

Report of
Three Days Workshop on
“Prison Administration and Prisoners’ Rights”
[13th-15th December, 2019]

Organised by:
The West Bengal National University of Juridical Sciences [NUJS]

Sponsored by:
Bureau of Police Research & Development [BPRD]

Coordinated by:
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Introduction

Objectives of the Workshop

- To update prison officers on national and international legal instruments relating to rights of prisoners and management of prison
- To familiarise officers on the role and application of new scientific techniques for management of the prison system
- To impart training on various mechanisms for reforming and rehabilitating prisoner

Sub Themes of the Workshop

1. Introduction to Indian Prison System and Administration
2. Overview of Laws Relating to Prison Administration
3. Management of Prison Administration
4. Role of Technology in Prison Management
5. Rights of Prisoners in India: National and International Perspective
6. Analysis of Relevant Laws Relating to Prison Administration and Prisoners' Rights
7. Judicial Attitude Towards Protecting Prisoners' Rights
8. Rights of Undertrial Prisoner
9. Reform and Rehabilitation of Prisoner
10. Role of NHRC in Protecting Prisoners' Rights

Pedagogy

It was predominantly based on group discussion followed by a small introduction of the topic. For better understanding, illustrative cases (judgement of courts and real life examples) were explained and discussed. The issues within a case were highlighted by the instructors and view, response, question, and feedback of participants were addressed and moderated.

Resource Person

1. Shri Naparajit Mukherjee, Member WB Human Rights Commission [Guest of Honour]
2. Shri Arun Kumar Gupta, DG & IG Correctional Services, West Bengal [Chief Guest]
3. Dr. Satyajit Mohanty, DIG Intelligence Odisha Police
4. Justice Joymalya Bagchi, Sitting Judge of the Calcutta High Court
5. Prof. Nirmal Kanti Chakrabarti, Vice Chancellor, NUJS, Kolkata
6. Dr. Kavita Singh, Associate Professor of Law, NUJS, Kolkata
7. Faisal Fasih, Assistant Professor of Law, NUJS, Kolkata
8. Dr. Smita Chakraborty, Research Scholar
9. Mr. Indrajeet Dey, Advocate High Court of Calcutta
10. Surja Kanta Baladhikari, Guest Faculty NUJS & Ph.D. Scholar, NLSIU

Participant

The conference witnessed participation of officials from three different states- Assam, Orissa and West Bengal. The details of participants are:

1. Shri Pinak Roy [Assistant Controller, Presidency Correctional Home]
2. Shri Suman Ujjal [Controller, Presidency Correctional Home]
3. Shri Sasankha Sekhar Mandal [Assistant Controller, Baruipur Central Correctional Home]
4. Shri Shyamal Bhattacharya [Assistant Controller, Baruipur Central Correctional Home]
5. Shri Mizanur Rahaman [Controller, Balurghat Central Correctional Home]
6. Shri Sovan Mandi [Controller, Midnapore Central Correctional Home]
7. Shri Avijit Biswas [Controller, Behrampore Central Correctional Home]
8. Shri Sujit Kumar Pal [Controller, Suri District Correctional Home]
9. Shri Shyamal Ghosh [Assistant Controller, Training Institute, Midnapore]
10. Shri Somnath Pal [Controller, Alipore Women's Correctional Home]
11. Shri Debkumar Das [Assistant Controller, Asansol Special Correctional Home]
12. Shri Amirul Biswas [Assistant Controller, Cooch Behar District Correctional Home]
13. Smt. Pampa Chakraborty [Welfare Officer, Baruipur Central Correctional Home]
14. Shri Utsab Sil, [Welfare Officer, Hoogly District Correctional Home]
15. Shri Karnadeb Goswami [Welfare Officer, Midnapore Central Correctional Home]
16. Shri Saroj Kumar Biswal [Jailor, Sub-Jail, Kendrapara]
17. Shri Rusinath Naik [Jailor, Angul Jail]
18. Shri Abinash Behera [Assistant Jailor, Circle Jail, Cuttack]
19. Shri Garib Sahoo [Superintendent, Dist-Jail, Keonjihar]
20. Shri Kalandi Charan Nayak [Assistant Jailor, Circle Jail, Cuttack]
21. Shri Kuanar Marandi [Jailor, Spl. Sub-Jail, Bhadrak]
22. Shri Hitesh Choudhury [Assam Correctional Home]
23. Shri Rituraj Chetia [Assam Correctional Home]

Report

The report is divided into two parts- Executive Summary and Conceptual Summary. The former includes the exact verbatim of the speakers with little emphasis added. The latter is the elaboration of the explanatory work of the Faculty Advisor [Mr. Faisal Fasih] of the Society of Advancement of Criminal Justice of NUJS, the host institution.

Rapporteurs

1. Kashmita Mewal
2. Pratyush Kumar Jena

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EXECUTIVE SUMMARY

Welcome Address- Professor N.K. Chakraborti

- The conference would direct its focus towards prison management and effective utilisation of human resources.
- Implementation of restorative measures already in force would be discussed in detail to look into the flaws encountered during application of statutes, rules and guidelines.
- To get acquainted with various rights of prisoners granted by the Judiciary.
- To look into good and bad practices to formulate better policies for the future.

Shri Naparjit Mukherjee

- Believes in the essentials of social order like community police responsible for maintaining the balance in society. Prisons are built with stones of law – the approach needs to shift from maintenance of panoptical of punishment to legal rehabilitation centres, shift from vindictive or afflictive suffering to reformation. Emphasised that the term ‘correctional services’ has replaced the word ‘prison’
- The response of the public in regard to the treatment of crime and criminals and prisoners is one of the most successful tests of civilization of any country. A passionate recognition of rights reflects the eagerness to rehabilitate the inmates.
- Highlighted the role of National Human Rights Commission in upholding the spirit of correctional administration for effective reform, leading to the development of the new correctional homes in 1992 and constant monitoring of its function.
- The need to refresh the style of performance and functioning of police was emphasised upon taking into consideration the relationship between external and internal values of criminal procedure in order to establish a system of restorative justice, the demand to evaluate the framework was put forth.
- The following issued were addressed:

- Overcrowding – Overshooting the capacity making it impossible to manage and provide basic facilities like health. Suggested for segregation of undertrial prisoners from the convicts and segregation of males from females.
- Cooking – Cooking in women correctional homes posed several health hazards in the past when coal and coke was used which led to diseases like Tuberculosis and Asthma. The present practice of using LPGs has provided quantum leap in the area of prison reform.
- General Sanitation – Improper maintenance of cleanliness leading to infection among other things is one of the major concerns.
- Issuance of Blanket – Process of cleaning the blanket should be questioned, issued to another prisoner before washing. Regular use of blankets leads to transfer of infection, affecting the health of new inmates as well. Thus, there is an urgent need to work on the functioning of internal management of the prison cells.
- Question of long term imprisonment – Individuals who were imprisoned for long time become impatient, their pleas should be regularly heard, this would decrease the number of inmates who are unnecessarily captured thereby making space for new prisoners who would not be exposed to overcrowded cells. Regular passing of such names to the authorities will foster this measure.
- Children of the convicts – If mother is a convict she often comes with a child. There are only basic facilities available to deal with such situations, which is not sufficient. One need to raise the question of the duration of stay of child in the prison: Are they equally liable as the inmate to face these harsh conditions? Indeed, such a stay inhibits his growth and compromises with his childhood. Therefore, there is a need to establish structures that promote development of the child.
- Depressing life in prison – For beating depression, he suggested the experiment of the West Bengal prisons, which organizes cultural activities from time to time to effectively rehabilitate the convicts by uplifting their morale and helping them believe that they belong to the mainstream society and are not socially outcasted.
- Rise in cases of custodial death

Shri Arun Kumar Gupta

He has touched upon various issues relating to prison management and prisoners' rights. Some of the important topics are:

- Legislation: Explained the development of legislations related to prisoners' journey from The Prisons Act 1894 to the West Bengal Correctional Services Act 1992 and appreciated the

initiatives taken by West Bengal in implementing corrective measures in prison administration.

- **Correctional Homes:** Emphasised the importance of special correctional homes consisting of large spaces for overcoming the present overcrowding prisons. There is an overall increase of 9000 inmates in the last 10 years. It is important that we raise pertinent questions about their accommodation and availability of space.
- **Welfare Officer:** Introduced the concept of Welfare Correctional Officers at Central and District levels to take care of the post release operation for the purpose of effective correction.
- **Women Prisoner:** Raised the concern of those women prisoners who are not taken by their family members because of heinous crime [e.g; murder] committed by them. Suggested that NGOs have a major role to play in this regard. Also highlight the issue of rights and future of children who live with their mother in the prison. He discussed a major flaw that he witnessed in one of the prisons he has visited where women were compelled to cross gallery all the way through the male block. They were exposed to horrendous kinds of harassment.
- **Premature release:** It is the policy of granting remission under the law by releasing of the prisoners who have spent more than 14 years in prison. Section 433 of the CrPC deals with these cases.
- **Role of Psychologist:** The role of psychologists is quite significant. Psychologists are likely to tell the behaviour of new inmates, monitoring in the first few weeks is vital, depression driven individuals would be focused upon. This way we can bring down the graph of suicide rates in the prisons.
- **Role of Technology:** Highlighted that reporting in Bengal, Orissa and Assam is astounding due to use of technology among other things. Suggested for application of technology for facilitating video conferencing etc.
- **Parole:** Highlighted the importance of granting parole on more regular basis

- **Rights of Prisoner:** The Supreme Court says that all the rights of the prisoner remain intact. except for the right to freedom of movement. Discussed various rights such as right to access the law, right to practice any religious faith, right to be protected against labour not authorised by law, right to enjoy fundamental right against unnecessary restraint, routine handcuffing rules, right to contact with outside world, right to live with human dignity, right to interview with the lawyers and media, right to ventilate grievance by making use of the grievance redressal boxes, right to acquire adequate clothing and bedding, telephonic facilities and introduction and development of prison libraries.
- **Food:** Third parties should keep a check on food, to check the quantity and quality of food provided, access to jail manual and its availability in regional languages.
- **Civil Prisoner:** Civil prisoners have to pay for their own lodgings- which can be uneconomical at times.

Dr. Kavita Singh

She discussed custodial crimes in the light of legislations and decided cases of the Supreme Court.

The main focus was the rights of women prisoners. She discussed the following issues:

- Rights of prisoners including rights of undertrial prisoners
- Problem of overcrowding
- Engagement of prisoner in work is important to divert the mind from sinful thoughts.
- Raised the concern for lower percentage of bail granted.
- Discussed the deplorable conditions and infrastructure for maintenance of health and sanitation of female prisoners.
- Questioned the existing policy relating to basic facilities such as nutrition, menstrual hygiene, vocational training, legal aid and imparting education.
- Emphasised on the criminological theory of 3Rs – Rehabilitation, Reformation and Reintegration.
- Suggested for implementation of the recommendations of Mulla and Krishna Iyer Committees, adoption and implementation of National Model Prison Manual by states, establishment of National Commission for Prisoners and regular and thorough inspection of prisons.

Mr. Surja Kanta Baladhikari

- He discussed the role of technology for better administration of the prison system. He explained certain technological developments which have taken place in other part of the world such as metal detection system, RFID technology, digitization of all the data of prison. He also emphasised on the need to train staffs for E- prison project.
- He expressed concern for declining rate of literacy and suggested the model of “Padho & Padhao” – continuous literacy mission to achieve 100% literacy rate.
- He questioned the efficiency of working of para legal volunteers, which was due to poor implementation of the MHA guidelines on the field.

Mr. Faisal Fasih

In the interactive session, he deliberated on various issues from practical angle and focused on the better implementation of the existing resources. He encouraged the officials to get the best out of the worst [existing] situation till the time better laws, policies, and infrastructure come into place. His discussion may be categorized under the following heads:

- **Shortage of Manpower & Inadequate Infrastructure:** He discussed that the ratio of officials and staffs to prisoners are not healthy. In most places, it is a situation like one-man army. He argued that working conditions are not humane, which may reduce the efficiency of even most efficient people. It is to be noted that generally in surrounding areas near prison basic facilities like medical are not available. Hence, more people should be recruited and basic facilities should be made accessible within a reasonable distance in the surrounding areas of the prison.
- **Importance of Discretion:** He highlighted that even though laws are relatively comprehensive still application of proper discretion will go a long way in assisting the prisoners. He said that irrespective of the comprehensiveness of laws, rules and guidelines, every problem cannot be foreseen beforehand and hence gaps are inevitable which requires the use of discretionary power. He suggested that the principle of ejusdem generis [of the like nature] may be applied whenever required to fill the incomplete law in dealing with problems at hand. He encouraged the participants to apply discretion without having fear of being penalised as the higher authorities and judiciary are aware of the ground realities and gaps. Emergency setting should be differentiated with normal setting and general problem should be differentiated with specific issue. He mentioned that the defence of ‘acting with good faith’ is always available

to administrative officer and it is part and parcel of every aspect of functioning based on rules or guidelines.

- **Importance of Communication:** He elaborated on the importance of communication flow between the officials and prisoners. He explained the value of interacting with the prisoner at the personal level for the psychological connect. He shared an idea that communication based on successful past stories will provide hope for the prisoners, which would solve several issues relating to depression etc. In other words, prisoners should be motivated to remain alive and kicking in the present and with the hope of better tomorrow.
- **Application of Macro-Level and Micro-Level Approach:** He suggested that the concerned authorities including prison officials should approach the problem at macro as well as micro level – Macro for overall betterment of the system and micro approach focussing on the individual case. He discussed that objective criteria may not be suited for every individual.
- **Role of Technology:** He briefly touched upon the role of technology and emphasised on few rights mentioned by previous speakers; especially spoke the importance and legal procedure of parole. He highlighted that absence of uniform application of digital record creates difficulty.
- He summed up his talk by introducing the concept of 3Cs:
 - **Communication:** Effective and Subjective Communication
 - **Connecting:** Connecting with prisoners for instilling a sense of belief and injecting medicine of hope. Raised the concern to fill the vacuum such as created by reduction in number of visitors as time passes in the prison.
 - **Carry Forward:** Follow-up of the prisoner even after release especially in case of vulnerable prisoners like woman, aged etc.

Prof. N. K. Chakraborti

- Relying on international instruments, statues and decided cases, he explained the importance of the following:
 - International standard on the rights of prisoners should be followed. He argued on the basis the provisions such as Article 253 of the Constitution of India. He discussed the rights mention in several international instruments including Universal Declaration of Human Rights, Convention on Rights of Child and UN Guidelines.

- He discussed the rights of prisoners from the perspective of human rights and mentioned that they are entitled for every rights except freedom of movement. He has touched upon almost every rights which prisoners are entitled and emphasised on the importance of the following areas – solitary confinement, medical service, parole, torture, legal aid, expression, bail, working condition and problem of mixing all types of criminal.
- He discussed in detail about the onus on the officials to train the prisoners in such a way that after the completion of sentence they can become normal citizens of the society.
- He has referred some Supreme Court of India's decisions on the development of human rights jurisprudence of prisoners.

Ms. Smita Chakraborty

- She gave a detailed insight of the project “paar” – Prison aid + action release, this successful initiative has targeted seventy thousand prisoners in the country.
- Described the open prisons in Rajasthan- Shares a strange experience of an encounter with prisoners wherein they did not want to leave the prison. The encounter inspired her to study open prisons. She has given a very comprehensive account of the Sanganer open prison, where prisoners maintain themselves – They work and earn their livelihood to sustain themselves.
- Open Prison Report- Supreme Court directed to open multiple prisons of this kind in every district of the country. Budget allocation and staff requirement is also looked into.
- Explained the importance of open prison. She highlighted the following points:
 - 14 times cheaper than closed system.
 - 1 staff per 80 persons.
 - Reduction in the overcrowding population of prison.
 - Humane system upholds the spirit of right to life.
 - Brings the idea of social reintegration of the prisoners.
 - Government only has to look after staff salary, rest of the tasks are managed.
- She has shared the experience with images and videos of prisons of Rajasthan and highlighted the violation of fundamental rights of prisoners in line with previous speakers.

Justice Joymalya Bagchi

- He discussed the importance of various rights of prisoners in the light of the judgements of the Supreme Court by putting special emphasis on custodial death, parole, bail and ill-treatment of prisoners.
- He deliberated in line with Mr. Faisal Fasih [Previous speaker] in the context of human element and connecting with the emotion of the prisoners. He said the approach should be to have humanising touch by giving the prisoner the expression that how deplorable his action was but despite his past actions he would continue to enjoy his rights provided he shows bona fide intention. Sometimes family members become disinterested in visiting their closed ones in the prison, one needs to find out or inquire the reason behind this from the family. He also delved into the socialization aspect and said that keeping a person in isolation, deprives him of the right to socialize is equivalent to killing the person. He emphasized that environment should be created for construction of hope and not destruction of hope.
- Condemning the rights of a prisoner makes him suffer every minute of his life. Jails should not be living hells but reformatory cells or else we kill the purpose of jail. We need to activate the positive elements of reform that would prevent the diminishing of societal norms in his life. Involvement in participatory activities that encourage interaction especially with outside world is very important. These measures should boost the morale of the prisoner and compel him to change.
- Prisoners should be encouraged to air their grievances. Involvement in prison administration, being vocal about grievances, brings confidence in the inmates to address issues.
- He raised the concern for first time offender. First time offenders find it most difficult as he believes that he is innocent and refuses to take the blame flowing from conviction. The experience is terrible for him, hence counselling at this stage is very important. An independent grievance cell should be activated to address the complaints.

Mr. Indrajeet Dey

- The focus of this deliberation was to highlight issues relating to vulnerable prisoners. He has discussed the issues relating to the following categories to prisoners:

- Foreign National: No provision of them being deported back. Our duty is much more with these foreign because it will cause a worldwide issue if not handled properly. The foreign nationals are not provided suitable food. Unavailability of food can easily be a method of torture. Can we have a different food pattern? The foreign national cannot be expected to know our law – Hence, it is really important to make them aware of the legal aid provisions of the country. Besides, they face problem in communication due to language barrier etc. Do the foreign national know that they can access counsellor or legal advisor? It is really important to have one because irrespective of the nature of crime because it is right of every person to be heard in the court.
- Transgenders: Historically they have subjected to various kinds of predicaments inside the prisons. They are victims of gender discrimination, sexual assault, prison violence and so on. These apart, there is no clarity over how they are to be kept inside the prison. There are no special provisions in most of the prisons. The prison officer asks the transgenders about their gender identity i.e. whether they are male transgenders or female transgenders, and they are clubbed into male and female prisoners according to their answer. The jails in India still believe in gender binary which is not true in reality. Apart from that it is not fair to keep the transgenders in male or female cell. Keeping them in female cell might result in muddle for the female prisoners because a lot of the prisoners are the ones who are born as a male but identify themselves as females. The female prisoners might have a problem in living with the transgenders which will result in agony for both parties. Keeping the transgenders in the male prisons will also be problematic because there are high chances that the transgender person might be sexually assaulted by the male inmates. The number of transgenders are so small in prisons that even if the jails have special cells for them, putting them in those cells will probably result in solitary confinement. Hence there needs to be proper system in place which will simplify the accommodation of the transgenders into the prisons. He discussed certain provisions of the Bill – “The Transgender Persons (protection of rights bill), 2019”. The state of affair of prisoners in jail is quite dismal and immediate actions are needed to alleviate their situation. Here are some of the suggestions provided by him:
 - As soon as a transgender enters into a prison, the GR should be informed.
 - Since the DM is required to give an identity certificate to the transgender, the prison officers should contact the DM for fastening the process.
 - The prison officers can also take the help of an NGO, if requires.

- The prison officers must provide the transgender with legal aid, if requires
 - The prison officers should inform the DLSA or SLISA or NALSA, even when the transgender is able to hire a private lawyer because these organisation have a handy say over the formation of rules and can play a massive role in filling the gap in the laws for the transgenders.
- Disabled Prisoners: The State Disability Commissioner must look after the disabled prisoners and take measures to protect their rights. The onus is on the official to prepare report otherwise a penalty may be imposed
- He has also discussed the unsatisfactory state of affairs in providing basic facilities like medical and food.

Satyajit Mohanty

He discussed various aspects of the rights and functioning of the prisons in line with previous speakers. He put special emphasis on the importance of implementing the findings of India Justice Report of which came in November 2019. He also suggested that the recommendation of Mulla Committee should be implemented. He also referred to arbitrary arrest by police officers in exercise of their discretionary powers and discussed guidelines for effective prison management.

CONCEPTUAL SUMMARY

1. Rights of Prisoner

- Reports reveal that more often than not the inmates are not made acquainted with the statutory rights that they possess.
- It is observed that usually the victims of custodial crimes are individuals who come from economically and socially disadvantaged section of society. These people are ignorant and deprived of political and financial power, hence they are unsuccessful in protecting their interest unlike the members of elite or affluent class. The criminal justice system should not be so designed such that it destroys the deeper and moral values of justice itself. Speakers have explained and discussed the importance of various rights of prisoners. Deliberation took place of certain constitutional and statutory rights. Some of the rights covered were:
 - Rights of Detenue: right to make a phone call from the police station, right to inform someone of one's detention, and the right to have free legal advice.
 - Non-Disclosure of Evidence: Failure of police officers to disclose to the prosecution or the defence certain piece of evidence in favour of the defence. It could be intentional, driven by malice or personal bias towards the inmate.
 - Issue of Arrest & Detention: It is absolutely necessary to ensure that individuals who brought to police stations are only detained and rather than arrested unless it is necessary and there are sufficient evidence for the charge. A detention that is not authorised would amount to unethical practice because it deprives the suspect of protection against being detained. The standard laid down by law for fair treatment of detainee should be practiced, which includes sparing the detenue from intimidation.
 - Special Protection to Vulnerable: There are certain kinds of convicts who are always targeted by both society as well as the officials such as transgenders. These vulnerable people should be treated with equality. The role of the officials in moderating the mindset of people is very crucial.
 - Constitutional Rights Flowing from the Provisions of Constitution such as rights against double jeopardy and self-incrimination and illegal detention
 - Non availability of Legal Aid: Considering the fact that most of the prisoners detained are undertrials, non accessibility of proper legal aid is the biggest predicament these prisoners have to face. A study revealed that out of 475 prisoners that were interviewed around 90 didn't have a lawyer. This non availability of proper legal aid to the prisoners result in most of them being unrepresented in the court thereby prolonging their incarceration which ultimately curtails their fundamental rights.

- Special Rights of Women Prisoner: The proportion of male inmates has always been higher than their female counterpart that results in a general disregard to the gender-specific needs of the women. Mental health of both the genders has to be taken care of differently. A woman's mental health is more prone to illness when she is confined in an overcrowded and small space especially in the cells where there is lack of proper differentiation among the inmates in prison. If female inmates are questioned by men or they are kept under direct supervision of male guards then they might be get intimidated. Any general contact with unknown men could be cause of fear and anxiety for undertrial prisoners. This kind of exposure for women who have experienced sexual abuse in the past, for them such an exposure would mean re-traumatization. The prison staff needs to maintain some considerable level of respect for privacy of inmates. The inmate might want to escape male gaze but the constant watch or mere proximity to a male staff member can badly affect her mental health condition, it could take the form of a generalized fear having long lasting impact on her. There also exists a threat of sexual violence. It is the duty of the prison administration to ensure a safe environment. In the recent past, there have been many cases wherein illiterate women signed documents relying on others and later it was found that they did not even possess the knowledge of the content of the document. This danger is more imminent for foreign nationals, who are the most vulnerable entities to this process due to language barrier and paucity of knowledge.
 - Women need regular visits to specialists in women's health care. The existing conditions can be described in three words: ill equipped, under resourced and under staffed.
 - We need to make sure that there is no charge levied on the family of the inmate when they visit their loved ones in the prison. They already have to bear the transportation and accommodation expenses because most of the prisons are located outside the main city where there is a dearth of resources and facilities and additional visiting charges might discourage the family from meeting the inmate which is particularly true in the case of women. An inmate who is a mother to a child lives in great distress, worrying about the condition of her child. This separation is one the most dreadful experiences of her life. We should not make profits from the disabilities of prisoners. It is important to make special legislation that takes into account this problem or at least addresses the issue with respect to minors.

- Rights Recognised by United Nations
 - United Nations grants the right of being subjected to a basic minimum humane level of treatment under Standard Minimum Rules for the Treatment of Prisoners also known as the Nelson Mandela rules which is the revised version. This instrument enshrines rules like the right against any form discrimination on the basis of race, colour, sex, language, religion and political opinion, the right to be plausibly segregated especially the segregation of undertrial prisoners from convicted prisoners, enlists the elemental aspects of accommodation, personal hygiene and medical services. An intriguing part of this document is the clause that calls for compulsory education of illiterates and young prisoners and makes it mandatory for authorities to assign work to all prisoners for mental fitness that is not afflictive in nature. It also lays down the rule of not keeping the insane prisoners in ordinary prisons with other inmates but to send them to a mental institution capable of answering their needs. Principle 9 of this document entitles all prisoners access to the health services available in the country without discrimination on the grounds of their legal situation. The aforementioned document should be read along Bangkok Rules and Tokyo Rules while putting the provisions in application. These guidelines take a holistic approach towards the issues of prison management.
- Healthcare and Sanitation Facilities
 - The health of the prisoner is a major issue in the maintenance of the prison. The horror stories of the prisoners getting affected from mental health ailments and then causing self-harm are spine chilling. There are many reasons for the gremlin. Lack of proper sanitation is one of them. Ms. Smita Chakraburty gave a detailed account of how bad the sanitation facilities are inside the jail premises. The bathrooms, blankets and other belongings of the prisoners are not regularly checked which often leads to harmful infections being spread. Prof. Kavita Singh also highlighted the fact that in most of the jails women's menstrual hygiene is not taken care of, which leads to diseases in them as well. Lack of medical officer is also a big issue inside the jails. According to Mr. Arun Kumar Gupta, the health department of the government, whose job is to provide jails with medical officers, is not doing a satisfactory job. In most of the prisons, there is a such a high degree of paucity of medical officers that they are forced to hire doctors on a contractual basis. Also, there is often a solitary medical officer inside the jails who generally deals with all the prisons. Mr. Indrajeet Dey pointed out the fallacy in this situation,

which is that one medical officer can't probably be an expert in all the fields. Hence, there is a need of more health officers being allocated inside the prison. Another major issue is that of "Mental Health". It is quite understandable that the prisoners are victims of mental health problems, given the kind of circumstance which circumscribes them. The number of instances of self-harm due to issue with mental health is also worrisome. But it is not dealt in a proper way inside the prisons. There is a paucity of good competent psychiatrists inside the prisons. Psychological profiling of the prisoners is not done properly which leads to the mental predicaments. According to Mr. Arun Kumar Gupta, if the psychological profiling of the prisoners is done properly then it will be really easy for the prison officers to deal with the prisoner. Another main point put forward by him is that a complete body test of the prisoner must be done before they enter into the prisons so that any injury which already exists in them will be pointed out because in lot of cases, these existing injuries turn out to be fatal. It is not at all disputable that healthcare is one of the major concerns for the prison management and needs proper policy making in order to be up to the mark.

- Food: The food given in the prison is also a pivotal point in the management. As Mr. Dey puts it, "Food can easily become a method of torture." The diet of the prisoners is really crucial. Their foods should be of the optimum nutritious value and must have all the ingredients required by the human body in them. However, according to Mr. Arun Kumar Gupta, food in the prisons is really good and is close to infallible. The participants also stated that the nutritious charts are properly followed while making food for the prisoners. The shift from chulahs to LPG for the preparation of food has also led to the reduction of tracheal diseases of the prisoners.

2. Role of Prison Official

- The prison official has a dual job to perform: to administer justice and to prevent crime. Living in a world of ever decreasing resources there is an extravagant burden on the shoulders of the system that they have to do more with little without any compromises. Prison welfare officers should take into account a number of issues like the serious consequences faced by the family members of inmates – such as after conviction they often lose their primary source of income and in a stigmatised society like ours it is relatively difficult for the family members so bereft to find a job.

3. Certain Specific Issues Identified & Discussed

a) Overcrowding

- It is a matter of common knowledge that almost all the prisons of the country are overcrowded. The number of veritable authorized prisons is more or less stagnant whereas the average population and the novice admissions testify of a steady increase, which leads to the congestion in the prisons. Unconscionably long pretrial detention and overstaying of the undertrials also add up. A study of empirical data of prisons in India gives vent to the horrendous conditions of overcrowding. According to prison statistics India report 2018, occupancy rate at all India level stands at 134.7%. At some localities, it ranges from 150 to 600%. These numbers make the debauched living conditions inside the jail pretty obvious. Mr. Smita Chakraborty mentioned that a lot of the barracks in the prisons are not functional which means the prison are more crowded than the data suggest.

b) Under-staffed Prison:

- It is pertinent to note that the prisons in India are facing an acute shortage of necessary staff. Around 33% staff positions of prisons all across India are vacant. In states like Bihar and Jharkhand, the vacancy rate for staff posts like jailer, prison guards etc. is as high as 65%. Uttar Pradesh, the largest state in India in terms population, has a prison staff of just 4350 personnel against the required strength of 9000. This shortage is acute among the medical and para medical personnel as well for instance in West Bengal there are only 23 medical personnel for its total 59 prisons which roughly translates to 1 personnel per 999 prisoners. In Jharkhand too things are no better as on an average there is just one medical officer per 716 inmates. This shortage of the necessary staff further gives rise to many new problems, most importantly the lack of security and necessary healthcare to the prisoners. The participants in the seminar gave a brief overview of how understaffed the prisons are and how often it's only an "one man show". These overburdening of the staffs often leads to them committing mistakes which is understandable.

c) Children in Prison

- A lot of convicts have children and when they are moved into the jails, their children also accompany them. Taking care of those children has historically been a major issue for the prison officers. In 2006, the Supreme Court of India laid down guidelines to ensure prison authorities follow[ed] minimum standards while lodging women with children. According to a summary of the Asian Human Rights Commission the Court ordered that children up to the age of six can remain with their incarcerated mother and then should be placed with a

surrogate if the mother so wishes, or an institution maintained by the Social Welfare Department. Children living with their mother in a prison should not be treated as detainees or convicts; they should be provided with food, clothing, separate utensils, adequate sleeping facilities, and other necessary facilities essential for healthy development of child. They are also entitled to medical care and vaccinations and they must be provided with adequate educational and recreational facilities.

Mr. Arun Kumar Gupta explained how he has worked to set up schools for the children and is taking the help of various NGOs to run the schools. He also further elucidated the painful instances where he had to witness mothers getting separated from their child.

Mr. Naparajit Mukherjee also mentioned how problematic things become when the children complete the age of six years. He also explained how some noble NGOs are taking care of those children and their education. He also advised NUJS to conduct a brainstorming session on the state of children in the Indian prisons.

4. Suggestion & Recommendation

a) Importance of Applying Law as Well as Discretion

- Simple failure to follow statutory provisions or requirements may not always constitute an illegal act. Looking at the vulnerability of the offender, the officer might function through emotions rather than doing mechanical work because the latter would be injustice and may defeat the purpose of protection. This crucial administrative aspect was highlighted by Mr. Faisal Fasih as he touched upon this practical problems of implementation and highlighted the difference between ‘irregularity in practice’ with ‘illegal practice’. He suggested for acting as per the need of the situation. He also mentioned the flaws of theoretical nature of information sometimes makes it practically impossible to apply. Good amount of discretion is given to officials. Proper and unbiased use of such discretion is important. He argued that defensive practice is not compatible with the letter or spirit of the law. Sometimes the ‘sense of mission’ is so strong that acting as per the spirit of law rather than applying the letters becomes inevitable. However, Mr Fasih explained that these officials work in an environment where they regularly interact with the society so they cannot be subjected to unrealistic expectations of law. The rules should be applied creatively and even bent, without being acting illegally, for achieving justice. This concept was explained by him using the concurrent difference between ‘zero tolerance’ and ‘problem solving’ approach.

b) Recommendation of Committees

- AN Mulla Committee: Mr. Arun Gupta, Mr. Satyajit Mohanty and other speakers gave an insight of the AN Mulla committee and how it can be instrumental in constructing a more efficient prison system. Some of the provisions of the committee are listed as follows:
 - Since “Prisons” is state subject and central government has little say in it; it should be moved to concurrent list.
 - The government should come up with a National Policy on Prisons.
 - Government should establish a permanent National Commission on Prisons. This commission should submit its annual report on prison related matters to parliament.
 - In every state and Union Territory, a Department of Prisons and Correctional Services should be set up.
 - Government should try to develop a well organized prison cadre based on appropriate job requirements.
 - An All India Service namely the Indian Prisons and Correctional Service to be constituted to induct better qualified and talented persons.
 - Government should promote research in the field of criminology and penology and to conduct detailed study in the context of emerging patterns of crime in the country. This will help in proper classification of offenders
 - To incorporate the “principles of management of prisons & prisoners” in the Directive Principles of State Policy.
 - Undertrial prisoners should not languish in the jail and there should be procedure for speedy trial and simplified bail process
 - The committee suggested the government to use alternatives to imprisonment such as community service, forfeiture of property, payment of compensation to victims, public censure, etc.
 - Living conditions in every prison, custody care, rehabilitation centres should be compatible with human dignity in all aspects such as accommodation, hygiene, sanitation, food, clothing, medical facilities, etc.
 - Offenders should be provided with adequate opportunities for diversified education, development of work habits and skills, change in attitude, modification of behaviour and implantation of social and moral values.
 - Payment of fair wages and other incentives of leave, remission and premature release to convicts for improvement of their behaviour should be incorporated.
 - Appropriate security provisions should be made for custody suites
 - The management of prisons must take care of human rights of prisoners.

- The State shall provide free legal aid to all needy prisoners.
 - Children (under 18 years of age) cannot be sent to prisons. There should be a separate institution for them with facilities for their care, education, training and rehabilitation.
 - Young offenders (between 18 to 21 years) shall not be confined in prisons meant for adult offenders
 - Proper arrangements shall be made for the care and treatment of mentally ill prisoners.
 - Those convicted for non-violent socio-political economic agitations for public cause shall not be confined in prisons along with other prisoners.
 - Government should encourage voluntary participation of the community in prison programmes and should authorise selected eminent public-men to visit prisons and give independent report on them to appropriate authorities.
- VR. Krishna Iyer Committee: The committee under the chairmanship of justice V. R. Krishna Iyer submitted its report on women prisoners in the year 1987. The major recommendations of the report are as follows:
 - There should be necessary provisions to restore the dignity of women even if convicted under criminal code. Government should make use of all possible material, moral and spiritual resources for the purpose.
 - Since women are a marginalized group, they are vulnerable to exploitation even inside the prison. So there should be separate institutions for women offenders. And the staff for these institutions should comprised of women employees only.
 - The committee emphasised on need for security, discipline, holistic programmes, adequate standards of prisons, and human rights, etc., because all these play a significant role in preventing women offenders from psychosis and neurotic disorders.
 - The trial and bail processes for unconvinced women should be fast accompanied with facilities for women offenders to meet their loved ones even during the trial.
 - Women prisoners experience helplessness in comparison to their male counterparts in defending themselves in court. So, government should provide free legal aid to all women offenders.

c) Open Prison

- Open prison could be an answer for certain prison issues such as overcrowding. Conceptually, it was developed to rehabilitate prisoners who had almost completed their sentence. In India, the earliest open prison established in 1953 in Uttar Pradesh where housed prisoners were requisitioned to construct a dam over the river Chandraprabha, near Varanasi. It was in

Rajasthan's first open prison, a farm set up in Durgapura near Jaipur in 1955, that prisoners were first allowed to stay with their families and work on the farm or nearby. Started as an experiment, the Open prison concept created wonders and has been frequently praised by the Supreme Court and various prominent institutions as an ideal epitome of this concept. Open prison provides opportunity to prisoners to get back into the society and turn a new leaf in their life. It acts a tool of social and societal acceptance, which imparts enormous social benefits.

- Open prison is economically several times more feasible than the normal prisons as elaborately discussed by Ms. Smita Chakraborty in her presentation. The amount saved may be used for training prison's staffs and officials for enhancement of their skills.
- Open prison should only encapsulate people who don't have any tangible tendencies to commit crime anymore. Although it is very difficult to identify this category but they mostly are first time offenders who just got strangled in the complexities of the enigma of human society and committed something, which they had no intention of doing. Some of the guidelines for the selection process could be minimum of five years inside the closed prison, good conduct and seniority in terms of the case, illness or disease, first time offender, petty offences, those categorized as low risk for not showing any violent trait in prison, accused persons who surrendered. It is just an indicating list of criteria. As a matter of policy, more stringent conditions may be applied.
- Ms. Chakraborty has discussed the case study of Sanganer open Jail in detail. It could be considered as a starting point.

d) Role of Parole

- Parole is a major correctional process in jail reforms. It is a part of consideration granted to the prisoners to help them to come back into the mainstream of life. It is a tool for social rehabilitation of the prisoner. It is a provisional release from confinement but is deemed to be a part of the imprisonment. Parole is a tool for which the prisoners crave. It can be used as a tool in the reformation of a prisoner. According to Mr. Arun Kumar Gupta, "The parole can be used both as a carrot and as a stick". He described some instances where the prisoners choose parole over anything else. He said that he does not follow the West Bengal correctional services act's provision strictly while dealing with the cases of parole and generally gives a leeway to the convicts. But he also coerces the prisoners to maintain their best behaviour with the help of the tool of Parole. He further went on to say that parole helps in reducing the prison vices. He stated that he has suggested the government to increase the number of days available in a year as parole. The Honourable Justice Joymalya Bagchi and Mr. Faisal Fasih described

how parole can be a massive thing for the convict and may turn out to be a life changing experience even when granted for a very small time.

e) Role of Technology in Prison

- An evolution in the functioning of the prisons is the need of the hour and the role of technology is massive in it. Mr. Surja Kanta Baladhikari explained the advantages of effective use of technology for prisoners. It will help in digital literacy and rehabilitation of prisoners. Besides, it will lead to speedy communication of convicts with the prison officers and their family members. Moreover, technology will assist in smooth functioning of the prison by reducing burden of the staffs. The model of other countries such as Radio frequency identification (RFID) technology may be explored. The role of concerned organisation becomes very crucial for creating a research team and preparing conducive proposal.

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