

LIFE IN A PRISON WITH TRUTHS & EXPERIENCES -A HUMAN RIGHT PERSPECTIVE¹

INTRODUCTION

This paper remaps the life in a prison. Can any one of us imagine life in a prison or do we ever see ourselves in a prison and see ourselves smiling? More than the physical aspect the life in a prison effects people emotionally and psychologically. The prisoners undergo a complete change in their personality. Prison mates undergo depression to the highest level and even after they come out of the prison, depression never leaves them. The paper explores the truths, experiences and hardships of the people in prison and the research paper asks a simple question are we even able to give basic human rights to the prisoners. The law does not guarantee fair trial and punishment and therefore there is no guarantee that person put in the prison has been imprisoned fairly. That is how many times persons are imprisoned without having committed the offence, for no fault of theirs; they are being punished for a faulty system. This paper looks into the occurrence of such events in a person's life and the kind of impression that is left on him and the human rights of such people. Prisoners many times become very aggressive and sometimes many crimes are born and innocent people become criminals after facing the hardships of prison life. The aftermath of prison life is also intolerable. The prisoners are not accepted in the society.

So the research paper will be based on stories and experiences of people in prison and their human rights. The paper also speaks about the conditions of prison, laws related to imprisonment and bail in brief.

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Here I was with a corporate experience and loads of power and money and finally I landed in prison. I was a top officer of a MNC I did everything for the growth and success of the company, I even went against my ethics and stole a project from the employee of another company. The company asked me to take the blame for the substance in a product which was harmful to the people and the company promised me help when the authorities took action against me I took the blame and I was imprisoned. I did this for my sweetheart and for our future. I was promised immediate bail, but for the greed and power of big people I remained in jail. My sweetheart was murdered as he was coming out with their secret. There was nothing I could do now, I was expecting his child and due to the hardships of jail my child died in the prison. The product which had harmful substance was launched in the market and two competitor enemies got together came to a settlement and in the process I was crucified. I dint get bail for 2 years. I lost my job, my sweetheart, my child and my prestige and everything. Was it a fault of mine, was a paying for some penance, was it destined, was I just a puppet in the hands of big people, could it have been avoided, its been 8 years now but I never got any of the answers to any of these questions. I just know I lost everything I had , lost my soul also , just living with this body with no aim in life, no desires, no future no one on my side.

I just saw him and fell in love and I believed it was from both sides. We started meeting and slowly and gradually I knew he was the man for me, he wanted marriage immediately but I wanted to wait for my parents to return from Germany. In due course of time we developed physical intimacy. After some time I realised that he was avoiding me and giving me excuses. I initially believed him, could not imagine that he was cheating me. He tricked me and got me involved in a murder case, the lawyer came from his side and said it was just a mistake and these things should be said in Court and after confession I would be released, but again I was tricked and I was convicted. I just couldn't believe all this was happening to me, I got convicted for 5 years. In all this there was no sign of "him ". I tried to send him many messages but he refused to even meet me leave about explanations.

I landed up in jail with other prisoners. The prisoners were hard core prisoners and for them it was a new flesh to feast. So I was sexually exploited, I was ridiculed, humiliated and threatened by the other prisoners. I was so scared of everything that I couldn't raise voice. My body was shattered, my wounds were bleeding because of the beatings I got, and my soul was definitely crying. It was a very long time I could get use to all this but gradually I became strong and started retaliating. I now knew to protect myself and others like me. I became

popular as I was protecting the weaker ones. I developed rapport with other jail mates and I could keep a track of “him”. Now my only aim was to destroy him. I spent 5 years in prison which made me ruthless and merciless. I was completely devastated and lost any aim and interest in life. when i came out of the jail and found him healthy and happy, it was so shocking, so this was it after using me, destroying me life he was fit and fine dating another girl and spoiling her life, I made up my mind , this is it ‘! It won’t happen again. I made friends with him again and told him let us settle far and live happily again. He definitely had no doubt on my intentions and so i took “him “to a place where no one was there except wild rats, it was really tough for me to get him there, I gave him sleeping pills and then I tied him by the time he became conscious he was left with the rats. The wild rats came near him,he was staring at me and wondering what was happening , but it was too late the rats started to bite the rope, and slowly they were biting him and gradually they were having feast on his flesh. I stood close by and watched him and enjoyed it. He called me several times and shouted and begged to be realized but of no use. I turned deaf to his ears. I had taken my revenge and was over at last.I had destroyed him. I have always been questioning myself what had i done to myself? Was i so merciless always? Why all this happened to me? Why had i not got a life as a normal girl like others? Jail had made me a criminal;I could never trust anyone ever.

I was leaving with 2 of my friends in Delhi,Saket area, was well place in my career, had good friends and was enjoying life, had nothing to complain off in life, one fateful day all of us went to a rock show, we met some friends with a help of common friend , we found them friendly, they were requesting us for dinner so we three friends decided to dine with them , we were also offered drinks, in due course of time one of the boys started taking liberties with me , I made many attempts to tell him no , or refuse his liberties, but he started forcing me and I couldn’t resist and in a heat of moment I took a bottle and banged his head, his head was bleeding bad , we 3 friends really got scared and fled from there. The next day we got a call from one of them, threatening me of kidnap and rape, I told them sorry initially but later challenged them to do it. After this I started getting call often and so I decided to launch a complaint, the inspector dint take my complaint seriously and asked me to rethink on it as it would invite trouble for me too. I decided to take his advice. Injust two days a mahila sub inspector came to arrest me for illegal prostitution. I got the shock of my life; I was taken to police station. I dint get any time to speak to anyone, I was put in a dirty remand room with other prisoners, I could stay there, I had high fever and couldn’t take the foul smell. I was

asking myself what was my mistake in all this, was it wrong to go for a consort with boys or was it wrong to drink with them, or was it wrong to wear western clothes, does drinking, partying and smiling and late night dinner decide on my character. I had ruined my career, my relations with family and my life. Till date I ponder over the question: What was I doing in jail.

I found him on the road lying there; bleeding, out of humanity I took him to hospital, but till we could reach he breathed his last. Till then the police was following me and when in the hospital found the man dead they arrested me for the murder of that man. I was put in jail. In jail I realized it was all a conspiracy by the police and one of the big men of that area. In jail I was tortured was paraded naked was kept without food for days they wanted my confession at any cost. I wasn't ready to accept the crime I haven't done. I was not even appointed a lawyer which was my right. Time and again I was asking myself was it wrong to help anyone out of human concern, was I paying some penance, what made them to trick me, was it because of my innocence, I had a small family who will take care of them, these kind of thought kept troubling me always, after many months I got bail that too for a short period, but till then I had lost my money, my job, my home and of course belief in God. I would never help anyone in life.

These are some of the experiences of people in prison. There are millions and millions more stories, perhaps more breadth taking but in this research paper I bring out just these horrifying stories for us to understand life in a prison. The question that is raised here should we talk about human rights for prisoners or because they are prisoners they deserve no rights. I leave it for the readers to conclude.

The Deplorable Condition of Prisoners

All prisoners are deeply affected by the conditions of their detention, from the amount of light they get to the quality of the food and cleanliness of cells. Yet just as some conditions or deprivations can be more common among particular groups, others experience the same conditions in different ways. Such is the case for prisoners all over.

In most countries, women in prison are less likely than men to have access to funds of their own, yet they tend to be supported less by outsiders too, unless NGOs and other help groups fill in. Yet none of the prisons visitors provided regular free supplies of sanitary towels, leaving some women using rags, others needing to source them wherever possible. It is found

that many new mothers are returned to prison within a day, if not hours of giving birth. The need for them to actively seek hot water and soap, at the bare minimum, is abhorrent, traumatizing and of course dangerous. In some countries the prisoners are not being provided with any free hygiene items at all by the prison, including soap. They described the affronts to their basic human dignity as they struggle to keep themselves clean during menstruation.

The women are filled with fear, guilt and helplessness at failing to keep accompanying children clean, healthy and fed. In some prisons, such children do not receive their own food rations, and mothers must share. For mothers with HIV, who need certain amounts of food to take their medication, this is lethal. Some women give their children up for adoption because cellmates refused to let her light an early fire and use scarce cooking fuel to cook for her baby. In the prison two mother and baby pairs may share a single soiled mattress. All the kids are sick with diarrhoea and other diseases.

The UN Human Rights treaty bodies often express concern about conditions of detention in their concluding observations to States, and addresses prisoner's particular conditions. Yet as our report reveals, their references remain qualitatively and quantitatively poor, with little or no reference to the rules or the particular needs and vulnerabilities that they address in prison. It is up to everyone, but particularly the UN system and prison systems around the world, to become a champion for the rules, and those whom they serve. According to top officials there is a cause for concern as most rooms in the jail do not have the facility to accommodate more inmates.

It has been 70 years since India attained independence — The largest democracy in the world. Yet justice for all is a far cry in the country where the judiciary system continues to ignore human rights of numerous prisoners. The condition of prisoners in India is like hell in perpetuity, it's a mockery that the prisoners are stripped of their basic rights. Official capacity of prison in India is 3, 07,052. But occupancy level is at 122.8 per cent. Female prisoners comprise 4.1 per cent of the prison population. 469 women convicts with their 556 children and 1,196 under trials with their 1,314 children are in prisons across the country.

They are unable to appoint a private lawyer for themselves because a prisoner does not have enough money to pay their private lawyers and the lawyer appointed for them by the government for free legal help has no interest in meeting them. The law is supposedly equal for

every citizen, but the implementation is far from such equality. With 66 per cent of the inmates being illiterate, they are unaware that free legal aid is available to them on the jail premises itself.

A majority of these inmates are in jail for no crime, under false cases or plainly under suspicion. It is a disgrace on part of the Indian judiciary and political system that jail reforms for prisoners, and the right to fight for themselves and defend themselves has been snatched away from them.

While awareness is definitely one part of the solution, the second part is you and I. The more we talk about these issues and spread the word, the more chatter is built around them.

Prisoners in custody are a vulnerable group, and these traumatising conditions have long term impact on their mental health. *“Roz rozchup chap aasmaankodekhdekhkardimaagkharaabhorahai,”* (to keep gazing at the sky in silence each and every day is driving us mad.), many prisoners who live inside jails express how something inside them is cracking up.

Traumatising prison conditions and practices often have damaging and long term impact on the mental health of inmates, especially women. Institutions of correction and custody are as fraught with gender and other biases as the world outside.

The World Health Organisation suggests that one in nine of the total prison population of 9 million in the world suffers from some form of mental disorder or illness. At least 50 per cent of the women locked inside for more than six months show signs of some of the most common mental disorders of the accepted international list of disorders,” states Rani DhavanShankardass, Secretary General of PRAJA (Penal Reform and Justice Association), India and Honorary President of Penal Reform International, London, UK.

The wounds are more often than not invisible and therefore insignificant. The NGOs that have worked in prisons are struck by the general indifference of the official machinery to the mental state of those who stay and come out worse than when they went in.

Of all the prisoners that require counselling and /or meditation sessions, women in prisons require it even more so. This makes the case for counselling centres inside prisons very

strong. But women in prisons are not a top priority for those who do have women on their agenda. Prisoner's most basic needs are considered worthy of focus and not counselling and/or emotional/ mental help or repair which would constitute an indulgence. Around 2,515 women were undergoing sentences for life imprisonment at various prisons in the country at the end of 2010. According to National Crime Records Bureau this is a sizeable number of women who are wasting away their lives behind bars and need to be attended to. A total of 1,436 deaths were reported (1344 natural and 92 un-natural) during 2010 alone.

The overcrowding and unhealthy prison conditions may also take a toll on the physical and mental well being of prisoners in custody. There is a need to provide dignity and hygiene to the prisoners who serve long sentences inside as well as under trials.

Condition of Women in Prison –Western Countries

Many of the most serious human rights violations in the U S occur in the realm of criminal justice. The criminal justice system – from policing and prosecution through to punishment is plagued with injustices like racial disparities, excessively harsh sentencing, and drug and immigration policies that improperly emphasise criminalization. As a result, the United States has the largest reported prison population in the world. Specific policies often have a particularly harsh impact on youth, racial minorities or low income populations accused of or victimised by crime. Jail and prison conditions are in many respects unsafe and inhumane. Many of these prisoners struggle with substance abuse, mental illness, and histories of physical and sexual abuse. Few get the services they need. The toll on them and their families is devastating.

Further, the over incarceration and over conviction of prisoners has devastating effects on them and their families because of the barriers they face as a result of their criminal records. These barriers include employment discrimination. Sexual abuse, especially women prisoners' face abuse by the male guards constitutes another threat for female inmates that the system has yet to resolve.

The prison authorities ration supplies such as toilet paper, tampons, soap, toothbrushes and toothpaste in order to confront its budget crisis, a policy change that led some inmates to turn to prostitution with guards in order to gain access to these basics. It's indicative of level of

desperation, who noted that she's seen this type of prostitution for basic supplies in women's prisons across the country.

The food remains far from adequate, even by prison standards. According to a research, the department spends twice as much on food for each male inmate compared to each female inmate, even though the caloric difference in meals is only 30 percent. The conditions of poor food, cramped quarters, increased lockdowns and the debasing lack of sanitation incite higher levels of violence between inmates than ever before. Women are a little more subtle in their violent propensities than men, but they do exist. People have the misconception that women are fine compared to men as they are not as aggressive as men. But this is just the perception in truth they are not fine.

Overcrowding, violence, sexual abuse, and other conditions pose grave risks to prisoner health and safety. Mistreatment of prisoners based on race, sex, gender identity, or disability remains far too common.

PRISON CONDITIONS - A Human Rights Watch Report

Prison Project of Human Rights Watch reporting on U.S. prisons, examines the human rights aspects of imprisonment. Perhaps the most troubling aspect of the human rights situation in U.S. prisons is a trend we observed that could be labelled "Marionization. The proponents of such special measures argue that these separate institutions or wards help to keep other prisons safer by isolating the most violent and dangerous inmates from the rest of the prison population. Prison officials also point out that the very existence of these measures serves as a deterrent to inmates who might otherwise behave more violently. But the increasing use of "prisons within prisons," i.e. special wards or separate institutions with much harsher regimes, leads to numerous human rights abuses and frequent violations of the U.N. Standard Minimum Rules for the Treatment of Prisoners.

Another form of punishment is what is known as "strip status" at the Disciplinary Segregation Unit of the Oregon State Penitentiary. The inmate is stripped of all clothing, bedding, and personal possessions and is then expected to "earn" back items piece-by-piece with good behavior. In addition to keeping their inmates in lockdown, there is lack of access to educational programs, which tend to lead toward total idleness.

Other prisons also apply disciplinary measures that violate international standards. For example, in the Broward institution for women in Florida, there is use of handcuffs as a disciplinary measure. In Broward, as well as in the Bedford Hills female prison in New York, undesirable, unpleasant work is used as a means of punishment. The U.N. Standard Minimum Rules prohibit the use of either measure. Another type of disciplinary measure strictly prohibited by the Minimum Rules is collective punishment. We observed instances of such punishment in the Krome INS detention center where all women were punished for a protest action undertaken by some Haitian detainees; and in Rikers Island, where inmates who had not participated in the August 1990 melee at the Otis Bantum Center were nevertheless punished for it. The situation in the jails is of particular concern. Pre-trial facilities everywhere in the world generally offer fewer amenities than prisons as they are intended for relatively short stays rather than for confinement for many years. This is also true in the United States. As a result, paradoxically, prisoners who are presumed innocent (because they have not been yet tried, in the case of pre-trial detainees) or those who have committed less serious offenses (and have received short sentences that can be served in jail) are subjected to much worse conditions than many of the most hardened criminals. It is especially troubling that, in fact, relatively long sentences may be served in jails in the United States. In some States, the law allows for sentences up to several years to be served in jails. As a consequence, such prisoners are subjected for long periods of time to conditions that in the harshest prisons are used only as disciplinary measures, for example, no contact visits. Because of inadequate classification and the deficient record-keeping afflicting jails, severe safety problems arise when prisoners with no criminal record are housed together with habitual violent criminals, leading to tragic consequences such as the 1989 suicide death of the 18-year-old Jason Iaquinta, who killed himself after being raped in the Napa County jail in California. The situation on death rows, where inmates often spend ten years or more while their cases are on appeal, is often made additionally difficult to bear because of the attitude of the staff. Inmates often experience difficulties in obtaining medical help or other necessities because the mentality is that since we are going to die anyway, why bother to do anything. It is important to bear in mind that the human rights violations described in this report affect a large proportion of Americans -- in fact, the largest known such portion in any sizeable country in the world: out of every 100,000 persons, 4262 are currently confined. This record-high overall incarceration rate is much higher among African-American males: a staggering 3,109 out of every 100,000 are currently

confined. The United States imprisons more than a million of its citizens at any given moment, a larger number than any other country in the world. Over a period of years, a much larger portion of the population is confined in the prisons during some part of their lives. They are incarcerated at a staggering cost. In many institutions, annual costs of incarceration run at over \$20,000 per inmate, while, by comparison, annual tuition, room, and board at Harvard or other top American higher education institutions is slightly above \$18,000. More African-American men between 20 and 29 years of age are under the control of the criminal justice system (in prison, jail, on probation or on parole) than there are African-American men of any age enrolled in college. Over the past two decades, the U.S. has experienced an unprecedented growth in the number of people it incarcerates. Between 1973 and 1989 that number tripled and between 1980 and 1990, it more than doubled again. Obviously, a growth of that dimension has a direct impact on prison conditions. Despite the fact that billions of dollars are invested each year in the construction of new prisons, U.S. prisons and jails are increasingly overcrowded. Because of budgetary constraints caused by the effort to provide as many prison beds as fast as possible, other aspects of prison conditions such as education, health care and drug treatment, to name just a few, tend to be overlooked.

Putting criminals behind bars has become a favorite theme in American political campaigns in recent years, and the promise to keep them there for ever longer terms is one that many politicians are most eager to make. Candidates of both major political parties at various levels of government have competed to demonstrate their toughness on crime and criminals. A British journalist recently pointed out that "the current state of American prisons is the result of a political system that rewards demagogues with slick television campaigns, full of sound bites promising quick-fix solutions. Though one of the purposes is to control crime, this result has not been achieved. There is no compelling evidence that the dramatic increase in the rate of incarceration in recent years has been accompanied by a decline in the crime rate. The steep rise in the prison population, which in itself seriously affects prison conditions, has been accompanied by a hardening attitude of the Courts and the legislatures with respect to prisoners' rights and the rights of criminal defendants. During the last term, the Court also overturned five of its own precedents in the area of criminal defendants' rights and upheld a State law mandating a life sentence without parole for such first-time offenses as the possession of 12 pounds of cocaine. The new anti-crime bill, approved by the U.S. Senate in the summer and recently passed in a slightly different version by the House, contains

provisions limiting federal Court review of inmates' petitions; in addition, it doubles the penalties for several drug related felonies, as well as adding 51 crimes punishable by death. All of these developments are transpiring behind a thickening veil of ignorance, obfuscation and denial.

Issues in Prison.

1. Prisons are already overcrowded.

The prisons in India and elsewhere are overcrowded. There is poverty and vagrancy which is the result of overcrowding. The prisons are constructed before the independence and lacks space. No too much of budget is allotted by the States to maintain prisons. Many times the allotted budget doesn't reach the prisons because of rampant corruption.

2. Life behind bars

The life behind bars is extremely tough. There is the effect of confinement on the human psyche, away from friends and relatives and persistently nagged by fears. They are caught in their own complexes, with no one to console them, how does a prisoner live through his years in jail? Many give in to prostitution. In Hissar Jail, Primila Lewis has this to say : "Arrested on a charge of 'awaragardi' under the famous Section 169 of the Indian Penal Code for vagrancy, Pilloo.... could not have been more than sixteen-years-old. She stayed with us a few weeks and then got out on bail provided for her by a constable in return for a spell with him as his mistress.

3. Food, Accommodation and Medical Treatment

Most of the jails were built in the nineteenth century or at the turn of this century. They are in a state of disrepair and are overcrowded. The Shah Commission reports that on the eve of the Emergency, in as many as 15 of the 27 States and Union Territories, the actual population of the prisoners far exceeded the authorised accommodation.

The food served to the prisoners is unfit for consumption. Due to overcrowding, a number of prisoners have to spend the nights actually sitting up. The prisoners are invariably very poor people; but the food is so rotten that they find it revolting. Quite

often the prisoners are ordered to lap up the dal which overflows on to the floor. For vegetable the prisoners are fed with wild grass and roots. A glass of water is found to have no less than one inch of mud at the bottom. For 400 to 800 prisoners, there are just eight latrines. The prisoners therefore defecate at the drains. In winter, six of them have to huddle under one blanket. Tubercular prisoners sleep with the as yet un-diseased ones."

Medical facilities however meagre are available only in some central jails in each State. In district and sub-jails, (asterisk) a compounder or some registered medical practitioner is supposed to visit at regular intervals; the visits never materialize.

4. Naturaldeaths

No wonder then that many prisoners die a "natural death" due to diseases which are otherwise minor and curable. Jails, overcrowded with prisoners and commonly understaffed, are run on the policy of 'divide and rule'. The Jail Manual provides that from amongst the convicts the authorities shall appoint "convict officers" (COs). They are supposed to be some sort of prefects for the inmates, but actually are the extra-institutional force of the jail authorities. The Convict Officer is a prized position, for it entitles a remission in jail sentence. These prisoners obtain better food from the mess and sometimes the "sick diet" (milk, fruit, eggs). The other prisoners view these convict officers with hostility and they give false reports to the officers who come for supervision. On the weekly parades, which are held once in a month or two, the C.O.s accompanies the Superintendent along with the Jailor and Warders. The Superintendent always moves into the wards with a massive force. If anyone complains, the C.O.s beat up the prisoners at his behest. The disobedient prisoners, those who 'instigate' the others, are handled by C.O.s and the jail staff together. "Those who demand better conditions and are rather persistent, are taken to the drama hall-meant for recreational and cultural activities-tied to the pillar and beaten up

by these people. The substantial portion of the income of the jail authorities is obtained through the C.O.s who are in direct touch with the ordinary prisoners. They charge the prisoners for putting in a word to the authorities for getting them remission in jail sentence or allowing the prisoner to have "illegal" articles in the jail (ghee, charas, or hasheesh). Often the promotion of a prisoner from an ordinary convict to convict night

watchman or convict officer is through bribing the jail authorities. Most prisoners live in an atmosphere of fear and suspicion. Though suffering is common to all, one does not see a sense of unity among them.

5. Loneliness and Frustration

There is a closed existence; visits from friends and relatives are few and far between for most prisoners. Many of them have not had a visit for years together. Poor as their friends and relatives are, they find it difficult to bear the transportation expenses to visit their kith and kin in jail and many times there is a lack of interest and intension by them. The relatives and friends tend to forget these poor souls and live it to fate. Further; they are made to wait for hours at the jail gate; in many jails the gate-keeper asks for a bribe.

One of the ways to kill loneliness and frustration found out by the prisoners is being sexually satisfied. There are sexual perversions of all sorts. Homosexuality is widely prevalent. The jail authorities turn a blind eye to this. When a young boy enters, the prisoners have been known to have bid a price for the boy. The price offered is in terms of 'bidis', soap or charas. Often prisoners have been divided into camps and the groups have fought each other on the issue of who shall have the new entrant.

6. Gross Discrimination

The stories of the comforts and favours given to some of the alleged criminals are well known. SantoshRana writes about Presidency Jail, Calcutta, during the Emergency: Some smugglers were there. They never ate jail food. Food reached them from their houses every day. Some had the privilege of going out to their houses at night and coming back in the early morning. And there is no need to be a smuggler or a kingpin to enjoy extra benefits. In Delhi jail, as those who have been there will tell you, you could have whatever food you wanted, only by paying a higher price. In Jaipur Jail, some prisoners from well-to-do families and undergoing life sentence have no problems in going out. On the pretext of going out to the city hospital for treatment they go to their homes with or without the police guard, returning to the jail gate by evening.

While these people get police escort to go to hospital, those who are genuinely sick and in need of treatment but with less resources are, usually not sent to the hospital. The plea of the jail authorities is that the police does not send us the guards.

What is worse is that even the law of the land allows for discriminatory treatment. Some States classify prisoners as being in 'A', 'B' or 'C' class on the basis of their income or social status. The Shah Commission Report shows that even amongst MISA detenus, there was discriminatory treatment in almost all States.

7. Exploitation of prisoners

The prisoners especially women are physically and mentally exploited which even result in deteriorating mental conditions of women prisoners. The jail authorities ask for favours in return for basic facilities. In the process they are physically abused and sexual favours are demanded. The prisoners also many times give in and at times they revolt for which they get harsh punishments.

8. Prisoners not convicted.

Many prisoners are not guilty and they are not convicted and many of them are in prisons for petty cases. There is imprisonment of an overwhelming number of under trials many of them being held in custody for long periods. They do not get lawyers to fight their cases and many of them get no help from anywhere. The jail authorities take no interest to ensure that the cases are resolved at a faster rate and no steps are taken in this direction. There are hardly any measures taken to reform the prison.

9. The approach is not reformative.

While hardened criminals are very few, severe restrictions are placed on almost all prisoners. The whole approach is retributive rather than reformative. Prisoners demanding better treatment for themselves have received lathis and bullets. There is rampant corruption in jail administration. One must note that the wage scale of the jail staff is also very low. Lack of resources for jail administration, as one can infer from the low allocation for jails in the state and Central budgets. The jail authorities also give up on prisoners. Not all violators of law are penalised: it is the poor and quite often the innocent who are victimised. The prisoners are denied "natural habitat" which we try to

provide even to the animals we cage in our zoos. This coupled with the hopeless conditions in jails affects them irreversibly.

Conclusion and Recommendations

It would be redundant for a human rights organization to explain why we believe that human rights should be observed in prisons. Beyond moral concerns, however, there are pragmatic considerations that make the humane treatment of prisoners a matter of vital importance to the society at large. Prisoners who complain about the conditions of their confinement do not generally get much sympathy from society, but sympathy is not the issue here. From society's long-term perspective, there are sound reasons for prohibiting cruel and unusual punishment. People who are abused and treated with violence are those most likely to treat others abusively and violently. A well-known prison expert, Vincent Nathan, in Court testimony, "When inmates live in a lawless environment, they tend to be more lawless, more violent than they otherwise would be. Rehabilitation, as the main mission of prisons, was replaced by a focus on retribution, incapacitation and deterrence. Whatever the theory of imprisonment, it is worth stating what should be obvious: that it is in the interest of all to make certain that the hundreds of thousands of individuals who walk out of prisons each year (98 percent of prisoners do get released at some point) do not leave more dangerous than when they entered.

There is a similar pragmatic reason why, aside from the fact that it is morally wrong and illegal, prison authorities should not abuse the power they have over inmates: It is in their own best interest to treat prisoners humanely.

The following are the recommendations regarding the human rights aspects of imprisonment:

1. Security facility and correctional administration

Maximum-maximum security facilities should be used only under supervision independent of correctional administration. Even then, they must observe certain standards, such as providing outdoor exercise at least one hour a day, providing educational opportunities and assuring access to reading matter, both legal and general. The use of physical restraints as a disciplinary measure and any form of

collective punishment, both prohibited under the U.N. Standard Minimum Rules, should end.

2. Denial of access to reading matter should never be used as a disciplinary measure.

There should not be denial of reading facilities at all. All cells should have a table and a chair. In no case should the denial of these pieces of furniture be used as an additional disciplinary measure. Denial of outdoors time as a disciplinary or supervisory measure should not be used. Each inmate should be allowed at least an hour of daily outdoors exercise, in compliance with the U.N. Standard Minimum Rules for the Treatment of Prisoners.

In jails, classification and record-keeping must be improved, to avoid situations where non-violent offenders are housed with dangerous and predatory criminals. Limits should be imposed on the duration of a sentence that may be served in jail. In no case should it be longer than one year.

3. Prisons and jails have a duty to protect inmates against violence from other inmates.

The United States Department of Justice should publish an annual report on violence in prisons and jails identifying institutions where repeated incidents of violence take place and should examine the conduct of officials of those institutions to determine whether prosecutions of those officials for violations of federal law are warranted. The concern is about the lack of work opportunities in many jails and State prisons because of which they become idle and become violent. Under conditions of overcrowding, work opportunities help ease tensions caused by difficult living conditions, prevent violence and contribute to safety. Steps should be taken to assure an opportunity to work for all inmates capable of working.

Prison officials should make every effort to confine inmates as close to their home as possible so as to facilitate the maintenance of family bonds. Outof State incarcerations, as far as possible should end.

4. Prisoners should have access to phones

All inmates should have access to phones. Given the distances relatives must travel to visit, telephones are often a necessity in maintaining bonds. Prisons should encourage access to prisons for inmates' relatives or friends, as maintaining these bonds gives inmates a better chance of staying out of trouble upon their release. Measures such as providing transportation to the prison should be promoted. As a rule, all inmates should be permitted contact visits. Exceptions should be made only when a specific determination has been made that such visits are hazardous or have been abused in the case of a particular prisoner.

All types of institutions (although not all of them in each type) use guards of the opposite sex to supervise inmates. While it is agreed with the view that the presence of guards of the opposite sex makes life inside more similar to free life and is thus beneficial to inmates, there is a concern about the violation of privacy when prisoners are regularly being seen naked or using the toilet by persons of the opposite sex. In circumstances when security considerations make it impossible to provide privacy (such as the toilets without doors in dormitories on Rikers Island, or the Federal Bureau of Prisons policy of not announcing guards' presence during some inspections), guards of the same sex should be used.

No inmate should be left in prison without knowing how long he or she will be incarcerated. Incarceration of illegal aliens, except in cases of individual determination that an alien has committed a criminal offense that warrants incarceration, should stop. It is appalling that non-criminal detainees are held, sometimes for periods of a year or more, in conditions worse than those under which convicted criminals are incarcerated.

Outside observers should have access to prisons. Visits by outsiders are frequently helpful in preventing gross abuses. They also help prisoners to vent frustrations and ease tensions by making it possible for them to voice their grievances to representatives of the outside community. Their inmates if allowed to describe their grievances to the outside world will help a long way to improve prison conditions.

5. Problem of overcrowding

The problem of overcrowding can be confronted by the release of the undertrials who have been in jail for long periods. Courts take a long time to decide and we cannot afford to release the murderers and potential criminals. As already mentioned many of them are not criminals. We need only to recall that following Supreme Court orders, the Bihar Government in 1979 released about 27,000 under-trials and there was no noticeable increase in crime. The prison environments are unnatural and inhuman. Along with other aspects of prison life, this leads to serious psychological disorders and even insanity. The conditions, in fact, mature petty thieves into hardened criminals. The habitat of the prison must be changed. One possibility is the open camp system. The open camp experiment is being successfully carried out in Rajasthan. In Sampurnanand Open Camp, Sanganer, 50 to 60 convicts all murderers live with their families. There are no boundary walls, no fences with only four policemen as guards. The convicts are free to pursue any vocation they choose. The prisoners who are eligible for the open camp must have completed 1/3 of their sentence in what can be described as the closed jail. The open camp, says the Inspector General of Police, Rajasthan, does not cost much. The houses have been constructed by them and some land has been given. They earn their own living. And what is the best thing about the camp is that there has hardly been any instance of escape in the past five years. At times to be chosen for open camp, prisoners have to sometimes bribe their way through. The idea in itself is very good, is workable and should be extended all over.

6. Checking of functioning of jails

There is no internal mechanism to check the functioning of the jails today, which remain oppressive and cruel. Suggestions like employing jail staff of high character or the strict implementation of the jail manual do not work. One section that can doggedly keep a close watch on the prisoners' plight and make efforts to right the wrongs is the prisoners themselves. They must have the right to assemble and organise into panchayats. Their representatives must be involved in decisions regarding food and maintenance. The supervision of the administration by the prisoners can be effective only when the rights of prisoners are spelt out. The eight jail manuals based on the Prisons' Act, 1894-contained detailed instructions on petty things like the width of the belt to be worn by the staff, the number of holes per square inch on the gauge to seive flour but there is not a single

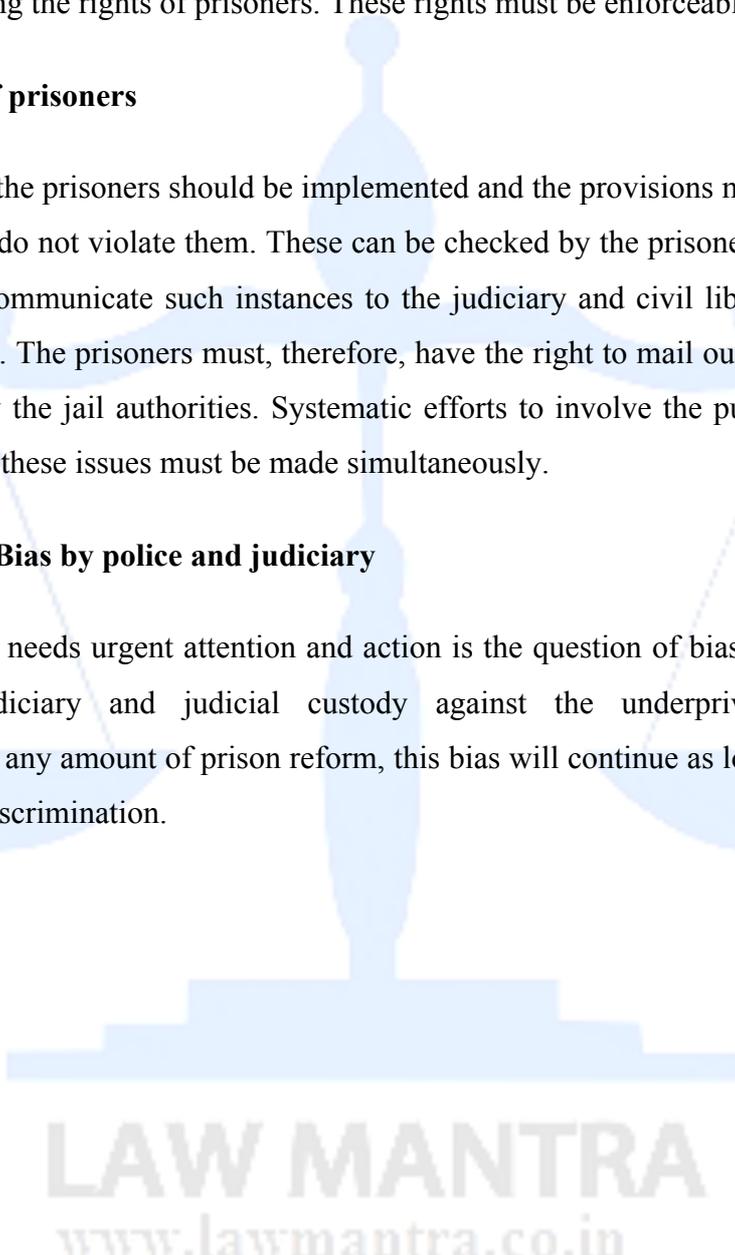
chapter on the rights of the prisoners. While there is a need for a jail manual incorporating reformatory approach as against the old manual drafted by colonial rulers primarily with a view to punish and suppress political activities, particular attention should be given to clearly defining the rights of prisoners. These rights must be enforceable in Courts.

7. The Rights of prisoners

The rights of the prisoners should be implemented and the provisions must be made so that the jail staffs do not violate them. These can be checked by the prisoners only if they have the right to communicate such instances to the judiciary and civil liberties groups freely and fearlessly. The prisoners must, therefore, have the right to mail out letters without any censorship by the jail authorities. Systematic efforts to involve the public and raise their awareness on these issues must be made simultaneously.

8. Action against Bias by police and judiciary

And **lastly**, what needs urgent attention and action is the question of bias in the operation of our police, judiciary and judicial custody against the underprivileged and poor. Notwithstanding any amount of prison reform, this bias will continue as long as there is gross inequality and discrimination.



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