exception of situations in which it is absolutely necessary to maintain order and security in the facility or when personal safety is in jeopardy.

16th Principle: The use of firearms by law enforcement officers or members of their families who have people in custody or detention is now prohibited except in self-defense or to protect others from imminent danger of serious injury or death, or when absolutely necessary to prevent the escape of the person in custody or detention who poses the threat described in Principle 9.

17th Principle: The past Standards are with out bias to the freedoms, obligations and commitments of prison officials, as set out withinside the Standard Least Guidelines for the cure of detainees uncommonly Rules 33, 34& 54.

CHAPTER 5

ROLE OF JUDICIARY IN PROTECTING THE RIGHTS OF PRISONERS

5.1 RIGHTS OF PRISONERS:

Indian constitution and other procedural regulation give many arrangement and regulation against the infringement of various freedoms of the detainees. Although these rights are not specifically mentioned in the constitution, the supreme court played a significant role in interpreting articles 14, 19, and 21 in part 3, as well as articles 39A, 42, 39, and 38 in part 4, in order to provide the inmates with additional fundamental rights or to clarify these rights. Like torture and cruel and unusual treatment can be interpreted from the constitution's articles 14 and 19. Sometimes the third degree is given, which goes against article 21, which is about human dignity. According to article 32 of the Indian constitution, certain writs—such as habeas corpus, mandamus, quo warranto, prohibition, and certiorari—provide recourse against such rights. If these rights are violated, a person can sue directly in the supreme court and in accordance with article 226 in the high court. As an independent court, the Supreme Court protects these rights by establishing guidelines that are analogous to them and keeping an eye on the legislature to ensure that no new laws that violate these rights are enacted because they are subject to judicial review. By this understanding obviously detainees additionally have a few major rights and they can't be denied from such freedoms however as far as possible they are denied of their freedom with the end goal of transformation.

Hence, prisoners also have their rights and cannot be deprived of their rights. As certain rights are guaranteed by the constitution but they are not absolute some restrictions are imposed on them, like right to freedom of a person is one of the important right among fundamental right⁹⁷. When a person is convicted and put in the prison then his status is different from that of an ordinary person⁹⁸.

⁹⁷ Article 19 Constitution of India reads as “Protection of certain rights regarding freedom of speech etc

5.1 Right against inhuman treatment to the prisoners

Prisoners are also human and they should be treated as human. 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 Constitution of India provides that “No person shall be deprived of his life and Personal Liberty except according to procedure established by law”. The rights to life and Personal Liberty is the back bone of the

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f) omitted

(g) to practise any profession, or to carry on any occupation, trade or business

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State

from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or

incitement to an offence

(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause

(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as

it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable

restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said

sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business,

industry or service, whether to the exclusion, complete or partial, of citizens or otherwise”

⁹⁸ Singh, Saket, “Role of the Supreme Court towards a New Prison Jurisprudence”, 6 Student Adv. (1994).

Available at <http://legalsutra.com/810/role-of-the-supreme-court-towards-a-new-prison-jurisprudence/#sthash.x2jb8F9A.dpuf>

Common liberties in India. Through its positive methodology and Activism, the Indian legal executive has filled in as a foundation for giving powerful cure against the infringement of Common liberties. By giving a liberal and exhaustive significance to "life and individual freedom," the courts have planned and have laid out plenty of privileges. The court gave Article 21's Fundamental Rights a very narrow and concrete meaning. For A.K.Gopalan's situation, the court had taken the view that each Article managed separate privileges and there was no connection with one another for example they were fundamentally unrelated. Yet, this view has been held to be off-base in Maneka Gandhi case and held that they are not fundamentally unrelated however structure a solitary plan in the Constitution, that they are portions of a coordinated plan in the Constitution. In the moment case, that's what the court expressed "the ambit of Individual Freedom by Article 21 of the Constitution is wide and exhaustive. It also stated that "the procedure prescribed by law must be fair, just, and reasonable" and that "it embraces both substantive rights to Personal Liberty and the procedure prescribed for their deprivation." Therefore, inmates have the right to be protected from inhumane treatment by various authorities, including jail staff and police officers. When prisoners are subjected to inhumane treatment and torture in the custody of the police, it is a violation of Article 14 and Article 19 of the Constitution by the relevant authority. Also third degree by the police is taken against the article 21 for example human pride. Such demonstration will be considered as an erratic activity by concerned power and can be question under article 14 of the Indian constitution (interpetaion given by incomparable court).in Raghbir Singh v.

State of Bihar the supreme court expressed its anguish over police torture by upholding the life sentence awarded to a police officer responsible for the death of a suspect due to torture in a police lock –up⁹⁹. In Kishore Singh v. State of Rajasthan the Supreme Court held that the use of third degree method by police is violative of Article 21 and ruled that law does not permit the use of third degree methods or torture on an accused person since “actions of the State must be right, just and fair, torture for extracting any kind of confession would neither be right nor just not fair”¹⁰⁰.

⁹⁹ Dr. Minal H.Upadhyay, “Role of Judiciary in Protecting the Human Rights of Prisoners” IJRHSS Vol. 2, Issue:8, 2014.

¹⁰⁰ Ibid.

The decision of the Supreme Court in the case of D.K. Basu is noteworthy. While dealing the case, the court specifically concentrated on the problem of custodial torture and issued a number of directions to eradicate this evil, for better protection and promotion of Human Rights. In the instant case the Supreme Court defined torture and analyzed its implications.

5.2 Right against solitary confinement and Bar Fetters

The use of solitary confinement and Bar Fetters is a punishment that goes against the spirit of the constitution and turns the prisoner into an animal. The courts serious areas of strength for have against isolation and held that inconvenience of isolation is exceptionally corrupting and dehumanizing impact on the detainees. The courts have held that it could only be imposed in exceptional circumstances in which the convict was so dangerous that he needed to be kept apart from the other inmates. The High Court in Sunil Batra (1) thought about the legitimacy of isolation. Additionally, the Supreme Court has strongly opposed the use of bar ties on the inmates. The court ruled that the use of bar fetters was against the spirit of the Indian Constitution because the prisoner was reduced to an animal by constant confinement, which was so cruel and unusual that it violated the Constitution. Because it causes mental torture in the prisoner, such a punishment is regarded as cruel and unusual. Subsequently detainees have right against the isolation and bar shackles. Indian courts likewise reliably thought to be that such a discipline is profoundly corrupting and dehumanizing impact on the detainees. In the Sunil Batra case, the supreme court considered whether solitary confinement was legal.¹⁰¹. But it can be imposed only in the exceptional cases where convicted person is of such a dangerous nature or character that he must be confine separately from other prisoners. if we study solitary confinement and bar fetters in the light of constitution then it will be an arbitrary action against the prisoner and infringed the Fundamental Right i.e right to life and personal liberty¹⁰². It is very clear that prisoners also have certain

¹⁰¹Sunil Batra (I) v. Delhi Administration, AIR 1978 SC 1675.

¹⁰²Article 21 of Constitution of India states as” Protection of life and personal liberty.

No person shall be deprived of his life or personal liberty except according to procedure established by law.”

fundamental rights which are more constrained than the average person, but this does not mean that they cannot be punished in this manner.

Because our judicial system adheres to the reformative, not retributive, theory of punishment, it is clear that such severe and cruel punishment is against the constitution.

5.3 Right to speedy trial

One of the fundamental goals of the criminal justice system is to have offenses tried quickly. The court must quickly conduct the trial to punish the guilty and exonerate the innocent once it takes cognizance of the accusation. Until guilt is proven, everyone is presumed innocent. Therefore, the accused must be found to be innocent as soon as possible. Therefore, it is the duty of the court to ensure that no guilty party escapes, that justice is not delayed, and that the accused are not continuously harassed. Referencing that "defer in trial without help from anyone else comprise disavowal of equity" which is supposed to be "equity postponed is equity denied is appropriate". It is totally vital that the people blamed for offenses ought to be rapidly attempted so that in situations where the bail is denied, the denounced people have not to stay in that frame of mind than is totally needed. The right to a speedy trial is now a human right that everyone agrees on.

The code of criminal procedure contains the primary procedure for an offense's investigation and trial with regard to a speedy trial. Section 309 of the Criminal Code outlines the right to a speedy trial. PC. If the regulations in Cr. If the PC are followed to the letter and spirit, there will be no complaints. However, despite their intent, these provisions are not properly implemented. It is important that the Sacred assurance of expedient preliminary radiating from Article 21 ought to be appropriately reflected in the arrangements of the code. For this reason in A.R.Antulay versus R.S.Nayak, the High Court has set down following suggestions which will go far to safeguard the Basic freedoms of the detainees. In the moment case the Zenith Court held that the right to rapid preliminary moving from Article 21 of the Constitution is accessible to blamed at all stages like examination, request, preliminary, allure, amendment and retrial. Essential motivation behind each legal framework in a vote based state is to give fair and rapid preliminary to its residents. The right to a speedy trial is now recognized by everyone as a

human right. It is the responsibility of the judiciary to grant this right because the judiciary is independent. The Constitution, as the keeper of rights, guarantees the victim, the accused, and prisoners the right to a speedy trial. The adage "justice delayed is justice denied" holds true if any judiciary denies this right. The accused must endure a lot of suffering as a result of the excessive or negligent trial or investigation delay. Because he has the right to appeal his conviction, a person who has been convicted also has the right to a speedy trial. Section 309 of the Code of Criminal Procedure includes a provision regarding a speedy trial for the investigation and trial of an offense. There will not be a concept of delayed justice if this provision is followed fairly, but it will not be properly implemented in its original spirit. As a result, in *A.R. Antulay v. R.S. Nayak*, the Supreme Court established the following propositions, which will significantly enhance the protection of prisoners' human rights. The supreme court also ruled that article 21 of the Indian constitution provides for the right to a speedy trial. Detainee has right to allure, correction and survey against his conviction, so he can't be denied of such a right being a detainee. Article 21 of the Indian constitution states that any unreasonable, unexplained, unfair, or negligent delay in rendering a judgment will be considered a violation.

5.4 Right to free legal aid

Though, the Constitution of India does not expressly provide the Right to Legal Aid, but the judiciary has shown its favour towards poor prisoners because of their poverty and are not in a position to engage the lawyer of their own choice. The 42nd Amendment Act, 1976 has included Free Legal Aid as one of the Directive Principles of State Policy under Article 39A in the Constitution. This is the most important and direct Article of the Constitution which speaks of Free Legal Aid. Though, this Article finds place in part-IV of the Constitution as one of the Directive Principle of State Policy and though this Article is not enforceable by courts, the principle laid down there in are fundamental in the governance of the country. Article 37 of the Constitution casts a duty on the state to apply these principles in making laws. While Article 38 imposes a duty on the state to promote the welfare of the people by securing and protecting as effectively as it many a social order in which justice, social, economic and political, shall inform all the institutions of the national life. The parliament has enacted Legal Services Authorities

Act, 1987 under which legal Aid is guaranteed and various state governments had established legal Aid and Advice Board and framed schemes for Free Legal Aid and incidental matter to give effect to the Constitutional mandate of Article 39-A. Under the Indian Human Rights jurisprudence, Legal Aid is of wider amplitude and it is not only available in criminal cases but also in civil, revenue and administrative cases. Indian constitution does not expressly provide any specific provision regarding right to free legal aid but the judiciary shown its favour towards the poor prisoners who are not capable to engage or hire the lawyers of their own choice. Reason behind this is their indigency or poor condition. In *M.H. Hoskot v. State of Maharashtra* the Supreme Court laid down that right to free legal aid at the cost to the state to an accused who could not afford legal services for reason of poverty or indigence situation was part of fair, just and reasonable procedures implicit in Article 21. a three Judges Bench (V.R.Krishna Iyer, D.A.Desai and O.Chinnappa Reddy, JJ¹⁰³) of the Supreme Court reading Articles 21 and 39-A, along with Article 142 and Section 304 of Cr.PC together declared that the Government is under duty to provide legal services to the accused persons¹⁰⁴. Article 39A inserted as a free legal aid provision in the constitution by the 42nd constitution amendment act 1976. This is most important article in the Indian constitution which speaks for the free legal aid. This article is not enforceable because it inserted under the Directive Principles of the State Policy. This is one of the directives to the state policy in the governance of the states. Parliament also enacted Legal Service Authorities Act 1987 under which free legal service is guaranteed, other states also established Legal Aid and Advice Board. This free legal aid is not only confine with criminal cases it also available in the civil, revenue and administrative cases.

5.5 Right to have interview with Friends, Relatives and Lawyers

The horizon of the Human Right is more expanding with the passage of time. Rights of the prisoners not only limited to the physical torture but they also include mental torture. Right to life and personal liberty provided under article 21 of the constitution. It can be interpreted from it that a prisoner has a right to meet or have interview with his family

¹⁰³1978 AIR 1548.

¹⁰⁴ Nair, Savdasivan, "Prison Justice and the Court", (1978) CULR 336.

member, friends and lawyers. Because as per the article 21 prisoner also have right to personal liberty and he has right to meet his family members, friends etc. a specifically provision is given in the article 22(1) that an arrested person cannot be denied to consult and defended by a legal practitioner of his choice¹⁰⁵. This legal right is also provided under the section 304 of code of criminal procedure. And by consistently judgments of the courts rights of prisoners are protected. In *Dharambir v. State of U.P* the court directed the State Government to allow family members to visit the prisoners and for the prisoners, at least once a year, to visit their families, under guarded conditions¹⁰⁶.

Court also held in other cases that the interview of prisoner is necessary for the correct information. In another landmark judgement of *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi & others*, the Supreme Court ruled that the right to life and liberty included his right to live with human dignity and therefore a detainee would be entitled to have interviews with family members, friends and lawyers without severe restrictions¹⁰⁷.

5.6 Right against hand cuffing

Hand cuffing is one of the most important rights of the prisoner and accused. As it affects the human dignity and considered more harsh, inhuman and arbitrary in nature. Article 19 of Indian constitution provide the right to freedom but this kind of arbitrary act violate such right. Right against the hand cuffing is with both accused and prisoner (in the judicial custody and trial in process). sometime hand cuffing is necessary in the exceptional cases where police officer have reasons to believe that concerned accused or prisoner may be abscond.

In *Prem Shanker vs. Delhi Administration* the Supreme Court added yet another projectile in its armoury to be used against the war for prison reform and prisoner's rights. In the instant case the question raised was whether hand-cuffing is constitutionally

¹⁰⁵ Article 22(1) of Constitution of India reads as "Protection against arrest and detention in certain cases. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice."

¹⁰⁶ 1979 AIR 1595

¹⁰⁷ Bhagwati, P. N., "Human Rights in the Criminal Justice System", 27 JILI 1985 38.

valid or not? The Supreme Court discussed in depth the hand cuffing jurisprudence. It is the case placed before the court by way of Public Interest Litigation urging the court to pronounce upon the Constitution validity of the “hand cuffing culture” in the light of Article 21 of the Constitution. In the instant case, the court banned the routine hand cuffing of a prisoners as a Constitutional mandate and declared the distinction between classes of prisoner as obsolete. The court also opined that “hand cuffing is prima-facie inhuman and, therefore, unreasonable, is over harsh and at the first flush, arbitrary. Absent fair procedure and objective monitoring to inflict “irons” is to resort to Zoological strategies repugnant to Article 21 of the Constitution”.

To bind a man hand and foot with hoops of steel shuffle and bring him publically in such a condition in the court and stand him for hours in the court is mentally torture to him. This kind of torture sometime more than the alleged offence punishment, so this type of behaviour is to dehumanizing. Supreme court also laid down that it should not be in a routine manner as it is against the human dignity. It is a kind of mental torture to him. But these kinds of guidelines are not followed by the police officers and prisoners have to suffer.

5.7 Narco Analysis/Polygraph/Brain Mapping

In the case of Selvi v. State of Karnataka (2010), the Supreme Court ruled that narcoanalysis, the polygraph test, and brain mapping violate human rights and are therefore illegal. This choice is very horrible to different examination specialists as it will be a prevention to encouragement of examination and many claimed crooks will get away from conviction with this new position. However, the zenith court additionally said that an individual must be exposed to such tests when he/she consents to them. The results of tests can only be used to advance the investigation and will not be admissible as evidence in court. With headway in innovation combined with nervous system science, Narcoanalysis, Polygraph test and Mind planning arose as most loved devices of examination organizations all over the planet for evoking truth from the charged. But eventually, people who had to go through such tests and human rights groups spoke out against it. They were named as monstrosity to human psyche and break of right to protection of a person. The Supreme Court acknowledged that the disputed tests violate

Article 20(3), which states that an individual cannot be compelled to provide evidence against themselves. Court likewise coordinated the examination offices that the mandates by Public Common liberties Commission ought to be stuck to rigorously while directing the tests. These tests were utilized in numerous previous cases, including the Arushi Talwar murder, Nithari murder, Abdul Telagi, Abu Salem, and Pragma Thakur (bomb blast) cases. being ones that piqued a lot of interest among people.

CHAPTER 6

CONCLUSION & SUGGESTIONS

8.1 Conclusion

In order to discourage dishonest behavior, Indian prisons are not regarded as a place of incarceration. Our nation's founder, Mahatma Gandhi, once stated that "Crime is the final results of a diseased mind, and prison ought to have an environment of a health facility for treatment and Care" regarding the issue of criminal activity. The Indian Prison Administration has a firm adherence to this principle. Sentence of detainment could be reasonable best if it over the long haul brings about friendly guard contrary to wrongdoing. If incarceration inspires and prepares the offender for a self-sufficient and law-abiding life upon release, this objective will be most successful. Detainment denies the miscreant of his freedom and self-commitment and the prison gadget should now never again be permitted to deteriorate the striving currently innate withinside the arrangement of imprisonment. Therefore, the jail must make an effort to reform and reintegrate the criminal into society by providing them with appropriate correctional treatment. As a result, the Indian Prison and Correctional Administration aims to:

- To defend society in opposition to crime with the aid of using steady and secure custody of prisoners and to expand a experience of area among them;
- To offer such situations to the prisoners as are conducive to their reformation and rehabilitation;
- To offer simple minimal centers to the prisoner for preserving their human dignity;
- To inspire the jail employees to reap the above goals of their control of prisons.

Penitentiaries particularly pre-autonomy and post-freedom length anyway sooner than legal intercession at the prison the executives withinside the call of Legal Activism withinside the late 70s. During this time period, numerous Commissions and Committees, both at the federal and state levels, were formed to reform the Indian prison system and

prison administration. Obviously, there has been a languid improvement within the control of jails and care of detainees. Many improvements to the daily routine of prisoners were only made possible by the intervention of the Supreme Court in decoding the Constitutional Rights in favor of prisoners within the call of Judicial Activism. Numerous case law guidelines were stated with specific discussion to support this. In point of fact, the Government of India established the most effective collection of Committees following Judicial Activism, including Justice Krishna Iyer's National Expert Committee on Women and Justices Mulla (1980-83), Kapoor (1986), and Krishna Iyer (1986-87). As a result of the advice provided by these Committees, significant advancements were observed in the treatment of prisoners, the living conditions in prisons, and the utilization of cutting-edge technology by the Prison Administration.

In spite of such a lot of upgrades made within the Prisons of India as mentioned in the sooner Chapters, the prevailing Indian Prison Administration isn't unfastened from, comments, criticisms, litigations and so forth from diverse angles just like the Inmates, Public, Mass-media, Judiciary, Human Rights Commission so on and so forth. This is on the only hand with the aid of using the Prison Authorities because of the lacuna in executing the due provisions of the Rules and Regulations in letter and spirit and then again with the aid of using the Prisoners who aren't gazing the prescribed Code of Conduct as laid down within the guide both knowingly or unknowingly or below the affect of others. The wellknown deviance of the prisoners which can be observed within the stroll of existence of the prisoners are Smuggling contraband articles inclusive of mobileular telecellsmartphone into prisons even as on their admission, go back from Court and leave, forming companies and taking an top hand which ends up in needless conflict amongst prisoners and with the Prison Personnel, teasing new prisoners, coaching the trick of the alternate in committing offences and changing them into tough center criminals and escaping the clutches of regulation, Bribing the Prison Officials in an effort to get more concession or/and suppress their unlawful sports and deviating the Prison Rules. The authoritarian tone of the Prison Officials has now no longer been changed. The precept of the jail is that "Remember that the prisoner is a ward and now no longer the slave of the State". Still the prisons team of workers are below incorrect perception that the prisoners are at their mercy forgetting the truth that they may be the

Correctional Officers. So Correction always needs to be commenced from the Correctional Officers instead of the prisoners. This is like aspects of the identical coin.

In conclusion, this thesis has explored the topic of prison administration in India and its reform. The study aimed to examine the existing system, identify its shortcomings, and propose strategies for improvement. Throughout the research process, several key findings emerged, shedding light on the complexities and challenges associated with the Indian prison system.

Firstly, it became evident that the current state of prison administration in India faces significant issues, including overcrowding, inadequate infrastructure, and limited resources. These challenges contribute to an environment that hampers the effective rehabilitation and reformation of inmates. Moreover, the prevalence of corruption and misconduct within the system further exacerbates these problems, leading to a lack of transparency and accountability.

However, despite these challenges, the thesis has also highlighted various reform initiatives that hold promise for improving the prison administration in India. These include the adoption of modern technologies for better record-keeping and monitoring, the implementation of vocational training and educational programs to enhance inmates' skills, and the establishment of effective rehabilitation and reintegration programs to reduce recidivism rates.

Additionally, the research emphasized the importance of collaborative efforts between government authorities, non-governmental organizations, and civil society in bringing about meaningful change. Such partnerships can lead to the development of comprehensive policies, the allocation of adequate resources, and the implementation of innovative practices to transform the prison system.

Furthermore, the study underlined the significance of human rights and dignity for prisoners. It emphasized the need for a shift in the paradigm of punishment towards a more humane and rehabilitative approach. Recognizing the inherent worth and potential

for change in every individual can contribute to a more compassionate and effective prison system.

In conclusion, while the challenges facing prison administration in India are considerable, the potential for reform exists. By addressing the issues of overcrowding, inadequate infrastructure, corruption, and by embracing technological advancements, educational programs, and comprehensive rehabilitation efforts, India can move toward a more efficient and humane prison system. It is essential for policymakers, stakeholders, and society as a whole to recognize the importance of investing in the reform of prison administration to ensure justice, reformation, and societal well-being.

Furthermore, this thesis has emphasized the need for a multidimensional approach to prison administration reform in India. It is crucial to recognize that reforming the prison system goes beyond addressing the physical infrastructure and procedural aspects; it requires a comprehensive transformation of the entire ecosystem.

One of the key aspects highlighted in this study is the importance of addressing the underlying socio-economic factors that contribute to the high incarceration rates in India. Poverty, inequality, lack of access to education and healthcare, and social marginalization often play a significant role in pushing individuals towards criminal activities. Therefore, any meaningful reform efforts must include social interventions aimed at addressing these root causes and providing opportunities for individuals to lead productive lives outside of the prison system.

Additionally, this thesis has emphasized the significance of rehabilitation and reintegration programs for prisoners. It is imperative to recognize that the goal of imprisonment should not solely be punishment but also the reformation and successful reintegration of individuals into society. By providing comprehensive vocational training, educational programs, and mental health support, inmates can develop the necessary skills and mindset to lead law-abiding lives upon release. Moreover, establishing strong networks and collaborations with employers, community organizations, and support services can facilitate the smooth transition of ex-offenders back into society.

The thesis also highlighted the need for effective oversight mechanisms and accountability within the prison administration system. Transparency, independent monitoring bodies, and regular audits can help ensure that human rights are respected, and incidents of corruption, abuse, and misconduct are promptly addressed. By establishing a culture of accountability, it is possible to restore public trust and confidence in the prison system.

Furthermore, the study underscored the importance of international best practices and experiences in shaping prison administration reform in India. By studying successful models from countries that have effectively addressed similar challenges, India can adapt and implement strategies that have proven to be effective in improving prison conditions and reducing recidivism rates.

In conclusion, prison administration reform in India is a complex and multifaceted task that requires concerted efforts from various stakeholders. By addressing the challenges of overcrowding, inadequate infrastructure, corruption, and adopting a holistic approach that focuses on rehabilitation, reintegration, and addressing socio-economic factors, India can pave the way for a more effective and humane prison system. This journey toward reform will require political will, collaboration, and sustained commitment from the government, civil society, and the public. Ultimately, a reformed prison administration system in India will not only benefit the incarcerated individuals but also contribute to a safer, more just society for all.

8.2 SUGGESTIONS

Consolidating the Standards of The executives of Detainment facilities and Treatment of Wrongdoers withinside the Order Standards of the State Strategy typified in Standard IV of the Constitution of India.

Counting the worry of Detainment facilities and united Organizations withinside the Simultaneous Rundown of the VII Timetable of the Constitution of India.

enacting a new uniform and comprehensive Central Law by amending the outdated Acts on Prisons and Prisoners, viz. Detainment facilities Act, 1894, Detainees Act, 1900, ID of Detainees Act, 1920, Trade of Detainees Act, 1948, Move of Detainees Act, 1950, and Detainee (Participation in Court) Act, 1955.

to get the Draft National Policy on Prison Reforms and Correctional Administration, 2007 and the Draft Model Prison Manual, 2003, approved early.

Revision of the best old manuals of States and Union Territories where revision has not been taken up in accordance with the version jail manual.

Broad utilization of Probation Administrations in meriting cases with the guide of utilizing correcting the legitimate arrangements of the Probation of Guilty parties Act, 1958, fittingly reinforcing the infra state of the Probation Administrations and orchestrating sharpening programs every now and again for legal Officials, Arraigning Officials and Cops.

Inclusion of a fresh out of the box new Segment 357-A withinside the Cr. P.C., 1973, for the cost of repaying criminals using funds from the Prisoners below Wage Earning Scheme.

modifying the current Cr phase 320 (1). P.C., so that more serious offenses can be combined.

modifying the current Cr. Section 167 (3) P.C. certainly allows for the introduction of videoconferencing, in which alleged offenders are brought before the Magistrate via videoconference rather than in person during pre-trial proceedings, such as an extension or adjournment of the judicial remand.

Changing the current areas 164, 267 and 275 of the Cr. P.C. to grant permission for the trial via video conference.

addition of a brand-new subsection to Cr under Section 305-A. P.C so one can facilitate and 'arrange off ' the preliminary occurrences of Under-preliminary Detainees in guardianship with the guide of utilizing giving main concern.

An additional sub-phase, 305-B, is inserted within the Cr. P.C so one can offer lesser discipline in uncontested depend and moreover on free and forthcoming confirmation of responsibility.

introducing a new sub-phase 44-A within the Cr. P.C. to reduce the need for the arrest in accordance with the Supreme Court's recommendations in Joginder Kumar v. State of Uttar Pradesh Cri L.J 1994 SC 1981.

Providing the appropriate direction to the State Government and the Registrar of the High Court for the effective implementation of Section 436-A, which allows for the liberalization of bail provisions for individuals awaiting trial who have been detained for up to one-half of the maximum amount of time they are expected to serve in prison for that offense and will be released by the Court on his own bond without or with sureties in order to decongest the prisons. Amending the current Section 553 of the Indian Penal Code to include community

modifying the current Cr Section 433 completely. P.C. so that Lifers who provide accurate analysis for reformation and rehabilitation can be considered and launched under the Advisory Board Scheme even before the final touch of 14 years of real imprisonment, say 8-10 years.

accelerating the work that has been done in individual jails to renovate, make repairs, build more housing, and build new jails.

to determine whether it would be possible to construct additional housing within the existing jail as well as brand-new jails anywhere else that is required.

Enhancement of gathering should be progressed for the essential isolation and cure of homogenous association of Detainees rather than holding heterogeneous association of Detainees under one rooftop. Separating prisoners based on their age, sex, and previous convictions. safety, detention duration, etc., Convict Penitentiary, Remand Penitentiary, Borstal School, Open Penitentiary, Female Penitentiary, High, Middle, and Low Security Penitentiary, etc.) will help the Prison Administration maintain safety with a small staff

and effectively implement welfare and rehabilitation programs in all prisons, wherever they are needed.

Identifying the factors responsible for deteriorating the prison environment, such as lodging, sanitation, food, clothing, and scientific facilities, and taking the appropriate and immediate action in all appropriate tiers for correction.

Utilizing the assistance of Custodial and Correctional Staff or even NGOs, strictly adhering to the Rules and Regulations established for the medical class of prisoners.

National Economic Plans ought to include vocational education and prison work programs.

Public cooperation in avoidance of wrongdoing and cure of wrongdoers should be made piece of the Public Arrangement on Detainment facilities.

Freeing the Custodial Official from all from the administrative artistic creations as their main obligation is to supervise Detainees and keep wellbeing withinside the Jail.

With regard to the scant authority that Correctional Officers, such as Welfare Officers, Psychologists, Social Case Workers, and Probation Officers, have in prisons, In order to ensure that prisoners' individual interests in various aspects of correctional activities (such as technique of case-paintings, group paintings, individual and organizational counseling, and steering and counseling) are appropriately taken up, their power should be increased relative to the inmate population.

Support of out of entryways association will be embraced for using the ability prison work to be had in parts as a re-appropriate with the guide of utilizing allowing the association to start profitable change with the guide of involving introducing fundamental infra-shape focuses in prison.

Address Overcrowding: The issue of overcrowding in Indian prisons needs to be urgently addressed. Implementing alternative sentencing options such as community service, probation, and parole can help reduce the inmate population. Additionally, exploring the

use of electronic monitoring and home confinement for non-violent offenders can be considered.

Improve Infrastructure and Resources: Adequate infrastructure, including sufficient living space, sanitation facilities, healthcare services, and educational facilities, should be provided within prisons. Increasing budgetary allocations for prison administration and ensuring the proper allocation of resources will play a vital role in improving the overall conditions for inmates.

Enhance Staff Training and Recruitment: Training programs for prison staff should be strengthened to ensure they have the necessary skills and knowledge to handle their responsibilities effectively. Recruitment procedures should focus on selecting individuals with integrity, empathy, and a commitment to the principles of prison reform.

Implement Technology Solutions: Leveraging modern technologies such as biometric identification systems, video surveillance, and digital record-keeping can enhance security, improve administrative efficiency, and reduce instances of corruption and misconduct within the prison system.

Prioritize Rehabilitation and Reintegration: Rehabilitation programs should be expanded to encompass vocational training, educational opportunities, mental health services, and counseling programs. Collaboration with external organizations and employers can help create avenues for post-release employment and successful reintegration into society.

Establish Independent Oversight Mechanisms: Independent oversight bodies should be established to monitor and evaluate prison conditions, investigate complaints, and ensure compliance with human rights standards. Regular inspections and audits should be conducted to identify areas of improvement and hold prison administrators accountable.

Promote Restorative Justice Approaches: Exploring restorative justice practices, such as mediation and reconciliation programs, can help foster a sense of responsibility, accountability, and healing among both victims and offenders. Restorative justice can contribute to reducing recidivism rates and promoting a more harmonious society.

International Collaboration and Exchange: Engaging in international collaborations, sharing best practices, and learning from successful prison administration models in other countries can provide valuable insights and guidance for reform efforts in India.

Public Awareness and Sensitization: Public awareness campaigns can help dispel misconceptions and reduce stigmatization associated with incarceration. Encouraging public dialogue and fostering a more empathetic understanding of the challenges faced by inmates can foster a supportive environment for prison reform.

Long-term Commitment: Prison administration reform is a long-term endeavor that requires sustained commitment and political will. It is essential for policymakers, stakeholders, and society at large to recognize the importance of investing in prison reform as a means of ensuring justice, rehabilitation, and societal well-being.

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