

PRISON SYSTEM IN THE STATE OF GOA - A SOCIO-LEGAL &
EMPIRICAL STUDY OF SAFETY, SECURITY AND DISCIPLINE IN THE
PRISON IN GOA

A Thesis
Submitted to Goa University
for the Award of the Degree of

**DOCTOR OF PHILOSOPHY
IN LAW**

By

MRS. SONAM SACHIN SARDESAI

Research Guide

DR. G. SHABER ALI

M.A., LL.M., (NLSIU), M.L., Ph.D.,
Coordinator for PG & Research Centre

At

**V M Salgaocar College of Law Research Centre,
Miramar, Panaji Goa**

Affiliated to

**Goa University,
Taleigao Plateau, Panaji, Goa**

OCTOBER 2019

DECLARATION

I hereby declare that this thesis titled, “**Prison System in the State Of Goa - A Socio-Legal & Empirical Study of Safety, Security and Discipline in the Prison in Goa**” submitted for the award of the Degree of Doctor of Philosophy in Law, to Goa University, Panaji is an Original Research work done by me.

I also hereby declare that this thesis or any part of it has not been submitted to any other University for the award of any Degree or Diploma or Fellowship.

Sonam Sachin Sardesai

Date:

Place:

DR. G. SHABER ALI

M.A., LL.M., (NLSIU), M.L., Ph.D.,
Coordinator for PG & Research Centre
V M Salgaocar College of Law
Miramar, Panaji Goa

CERTIFICATE

This is to Certify that the thesis titled, 'PRISON SYSTEM IN THE STATE OF GOA - A SOCIO-LEGAL & EMPIRICAL STUDY OF SAFETY, SECURITY AND DISCIPLINE IN THE PRISON IN GOA' submitted for the award of the Degree of **Doctor of Philosophy in Law**, is a record of the research work done by Mrs. Sonam Sachin Sardesai under my guidance and supervision during 2019.

I certify that this is bonafide work of Mrs. Sonam Sachin Sardesai.

DR. G. SHABER ALI

Research Guide

Place: Panaji Goa

Date:

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ABBREVIATIONS

AIR	All India Reporter
Adv	Advocate
AP	Andhra Pradesh
CC TV	Close Circuit Television
CJ	Chief Justice
CJI	Chief Justice India
CPC	Civil Procedure code
CrPC	Code of Criminal Procedure
HC	High Court
IPC	Indian Penal Code
IRB	Indian Reserve Battalion
MP	Madhya Pradesh
NGO	Non Governmental Organisation
SC	Supreme Court
SCC	Supreme Court Cases
SEC	Section
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCCPR	United Nations Covenant on Civil and Political Rights
UK	United Kingdom

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1. Abdul Qayum v. State of Bihar ;A.I.R 1972 S.C 214.
2. Anand Rao vs. Inspector General of Prisons Bhopal ; 1982
Cri.L.J. 925.
3. AR Antulay v. RS Nayak ; AIR 1984 SC 1630
4. Bhikhabhai Devshi v. State of Gujarat ; AIR 1987 SC 136
5. Charles Shobraj vs. The Superintendent, Tihar Jail ; AIR 1978
SC 1514
6. Common Cause Society v. Union of India ; AIR 1996 SC 1619
7. Daniel H. Walcott v. Superintendent, Nagpur Central Prison ;
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9. Dharambir v. State of Uttar Pradesh; (1979) 3 SCC 645; 1979
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10. Dilbagh Singh v. State of Punjab ; A.I.R 1978 S.C 680.
11. Kadra Pahadiya v. State of Bihar ; AIR 1983 SC 1167
12. Kishore Singh Ravindra Dev v. State of Rajasthan ; AIR 1981
SC 625.

13. Kunnikkal Narayana v. State of Kerala ; A.I.R 1973 Kerala 97.
14. Maqbool Husain v. State of Bombay ; AIR 1953 SC 325-332
15. Mohammad Giassuddin v. State of Andhra Pradesh ; AIR 1977 SC 1926
16. MH Hoskot v. State of Maharashtra ; (1978) 3 SCC 544
17. Phul Singh v. State of Haryana ; 1980 SC 249.
18. Rakesh Kaushik v. B.L.Vig, Suprintendent Central Jail, New Delhi ; AIR 1981 SC 1767.
19. Ramamurthy v. State of Karnataka; 1997(2) SCC 642; AIR 1997 SC 1739
20. Sanjay Suri v. Delhi Administration ; AIR 1974 SC 2092
21. Sanjay Suri v. Delhi Administration ; (1988) Cr LJ 705 9SC).
22. State of M.P. v Shyamsundar Trivedi; (1994) 4 SCC 395
23. Sunil Batra (II) v. Delhi Admn., (1980) 3 SCC 488: 1980 SCC (Cri) 777
24. Santa Singh v. State of Punjab ; A.I.R 1976 SC 2386

LIST OF STATUTES AND RULES

1. Code of Civil Procedure 1908
2. Code of Criminal Procedure 1973
3. European Prison Rules, 2009
4. Goa Prison Rules, 2006
5. Model Prison Manual 1960
6. Mount Batten Report of 1966
7. NHRC National Human Rights Commission
8. Standard Minimum Rules for the Treatment of Prisoners
9. The Prison Act 1894
10. The Constitution of India 1950.
11. The Indian Penal Code 1860
12. The Protection of Prisoners from Third Degree Methods Act,
1977,
13. **The International Covenant of Civil and Political Rights**
14. Universal Declaration of Human Rights
15. Universal Declaration of Human Rights
16. United Nations Covenant on Civil and Political Rights

“No one truly knows a nation until one has been inside its jails. A Nation should not be judged by how it treats its highest citizens, but its lowest ones.”
¹ - Nelson Mandela

1.1 Introduction

Prison administration in India is a legacy of the British Rule. Though not perfect but it was a giant leap in the prison administration in India. It ruled out barbarous punishments and declared incarceration as the main form of punishment for a crime.

The term “Prisonisation” depicts a system of punishment which can be also termed as a sort of institutional placement of under trials and suspects during the period of trial² and also includes incarceration of the convicted people.

The history of prisons all over the world evidently reflects all the changes in societies’ reaction to crime over the period of time. The term ‘prison system’ originated in the first quarter of 19th century. “Discipline of punishment” was considered the only objective of the prison administration so as to reform a criminal.

Prison reforms has been like a ‘Cinderella’ for many Governments, an increasing drain on the public earnings and also an area of argument between those class of people who advocate enlightenment in the treatment of criminals and those who are ‘old school’ who believe in treating the prisoners rough.

A Prison has evolved to a status of being a symbol of legitimate coercion and also an institution of social control, for over three centuries. “Prison was not intended to be barbarous, but it was never the less intended to be nasty”.³

¹ https://www.un.org/en/events/mandeladay/mandela_rules.shtml

² Sharma P. D. : *Police and Criminal Justice administration in India*, (1985) page 145

³ Pugh Ralph B. : *Imprisonment in Medieval England*, 1968 page 388

1.2 History of Prison System in India

The modern point of view, where it is needed to treat a prisoner justly and fairly so as to treat cases alike, is based on Hart's claims that 'Law' should not contravene any kind of distinguished common moral distinctions⁴. And as Winston Churchill says, "The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country".⁵

Discipline and Punishment were once considered important to carry out reforms in a criminal. It was considered one of the important purposes of the prison administration system. Other than financial capability, social and moral consciousness of the community concerned plays an important role in a country's prison administration.

In India, the contemporary Prison administration is a legacy that has been passed on to the country by the British Rule. It has its basis on the idea that unless there is a good machinery to inflict punishments, even best of the criminal code can be of no use. Incarceration denotes a system of punishment that is also a sort of institutional placement, of those who are under trials, and those who are suspects during the pendency of trial.

The history of prisons around the world and also in India, most evidently reveals the changes in reactions to crime over the period of time. In India, the modern prison is fundamentally based on British prisons model, which is said to have origin of the outcome of prison development in America during the late 18th Century.

⁴ Hart H.L.A: *Punishment And Responsibility*, 1968 page 27.

⁵Roy Jaytilak Guha: "*Prison And Society*"- A Study of The Indian Jail System, (Gian Publishing House New-Delhi, 1989).

The Indian prison system is very notorious for its cruel, degrading and inhuman conditions. It has managed to receive extensive government attention over the years. The Prisons Act, 1894, is even today the basis for the federal frame work for prison regulation. Even after submitting excessive reports on prison reform to the Union government and even though it has been circulated among prison administrators the reforms are not yet uniform for whole of India. Prison reforms in India; have remained slow-paced as rights are being systematically denied to inmates. It is in fairly recent years that the international organisations are motivating for uniform prison reforms in India.

T.B. Macaulay in 1835⁶ began the reforms in the modern prison system in India. There was appointment of a committee which was named as Prison Discipline Committee. In the report the committee recommended increased the rigorousness of treatment to prisoners while they rejected every humanitarian needs and also reforms for the prisoners. Central Prisons were constructed from 1846, subsequent to the recommendations made by the Macaulay Committee between 1836-1838. Even in 1864, the 2nd Commission of Inquiry into Jail Management and Discipline also made similar recommendations as the 1836 Committee.

This Commission also made some additional specific suggestions with regards to the accommodation for prisoners, improvement in diet, clothing, bedding and medical care. There was a Conference of Experts which met to inquire into the prison administration. At this conference there was a proposal to enact a prison law which led to the drafting of a bill. In 1888, a consolidated bill was prepared on the recommendations of the 4th Jail Commission. The provisions with regards to the jail offences and punishment were made to examine by a

⁶ Tarapore Pheroze Kharsedji: *Prison Reforms in India*, H. Milford, Oxford University Press, 1936

team of specialist, a conference of experts on jail Management. With the assent of the Governor General of India, in the year 1894, this draft bill became law.⁷

The present jail management is administered on the basis of the Prisons Act, 1894. There are hardly any substantial changes that are made in this act. The process of review of the prison problems in India did not seem to end. In the report of the Indian Jail Committee 1919-20⁸, rehabilitation and reformation of offenders were classified to be the objectives of the prison administrator.

A United Nations expert was invited by the Government of India in the year 1951⁹. Dr. W. C. Reckless, was invited to conduct a study on prison administration and to be able to suggest some policy reform. In his report entitled 'Jail Administration in India', he made a plea to the government to transform jails into reformation centres. In his report he also recommended the revision of some of the out-dated jail manuals.

The Eighth Conference of the Inspector General of Prisons, in the year 1952, also supported the recommendations of Dr. Reckless with regards to prison reform. As a result of which in the year 1957, the Government in India appointed the All India Jail Manual Committee for the preparation of a model prison manual. The committee in its report in 1960, made a strong appeal to formulate a uniform policy for whole of India and for using latest methods that relate to jail administration and other things.

This resulted in the preparation of Model Prison Manual (MPM). It can be said that the 1960 MPM is the guiding principle on whose basis the present Indian

⁷ Supra.

⁸ Mohanty Amarendra & Hazary Narayan: *Indian Prison System* (Ashish Publication House, 1990), pgs.18-32

⁹ Supra

prison management is governed. In 1972¹⁰, the Ministry of Home Affairs, Government of India, on the basis of the Model Prison Manual, selected a working group to work on prisons. In their report it was stated that there was a need for a national policy on prisons. It also laid down principles and made recommendations with regards to treatment of offenders and their classification.

In 1980,¹¹ a committee was set up by the Government of India, on jail reform. This committee was under chairmanship of Justice A. N. Mulla. Their basic aim was to review the laws, rules and regulations. On the whole the objective was to protect the society and rehabilitate offenders. The final report came to be submitted in 1983.

In the year 1996, in a decision by the Supreme Court of India *Ramamurthy v. State of Karnataka*¹² it was held that, to bring about uniformity in prison laws and prepare a draft model prison manual, and hence there was a committee that was set up in the Bureau of Police Research and Development (BPR&D). Towards the end of the year of 2003 in December, the central government of India accepted the jail manual drafted by this committee. Even in the year of 2000, the Ministry of Home Affairs, Government of India, had appointed a Committee to formulate a Model Prison Manual which would be termed as a realistic prison manual, which would play a part to improve the Indian Prison management and administration.

By improving prison conditions it cannot be taken for granted that prison life should be made soft. It has to be more and more human and also sensible.

¹⁰Mohanty Amarendra & Hazary Narayan: *Indian Prison System* (Ashish Publication House, 1990), pgs.18-32

¹¹Supra

¹²1997(2) SCC 642; AIR 1997 SC 1739

1.3 Meaning and Nature of Prison Reforms

Prison was not intended to be barbarous. PUNISHMENT came to be known as the method that was available to deal with the offenders after they were convicted for committing a crime. Prisons, in-fact, is a place with coercive environment where women and men are held against their will.

Over the years, Humanitarian considerations have been increasingly playing a dominant role in how a society deals with criminals. This is the reason why now Criminals have become VICTIMS and crime has been termed as a SOCIAL DISEASE. New generations' thought and approach towards the prison administration is to treat prisoners rather than punishing them.

The prison administration today, is in desperate need to change its outlook towards the prisoners and try to change them rather than punish them. The idea should be reforming a prisoner, so that he does not do another act of crime. In this way we can only hope that we can lessen crime if not abolish it.

Since the ARTHASHASTRA times, according to Chanakya, rules for administration of justice was divided into 4 categories.

- | | | |
|--------------------|----------------|--|
| (1) Sacred Law | -“DHARMA” | - embodiment of truth |
| (2) Secular Law | -“VYAVAHAR” | - depends on evidence |
| (3) Custom | - “CHARITRA” | - decided by opinion of the
People. |
| (4) Royal Commands | - “RAJASASANA” | - administrative law |

The orthodox Mughal emperors brought with them QURANIC LAW prescribing brutal punishments for crimes committed. A well known Indian historian Sir Jadunath Sarkar remarked it to be “incapable of growth or change”.

The main idea that the British followed was incarcerating people and keeping them in jail in the most economical way possible with a sole underlying reason of somehow benefitting the colonial interests alone. Lord Macaulay in 1835 for the first time felt the need for prison reforms in Indian Jails. Since then there have been many efforts but nothing to replace the existing Indian Prison Act, 1894.

Being one of the experienced prisoners, Mahatma Gandhi once said, “I believe that the government have to begin the reform...Humanitarians can but supplement government efforts.....humanitarian efforts only, cannot cope with the evil wrought in the jails.”

In 1892, an All India committee surveyed the jail administration on the whole and laid down certain rules that were to be applied. The Prison Act of 1894 was the product of the hard work of this committee.

The Indian prison system is very infamous for its vindictive, demeaning and ruthless conditions. It has managed to receive extensive government attention over the years. The Prisons Act, 1894, is even today the basis for the federal frame work for prison regulation. Even after submitting excessive reports on prison reform to the Union government and even though it has been circulated among prison administrators the reforms are not yet uniform for whole of India. Prison reforms in India; have remained slow-paced as rights are being systematically denied to inmates. It is in fairly recent years that the international organisations are motivating for uniform prison reforms in India.

It will be wrong to submit, that by treating the prisoners with fairness and humanity will eventually lead to decline with respect to the security or control in a prison. Moreover I am of the opinion that it is possible to achieve the objective of preventing any kind of commotion, disorder or escape, only in impartially ordered and positive surroundings. Such surroundings should be a

safe ground for the prison staff as well as the prisoner in the prison. Every prisoner should be treated justly and fairly without any kind of bias. They should also have an opportunity to look back on their deeds and utilise their skills if any in more productive activities that will make them into better individuals.

The prison officials can also undertake to organise skill development programme to enhance the usefulness of the prisoners once they return into the society. Many states in India lack the balance between these essential components, the reason mainly being undue importance by the prison officials on aspects like security and control at the cost of justice. A prison can be called a complicated and multi- dimensional institution dealing with contrasting as well as competing pressures. The key ingredient in an efficiently managed prison is maintaining a proper balance between the three so called vital elements. These are 'security', that pertains to the obligation of the prison service so as to prevent the prisoners from escaping; the term 'control', that pertains to the obligation of the prison service dealing in preventing a prisoner from being disruptive; and the term 'justice' that denotes the obligation of the prison service so as to treat the prisoners with sheer humanity and fairness and also to be able to prepare the prisoners for their return to the community in anticipation that they will mostly choose not to reoffend.

1.4 Importance of the Study

No study has taken place in the state of Goa which has attracted the attention of the law makers or even the so called social geniuses to conduct an in-depth research in Prison Reforms for the state of Goa.

The present research is an honest attempt solely made to make available a comprehensive piece of research as a stepping stone for Prison reforms in the

state of Goa. The present research aims to be evaluative on one hand and analytical on the other.

The researcher also wishes to enlighten the people in general that prisons need not always be a place where inhuman and brutal punishments are inflicted on the prisoners, but, prisons can be places where some kind of social resolve is served by way rehabilitation of the prisoners and making it possible to reinstate the prisoners back in the society. Even though rehabilitation and reformation of the prisoners is the expectation of the society today, on the other hand the same society wants protection from the prisoners.

For a society like ours, consisting of widespread economic disparities, an additional expenditure resulting out of increase in country's national income will not result in reduction in number of crimes committed. The prison population must be based on various economic political and social factors.

The researcher hopes to act as a promoter of improving the standards of the prison systems in the state of Goa so as to be in sync with the changing needs and legal conditions, and also keeping in mind socio-economic and political standards.

In India one can find few research works that we can look up to, which gives us a fair picture on the working of the prison system. There is no work that has been made for the state of Goa to help administer the prison system. There is not much literature with regards to present requirement in a prison administration and therefore this research will point out the basic requirements necessary for prison reforms in the state of Goa.

The prison system has to be seen not only from the viewpoint of the prison administration but also the viewpoint of the prisoners, have to be considered.

“The living and working conditions in the prisons are not conducive to bring reform in the attitude of prisoners. In our prisons the milieu is such that it leads to the progressive poverty of the body, mind and spirit.”¹³

This research aims to explain and update the practices and methods in the prison system of the state of Goa in respect to safety, security and prison discipline.

1.5 Objectives of the Study

The following are the objective of the researcher to accomplish at the end of the research:

1. The current study researches deeper into the system, which, is existing in the state of Goa in respect of Discipline, safety and security in the prison system, which makes us wonder and feel the need for prison reforms for the state of Goa.
2. This study will analyse the current situation in the prison of Goa in relation to Discipline, Safety and Security of the prison and also suggest meaningful reforms in the above mentioned areas in this research work of the prison administration so that the prison system in Goa functions fairly and in agreement with the letter of the law with special regard to human rights.
3. The Prisons Act of 1894 has very well become out-dated, this research will enlighten as to the various problems in following the Prison Act 1894, by critically analysing it, along with the major changes required.

¹³Indian Prison System, 1990

4. This research study will also bring to light the present condition of prisons which shows that there exists a wide gap between the theory and the claims made on one hand and the hard authenticities and actual practices on the other.
5. This study in the following Chapters will highlight the differences and give possible suggestions so as to improve prison conditions in the area of Safety, Security and Prison Discipline and to carry out effective reforms which have yet not been carried out in respect of Prison Discipline, Safety and Security.

1.6 Hypothesis

The researcher proposes the following Hypothesis to be tested during the present research study:

1. The Prison system in the country has become outdated in relation to Discipline, Safety and Security measures adopted by the prisons, so also the system used in the State of Goa.
2. There is an urgent need for Prison reforms in areas of Discipline, Safety and Security in a prison system and the approach towards a prisoner in such areas due to the old provisions of the Prison Act 1894.
3. There is need to introduce various rehabilitative measures for Prisoners.

1.7 Methodology Adopted

To arrive at a conclusion, a researcher has to minutely analyse the data that is collected to prove the hypothesis. The study will make use of various research

methods to procure the essential data. It is of great importance not to miss the nuances which can be arrived at with detailed studies.

A researcher has to authenticate empirical thesis by facts. The researcher has to lay strong emphasis to determine the criteria for collecting data. Factors to be kept in mind is; Firstly, the factors that gave rise to the research topic, and Secondly, the nature of data available to provide direction to the research. The study is based on the secondary data from the Prison Act of 1894, books, articles, magazines, research papers, publications etc.. till date in different parts of the country (INDIA) but more focus will be leant to Goa. Goa is yet to see the daylight of reforms compared to other states in areas pertaining to Discipline, Safety and Security in a prison system and the approach towards prisoners, though there is a new prison complex built at Colvale.

The study will also contain data gathered by way of visit to the Aguada and Colvale Jail and interactions with the Prison officials, along with the views of the prisoners to get a better picture of the inside information and day to day activities in the prison to be able to draw conclusions so as to prioritise the suggestions and needs of Prison Reforms.

The study will also contain primary data collected from the prison officials and prisoners by way of administering a questionnaire. The questionnaire will also be administered to the judges presiding over the courts in Goa as well as the advocates practising in the courts in Goa.

1.8 Limitation of the Study

The study will be done in Goa. It will not be possible to gather data from all over the country, as every state in India has their own Prison Rules even though the basis is Prison Act, of 1894. In the present research the researcher mainly

concentrates on three aspects of prison that is safety, security and discipline in the prison.

For this study the data collected was restricted to Aguada and Colvale Jail only in the State of Goa. There are many factors that comprise in functioning of a prison administration. This study is restricted only to safety, security and prison discipline in a prison. The findings of the research will be based on the data from the past 10-15 years, from Aguada Jail and the newly built Colvale Jail only. The data collected may or may not bring the true picture of the actual and factual Prison Conditions.

1.9 Scheme of the Study

In India, the Prison administration is legacy of the British Rule which was a giant leap in the prison administration in India. The Prisons Act, 1894, is even today the basis for the federal frame work for prison regulation in India. Even after submitting excessive reports on prison reform to the Union government and even though it has been circulated among prison administrators the reforms are not yet uniform for whole of India. This concept gave rise to the present study of analysing the Prison Safety, Security, and Discipline in a Prison in Goa.

The researcher has used the Simple Random Sampling for analysis of data and has used the Blue Book format, 19th Edition 2018. This research will be useful to Students of Law, Advocates, Judges, Prison officials and most importantly Law Makers.

The present research study is divided into 6 chapters.

Chapter -1 INTRODUCTION

This will introduce the topic under research. It will also discuss the history of prison system in India and give meaning of prison reforms. It will also deal

with the importance of the study, the limitations and the methodology adopted along-with the limitations of the study.

Chapter-2 ANALYSIS OF THE PRISON ACT 1894, WITH RESPECT TO SAFETY, SECURITY AND DISCIPLINE.

This Chapter will analyse the provisions of the Prison Act 1894 with respect to safety, security and discipline and also some provisions of the United Nations requirement for treatment of prisoners.

Chapter -3 “GOOD ORDER” – A CONCEPT OF DISCIPLINE IN PRISONS

This Chapter will discuss the concept of good order in prison and also constituents of good order. It will also discuss the reasons for breach of good order and its consequences.

Chapter -4 CONCEPT OF SAFETY AND SECURITY INSIDE THE PRISONS

This Chapter will elaborate the concept of safety and security in prisons and the measures adopted for safety and security of prisoners inside a prison.

Chapter-5 ANALYSIS OF PRISON SAFETY, SECURITY AND DISCIPLINE – AN EMPIRICAL STUDY OF PRISONS IN GOA.

This Chapter is the analysis of the empirical data collected by way of visit to the Jail and the questionnaire administered to the prisoners, prison officials, judges and lawyers.

Chapter-6 CONCLUSIONS AND SUGGESTIONS

This chapter will elaborate the conclusion and suggestions of the research.

The study was undertaken by conducting a literature review to establish the history of the prison system and reforms till date. As a detailed case study Colvale Jail was chosen. A Survey was conducted and questionnaires were administered to 104 prisoners of the Colvale Jail and 52 Prison officials. Questionnaires were also administered to 383 lawyers practising in the court in Goa and also the 28 Judges presiding over the courts in state of Goa. The data was collated and analysed and the findings and suggestions were derived on the basis of which the recommendations are being suggested.

*“Prisons should be ‘moral hospitals’ or places of re-education, but they should not be so comfortable as to be attractive”.*¹⁴

- Dr. M.J. Sethna

2.1 Introduction

As per the classical school of criminology, every individual chooses his/her own life, and the individuals who violate the law's of the society they live in have themselves chosen his/her course of life. It is difficult to change another person's approach or ethical standards. Every individual chooses by himself/herself whether to follow the law or to violate it. It will not be wrong to say that every individual ponders over an array of actions and then chooses the most advantageous one by evaluating the profits of committing a unlawful act alongside the harmful outcomes of getting caught.

There are a variety of conditions that may hamper with a person's aptitude to prefer the right course in life. Mental insufficiency, drug / alcohol addiction, or any social or economic position can create a passageway to crime.

Research shows that a lot many prisons or jails do not have sufficient places for rehabilitation. The current model of prison process is not at all based on any kind of inmate rehabilitation programme or even preparing the inmate for a successful reformed release.

Research scholars have time and again concluded that even with rehabilitation target in mind, prison fails to effectively deter offenders. Moreover it can be said that the corrections system is similar to a circling door of justice. Problem of overcrowding also forces prison and prison officials to let go of many prisoners which could have used some more days inside the prison. Furthermore, the present model for corrections does not help in solving the problem of crime. It only disseminates the crime crisis.

¹⁴ Sethna M. J. : Society and The Criminal (1964) p. 325.

The colonial British rule, gave us “The Prison Act of 1894”. This particular piece of legislation has been continuously criticised for being an obsolete. The Prison Act of 1894 is an age old Act that does not include any contemporary viewpoints that prisons should be a place of reformation and then rehabilitation rather its approach is more retributive. The Supreme Court of India in the case of a *Ramamurthy v. State of Karnataka*¹⁵ clearly states that ‘the century-old Indian prison act 1894, needs a thorough look and is required to be replaced by a new enactment which would take care of the thinking of independent India and our constitutional mores and mandate.’

At the time when the Prison Act 1894, bill was introduced, there were four different Acts that were in force to govern the functioning of jails in British India and those acts consisted of acts specially enacted to enforce of discipline therein. Those Acts dealt with different points relating to punishments for offences inside the Jail, and the authority competent to impose punishments. As a consequence contradictory systems of jail management grew in the quite a lot of provinces. Therefore it lacked, an uniform enforcement of punishment which effective general administration requires. Hence, the object of the then Indian Prison Act 1894 Bill was to repeal the old local Acts thereby prescribing a uniform system of prison management in India.

2.2 Analysis of provisions of Indian Prison Act 1894 with respect to Prison Safety, Security, and Discipline

The Act XXVI of 1870, which was basically an Act to amend the law relating to Prisons, was the basis on which the Prison Act of 1894 bill was based upon. This Act XXVI of 1870 was is in force in the North-Western Provinces and Oudh, the Punjab, the Central Provinces, Coorg and Burma.¹⁶

¹⁵ (1997) 2 SCC 642

¹⁶ The Prison Act 1894

The Prison Act of 1894 bill had inclusions of the conclusion arrived upon by the Government of India as per the Report of the Jail Committee of 1889 along with the Report of the Prison Conference of 1892. The Prison Act of 1894 bill was finally given legislative form considering the Resolution documented in the Home Department dated 9th November, 1892, and Circular letter to Local Governments and local Administrations, that was dated the 25th March, 1893.¹⁷

The Period of late 1800's, was a time when a Prison, was considered to be a place of expulsion, social degradation and only bodily punishment. The Prison Act of 1894 only provided for the emaciated framework for the legislative body of prisoners rights and also prison facility giving no value to rehabilitation provisions nor reformation.

During that time a prison was considered to be a greatest form of social reform for a human being. A person was convicted who would cause harm to others and therefore he would have to be separated from the rest of the society. Imprisoning such a person/ prisoner solely meant to deny liberty to the individual that would signifies the society's condemnation for the act of violation of law by him.

The Prison Act 1894, consisted of 12 chapters in total that dealt with a variety of provisions ranging from maintenance of prison, duties of a prison officer, admissions of prisoners, visits to a prisoner, food clothing and health of prisoners etc..

In consonance with the present study the researcher has critically analysed only those chapters that deal with Discipline, Security and Safety in a prison.

¹⁷ The Prison Act 1894

With respect to maintaining Good Order inside the prison by way of maintaining Discipline, safety and security in a prison, 3 chapters in The Prison Act 1894, consists of topics that deal with the same. Chapter V of the act deals with Discipline inside the prison while chapter X of the act deals with the offences in relation to the prison and chapter XI deals with prison offences.

The Chapter V of The Prison Act 1894 deals with the discipline inside the prison. Though the chapter is titled Discipline inside the prison, what it encompasses is only ways to separation of prisoners as a means to maintain discipline. The separation criteria is classified into 3 groups being (a) male from females, (b) prisoners under the age of 21 and over the age of 21 and (c) convicted and un-convicted prisoners i.e. prisoners undergoing trial.

The chapter also deals with separation of prisoner who is under death sentence. A prisoner who has to undergo a death sentence upon arrival to the Jail is searched and is placed in a confinement totally separate from the other prisoners inside the jail.

The chapter also deals with solitary confinement as a means to separate prisoner from other prisoners whenever necessary.

Chapter X of the Act relates to the offences in relation to the prisons. Section 42 of the Act ¹⁸, clearly defines the penalty for removal or introduction of prohibited articles inside the prison by any prisoner or any other person who

¹⁸Section 42 of the Prison Act 1894,“Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.—Whoever, contrary to any rule under section [59] introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article, and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison, and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner, and whoever abets any offence made punishable by this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

abates such an act. Section 43 defines the power to arrest for offences under the Section 42 of the same act.

The Prison offences are classified in the Chapter XI of the Prison Act 1894. The Section 45 of the Act ¹⁹, lists the kind of offences that are classified as Prison offences for eg. Assault, wilful disobedience, immoral behaviour, threatening, wilful destruction of prison property, receiving and transferring prohibited articles inside a prison etc..

Section 46²⁰ of the prison Act 1894 deals with the punishment for offences under Section 45 of the act. These punishments depend upon the kind of

¹⁹ Section 45 of the Prison Act 1894, "Prison-offences.—The following acts are declared to be prison-offences when committed by a prisoner:—

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under Section 59 to be a prison-offence;
- (2) any assault or use of criminal force;
- (3) the use of insulting or threatening language;
- (4) immoral or indecent or disorderly behaviour;
- (5) wilfully disabling himself from labour;
- (6) contumaciously refusing to work;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
- (10) wilful damage to prison-property;
- (11) tampering with or defacing history-tickets, records or documents;
- (12) receiving, possessing or transferring any prohibited article;
- (13) feigning illness;
- (14) wilfully bringing a false accusation against any officer or prisoner;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and
- (16) Conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

²⁰ Section 46 of the Prison Act 1894, "Punishment of such offences.—The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

- (1) a formal warning. Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;
- (2) change of labour to some more irksome or severe form ¹⁹ [for such period as may be prescribed by rules made by the ²⁰ [State Government]];
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the ¹⁹ [State Government];
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;

offence committed by the prisoner. The punishment can be as simple as a warning for the offences committed or can be as high as a solitary confinement not exceeding 3 months.

The kind of punishments varied from hard labour to loss of privileges. Penal Diet and separate confinement was also part of the punishments inflicted on the prisoners for offences under the section 45 of the Prison Act 1894.

The punishments also comprised of imposition of handcuffs and the imposition of fetter on a prisoners. Section 53²¹ also provided for Whipping a prisoner. These punishment practises are no longer used under the Supreme Court guidelines on treatment of prisoner inside the prison.

Section 51²² of the Prison Act 1894, provided for Entries to be made in a punishment-book. The punishment-book is prescribed in section 12 of the said

(6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the²⁰ [State Government];

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the²⁰ [State Government];

(8) separate confinement for any period not exceeding²¹ [three] months; Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(9) penal diet,—that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the State Government: Provided that such restriction of diet shall in case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) cellular confinement for any period not exceeding fourteen days: Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement; Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;²² [***]

²³ [(11)] penal diet as defined in clause (9) combined with 6[cellular] confinement²⁴ [***];

²³ [(12)] whipping, provided that the number of stripes shall not exceed thirty: Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

²¹ Section 53 of the Prison Act 1894, “Whipping.—(1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

²² Section 51 of the Prison Act 1894, “Entries in punishment-books.—

act and it states that every punishment inflicted shall be recorded in it, the details such as the prisoner's name, register number and the also whether the prisoner was habitual or not had to be written. The details of the prison-offence of which he was guilty and the date on which prison-offence was committed also had to be written in the punishment book. The number of previous prison offences, were also recorded against the prisoner.

Section 52²³ of the Prison Act 1894 laid down the procedure that the Jail Superintendent had to follow on committal of heinous offence by a prisoner. If a prisoner cannot be adequately punished by the infliction of any punishment which the Superintendent has power under this Act to award, in such a situation the Superintendent can forward such a prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction. The Magistrate upon inquiry can sentence the prisoner to further imprisonment which may extend to one year. This punishment will be in addition to any term for which the prisoner was already undergoing imprisonment.

(1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefore.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries."

²³Section 52 of The Prison Act 1894, " Procedure on committal of heinous offence.— If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class [or Presidency Magistrate] having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46:

[Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate : and] Provided also that no person shall be punished twice for the same offence.

In the earlier times prisons and jails never demonstrated any kind of infirmity for change in their prison administration.

In India Incarceration functions as a deterrent, this can be passed on as a dangerous message to the community at large. In a prison system, meaningful reforms can occur only when the prison administration function fairly as well as in agreement with the letter of the law with special regard to human rights. The reform movement in Indian has been competent to affect the legislature, but not in practice due to the administrative corruption and lack of accountability.

Another important perspective that lacks in the India system is the financial capacity of the government which is in my opinion the most practical consideration of all aspects. While framing policies for the functioning of the prisons what is to be kept in mind is that there should be a balance between humanitarianism, social rehabilitation and also the financial capacity of the government of India which will be feasible enough.

It has been a long time since the problems have been recognised. There has been a need to substitute the out-dated Prisons Act of 1894, which still as on today substantially governs the working of the prison systems in various states of India despite being ratified more than a century ago during the British rule over India. There are numerous Supreme Court of India decisions and national committee reports condensed over several decades that have recognized constitutional pledges of due process for all citizens and also have at times called for sweeping reforms that would protect the fundamental rights of every citizen to life and liberty, even those who are behind bars.

In the words of Justice Krishna Iyer, “Convicts are not by mere reason of the conviction denuded of all the fundamental rights which they otherwise possess”.²⁴

The Supreme Court of India and the Indian Central Government have left it to the individual states in the country to implement the directives, and it’s a really sorry situation that the states in the country have proceeded slowly in the direction making of reform process. Regardless of the progress and improvement made in the name of prison reforms in India, it is very clear with the present condition of prisons that there definitely exists a much wider gap between the theory and claims made on one hand under the garb of prison reforms and the hard authenticities and actual practices on the other.

The Supreme Court of India observed in the report of a judicial inquiry conducted by Justice Mr. Ismail in the state of Tamil Nadu Prison, in *Sunil Batra v. Delhi Administration*²⁵, “The black hole of Calcutta is not a historical past but a present reality. The report finds the prisoners were deliberately lodged in the ninth block which was previously occupied by leprosy prisoners.”²⁶

The Supreme Court in case of *Dharambir v. State of Uttar Pradesh*²⁷ held that “We may take advantage of this opportunity to make a general direction to the state government to draw up a set of rules to reform the pattern of prison life and to transform the present system in itself so that the harsher technologies inherited from imperial times are abandoned in favour of humane processes constitutionally enlivened under the Republic. These days, Prison Commissions are at work in many states and we do hope that the State of Uttar Pradesh will hasten to bring compassion into prisons.”

²⁴ Justice V.R. Krishna Iyer, in the case of State of M.P. v Shyamsundar Trivedi ; (1994) 4 SCC 395

²⁵ 1980 SCC (Cri) 777

²⁶ Sunil Batra (II) v. Delhi Admn., (1980) 3 SCC 488: 1980 SCC (Cri) 777.

²⁷ (1979) 3 SCC 645: 1979 SCC (Cri) 862, 863, 864.

No doubt that the conditions of present prisons are far better than that in the past. There is so much more that still remains to be done under prison reforms specially in order to maintain good order, discipline and so also for compassionate treatment of prisoners.

In another case of *Mohammad Giassuddin v. State of Andhra Pradesh*²⁸ the Supreme Court, emphasised that there has to be a change in the attitude of prison officials towards the inmates and vice-versa. The Supreme Court further observed that “Progressive criminologist across the world will agree that the Gandhian diagnosis of offenders as patients and his conception of prisons as hospitals-mental or moral-is the key to the pathology of delinquency and the therapeutic role of punishment. The whole man is a healthy man and every man is born good. Criminality is a curable deviance. Our prison should be correctional houses, not cruel iron arching the soul”.

The need of the hour in reforming prisons is modification that the prison administration has to incorporate, to improve the effectiveness. It is commendable that the Supreme Court of India, has time and again shown insightful concern in relation to prisoner’s rights and their fair treatment. The Supreme Court in *Sanjay Suri v. Delhi Administration*²⁹ also directed the prison officials to guarantee ways so to not at all violate prisoners rights and to subject inhuman conditions of living and even harassment towards the prisoners.³⁰

The main change has to be Uniform Prison Rules and total reforms in the existing Prisons Act, 1894 in view of New India’s changing socio-economic and political conditions. Reformation and Rehabilitation has to be the main

²⁸ AIR 1977 SC 1926

²⁹ AIR 1974 SC 2092

³⁰ Sanjay Suri v. Delhi Administration, (1988) Cr LJ 705 (SC). See also Bhuvan Mohan Patnaik v. State of A. P., AIR 1974 SC 2092.

prerogative of incarceration so that no prisoner comes back to the prison for any reason.

The researcher has discussed the changes after Prison Act 1894, in chapter 1 by giving details of the sequence of events that took place in Indian prison system and how the changes were sought to be introduced.

2.3 Meeting with the United Nations Requirements.

United Nations (UN), in the first ever UN Congress on the Prevention of Crime and the Treatment of Offenders, which was held at Geneva in 1955, and also the Economic and social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 approved these Standard Minimum Rules for the Treatment of Prisoner.

The rules so made do not intend to describe in detail, an ideal system of penal institutions. This rules only aim to set out generally accepted good principle and practice with regards to the treatment of prisoners and also looking after the management of institutions. It is based on the general agreement of present-day ideas and the essential foundations of the most adequate systems of today.

Every rule that has been set forth under this cannot be applied at every place and at every time. These rules work to motivate a persistent effort which helps to overcome practical difficulties in the way that they are being applied. These set of rules represent on the whole, the minimum conditions that the United Nations feels suitable to be accepted by all its signatories.

Many International conventions and guidelines have India as a party. These guidelines require it to provide a liberal prison management system which will recognize the universal human rights that include the right to being treated

humanely. These guidelines also provide guidelines for discipline and punishment and also instruments of restraint.

India has many international obligations with regards to prison reforms. But it has not been successful in meeting with these demands fully and the success rate is at the very minimum. However, there have been some recent individual state initiatives that have commenced and if it sees the light of success it would bring at least some parts of the country in line with those guidelines.³¹

The International Covenant on Civil and Political Rights (ICCPR) has always been a core international treaty on the protection of the rights of prisoners. In 1979, India had ratified to this Covenant. India is bound to include its provisions into domestic law and also in state practice.

The Standard minimum rules give due attention with respect to separation of the different categories of prisoners. It specifies that men and women are to be detained in separate institutions. India has met with this guideline by having separate prison cells for women. In India there are no separate prisons but there are special sections in prisons that are meant only for female prisoners. The staffs in it are also women so as to avoid the cases of sexual harassment and similar acts .

Further it advocates complete separation between the prisoners detained under civil law and criminal offences. Prisoners who are under-trial either for civil or criminal offences are not kept in separate prisons. Prisoners in England and Wales are categorised as per the seriousness of the offence committed by them whereas in India prisoners are categorised based on how much sentence they have received for the offence committed.

³¹ Suresh Bada, Math, Pratima Murthy, Rajani Parthasarthy, C Naveen Kumar, S Madhsudhan : 'Mental Health and Substance Use Problems in Prisons : Local Lessons for National Action': Publication, National Institute of Mental Health Neuro Sciences, Bangalore (2011)

The UN standard Minimum Rule make it mandatory to provide distinct residence for young and child prisoners from the adult prisoners.³² In England there are separate homes for young offenders called as the ‘Young Offenders Institution’. The main aim in these prison units is to reform and rehabilitate the young offender.

In India, prison for a Young offender is called as “Apna Ghar”³³. There are various vocational guidance projects that are carried out in these institutions so that the young offenders are reformed to be able to go into the society as better human beings. These prisons have an atmosphere of a correctional home rather than a prison as the offenders are minors. Both England and Wales and India are working to reduce the prisoners that come under the category of young offenders.

Standard minimum rules also have clear guidelines on Prison offences and punishment. According to the Standard Minimum Rule for Treatment of Prisoners Rule 30 (2)³⁴ “no prisoner shall be punished unless he or she has been informed of the offences alleged against him/her and given a proper opportunity of presenting his/her defence.”

As per the prohibitions by the guidelines no prisoner is punished with corporal punishment, like placing a prisoner in a dark cell any kind of cruel, in-human or any kind of degrading punishment.

³² Subsequent UN directives have been the Basic principles for the Treatment of Prisoners (United Nations 1990)

³³ ‘Apna Ghar’ in Hindi (National Language of India) means “our house”.

³⁴ Standard Minimum Rules for Treatment of Prisoners:

Rule 30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

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

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

2.4 Discipline and Punishment under the United Nations Rules.

The Standard minimum rules provide for maintenance of Discipline without any restrictions that cannot be justified. The restrictions must be such as necessary for safe custody and well-ordered community life.³⁵ Under the guidelines, Punishment by close confinement or even reduction of diet shall on no occasion be imposed unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.³⁶ These provisions are mandatory and to be followed by every country who is a signatory to the UN Standard Minimum Rules for the Treatment of Prisoners.

On paper every prison has been following these rules meticulously. But one can never deny the wrongful use of powers in a prison especially in India where Corruption is at a rise and there is every possibility of prison officials with being biased to individual prisoner or being someone who does not follow rules. It becomes very difficult in a country like India to follow these rules word by word.

There are prisoners who are hardened criminals and who do not understand the language of care and humanity. Some rules have to be mended so that the officials are able to maintain good order in the prisons and also to create an example for other prisoners not to behave in a particular way.

Section 35(1) of the standard rules for treatment of prisoners state that Information regarding rules in the prison institution has to be given to the

³⁵ Sec 27 Standard Minimum Rules for the Treatment of Prisoners, "Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life."

³⁶ Sec 32.1 Standard Minimum Rules for the Treatment of Prisoners "Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it. "

prisoners upon admission and also the information for seeking information and making / registering complaints if any by them.³⁷

In all the prison and Jails in India there are provisions whereby the prisoners can make complaints and seek information. Both the countries meet with this requirement given under the guidelines. If a prisoner is illiterate, the guidelines provide for informing him orally. There are specific days that the prisoners have to make such requests or complaints to the in-charge of the prisons or any other officer appointed by the prison in-charge to represent him.³⁸

Indian prisons are exclusively under the state jurisdiction, and thus the state governments have developed and also expanded their prison departments as per their available resources and local conditions.

Imprisonment constitutes only a denial of the basic right to liberty. No other human right, can be restricted with the exception of those rights restricted for the very fact of being in prison. Prison reforms are indispensable to warrant that this theory is respected.

National legislation and policies have to be guided by the international standards created to protect the human rights of prisoners. One of the most common practises being Prison torture in every form is banned by the 1948 Universal Declaration of Human Rights (UDHR), the 1949 Geneva Conventions (signed 1949), the American Convention on Human Rights (signed 1977), the International Covenant on Civil and Political

³⁷ Section 35. (1) Standard Minimum Rules for Treatment of Prisoners, "Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligation and to adapt himself to the life of the institution."

³⁸ Section 36.1 Standard Minimum Rules for Treatment of Prisoners, "Every prisoner shall have the opportunity each week day of making requests or complaints to the Director of the institution or the officer authorized to represent him."

Rights (signed 1977), and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (signed 1988).

After careful verification of the Prison Act, 1894 and UN Guidelines, other literature available on this subject the researcher highlights the advantages and disadvantages of the Prison Act, 1984. Following are the advantages of the same Prison Act 1894:

2.5 Merits of the Prison Act 1894

After careful study of the Prison Act 1894, the researcher lays down the following advantages:

1. The only advantage that the Prison Act of 1894 has is that it was uniformly applied and followed by the entire country.
2. Further this act is the basis of the prison rules that is being followed till today by every state.
3. This Act restricted the actions in a prison administration where otherwise there would be a free hand to the prison officials and they would not be held responsible for their actions.

2.6 Demerits of the Prison Act 1894

After careful study of the Prison Act 1894, the researcher lays down the following advantages:

1. The Prison Act of 1894 is a draconian law made by the British according to the then social, economic and political condition within India which was ruled by the British. Even after Independence the basis of all prison rules in India still remains the Prison Act 1894 which needs serious changes.

2. Does not consider Human Rights of a prisoner pertaining to Food Clothing and Hygienic living conditions inside the prison.
3. Does not follow international guidelines for treatment of Prisoners inside a prison eg. No prisoner can be imposed with fetters or can be kept without food for a long period of time as provided in the Prison Act 1894.
4. The presumption is that a prison is mean for punishment of a prisoner for the acts done by the prisoner.
5. No concept of reformation of the prisoners. Does not provide for any provision wherein a prisoner repenting for his acts can take measures to reform himself/herself by learning to do something for a living.
6. No provision for rehabilitation of a prisoner. The act does not provide any measures for rehabilitation of a prisoner to get back into the society after serving a sentence and to lead a better life.

In the next chapter 3 the concept of Good Order is being discussed in detail. The chapter also discusses the reasons that are responsible for the cause of disrupting good order. This chapter also dealt with the breach of Good order and the consequences when such good order is breached.

*“Convicts are not by mere reason of the conviction denuded of all the fundamental rights which they otherwise possess”.*³⁹
- Justice Krishna Iyer

3.1 Introduction

A detailed historical foundation of the prisons is significant as it gives us a functional perspective by which we can assess the relationship between the prison authorities and also the prisoners in a prison administration.

It is a very difficult task to enforce an ordinary set of rules of discipline in a prison system, and it is an even more difficult task to do so in India. The concept of punishment should be used as a measure to be the last resort for enforcing prison discipline. Punishment should always strike a balance with respect to the gravity of the rules violated.

There has to be a considerable change in the conservative approach to prison discipline. In the Modern era one can see a radical change in the functioning of the prison administration with the expansion of modern criminal school of thought. The sole objection of incarceration is no longer furtherance of punishment rather it has become a course of rectification indispensable for moral rejuvenation and eventual resettlement of the prisoner in the community life.

In order to regulate everyday institutional life in a ‘prison’, the need of certain basic rules of discipline is inevitable. Prison discipline should be reformatory and should not be retributive. It should be curative and not repressive and it should be carried on with the view to nurture the basic values and virtues of life and humanity.

³⁹ Justice V.R. Krishna Iyer, in the case of State of M.P. v. Shyamsundar Trivedi ; (1994) 4 SCC 395

It is the collective responsibility of the prison administrators and prison officers to maintain prison discipline as they are the ones who usher in reformation to the offender. Prison discipline should also make certain impeccable security in the prison so that the safe custody and well-being of the prisoners is not in jeopardy. Prison discipline shall also foresee a tidy ambience in the premises, which is encouraging to creative work in the field of culture, literacy and vocational training.

The Prison rules, generally should lay down the guidelines for maintenance of order and discipline in a prison administration. Prisoners have a right to be treated fairly, with justice, humanity, and also be respected as individuals even whilst in prison or custody. According to many Supreme Court decisions too, every prisoner should be treated with respect and dignity as an individual. Marin is of the opinion that “the Rules go on to regulate or authorise restriction of nearly every element of human existence - the very antithesis of self-respect and personal responsibility”⁴⁰. As per a research conducted on staff and the prisoner relationship, emphasis was laid on the point that “Staff matter, more than they realise. They embody a prison’s regime, and they possess significant distributive power”⁴¹.

In India the inspector General of the Jails/prisons is responsible to maintain peace and discipline inside the prison. As it is earlier mentioned that the Indian prison system do not have uniform rules for the whole country.

The Prison Act, 1894 is the basis of all the rules that are followed in India. Every state can make their-own rules. The Prison Act 1984, do not have the guideline about how to maintain discipline. In section 27 it contains only the penalties for breach of prison discipline. It encompasses penalties like separation, segregation and solitary confinement.

⁴⁰ (Marin 1983:72)

⁴¹ Alison Liebling and David Price Cullompton: *The Prison Officer*, Willian, 1999

As per the Model Prison Manual, 1960 the method of maintaining discipline in Prison was stated to be, “Discipline and order shall be maintained with firmness, but with no more restrictions than required for safe custody and well ordered community life; the tone of discipline should be adjusted to the requirements of each individual inmate”.⁴²

As per one of the Indian State, Goa Prison Rules 2006, inspector general can issue directions as to the manner in which order and discipline has to be maintained.⁴³ The executive officers appointed by him shall enforce discipline; also they could communication with any prisoner strictly with respect to enforcing obedience of the prison rules.⁴⁴

In Goa the Inspector General of Prisons is the highest post in the hierarchy of prison administration. The Jail Superintendents could handle all but not the most serious disciplinary offences, as they had to refer it to the police for investigation.⁴⁵ The very first comprehensive prison code was based on the military model. It was the 1899 Prison Rules.

In the year 1986, the Public Order Act was the reason for creating statutory offences of riot, affray and violent disorder. All these offences were committed within a prison establishment. However, what caused the reassessment with regards to more specific laws was the series of prison riots that happened in Spring 1990. This resulted in prison mutiny being a criminal offence which is punishable in the courts with a maximum of ten years’ imprisonment or a fine or both.⁴⁶

⁴² Government of India, Model Prison Manual 1960, at page 194

⁴³ Section 104, Goa Prison Rules 2006 pg. 69

⁴⁴ Section 104(3) Goa Prison Rules 2006 pg. 69

⁴⁵ Prison Service’s advice to adjudicators, the Prison Discipline Manual (1995, as revised)

⁴⁶ (Prison Security Act 1992)

Now the researcher will discuss one of the important aspects of Prison Discipline being the concept of Good Order. The concept of Good Order will further be discussed in the following headings:

3.2.1. Constituents of “Good Order” / Discipline

3.2.2. Breach of good order

3.2.3. Consequences of breaching Good order.

3.2 Concept of “Good Order”

A prison can be considered to be a community of sorts that consists of prisoners that are unlike from one another in various characteristics like family history, age, character, criminal record, socio-economic, educational conditions. The one thing that remains a constant among them is the fact that they have been convicted of crime and are sentenced to imprisonment.

As they live together there exists a relationship that defines community living among the prisoners. These relationships depend upon various factors the most important being the experiences that a prisoner gets along with him from his life before the prison.⁴⁷

“Order does not refer to an absence of antagonism or offending behaviour, but to their containment and channelling into manageable forms.”⁴⁸

“Good order in prison shall be maintained by taking into account the requirements of security, safety and discipline, while also providing prisoners

⁴⁷ Srivastava, R. : *Sociological Bulletin* (March 1973) at page 98.

⁴⁸ R. Sparks, A. Bottoms and W. Hay: *Prisons and the Problem of Order* : (Oxford: Clarendon Press, 1996) 181

with living conditions which respects human dignity and offering them a full programme of activities”⁴⁹

Good order and discipline can be said to be two sides of the same coin. The two concepts are inter-related. Without discipline there cannot be Good Order in the prison administration. Good Order can be maintained in a prison with a combination of disciplinary as well as non-disciplinary powers. The concept of Non-Disciplinary powers, tend to be a major source of unhappiness amongst prisoners in a prison.

An important reason for this displeasure is that such powers are not accompanied by the procedural safeguards that the prison could have enjoyed under the disciplinary power.

“Good order” in prison is mostly imposed completely by force and threat. As per Giddens the term ‘order’ can be retained only when the scope is limited to a “loose synonyms for pattern or the antithesis of chaos”.⁵⁰ When Peter Young considered the concept of ‘social control’ as applied to imprisonment, he humbly recommends that “order” as meaning, be considered as “that pattern of relationships that forms a whole”.⁵¹

There are various ways to maintain ‘Good Order’. But using these various ways mechanically will not always result in the maintenance of order. The concept of “order” purely indicates continuity and durability overtime. In a perfect ‘Good Order’ situation there is a long standing pattern of social relations that are categorized by a certain minimum level of respect for those persons in which the expectations that participants have of one another are commonly met.

⁴⁹ European Prison rule 49, in recommendation Rec (2006) 2 of the committee of ministers to member states on the European prison rules, part IV : good order.

⁵⁰Giddens, 1976:98

⁵¹ Peter Young 1987 : 106

Good order is a much larger word than Control. Good Order partly could be defined in a negative sense for being absence of violence, over conflict or the imminent threat of the chaotic break downs of social routines. Even though one can relate conceptually to both good order and control but there exists that actual pragmatic or real world affiliation which is various and contingent.⁵²

The concept of ‘Good Order’ is a vast concept and control and discipline can be called as tactics to maintain order. The Problems of good order can be multiple. The problems vary from being unique to sometimes momentary crises and can also at times be more endemic control problems. Such endemic Control problems can involve interpersonal violence which can be a result of individual outbursts which are not always termed as serious, but there can be serious cases too like conflicts between groups within the prison.⁵³

After going through the concept of Good Order, now let us verify the following elements of Good Order:

3.2.1 Constituents of “Good Order” / Discipline

Over the years conditions in Indian Prisons has been deteriorating at an alarming rate. Except for 2-3 prisons, most of the prisons in India are in this deteriorating condition primarily due to the lack of National commitment. The Central Government of India, at all times has only an advisory role in this context.

A recommendatory body is time and again formed only to get into the subject matter of prison reforms. Prisons in India can be compared to dungeons or even worse. Many of them have been suffering because of the obstinate judicial

⁵² Peter Young 1987 : 99

⁵³ Dirk Van ZylSmit and Sonja Snacken; “*Principles of European Prison Law and Policy- Penology and Human Rights*”; (Oxford University Press, 2009) pg. 264.

process. Prisoners are considered to be one of the weakest constituencies in the society. All the efforts at prison reforms in India have been superficial. It does not in any way tackle the problem of Indian jails.

The concept of order as and when applied to penal institutions is apprehensive with difficulties, contradiction and paradoxes. Prisons are termed as complicated social institutions and they intrinsically integrate some basic resentments and conflicts. Hence many observers feel that problem of order in Indian prisons is intrinsic.

According to Roy king “there is no solution to the control problem in prisons, nor can there be. The control problem – of how to maintain ‘good order and discipline’ – is inherent and endemic. For as long as we have prisons – and an institutions which has become so entrenched in our thinking shows no sign of becoming disestablished – when we will continue to hold prisoners against their will”.⁵⁴

The past few decades has seen some massive changes in the prison administration in the country. The state of Goa not being far away with the newly built Jail “the Colvale Prison”. One can observe that the prison administration has not only undergone an enormous change in its objectives but also in the physical structure and most importantly the fundamental spirit of prisons. But even then the prisons being closed and restricted institutions, there exists very little public scrutiny that is still continuing to this day.

An important characteristic that is lacking to this day in the prison administration is Transparency in management of such impervious institutions. The main aim of prisons will always be safety and security, but equally important is the dynamics of prison discipline inside the prison to maintain

⁵⁴ King, 1985 : 187

discipline and good order for smooth functioning of day to day activities in the prison. Any presumption with respect to a threat inside or outside the prison is laid off.

Good order basically in India is the result of the relationship that the prisoner and the prison staff share. It is the way in which they carry out the prison administration in a peaceful manner. The authority that is imposed by the prison is not a consensual authority. According to Scraton “The totality of the institution, in terms of its political and professional autonomy is underwritten by a degree of totality in power relations which virtually strip the prisoner of civil rights”.⁵⁵

According to Sykes, prisons do not constitute “that easily – won obedience which many organization take for granted in the *Naivete* of their unrecognized strength”. He claims that the study of the prison “makes us realize that men need not be motivated to conform to a regime which they define as rightful”.⁵⁶

There is a massive problem of good order in Indian Prisons. There are no specific provisions or maintaining good order in prisons but it is generalised with the guidelines given to maintain prison discipline at a very basic level. There is a need to reform prison rules right from the basic rules in Indian Prisons.

The prison community consists of an amalgamation of prisoners having various personalities, traits and beliefs. In a Prison one can see that many prisoners show reflective differences and shades that also gives rise to development of an assortment of sub-cultures.

⁵⁵Scraton Et Al. (1991) : 61-62

⁵⁶ Sykes 1958 : 47-48

It is surprising to see sometimes the extent to which these prison communities provide opportunities to the prisoners to reform their criminal tendency. This also helps the prisoner to re-socialise into the society once the prisoner has been released after serving his sentence or on probation.

To maintain Good Order and Discipline in a prison the Jail Guard or any official of the prison administration cannot rely on solely and directly on the application of force to accomplish obedience, one should not forget and overlook a fact that they are dealing with men who are imprisoned and are incarcerated by the courts for going beyond the limits permitted by the law of the land.

In *Dilbagh Singh v. State of Punjab*⁵⁷ and also in *Phul Singh v. State of Haryana*⁵⁸, the Hon'ble Supreme Court has laid emphasis on the kind of treatment given to prisoners. The Supreme Court has strictly held that the prisoners should be treated humanely and the treatment should also be purposeful. In addition to this the Supreme Court has condemned the inhumane techniques that are used in the prison administration under the pretext of discipline and security.

According to the "The U.N standard minimum rules for the treatment of prisoners", a prisoner has to be informed about the allegations against him, till such time no prisoner can be punished and also such prisoner has to be given suitable and just opportunity to represent himself and justify in his defence. According to the rules, using any sort of torture against prisoners is termed as a criminal offence. It can be punished with the imprisonment that may extend upto five years.⁵⁹

⁵⁷ A.I.R 1978 S.C 680.

⁵⁸ A.I.R 1980 S.C 249.

⁵⁹ The Protection of Prisoners from Third Degree Methods Act, 1977, section 2 and 3.

According to the modern correctional philosophy, the primary and important function of penal institutions has to be, to find the means so that they are able to restructure the welfare, mind-set, practice and the total personality of prisoners.⁶⁰ That is an important reason because of which in the jail rules⁶¹ there is provision for the under-trial prisoners to be housed separately or they shall be strictly segregated from those prisoners who are convicted.

There are also those category of prisoners who are the 'Rebels' and are always against the prison administration and they will make sure that they never cooperate with the prison authorities. These prisoners who call themselves the rebels at times and as per their convenience act against the inmate in the prison, who assists or help the prison administration officials in the day to day functioning or in daily routine of the prison administration.

Although the prison administration functions behind the walls of the prison without public scrutiny, it is also important for the government to take effective measures to help the prison administration to help maintain the prisons in relation to the number of prisoners and the requirements for all the prisoners and also the prison staff. It is really a shame that the subject matter of prisons has never been an imperative part of any Development plan for the state of Goa let alone the development plan for India on the whole. All the manpower that is available in the prisons has certainly not been entirely utilised in the states as well as union territories for want of sufficient and designed investments.

The condition in prisons have been dwindling and therefore have reached a point of crisis with the amount or attempts in jail break and the kind of indiscipline that lurks the prison administration from time to time all over the country with a special mention to the prison in Goa. One of the significant reasons being lack of commitment by the Government officials and the prison administration officials.

⁶⁰ Tannenbaum, F. : Crime and the Community (1951) at page 293.

⁶¹ U.N. Standard Minimum Rules for the Treatment of Prisoners (August 30, 1955)

The term Incarceration, right from its inception, meant to restrain the liberty of movement and also the freedom of a person, if he/she was guilty of violating the established law of the land. The Prisons therefore grew to be a place of low visibility wherein the conditions that prevailed were inhuman and cruel. There was always a possibility to inflict injury and cause injustice on the prisoners that lurked in these closed and protected institutions.

3.2.2 Breach of good order

There are number of factors wherein the discipline and Good Order of a prison administration is breached. But there are some important factors that are responsible for crippling prison administration, they are: political interference, corruption and favouritism in prison administration along-with with an alarming rate of indiscipline among the hierarchy of the administration of Prisons.

Some of the other factors that cause indiscipline and breach of good order in the prison administration are: insufficient accommodation mainly caused due to the increase in prison population, un-hygienic conditions caused due to lack of infrastructure and funds, sub-standard food caused only due to lack of funds and use of drugs and narcotics by inmates which is more common in Goa. These are main factors responsible for breach in good order/discipline in the prisons.

It will not be wrong to say that alarmingly pathetic living conditions are also a cause for poor, weak and declining prison administration. This is the consequence to the lack of concern shown by the government to the prison administration.

As a result the so called secure prison management is thus, slowly but consciously slipping into ambiguous management. And as they say once

transparency is shadowed, answerability becomes a sham. In the given situation even when there is injustice met with to an inmate he wouldn't complain of repression for fear of more repression. This obscurity results to be a breeding ground of numerous evils. When such things go un-noticed, atrocities, corruption and irregularities flourish. Unlawful gain and misuse of authority become the order of the day.

Prisoners are a group of individuals who would not normally mix with each other when are put into close proximity. Life in such a hot house would create tensions and would lead to occasional verbal or sometimes even physical violence. The prison officials should take steps to stop violence from occurring as prevention is always better than cure. The approach of prison staff to the prisoners should be fair and consistent to avoid trouble.

Uncertainty, in the prison environment, is the greatest threat to stability. An example of breach of good order in India would be, in a raid in a Meerut jail led to recovery of cell phones and some other prohibited items. This led to a fight amongst the guards and the inmates of a high-security prison. Several officers were injured. A former minister of a state of Uttar Pradesh, named Amarmani Tripathi, who was jailed for murdering his mistress was reported to have hosted a wedding anniversary bash inside the Prison for a co-accused in the murder case.

The minister was quoted saying, "you cannot stop anyone from celebrating an occasion concerning him, his family or near and dear ones – within the premises of the jail. As per my knowledge there was no violation of the jail Manual" these are the words of wisdom that had flowed out of the minister.

Consequential segregation of offenders from the society and the responsibility of prison officials to restrain their movement from lawful custody, forced the architects of prisons to burden them with very high walls, constricted galleries,

shutters, locks & chains and places of solitary confinement. This physical structure of prisons and the ancient rules of administration of these corrective institutions made them capable enough to cover the obscurity in which essential human rights could be illegally desecrated and officially deprived of.

A breach of the rules can be in many forms. It may be an attempt to smuggle into the prison items that are not allowed or refusal to follow the daily routine or even disobedience of a legitimate order. It can also be an attack on another prisoner and also can be on a member of the prison staff. Procedures for dealing with such breaches should be a clear set of rules. “There has to be a clear understanding that justice does not end and the prison gate.”⁶²

The researcher will now discuss the consequences of breaching good order inside a prison.

3.2.3 Consequences of breaching Good order.

In the case of *Santa Singh v. State of Punjab*⁶³, the Supreme Court has held “...the modern concept of punishment and penology has undergone a vital transformation and the criminal is not now looked as a grave menace to the society which should be got rid of but a diseased person suffering from mental malady or psychological frustration due to sub-conscious reactions and is therefore to be cured and corrected rather than to be destroyed....”⁶⁴

The primary requirement under a prison system is to guarantee security. It is also very important to ensure that prisons are places where good order prevails.⁶⁵ In a prison there exists an unknown environment for prisoners at

⁶² Woolf report 1991 : 14.19

⁶³ A.I.R 1976 SC 2386

⁶⁴ Santa Singh v. State of Punjab, A.I.R 1976 S.C 2386.

⁶⁵ Sykes 1958

first sight and it is by no means clear that the normal rules of civil society will operate there.⁶⁶

The probability of having major riots etc..are uncommon, but even then every prison governor or any prison official would know, and acknowledge that maintaining “good order” on an every basis is a very multifaceted and complex business. The maintenance of order is a perpetual problem for the prison administrator and prison staff and the prisoners too have a perpetual problem living in that orderly situation. However, there may be times when a particular problem of good order may attract special attention and may not be an ordinary affair and having come kind of significant political resonance.

Good order in prisons shall be maintained by taking into account the requirement of security, safety and discipline while also providing prisoners with living conditions which respect human dignity. Good order can be achieved when there is a proper balance between all the three important aspects that is safety, security and discipline.

As per requirements under the Article 10 of the International covenant on Civil and Political Rights,⁶⁷ “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. Even Lord Justice Woolf, specifically insisted that by treating prisoners fairly, equally and justly prison disturbances could be avoided largely.

⁶⁶ Sparks, Bottoms and Hay 1996

⁶⁷ Article 10 of the International Covenant of Civil and Political Rights

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

2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

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

There should be clear and proper communication between the authorities and the prisoners in order to achieve Good order in all aspects.

In the case of *Abdul Qayum v. State of Bihar*⁶⁸ the Supreme Court released the 18 year old accused on probation. The Supreme Court also observed “to sentence a person in imprisonment would itself achieve the object with associating him with hardened criminals”. The Courts further held that if the said person is released on probation for good conduct, somewhere there is hope of him being disciplined and being offered a prospect to live a normal life like that of a law abiding citizen.

In number of judgments of the Hon’ble High Courts and Hon’ble Supreme Courts, a prisoner never parts with his fundamental rights by virtue of his incarceration. In the case of *Kunnikkal Narayana v. State of Kerala*⁶⁹ the full bench of the Kerala High Court observed that “detention no doubt, makes it impossible for the person detained, by the very nature of the act of detention to exercise , the freedoms guaranteed by the sub clauses b, c, d, e of the Article 19 (1)⁷⁰ of the Constitution.... This is not a direct curtailment of these freedoms

⁶⁸ A.I.R 1972 S.C 214.

⁶⁹ A.I.R 1973 Kerala 97.

⁷⁰ Article 19 of the Constitution of India;

Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

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

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

(f) omitted

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

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

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

but is a necessary and incidental consequence of the act of detention....however, there is no such consequence as far as Article 19 (1) is concerned....a person under detention can continue to give expressions to his views, indulge in writing books, reading books, and in learning subjects and generally in acquiring knowledge....such freedom of-course can also be restricted in the interest of security of the state and public order envisaged by the prison act...”

In the case of *Rakesh Kaushik v. B.L.Vig, Superintendent Central Jail, New Delhi*⁷¹ the Supreme Court laid down that a prisoner’s right would be protected by the court. The Hon’ble Supreme Court also recommended that the District Bar shall allot a cell for prisoner’s reliefs.

When an offence is sought to have been committed in the prison, the superintendent/ officer in charge preceding to the punishment of the prisoner for committing that offence must scrutinize any person connected with the said offence. The superintendent does not necessarily have to delegate this task to any of his subordinate officers. The accused prisoner should feel that he has a right to be heard and to be fully conversant of the allegations against him/her,

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

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

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

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise

⁷¹ AIR 1981 SC 1767.

and should be given an opportunity to cross examine any witness examined by the superintendent.⁷²

The Article 21⁷³ of the Constitution of India, so also the principles of natural justice should be kept in mind when punishment is given to a prisoner for breaching Good Order and discipline and for perpetrate prison offences. That is the main reason that a prisoner has to be given an opportunity to explain his/her conduct and for them to be heard with regards to any matter emerging against him/her at the analysis.⁷⁴

When a prisoner is guilty of committing any offence inside the prison the frequency of prison violations previously committed by the prisoner should be looked into for better judgement on the punishment of the offence.

It was held in the case of *Kishore Singh Ravindra Dev v. State of Rajasthan*⁷⁵, that no prisoner can be punished twice for the same offence. The punishment inflicted on a prisoner for committing a prison offence should co-relate to the seriousness of the prison offence. Punishment as severe as daunting irons should not be undertaken for trivial violations of prison rules such as dawdle or an uncivilised behaviour.

One can say that the prison community today, comprises of a distinctive form of congregate life. It consists of partial disparity to the emblematic outer under-privileged society, where the majority of the prisoners have come from. The important factors in creating groups in prisons are primarily based on age of prisoner, nature of offence, and the length of sentence.

⁷² David H. Walcott vs. Central Prisons Suprintendant, Nagpur, 1971 BOM L.R. 436.

⁷³ Article 21 of the Constitution of India reads as:

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

⁷⁴ Anand Rao vs. Inspector General of Prisons Bhopal, 1982 Cri.L.J. 925 (M.P.High Court)

⁷⁵ AIR 1981 SC 625.

On January 1, 2000 The Former Chief Justice of India, Hon'ble justice Shri. J.S.Verma,⁷⁶ who also became the chairperson of the National Human Rights Commission while addressing the letter to the Hon'ble Chief justices of all High Courts in consideration to the Human Right in the Prisons wrote that the state prison manuals that contain provisions for the state district and sessions judges to function as ex-officio visitors to jail within their jurisdiction, should ensure that prison inmates are not deprived of definite basic minimum standards of health, institutional treatment and hygiene. As the prisoners are in judicial custody it is the duty of the sessions judges to keep an eye on the living conditions of the prisoners and also to ensure that humane conditions are prevalent within the prison walls.

“The prison gates are not an iron curtain between the prisoner and Human Rights” remarked Justice Krishna Iyer⁷⁷. Even the Supreme Court has time and again specifically directed that the District and Sessions Judges have to visit prisons for inspection purpose and regard this part of their duty considering it as a vital function that is attached to their office. They should make an effort for expeditious inquiries of the grievances of the prisoners and take immediate suitable corrective measures.

Rehabilitation should be the main aim when handling prisoners in a prison system. The prison staff with good temper, compassion and fairness should deal with the prisoners on a daily basis. Even the prison officials should listen very patiently and without petulance to any of the prisoner's complaints and grievance and make sure that those problems are handled with due process and promptly so as to remedy the genuine grievances of the prisoners.

⁷⁶ Verma J.S. : “*The New Universe of Human Rights*” : (Universal Law Publishing Company Pvt. Limited, 2004)

⁷⁷ In the case of State of M.P. v. Shyamsundar Trivedi ; (1994) 4 SCC 395.

Therefore Prison conditions must adhere to definite norms in which good order and discipline in prisons can be maintained and also there is prevention of the prisoner being de-humanised. It is for reinstating the prisons to such basic minimum norms that the establishment of Good Order is so necessary and useful in a prison administration.

In a Prison system, to protect good order and discipline and for a smooth and successful running of the institution what is more important is the Social organization of prisoner activities. One has to have positive discipline to administer inmates aptly. A discipline policy for the prisoners establishes and regulates the prisoner conduct, and endeavours to keep that conduct within the limits of acceptable standards of prison behaviour. A Good prisoner conduct helps guarantee Good order and discipline and safe running of any prison or jail. A practical and well executed prison disciplinary policy, will in-still reverence for authority. It is hoped that the excellent behaviour and admiration for authority will persevere after the prisoners release.

The breach of good order / discipline inside the prison administration causes disruption of safety and security inside the prison. In the next chapter 4 the concept of safety and security is being discussed. The chapter also deals with the constituents to maintain safety and security inside the prison. The chapter also discusses the methods that lead to breach in safety and security in the prison and also the measures adopted to prevent the breach of safety and security.

“The prison gates are not an iron curtain between the prisoner and Human Rights” .⁷⁸

- Justice Krishna Iyer

4.1 Introduction

Incarceration denotes a system of punishment that is also a sort of institutional placement, of those who are under trials, and those who are suspects during the pendency of trial⁷⁹.

Security generally refers to the external security of the prisons. It is more to deal with escapes from prisons.⁸⁰ The very first requirement of any prison system is to keep in safe custody those prisoners whom the courts have decided should lose their liberty. When there are apt security measures along with fair treatment in the prison a prisoner most of the times will not think of escaping. In Many prison systems there will be just handful of people or even less who would do and try anything to escape from the prison.

It is the duty of the prison authorities to know the amount of security required in the prison with respect to what kind of prisoners does that prison keep.

In England and Wales every convicted prisoner is classified in to one of four levels of security labelled A to D, as compared to Prisons in Goa where a prisoner is classified into three levels namely 1, 2 and 3 both being in descending order.

In this chapter the researcher will discuss in detail the concept of safety and security under the following heads:

4.2 Concept of Safety and Security

⁷⁸ In the case of State of M.P. v. Shyamsundar Trivedi ; (1994) 4 SCC 395.

⁷⁹ P. D. Sharma : Police and Criminal Justice administration in India (1985) page 145

⁸⁰Dirk Van ZylSmit and Sonja Snacken; ‘Principles of European prison law and policy – penology and human rights’,(Oxford University Press, 2009.)

4.3 Measures Adopted to Maintain Safety and Security Inside Prison in Goa.

4.3.1 Concept of Dynamic Security

4.3.2 Can Prison Safety Be Compromised

4.3.2.(a) Committing assault

4.3.2.(b) Drug usage

4.3.2.(c) Disrespect to the Prison official

4.3.2.(d) Participating in any kind of Mutiny inside the Prison

4.3.3 Penalty for breach of prison safety discipline

4.3.3.(a) Solitary Confinement

4.3.4 Three diverse kinds of laws in India, from which prisoners rights are derived:

a. Statutes

b. Decisional or a judge made law

c. The Constitution of India

Now first, let us understand and verify the concept of safety and security.

4.2 Concept of Safety And Security

In England and Wales, the classification of prisoners was introduced after the recommendation done by Lord Mount Batten in the report that he submitted following an escape by a high profile prisoner from the Wormwood Scrub Prison in 1966.⁸¹ He defined four categories of prisoners as follows:

Category A: would hold those prisoners who if escaped would be highly unsafe to the public or the police or to the security of the state⁸².

⁸¹It was known as the Mount Batten Report of 1966.

⁸²Para 15 of the Mount Batten Report of 1966

Category B: would consists of those prisoners who do not require the highest of the security but escape for then must be made very difficult therefore they have to be kept under super secure conditions⁸³.

Category C: would consist of those prisoners who could not be trusted in open conditions. Such prisoners were those who did not have, the capability or means so that they could try for a determined escaped attempt.⁸⁴

Category D : would have those prisoners who could be trusted that they will complete their sentence.

Under Indian prison Rules, also incorporated by the Goan Prison Rules 2006, there are three category of Prisoners who are basically classified not by their nature but by the amount of sentence they have been convicted for.⁸⁵ The categories are:

Class 1: would consist of those prisoners who are sentenced for death or sometimes life sentence.

⁸³Para 15 and 217 of the Mount Batten Report of 1966

⁸⁴ibid

⁸⁵Goa Prison Rules, 2006, Section 59(3), "On their admission into a prison — (a) in the case of prisoner sentenced to death, immediately on arrival of such prisoner after sentence, he shall be searched by or by order of the Assistant Superintendent, and all articles which the Assistant Superintendent deems dangerous or inexpedient to be left in his possession shall be taken away from him or her; (b) in the case of prisoners sentenced to rigorous imprisonment, every article including clothing, money, jewellery and documents shall be taken from them, provided that where a prisoner is received late or after the hour of the lock-up of the prison, the clothing shall be left with him until next morning; (c) in the case of prisoners sentenced to simple imprisonment and of under-trial prisoners, money, personal ornaments, papers and letters and other property excluding their private clothing, shall be taken from them; provided that under-trial prisoners may retain their beddings, if they so desire; (d) in the case of civil prisoners, dangerous weapons, articles likely to facilitate escape, drugs and immoral books shall be taken away from them. (4) All property taken from prisoners under sub-rule (3) shall be dealt with as may be provided for under the rules for the time being in force pertaining to prisoners' property and documents. Note — Prisoners may be allowed on request to the Superintendent to wear or use in the prison the sacred thread known as "Janwa" or "Janoi" or cloth known as "Sowla", or an undergarment known as "Sadra", and the thread known as "Kasti" or "Ling" wrapped in a piece of cloth or kept in a silver box suspended round the neck (provided it is capable of being examined against misuse), Scapulars, rosaries, comb, iron bangles and "Kirpan" not more than 0.0371 metres in length worn by Sikhs and "Kumkum" and bangles (for women prisoners)."

Class 2: would consist of prisoners who are sentenced to rigorous imprisonment for the whole of their sentence in the prison.

Class 3: would consist of prisoners who are sentenced to simple imprisonment, civil prisoners and also those who are under trial prisoners.

Security till date is the most important duty in prison administration. Emphasis and special attention should be given to those prisoners who could pose the greatest threat of escape. Even today this categorisation is in force with a slight sub-division with the changing times.

There are a significant number of people in the criminal justice system, who are of the opinion that prison must inspire awe and fear in the minds of the offenders by making the life of offenders in prison demonstrably torturous in order to deter a prospective criminal.

To improve prison conditions does not mean that prison life should be made soft, it means that it should be made human and sensible. Cruelty does not generate cruelty. It undoubtedly has the tendency to squeeze all compassion out of a person and to make him unsocial. Prison conditions must therefore adhere to certain norms in which an inmate could be prevented from being de-humanised.

Since secure custody of inmates is the basic function of prisons, anything that is a threat (or supposed to be, or even presumed to be a threat) to security is laid off. How prison management can be transparent, it is argued, when secrecy is the keyword of security.

An easy access to public eye could infringe upon this age old system of segregation and obliterate the very purpose for which prisons were conceived. Secure management has thus slowly but consciously slipped into obscure

management and, once transparency is shadowed, accountability becomes a farce.

It is common knowledge that this obscurity becomes the breeding ground of several evils. Misuse of authority for unlawful gain becomes the order of the day. One can create discomfort and charge for ease (it is well known about certain prisons in the country where inmates have to pay for stretching their legs for a comfortable sleep at night.)

Clique's are formed in which old time inmates become party with the staff and run an unholy business.

The gains of which are distributed among stakeholders, who, in fact, have nothing at stake except their conscience. The network spreads. The higher it goes, the more it is necessary to extract, and therefore new methodologies are evolved to the game plan going.

4.3 Measures Adopted to Maintain Safety and Security Inside Prison in Goa.

It can be a difficult undertaking, to enforce even the most ordinary rules for safety and security in a prison. The punishment for breach of security and safety should one that is balanced in comparison to the nature of breach committed and has to be utilised as a measure of the last resort for violation of rules. There is a need to change the conventional approach applicable to prison safety and security and the punishment enforceable for its breach. The development and progress of the modern criminal school of thought, so also the dominance of the social protection theory of punishment, the primary idea/purpose of prison administration has undergone a drastic change.

A prisoner now, undergoing his sentence in a prison receives no additional punishment rather receives a course for correction that is crucial for his moral regeneration and eventual resettlement in the society. In order to regulate

everyday institutional life in a ‘prison’, the need of certain basic rules of safety and security is inevitable. Prison safety and security should be reformatory and should not be retributive. It should be curative and not repressive and it should be carried on with the view to nurture the basic values and virtues of life and humanity.

It is the collective responsibility of the prison administrators and prison officers to maintain prison safety and security as they are the ones who usher in reformation to the offender. Prison safety and security should also make certain impeccable security in the prison so that the safe custody and well-being of the prisoners is not in jeopardy. Prison safety and security shall also foresee a tidy ambience in the premises, which is encouraging to creative work in the field of culture, literacy and vocational training.

Prisoners should be treated fairly, with justice, humanity, and respect as individuals whilst in prison custody. A prisoner should be treated as an individual. Marin is of the opinion that “the Rules go on to regulate or authorise restriction of nearly every element of human existence - the very antithesis of self-respect and personal responsibility”⁸⁶.

As per the Prison Rules followed generally in India the Inspector General of the Jails/prisons is responsible to maintain peace and discipline inside the prison. As it is earlier mentioned that the Indian prison system does not have uniform rules for the whole country.

The Prison Act, 1894 is the basis of all the rules that are followed in India. Every state can make their own rules. The Prison Act 1984, does not have the guideline about how to maintain discipline. In section 27 it contains only the penalties for breach of prison discipline, safety and security. It encompasses penalties like separation, segregation and solitary confinement.

⁸⁶(Marin 1983:72)

As per the Model Prison Manual, 1960 the method of maintaining discipline in Prison was stated to be, “safety and order shall be maintained with firmness, but with no more restrictions than required for safe custody and well ordered community life; the tone of discipline should be adjusted to the requirements of each individual inmate”.⁸⁷

As per one of the Indian State, Goa Prison Rules 2006, inspector general can issue directions as to the manner in which discipline, safety and security has to be maintained.⁸⁸ The executive officers appointed by him shall enforce discipline; also they could communication with any prisoner strictly with respect to enforcing obedience of the prison rules.⁸⁹

In a prison administration, there should be classification of prisoners which always ensures different and range of treatment to an assortment of category of prisoners, which is based as per their personality and capability to cause harm and also on the type of improvement and treatment required to that particular prisoner.

The benefits of classification of prisoners will be in the form of suitable separation of diverse types of prisoners which can have sufficient custodial supervision and control. Results will include better discipline which will help in more effective management of all supervision and treatment facilities. Better

⁸⁷Government of India, Model Prison Manual 1960, at page 194

⁸⁸Section 104, Goa Prison Rules 2006, Maintenance and enforcement of discipline.— (1) Inspector General to issue instructions.— The Inspector General may, in his discretion, from time to time, issue detailed directions as to the manner in which the order, discipline and control, prescribed in these rules, shall be maintained. (2) It shall be the duty of all Executive Officers and the guarding establishment to maintain discipline and order amongst prisoners, conducive to good health, proper behaviour, finer aspects of life, education and learning and to work ethics. (3) Discipline shall be strictly enforced in the case of prisoners and no subordinate officer shall hold any communication with a prisoner further than is requisite to enforce obedience to the prison rules and for the performance of his duty, and shall not be allowed to talk of any official matter whatever in the hearing of a prisoner.”

⁸⁹Section 104(3) Goa Prison Rules 2006, “Discipline shall be strictly enforced in the case of prisoners and no subordinate officer shall hold any communication with a prisoner further than is requisite to enforce obedience to the prison rules and for the performance of his duty, and shall not be allowed to talk of any official matter whatever in the hearing of a prisoner”

inmate attitude can also be a benefit that can arise from proper classification and help reduce letdown of released prisoners.

A Prison is meant for safe protection of prisoners as well as their correctional treatment keeping in mind the basic minimum standards of human dignity.

An important aspect of any prison administration is to know the conspiracies happening inside the prison so as to avoid untoward incidents from happening that will question the safety and security measures inside the prison. One such measure that is used in prisons all over the world and especially in India is Dynamic Security.

4.3.1 Concept of Dynamic Security

Security in prisons does not necessarily mean walls and fences, bars and bolts, doors and locks. What relationship the prison staff and prisoner share is of utmost important. The security systems like the CCTV in the prisons will only allow the prison staff to catch hold of prisoners in case of some foul movement is seen. But it wont alert the staff if something bad is going to happen as to what is going on in the minds of the prisoners. This is the only reason why dynamic security seems appealing.⁹⁰ In the dynamic security model the prison staff will mix with prisoners as prisoners so that they are able to know what is happening among the prisoners.

The system is a little modified in India. The dynamic security concept is not on the guidelines but this is used by the prison staff as part of their security measure. The officers lure a prisoner for giving all the information from the other prisoners and in return the prisoner asks the officials for remission in his prison sentence for a minimum of 15 days. This is a very popular concept in

⁹⁰Dunbar 1985

prisons across India.⁹¹The Prison systems must be able to distinguish between prisoners who pose risks for society, risk inside the prison and also risks for escape.

The concept of Dynamic security is far more qualitative than any of the procedural security measures. The prison officials are in regular contact with the happenings amongst the prisoners, and are alert so as to respond to situations which may present a threat to security inside the prison, preventing escapes and other untoward incidents from occurring. For Dynamic Security to function the relationship between prison officials and the prisoners is important as the success of the prison administration system is shown in the efforts of the prison staff to work cooperatively with prisoners and to apply their judgement and prudence in doing so.

Now let us see whether the prison safety can be compromised even after all the measures that a prison administration takes to maintain safety and security inside the prison.

4.3.2 Can Prison Safety be compromised.

There are common reasons when it comes to breach in prison safety and discipline be it any state in India. The most commonly found reasons when the peace, safety and discipline of a prison is totally disturbed, it is by the following ways:

4.3.2.(a) Committing assault

Fights between the prisoners can cause “assault”. A prisoner can be punished for participating in a fight, irrespective of who initiated the attack. The prison in-charge can look into the matter and decide accordingly.

⁹¹As informed by Mr. Sawant, Jailor of Sada Jail, Vasco-Goa, India and presently Jailor Colvale Jail, Mapusa Goa.

4.3.2.(b) Drug usage

In India there are no much cases of Drug abuse inside the prison that have come to light in the past as compared to the current times. The prisoners are mostly from the middle class of the social strata. Buying drugs is a very expensive affair. Not every-one has the capacity to purchase drugs.

There might be negligible amount of drug abuse cases in the Indian Prisons. Most of the time such offences are not even reported in Indian Prisons. The adjudicators have to base their decisions on the advice of the Discipline Manual that the adjudicators must be satisfied beyond a reasonable doubt that the prisoner accused was exercising sole or any kind of joint control over that unauthorised article before he/she could be found guilty.⁹²

4.3.2.(c) Disrespect to the Prison official

If the prisoner is disrespectful to any officer, or any person who is a prison official, other than a prisoner, who works at the prison, or any person who is visiting the prison. The prisoner should use threatening language or any kind of abusive language or even insulting behaviour towards the person. The Manual clearly specifies that this act or this kind of language must have been used by the prisoner intentionally and disrespectful in a very threatening or insulting manner. It comprises as a disciplinary offence in Prisons. In the state of Goa, in the Prison Rules, 2006 section 119(iv) classifies it to be a disciplinary offence against the prison official or any other person who is not a prisoner.

4.3.2.(d) Participating in any kind of Mutiny inside the Prison

When a prisoner disobeys all the lawful orders or even fails to comply with the rules and regulation of the prisons is liable for breach in discipline and safety.

⁹²The Discipline Manual at pg. 30-31. This case law was established by McCullough J in McConkey(1982) and was reviewed by the Court of Appeal in King (1984)

Any prisoner who is the reason for any kind of physical fight, intentionally inside the prison or any person who abets such fights can be held liable.

Prisoners cannot conspire against the prison officials and create gang wars or any sort of mutiny as it will attract severe penalties for doing so. The situation is the same in England and Wales and India. It was a prominent feature in prisons about two decades ago. But now with technological advances and other means such fight or wars amongst the prison staff or amongst the prisoners themselves can be avoided without any problem.

There are a list of offences that attract penalties in prisons. Such list is prepared by the prison officials so as to maintain peace and discipline in their prison. Section 119 of the Goa Prison rules 2006 contains all the offences that can cause breach of discipline. The above mentioned are just a few breaches to name.

4.3.3 Penalty for breach of prison safety discipline

Prison offences can be allocated in two categories, Firstly, offence that come in the purview of prison authorities and secondly, offences that are within the purview of courts. A prisoner when charged with an offence for breach of discipline should be charged soon within the time frame of 48 hours from the discovery of the offence.

Based on the Model Prison Manual, 1960, the Indian prisons emphasise on 3 stages that can be maintained to enforce ordinary rules of prison discipline. Firstly Persuasion; Secondly warning and caution; and Lastly punishment. It is very important to make the prisoner understand the importance of observing these rules of discipline. There can be many penalties that could be imposed on the prisoners for not following the rules of the prison. In one of the states in

India, West Bengal, Jail Code Revision Committee in the year 1972-73 set up a 'Discipline Committee'.

The superintendent of a prison has to award punishment for breach of discipline based on the recommendation of such committee. The Supreme Court of India has also laid down in one of the judgments that the superintendent of a prison only has a administrative authority so as to maintain prison discipline and inflict summary punishment on the detunes for breach of prison discipline.⁹³

Not all prisoners are the same and hence for some prisoners some kind of emotional pain is enough as punishment. For example reducing the visiting hours of family and friends or giving less food, it can also be revoking any kind of remission given to the prisoner for serving in the prison for that time.

The following penalty is one of the common measures utilised for some hardened criminals that could be imposed to such prisoners for the breach of discipline in the prison:

4.3.3.(a) Solitary Confinement

The concept of solitary confinement has been struck off following a Supreme Court of India decision. As per the Indian Prison Act, 1894, section 29 provided guidelines for use of solitary confinement. But today none of the prisons in India can use Solitary confinement.

In the case of *Daniel H. Walcott v. Superintendent, Nagpur Central Prison*⁹⁴, the petitioner was to be punished with solitary confinement by the prison authorities as he had committed a prison offence. The Bombay High Court

⁹³In the case of Maqbool Husain v. State of Bombay AIR 1953 SC 325-332

⁹⁴ AIR 1968 Mad 349 ; 1968 CriLJ 1282 ; (1968) 1 MLJ 229

observed that the principles of natural justice are to be followed by the Superintendent in such cases.

In another case of *Sunil Batra v. Delhi Administration*⁹⁵, the petitioner was a convict under the death sentence. He challenged his punishment of solitary confinement which according to Section 30(2)⁹⁶ of the Prisons Act 1894 a person serving a death sentence was to be separated and kept into solitary confinement. These cases started the reforms in this aspect specially relating to abolition of solitary confinement in India.

In *Sanjay Suri v. Delhi Administration*,⁹⁷ the Supreme Court of India held that the prison authorities “should change their attitude towards prison inmates and protect their human rights for the sake of humanity.” According to the Prison Manual, the prisoners should be issued with documents pertaining to the conduct of disciplinary hearings and offered facilities so as to prepare their case which also included taking help from the paralegal volunteer.⁹⁸

As per rules, when it is suggested to impose a punishment of solitary cellular confinement, the medical officer will have to inform the Superintendent of prisons whether the prisoner could be dealt with such a penalty. Even as per the prison manual in the state of Goa, “No cellular confinement will be imposed unless the medical officer has indicated that the prisoner is fit to undergo the punishment. This duty may not be delegated to other health care staff.”⁹⁹.

⁹⁵ (1980) 3 SCC 488

⁹⁶ Section 30 of the Indian Prison Act 1894

Prisoners under sentence of death.—

(1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

⁹⁷Sanjay Suri V. Delhi Administration, (1988) Cr LJ 705 9SC).

⁹⁸Goa Prison Manual 2006.

⁹⁹Goa Prison Manual 2006

There are some more penalties that are imposed on the prisoners but they are of discretionary nature.

Besides the Prison Act 1894 and Prison rules every state in India have their own rules which deals with prisoners rights. Every prison administration will have separate penalties less harmful and of having a lesser disturbing impact on the prisoner.

4.3.4 Three diverse kinds of laws in India, from which prisoners rights are derived:

a. Statutes

A statute is a law that has been enacted by the legislature, who has been authorised by the constitution of India to enact legislation, or laws. For the most part of India the All India statutes are obligatory on all persons within India. Whereas the state statutes by and large only have effect in that particular state within which they are passed. These Statutes are inferred and interpreted by the courts.

b. Decisional or a judge made law

The judiciary is the system of courts that interprets and applies the law in the state. The judiciary can also be thought of as the mechanism for the resolution of disputes. In India the courts are given, the responsibility of interpreting the statutes by the state and the centre and also the Constitution of India. The courts are empowered to decide any particular controversy, grievance, and disputes before them. India being a common law country, the verdict passed by the courts regarding any dispute before them becomes law and are binding on all the other courts below them.

c. The Constitution of India

The Supreme Law of the Land in India is “The Constitution of India”. Any action taken by an officer of the state, in case of prisons, superintendent of the prison, Jailor, Assistant Jailors or any of their staff members, which otherwise is in breach of one or more components of the Constitution of India, then that action is considered ‘unconstitutional’.

The prison administration has to keep a number of things in mind when its trying to frame rules and regulations to maintain good order, safety, security and discipline inside a prison system. The Constitution of India irrespective of the fact if a person is a prisoner, confers a number of fundamental rights upon citizens. India is also a signatory to a variety of international instruments relating to human rights, like the ‘universal declaration of human rights’ which observes that ‘no one shall be subject to suffering or vindictive, inhuman or mortifying treatment of punishment.’¹⁰⁰ Even the ‘United Nations Covenant on civil and political rights’ observes that ‘all persons dispossessed of their independence should be treated with compassion and with respect for the intrinsic dignity of the human person.’¹⁰¹ Therefore, Under both National as well as International human rights law, the state of Goa is obligated to maintain and guarantee adherence of basic human rights law in practise.

In the next chapter 5 the researcher has analysed the empirical data collected. The chapter is divided into 2 parts. Part I consists of the data collected from the prison in Colvale. Part II is analysis of the data collected by administering Interviews, Questionnaire to the prison officials in Colvale Jail, the Prisoners in the Colvale Jail, Judges presiding in the courts of Goa and Advocates practising in the courts of Goa.

¹⁰⁰ Universal Declaration of Human Rights Art. 5

¹⁰¹ United Nations Covenant on Civil and Political Rights, Art. 10.

*“It is not the prisoners that need reformation. It is the prisons.”*¹⁰²
- Oscar Wilde

5.1 Introduction

An essential ingredient of good order in prisons is “Justice”. In Prisons, fair treatment and consistent outcomes along-with effective grievance redressal procedures can play an important role to maintain good order in any prison. When a prisoner has knowledge regarding the rules inside that prison administration, it facilitates correspondence and connection between the prisoners and the prison staff in that prison administration.

The state of Goa is divided into two districts, North Goa and South Goa. In the North Goa district there was Aguada Jail, which was built to be a Fort but eventually used as a Jail to house inmates serving sentence as well as under trial prisoners. In the South Goa district there was Sada Jail situated at Vasco. This jail mostly housed only under trial prisoners as this Jail was situated inside the city of Vasco.

Eventually few years ago, i.e. in 2016, the Colvale Jail situated at Mapusa, was in operation which claims to be with better security and newer amenities and designed to be a secure location away from the city. Colvale Jail claims to be having modern amenities which were not available at the Aguada Jail being a centuries old Fort which was not meant to be housing Prisoners who were a social threat.

The total numbers of stake holders for the present research are **567** and the breakup of the stake holders is as follows:

- (a) 52 Prison Officials in the Colvale Jail, Goa.

¹⁰² Wilde Oscar : *The Picture of the Dorian Gray*” ; Random House: Modern Library June 2004, (first published July 1890).

- (b) 104 Prisoners confined in the Colvale Jail, Goa.
- (c) 28 Judges presiding in District and Trial Courts in Goa.
- (d) 383 Advocates practising in various courts in Goa.

A survey was conducted with the help of a scientifically constructed questionnaire designed for the prison officials, the prison inmates of Colvale Jail, Judges and Advocates in the courts of Goa, to determine the conditions in respect of Discipline, safety and security in Colvale Jail, Goa. The questionnaire was administered to all prison official and the prison inmates of the Colvale Jail, Goa, and it was also administered to sitting Judges of the District and Sessions Court and Civil and Criminal Courts of North and South Goa, & Advocates practising in the state of Goa.

The questionnaire designed for the prison officials (hereto annexed as Annexure –I) was administered to all 100 officials of the Colvale Jail, Goa, of which 52 officials responded. Likewise the questionnaire designed for the prison inmates(hereto annexed as Annexure –II) was administered to 104 inmates out of the total 388 inmates (as on Feb 2018), housed in the Colvale Jail, Goa. The questionnaire designed for the Judges was circulated to 45 sitting Judges of the District and Sessions Court and Civil and Criminal Courts of North and South Goa, (hereto annexed as Annexure –III) of whom 28 Judges responded. The questionnaire designed for the advocates (hereto annexed as Annexure –IV) was circulated to 1200 advocates practising in the state of Goa of whom 383 Advocates responded.

The responses of the officials, inmates, Judges and Advocates were collected, collated and analysed. The details of the analysis, is depicted in the form of table and wherever necessary the same is shown in the form of Bar Graph.

The data collected from the Prisons in Goa and from the various stake holders is further divided into 2 parts. Part I deals with the data collected by visiting the prison and Part II deals with the data collected after administering the Questionnaire to Prison officials, Prisoners, Judges and Advocates.

PART I

5.2 Data Collected from Jail.

The researcher collected and analysed statistical data from Colvale Jail. The central Jail in Goa up till 2016 was situated in Aguada, Sinqerim, Goa. In 2016 the Central Jail was shifted to Colvale, Bardez, Goa. As on 2019 there are 4 functional sections in which the prisoners are housed inside the Colvale Jail. 3 sections inside the Colvale Jail are yet to be functional.

The Total No. of Prisoners in Colvale Jail, Goa are 388. Of the total Number of Inmates, 71 inmates are sentenced to Life Imprisonment, 38 prisoners are undergoing imprisonment below 10 years, and 279 prisoners are those who are undergoing trial in various courts of Goa.

At the time of admission the prisoners are provided with Carpet (Zamkhan), blanket, pillow, bed-sheets. The Under trial Prisoners are permitted to bring their own bed-sheets and pillow.

The Gender Break-up of the inmates in the Colvale Jail are as follows:

Table No. (i)

Total No. of Prisoners In Colvale Jail	Male	Female
388	358	30
Percentage %	92.26	7.74

Source: Colvale Prison Administration

As can be seen from the table above that, out of a total 388 prisoners housed inside the Colvale Jail, 358 are male prisoners that make up to 92.26 % of the prison population and only 7.74% are female prisoners that is about 30 women out of total 388 prisoners.

In the same premises inside the Colvale Jail, there is a separate enclosure for women prisoners which are guarded by lady prison officials. But the supervision for both men and women prison enclosures, is looked after by a one Deputy Superintendent of Prisons.

5.2.1 Safety inside the Prison

Safety inside the prison premises depends totally on the prison officials guarding the prison. It is of utmost importance that the prison administration, consist of officials who can take care of the day to day functioning of the prison administration. A prison is a place that houses prisoners who have committed violent crimes and other type of different crimes therefore it is of grave importance that the prison staff is well equipped and well aware of the rules and regulations to manage such an administration.

Duty of a Prison official is for 24 hours. On each day, 1 Jailor, 1 Asst. Jailor, 4 Head Guards and 21 Jail Guards are on duty to management the Prison administration in the Colvale Jail, Goa.

The Colvale Jail is made up of small and Large cells to house Prisoners. The Small Cell can accommodate 5 to 7 prisoners while the Large cells can accommodate 20-45 prisoners. The size of the prison cell is not as big to accommodate all these people and hence there exists a huge problem of Overcrowding inside the prisons.

Table No. (ii)

Type of Prison Cell	Small	Large
No. of Prisoners in a single cell	5-7 prisoners	20-45 prisoners

Source: Colvale Prison Administration

Monthly Meetings are held by the prison officials to take stock of the day to day functioning of the prisons. In addition to the daily routine, the prison officials rely on Surprises searches for maintenance of Good Order and security.

5.2.2 Security inside the prison

In today's time as compared to many years ago the prison administration has enhanced extensively. A prison management now possesses improved surveillance and many clever information gathering strategies that have helped control violent activities inside the prison.

The Jail has 10 CCTV cameras spread out all over the Jail. These CCTV cameras are of the latest technology and have a range and zoom of upto 500 metres. Though it is claimed by the prison staff that it is sufficient to cover the entire area around the prison walls, it seems to be too less a number of CCTV's when all kinds of prisoners along-with under-trials are housed inside one single premises.

There are about 8 security watch tower posts all around the Jail. These towers are manned by the Indian Reserve Battalion Constables (IRB constables) with a Gun.

It is a matter of Concern that the security guards manning the main entrance to the Colvale Jail are neither experienced enough, nor sufficiently equipped to defend the security of the prison in any eventuality.

There are no Live Wire fencing in the Jail but the boundary wall of the Jail is very high. It is practically impossible to get over the boundary wall of the Jail discretely.

The safety and security of the Prison has been well maintained and there have been no attempts of escape for the last 15 years. There have been instances of violence inside the Jail where even a Prisoner has lost his life but it was a very rare incidence and therefore the Colvale Jail is a secure place to house a prisoner.

They are assisted by 3 paralegal nominees from among the Inmates who are selected by the Principal District and Sessions Judge, North Goa.

5.2.3 Paralegal Help & Supervision

A paralegal is person who performs delegated legal work for which a lawyer is ultimately responsible. In a prison it is at times a prisoner itself who helps other inmates. They carry out a variety of tasks which comprises maintaining and organizing files, drafting documents / applications and at times also conducting legal research.

The prisoners are given a choice of working while they are imprisoned to enhance their skill and also earn an income.

The prison administration is under the supervision and control of the Principal District and Sessions Judge, North Goa, who visits the Jail once in 3 months to interact with the prisoners and officials and to inspect the facilities.

After going through the idea of safety, security and discipline method adopted in Goa jails now let us verify the reformation and recreation provisions or facilities provided for prisoners in the Prisons in Goa.

5.2.4 Reformation & Recreation

Reformation is an important aspect for consideration in prison administration as it decided what the prisoner will do after the completion of his / her prison sentence. Recreation is as important for every prisoner as for any other person. Providing the prisoners with recreational activities like sports, singing, dancing, Yoga etc.. will eventually yield results for reformation of a prisoner.

The skill enhancement activities that are available to them are (a) Tailoring, (b) Carpentry, (c) Making paper bags, (d) Making handicrafts and (e) Making candles. The working hours for these activities extended from 7 am to 12 noon and 2 pm to 4 pm every day. The earnings from the sale of products manufactured by the prisoners is deposited in the Government treasury.

The prisoners also have an option to work in the kitchen where the working hours are from 7am to 6pm. The earnings per day are Rs.80 for skilled workers, Rs. 70 for semi-skilled and Rs. 60 for unskilled workers. 50% of the earnings of a prisoner are deposited in the Victim Fund, 30% can be deposited by the prisoner in his bank / towards fees for lawyers, legal services etc.. The remaining 20% of the income can be retained by the prisoners to be utilised for his daily needs such as soap, oil, toothpaste etc..

The inmates are also provided time for recreational activities such as playing volleyball, football, cricket etc.. from 8 am to 10am and from 3pm to 5pm.

It is also observed that no training workshops are conducted either for the paralegal volunteers or for the prison officials.

5.2.5 Sentence Remission / Parole

Parole is the temporary or permanent release of a prisoner before the expiry of a sentence, on the assurance of his / her good behaviour. This provision serves as an incentive to the prisoners while incarcerated. There is a good chance that a prisoner who is genuinely repenting for his deeds can reform into a better person and get back into the society and lead a normal life.

The inmates are entitled to 10 days remission of sentence for every 30 days of employment in the prison. In addition the prisoners can also avail of 30 days remission of sentence for good conduct inside the prison while serving his/her sentence.

Prisoners who do not opt for work but bear a good conduct, are entitled to 3 days remission in sentence each month. The Inspector General of Prisons (IGP) for the state of Goa has the Power to Grant a remission of 60 days to any deserving prisoner.

The Inmates are entitled to a facility of Parole. The Superintendent of the Prison at Colvale has power to grant parole to a prisoner for maximum period of 14 days for genuine causes such as death in family etc.. A 30 day parole can be granted by the Inspector General of Police which can be extended to 60 days or beyond by the Government of Goa for valid and justifiable reasons.

After going through the analysis of data collected from two jails in the State of Goa. Now the researcher tabulate, compiled and analysed the data collected

from above mentioned stake holders through interviews, questionnaire and observation techniques.

PART II

5.3 Analysis of the Empirical data

Along-with the statistical data the researcher also collected empirical data from various stake holders as mentioned earlier.

A questionnaire was administered to the following :

- a) Prison Officials (hereto annexed as Annexure –I)
- b) Prison Inmates (hereto annexed as Annexure –II)
- c) Judges (hereto annexed as Annexure –III)
- d) Advocates (hereto annexed as Annexure –IV)

Following are the most important and valuable opinions proposed by the stake holders for the safety, security and discipline in the Goa State prisons. These opinions will help to improve the situation of prisoners in prison.

1. Basis of the Indian Prison system was the British prison model.

Prison administration in India is a legacy of the British Rule. Though not perfect but it was a giant leap in the prison administration in India. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 1

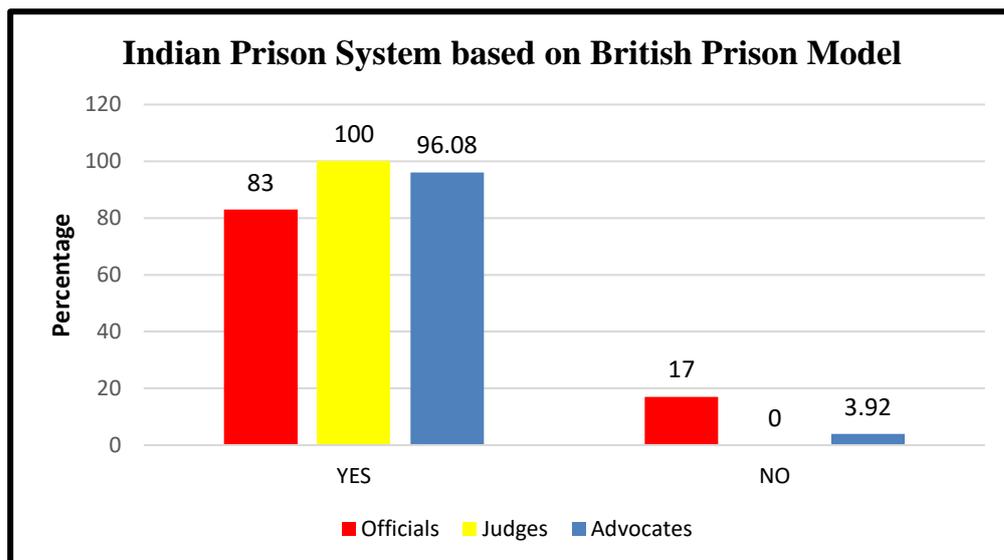
Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	43	83	9	17
Judges	28	28	100	0	0
Advocates	383	368	96.08	15	3.92
Total Respondents	463	439	-	24	-
Total %	100	-	94.81	-	5.19

Of the 52 Prison Officials, 43 Prison Officials (83%) affirmed that the Indian Prison System was based on the British Prison Model, However, 9 Prison Officials (17%) denied the fact. This may be on account of Lack of Knowledge of the basis of the Indian Prison System.

Of the 28 Judges, all 28 Judges (100%) have affirmed that the Indian Prison System was based on the British Prison Model. None of the Judges (0%) have denied the fact. This shows that the Judges in the courts of Goa have full knowledge of the basis of the Indian Prison System.

Of the 383 Advocates, 368 Advocates (96.08%) have affirmed that the Indian Prison System was based on the British Prison Model. 15 Advocates (3.92%) have denied the fact. This shows that majority of the Advocates in Goa have full knowledge of the basis of the Indian Prison System. The details of the table are shown in the following Bar Graph. (Figure No. 1)

Figure No.1



2. The current prison system based on The Prison Act 1894.

The Prisons Act, 1894, is even today the basis for the federal framework for prison regulation even though every state can make their own set of rules to govern the respective prison, there is no uniform code/law for prisons in the country. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 2

Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	41	79	11	21
Judges	28	28	100	0	0
Advocates	383	360	94	23	6
Total respondents	463	429	-	34	-
Total %	100	-	92.65	-	7.35

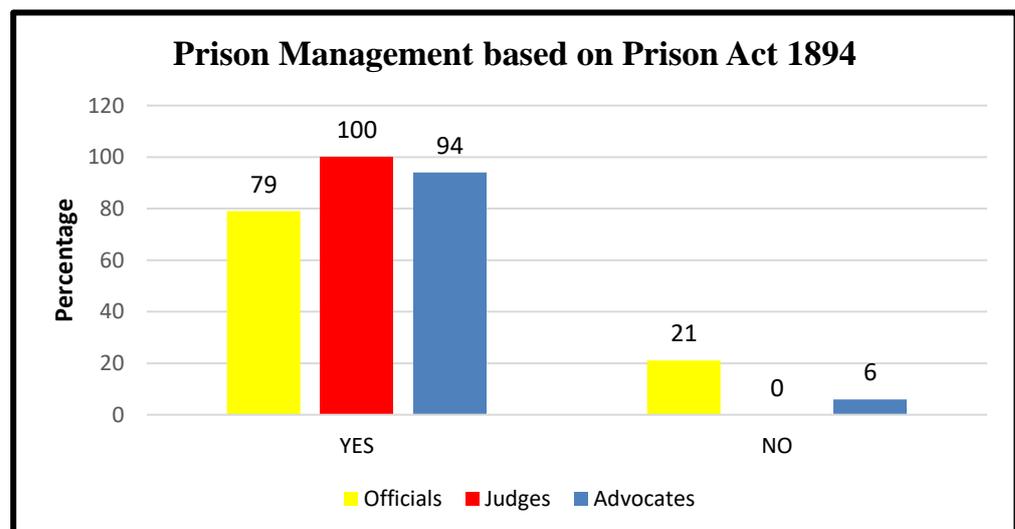
Of the 52 Prison Officials, 41 Prison Officials (79%) affirmed that the Prison Management is based on the Prison Act 1894, However, 11 Prison Officials (21%) denied the fact. This may be on account of ignorance of the history of Prison Management Administration.

Of the 28 Judges, all 28 Judges (100%) affirmed that the Prison Management is based on the Prison Act 1894. None of the Judges (0%) denied the fact. This shows that the Judges of the Courts in Goa are aware of the history of Prison Management Administration.

Of the 383 Advocates, all 360 Advocates (94%) affirmed that the Prison Management is based on the Prison Act 1894. 23 Advocates (6%) denied the fact. Therefore the Advocates in Goa can be said to be aware of the history of Prison Management Administration. The details of the above table are shown in the following Bar Graph (Figure No.2).

Overall 92.65% of all stake holders have knowledge of the fact that the current prison system is based on the Prison Act 1894.

Figure No.2



3. Model Prison Manual (MPM) was prepared in 1960 and is still followed.

The 1960 Model Prison Manual (MPM) is the guiding principle on whose basis the present Indian prison management is governed. In 1972, the Ministry of Home Affairs, Government of India, on the basis of the Model Prison Manual, selected a working group to work on prisons. In their report it was states that there was a need for a national policy on prisons. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 3

Classification	Total No of Respondents	YES		NO		NOT AWARE	
		No.	%	No.	%	No.	%
Officials	52	20	38.46	20	38.46	12	23.08
Judges	28	16	57.14	8	28.57	4	14.28
Advocates	383	272	71.03	23	6	88	22.97
Total Respondents	463	308	-	51	-	104	-
Total %	100	-	66.52	-	11.01	-	22.47

20 (38.46%) officials out of the 52 Prison Officials, who responded to the questionnaire administered to prison officials confirmed that Colvale Prison follows the Model Prison Manual prepared in 1960, however, an equal number of Prison Officials denied following the model prison manual while 12 (23.08%) Prison Officials stated that they were not aware. It is quiet possible that the 20 (38.46%) Prison

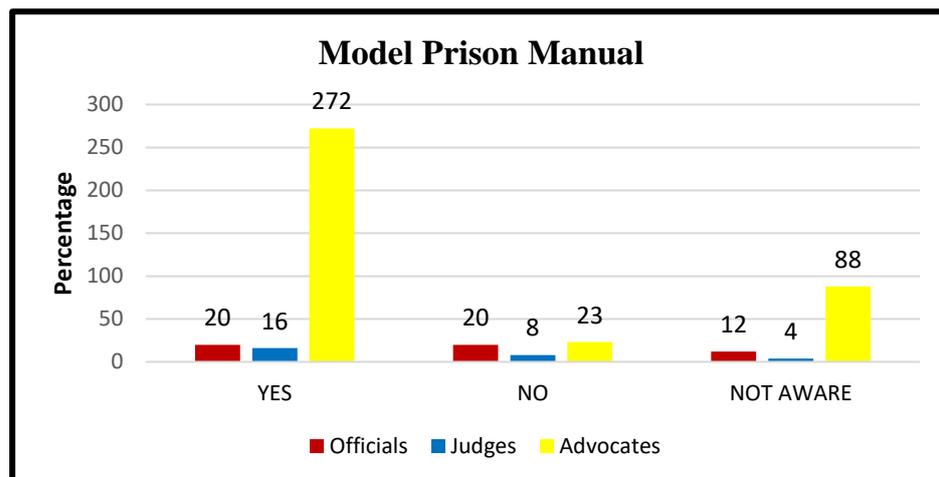
Officials who responded in the negative would also be unaware of whether the Model Prison Manual 1960 was followed or not.

16 (57.15%) Judges out of the 28 Judges, who responded to the questionnaire administered to the Judges in the courts of Goa, confirmed that Colvale Prison follows the Model Prison Manual prepared in 1960, however, 8 (28.57%) Judges denied following the model prison manual while 4 (14.28%) Judges stated that they were not aware. It is quiet possible that the 4 judges who responded in the negative would also be unaware of whether the Model Prison Manual 1960 was followed or not.

272 (71.03%) Advocates out of the 383 Advocates, who responded to the questionnaire administered to prison officials confirmed that Colvale Prison follows the Model Prison Manual prepared in 1960, however, an 23 (6%) of Advocates denied following the model prison manual while 88 (22.97%) Advocates stated that they were not aware. It is quiet possible that the 23 (6%) Advocates who responded in the negative would also be unaware of whether the Model Prison Manual 1960 was followed or not. The details of the above table are shown in the following Bar Graph (Figure No.3).

Overall 66.52% of all stake holders affirm that Model Prison Manual prepared in 1960 is followed

Figure No.3



4. Uniformity in Prison Laws

The Supreme Court in case of *Ramamurthy v. State of Karnataka*¹⁰³ in 1996 held that there was a need for uniformity in prison laws to be brought about by a model prison manual. To verify the effect of the judgment, empirical data is collected from the stake holders that include Prison Officials, Judges & Advocates and it is depicts in the following table.

Table No. 4

Classification	Total No of Respondents	YES		NO		NOT AWARE	
		No.	%	No.	%	No.	%
Officials	52	11	21.15	19	36.54	22	42.31
Judges	28	18	64	8	28.56	2	7.14
Advocates	383	260	67.88	37	9.66	86	22.46
Total Respondents	463	289	-	64	-	112	-
Total %	100	-	62.28	-	13.55	-	24.17

¹⁰³ 1997(2) SCC 642; AIR 1997 SC 1739

The decision of the Supreme Court in case of *Ramamurthy v. state of Karnataka*¹⁰⁴ in 1996 held that there was a need for uniformity in prison laws to be brought about by a model prison manual, only 11 (21.15%) Prison Officials out of the 52 officials confirmed having knowledge of the ruling, 19 Prison Officials (36.54%) denied having knowledge and 22 Prison Officials (42.31%) were unsure and answered as May be.

The decision of the Supreme Court in case of *Ramamurthy v. state of Karnataka*¹⁰⁵ in 1996 held that there was a need for uniformity in prison laws to be brought about by a model prison manual, 18 (64%) Judges out of the 28 Judges confirmed having knowledge of the ruling, 8 Judges (28.56%) denied having knowledge and 2 Judges (7.14%) were unsure and answered as May be.

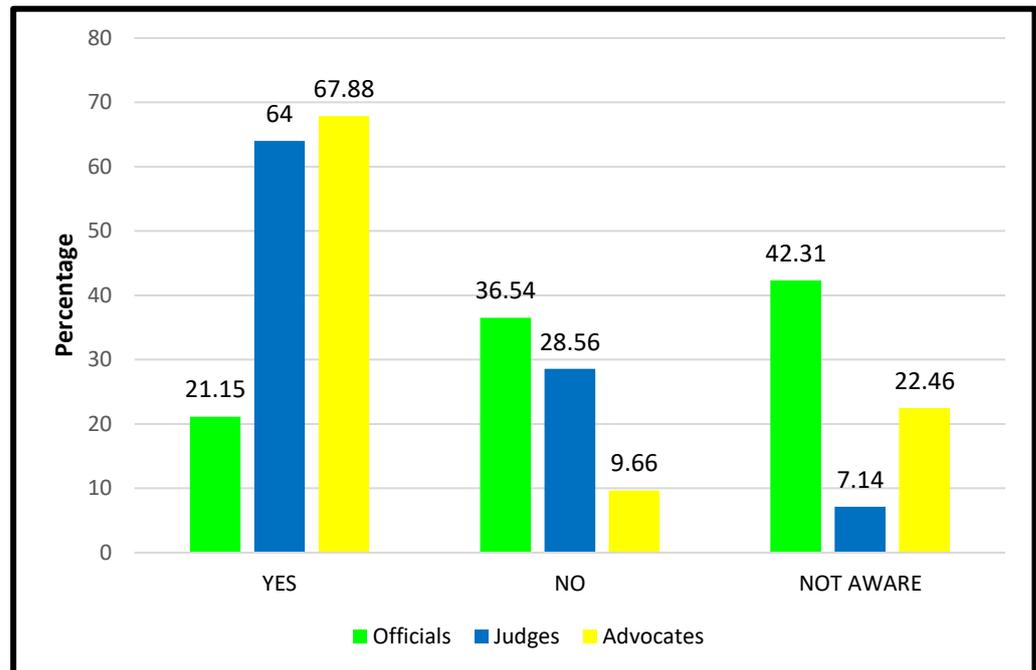
The decision of the Supreme Court in case of *Ramamurthy v. state of Karnataka*¹⁰⁶ in 1996 held that there was a need for uniformity in prison laws to be brought about by a model prison manual, majority of the Advocates i.e. 260 (67.88%) respondent out of 383 advocates confirmed having knowledge of the ruling, 37 Advocates (9.66%) denied having knowledge and 86 Advocates (22.46%) were unsure and answered as May be. The details of the above table are shown in the following Bar Graph (Figure No. 4).

¹⁰⁴ ibid

¹⁰⁵ ibid

¹⁰⁶ ibid

Figure No. 4



5. Meaning of a PRISON.

A prison is considered to be a place to keep a criminal in confinement and punish him/ her for wrongful acts committed by him/her, rather than, a place for reformation of those individuals who have lost track and are misguided in life. A prison can be considered to be a community of sorts that consists of prisoners that are unlike from one another in various ways. The constant among them is the fact that they have been convicted of crime and are sentenced to imprisonment. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 5

Classification	Total No of Respondents	Punishment Facility		Correctional Facility		Reformation Facility		Preventive Facility	
		No.	%	No.	%	No.	%	No.	%
Officials	52	13	25	21	40.38	15	28.85	3	5.77
Prisoners	104	12	11.54	24	23.08	60	57.69	8	7.69
Judges	28	8	28.58	6	21.42	14	50	0	0
Advocates	383	115	30.02	84	21.93	107	27.93	77	20.12
Total Respondents	567	148	-	135	-	196	-	88	-
Total %	100	-	26.11	-	23.81	-	34.56	-	15.52

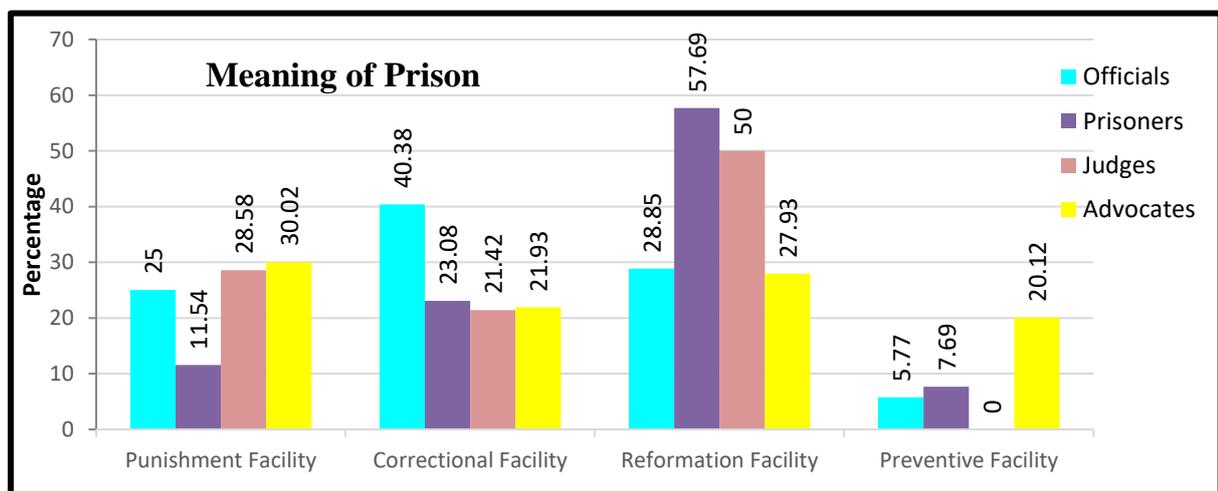
It is interesting to note that out of 52 Prison Officials 13 Prison Officials believed that a prison is a punishment facility, while 21 officials understood it as a correctional facility, 15 officials viewed a prison to be a reformation facility and only 3 officials believed that it was a preventive facility.

In order to ascertain what the prisoners understood to be the meaning of a prison, they were asked whether a prison is a punishment facility, correction facility, reformation facility or a preventive facility. 60 (57.69%) out of the 104 prisoners who responded to the questionnaire believed that a prison is a reformation facility. 24 (23.08%) prisoners understood a prison to be a correction facility, while 12 (11.54%) prisoners believed that a prison is a punishment facility and 8 (7.69%) prisoners recognised a prison to be a preventive facility.

It is interesting to note that out of 28 Judges 14 (50%) Judges believed that a prison is a Reformatory facility, while 8 (28.58%) Judges understood it as a Punishment facility, 6 (21.42%) Judges viewed a prison to be a Correctional facility and surprisingly none of the Judges believed that it was a preventive facility.

Out of 383 Advocates 115 Advocates (30.02%) believed that a prison is a punishment facility, while 84 (21.93%) understood it as a correctional facility, 107 (27.93%) viewed a prison to be a reformation facility and 77 (20.12%) advocates believed that it was a preventive facility. The details of the above table are shown in the following Bar Graph.

Figure No.5



6. The purpose of Imprisonment.

Every individual has a different perspective on the point as to what is the basic purpose of imprisonment. For many it is punishment and for some it is a place to improve oneself. It can also be said that imprisonment is a way to discourage an individual from further commitment of any crime. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 6

Classification	Total No of Respondent	Reformation (Improvement)		Retribution (Punishment)		Rehabilitation (Recovery)		Deterrent (Discourage)	
		No.	%	No.	%	No.	%	No.	%
Officials	52	36	69.24	2	3.84	12	23.08	2	3.84
Prisoners	104	58	55.77	8	7.69	32	30.77	6	5.77
Judges	28	14	50	8	28.58	6	21.42	0	0
Advocates	383	153	40	116	30.28	57	14.86	57	14.86
Total Respondents	567	261	-	134	-	107	-	65	-
Total %	100	-	46.03	-	23.63	-	18.88	-	11.46

The purpose of imprisonment according to 36 officials of the 52 who responded explained the purpose to be reformation (improvement), 12 officials identified the purpose as being rehabilitation (recovery), while 2 officials each claimed that the purpose of imprisonment was retribution (Punishment) and Deterrent (Discouragement) respectively.

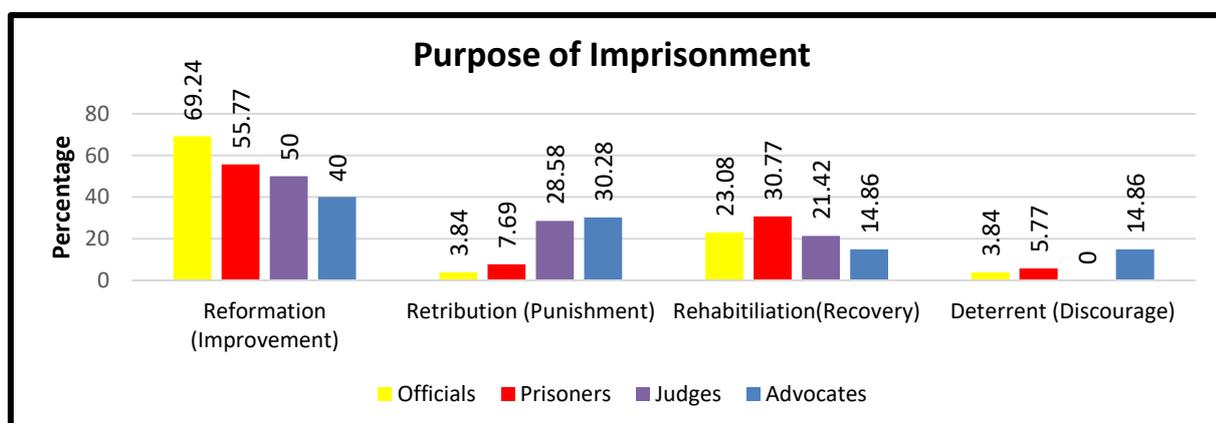
58 (55.77%) out of the 104 prisoners believed that that the purpose was reformation or improvement. 32 (30.77%) prisoners understood the purpose of imprisonment as being an opportunity for

rehabilitation or recovery. 8 (7.69%) prisoners believed that the purpose of imprisonment was retribution or punishment, while 6 (5.77%) prisoners understood the purpose of imprisonment as being deterrent or a discouragement to perpetrate crimes.

14 (50%) Judges out of 28 who responded explained the purpose to be reformation (improvement), 6 (21.42%) Judges identified the purpose as being rehabilitation (recovery), while 8 (28.58%) Judges claimed that the purpose of imprisonment was retribution (Punishment) and none of the Judges felt that Deterrent (Discouragement) could be a purpose for imprisonments.

153 (40%) advocates of the 383 advocates who responded explained the purpose to be reformation (improvement), 57 (15%) advocates identified the purpose as being rehabilitation (recovery), while 116 (30%) advocates claimed that the purpose of imprisonment was retribution (Punishment) and another 57 advocates (15%) thought the purpose of imprisonment was to be a Deterrent (Discouragement). The details of the above table are shown in the following Bar Graph.

Figure No. 6



7. Coercive environment reforms a prisoner.

Many individuals believe that one of the reasons for reformation of a prisoner is because he / she is imprisoned against his/her will and in an coercive environment where they are forced to live a life of restraint. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 7

Classification	Total No of Respondents	YES		NO		MAY BE	
		No.	%	No.	%	No.	%
Officials	52	13	25	27	51.92	12	23.08
Prisoners	104	39	37.5	46	44.23	19	18.27
Judges	28	14	50	12	42.85	2	7.15
Advocates	383	230	60.05	69	18.02	84	21.93
Total Respondents	567	296	-	154	-	117	-
Total %	100	-	52.20	-	27.16	-	20.64

Holding Men and Women against their will, in a coercive environment will reform such prisoners, only 13 officials (25%) of the 52 Prison Officials agreed with the contention while almost double the number i.e. 27 Prison Officials (51.92%) disagreed with the contention. 12 officials (23.08%) however, were unsure whether coercive confinement would lead to reform in a prisoner.

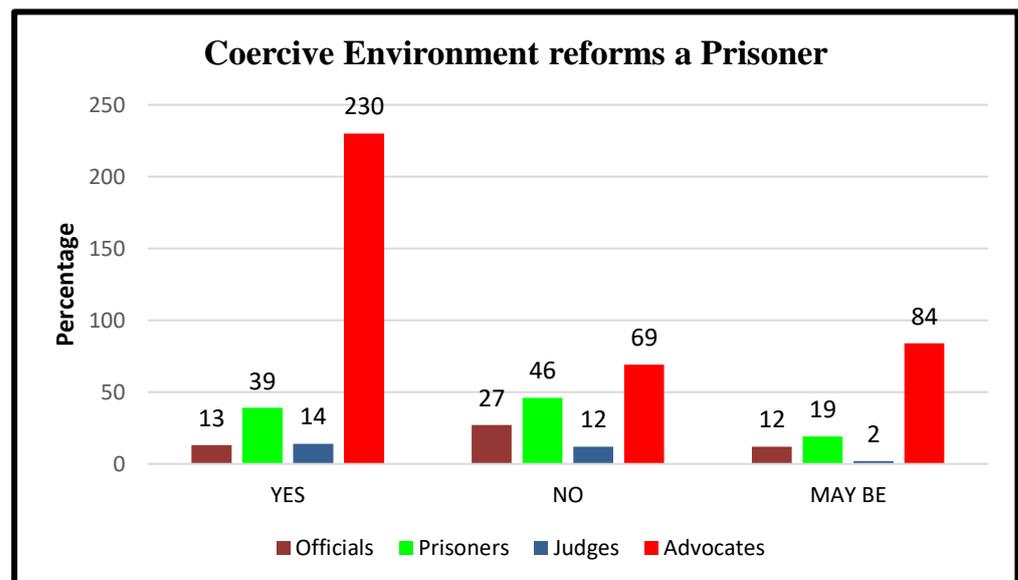
Holding men and women against their will in a restricted environment would reform a prisoner, 46 (44.23%) of the 104 prisoners disagreed with the proposition. 39 (37.50%) prisoners

expressed that imprisonment would result in reformation while 19 (18.27%) prisoners were unsure.

Holding Men and Women against their will, in a coercive environment will reform such prisoners, 14 (50%) judges out of the 28 Judges agreed with the contention while 12 Judges (42.85%) disagreed with the contention. Only 2 Judges (7.15%) however, were unsure whether coercive confinement would lead to reform in a prisoner.

Holding Men and Women against their will, in a coercive environment will reform such prisoners, 230 advocates (60.05%) of the 383 Advocates agreed with the contention while 69 Advocates (18.02%) disagreed with the contention. 84 advocates (21.93%) however, were unsure whether coercive confinement would lead to reform in a prisoner. The details of the above table are shown in the following Bar Graph.

Figure No. 7



8. Treating prisoners with fairness and humanity leads to decline in crimes.

Treating prisoners with fairness and humanity eventually leads to decline in crimes when the prisoner finishes sentence and tried to lead a normal life. To find out the idea, empirical data is collected from the stake which include Prisoners, Prison officials, Judges and Advocates.

Table No. 8

Classification	Total No of Respondents	Agree		Disagree	
		No.	%	No.	%
Officials	52	46	88.46	6	11.54
Prisoners	104	91	87.5	13	12.5
Judges	28	20	71.43	8	28.57
Advocates	383	230	60.05	153	39.95
Total Respondents	567	387	-	180	-
Total %	100	-	68.25	-	31.75

Treating prisoners with fairness and humanity will eventually lead to decline in crimes when the prisoner finishes his/her sentence and attempts to lead a normal life, 46 (88.46%) officials were in strong agreement of the proposition. 6 (11.54%) officials disagreed with the proposition .

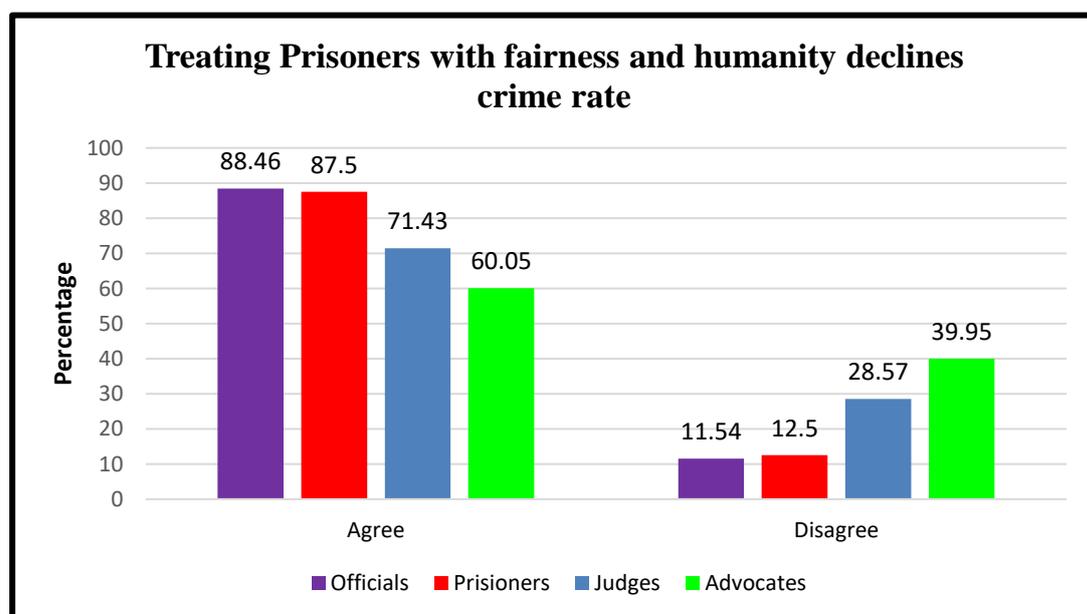
Prisoners when asked whether they believed that being treated with fairness and humanity would lead to a decline in crime after the prisoner was set free to lead a normal life after having served their sentence. 91 (87.5%) out of the 104 prisoners strongly agreed with

the contention, while 13 (12.5%) prisoners, however, disagreed with the contention.

Treating prisoners with fairness and humanity will eventually lead to decline in crimes when the prisoner finishes his/her sentence and attempts to lead a normal life, 20 (71.43%) Judges out of the 28 Judges agreed with the proposition while 8 (28.57%) Judges were in strong agreement of the proposition.

Treating prisoners with fairness and humanity will eventually lead to decline in crimes when the prisoner finishes his/her sentence and attempts to lead a normal life, 230 (60.05%) advocates i.e. more than half of the advocates out of the 383 agreed with the proposition while 153 (39.95%) advocates were in disagreement with the proposition. The details of the above table are shown in the following Bar Graph (Figure No.8).

Figure No.8



9. Security, Safety and Discipline are the three vital elements of “A Prison Administration”.

The main aim of prisons will always be safety and security, but equally important is the dynamics of prison discipline inside the prison to maintain discipline and good order for smooth functioning of day to day activities in the prison. It can be a difficult undertaking, to enforce even the most ordinary rules for safety and security in a prison. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 9

Classification	Total No of Respondents	Agree		Disagree	
		No.	%	No.	%
Officials	52	48	92.32	4	7.68
Prisoners	104	96	92.31	8	7.69
Judges	28	28	100	0	0
Advocates	383	211	55.09	172	44.91
Total Respondents	567	383	-	184	-
Total %	100	-	67.54	-	32.46

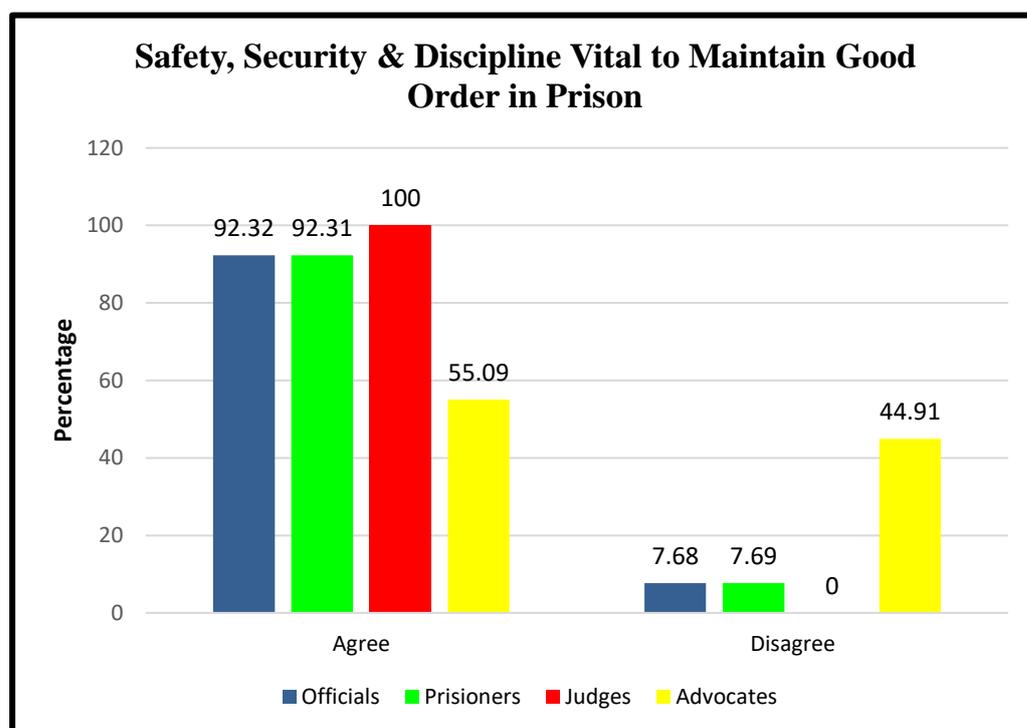
The officials were asked whether they agree that Security, Safety and Discipline are three vital elements of a Prison Administration to maintain Good Order, 48 (92.32%) officials out of the 52 Prison Officials strongly agreed, while only 4 (7.68%) officials strongly disagreed.

Security, safety and discipline are the three vital elements of prison administration to maintain good order in a prison, 96 (92.31%) out of 104 prisoners responded and agreed while 8 (7.69%) prisoners however, disagreed.

Judges were asked whether they agree that Security, Safety and Discipline are the 3 vital elements of a Prison Administration to maintain Good Order, all 28 Judges (100%) out of the 28 Judges strongly agreed.

Advocates were asked whether they agree that Security, Safety and Discipline are the 3 vital elements of a Prison Administration to maintain Good Order, 211 (55.09%) advocates, out of the 383 Advocates strongly agreed, while 172 (44.91%) advocates expressed their disagreement. The details of the above table are shown in the following Bar Graph.

Figure No.9



10. An impartial and positive surrounding prevents disorder in prison.

If such an atmosphere is given to a prisoner it is possible to achieve the objective of preventing any kind of disorder in the prison system. An empirical data was collected to prove the idea from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates..

Table No. 10

Classification	Total No of Respondents	Agree		Disagree	
		No.	%	No.	%
Officials	52	48	92.32	4	7.68
Prisoners	104	92	88.46	12	11.54
Judges	28	20	71.43	8	28.57
Advocates	383	161	42.03	222	57.97
Total Respondents	567	321	-	246	-
Total %	100	-	56.62	-	43.38

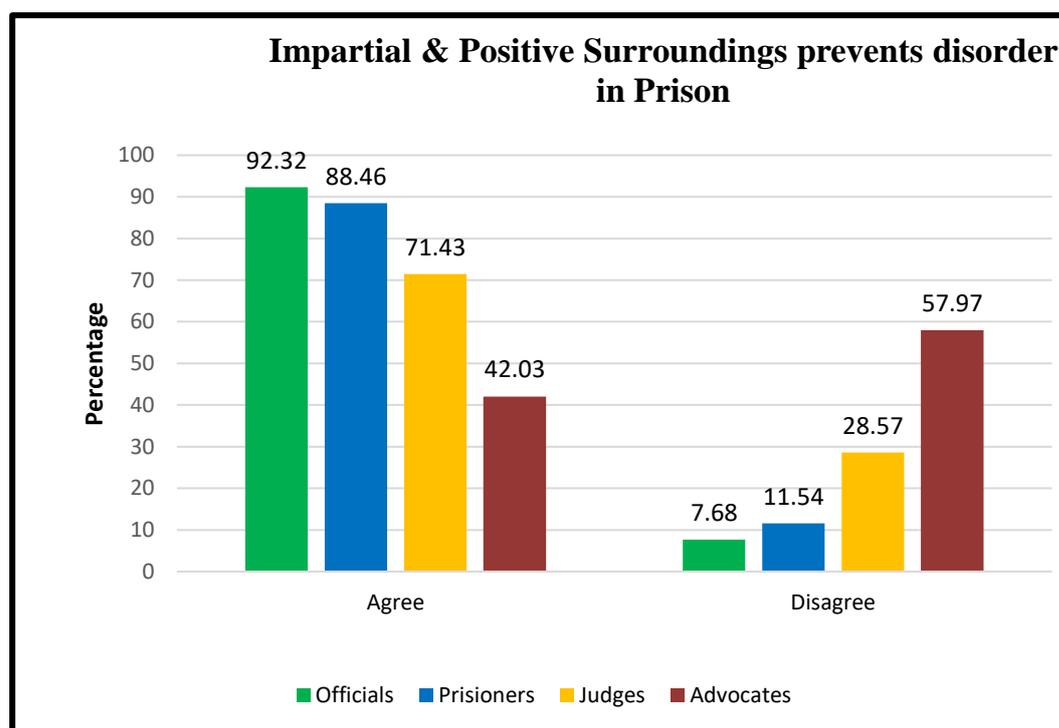
Achieving the objective of preventing any kind of disorder in the prison system by providing an impartial and a positive surrounding to the prisoner, 48 (92.32%) officials out of the 52 Prison Officials strongly agreed with the contention as against 4 (7.68%) officials disagreed.

Impartial and positive surrounding would make it possible to achieve the objective of preventing any kind of disorder in the prison system, 92 (88.46%) out of the 104 Prisoners agreed with the contention, while 12 (11.54%) prisoners strongly disagreed that an impartial and positive surrounding could achieve the objective of preventing any kind of disorder in the prison system.

Achieving the objective of preventing any kind of disorder in the prison system by providing an impartial and a positive surrounding to the prisoner, 20 (71.43%) Judges out of the 28 Judges strongly agreed with the contention while 08 (28.57%) Judges expressed their disagreement.

Achieving the objective of preventing any kind of disorder in the prison system by providing an impartial and a positive surrounding to the prisoner, 161 (42.03%) advocates out of the 383 Advocates strongly agreed with the contention while a majority of the advocates i.e. 222 advocates disagreed strongly. The details of the above table are shown in the following Bar Graph.

Figure No. 10



11. A prisoner can reform after serving a sentence if treated humanely.

Prisoners should be treated fairly, with justice, humanity, and respect as individuals whilst in prison custody. A prisoner should be treated as an individual. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 11

Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	38	73.08	14	26.92
Prisoners	104	57	54.81	47	45.19
Judges	28	18	64.28	10	35.72
Advocates	383	96	25.06	287	74.94
Total Respondents	567	209	-	358	-
Total %	100	-	36.86	-	63.14

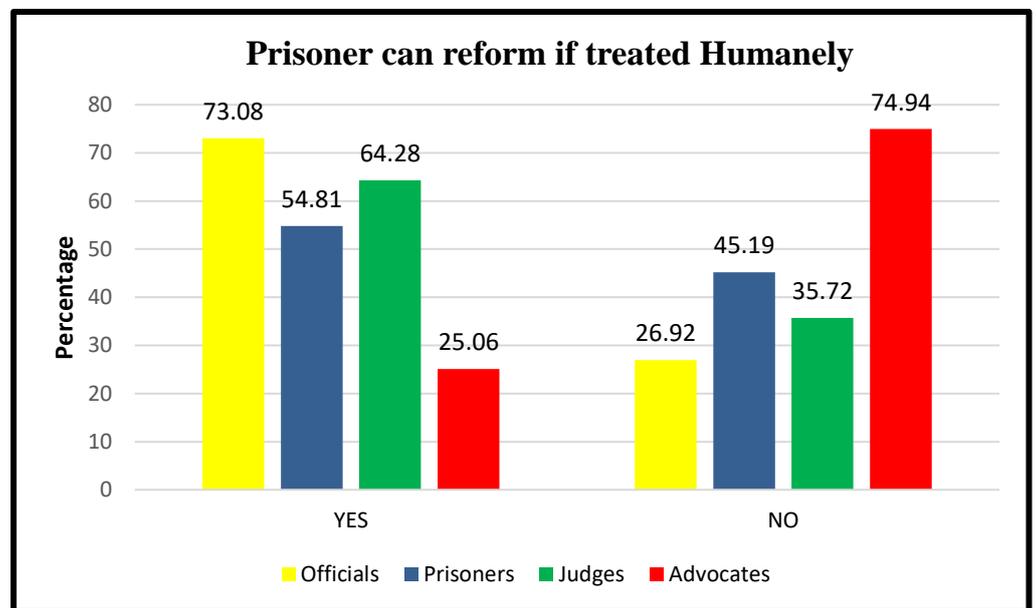
A prisoner can reform himself/herself after serving a sentence if treated humanely during course of the sentence, 38 officials (73.08%) of the 52 Prison Officials agreed with the proposition while 14 officials (26.92%) disagreed with the contention.

The prisoners were asked to opine on whether a prisoner can reform himself / herself after serving sentence if treated humanely. While 57 (54.81%) out of 104 prisoners agreed that being treated humanely would result in the prisoner reforming after serving a sentence, 47 (45.19%) prisoners did not agree with the contention.

A prisoner can reform himself / herself after serving a sentence if treated humanely during course of the sentence, 18 Judges (64.28%) of the 28 Judges agreed with the proposition while 10 Judges (35.72%) disagreed with the contention.

Out of 383 advocates, 287 (74.94%) advocates totally disagree with the contention that if a prisoner is treated humanely during course of the sentence he can reform himself/herself after serving sentence. Only 96 (25.06%) advocates of the 383 Advocates agreed with the proposition. The details of the above table are shown in the following Bar Graph.

Figure No. 11



12. Importance of Human Rights

Human Rights are applicable even to the Prisoners. Even though the prisoners are detained within four walls he cannot cease to possess Human Rights. Prison Wall doesn't stop the right of a person. To verify the object the empirical data is collected and is analysed in the table below from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 12

Classification	Total No of Respondents	0 to 3		4 to 6		7 to 10	
		No.	%	No.	%	No.	%
Officials	52	1	1.93	9	17.3	42	80.77
Prisoners	104	32	30.77	14	13.46	58	55.77
Judges	28	4	14.28	18	64.28	6	21.44
Advocates	383	234	61.09	57	14.89	92	24.02
Total Respondents	567	271	-	98	-	198	-
Total %	100	-	47.79	-	17.28	-	34.93

Importance of human rights in prison administration at Colvale Jail, 42 officials out of the 52 Prison Officials asserted that a very high degree of importance (between 7-10 on a scale of 1-10), while 9 officials (between 4-6 on a scale of 1-10) revealed that medium degree of importance is assigned whereas 1 official believed that extremely low importance (between 0-3 on a scale of 1-10) was assigned to Human Rights.

The prisoners were asked to rate on a scale of 1-10 (10 being the highest) as to how much importance was given to Human Rights in the prison administration. 58 (55.77%) out of 104 prisoners rated the

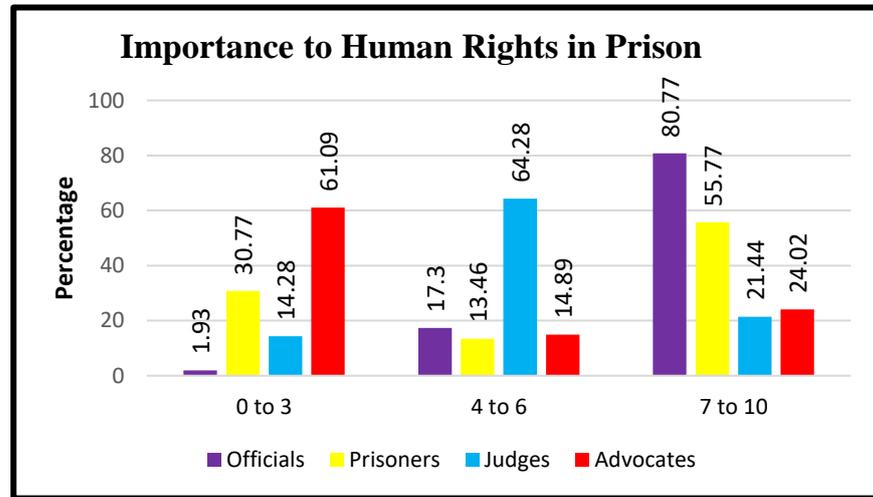
importance given to Human Rights between 7-10, on a scale of 1-10. 32 (30.77%) prisoners rated the importance given to human rights between 0-3 on a scale of 1-10. 14 (13.46%) prisoners however, rated the importance given to Human Rights in a prison between 4-6 on a scale of 1-10.

Importance of human rights in prison administration at Colvale Jail, only 6 Judges out of the 28 Judges asserted that a very high degree of importance (between 7-10 on a scale of 1-10), while 18 Judges (64.28%) (between 4-6 on a scale of 1-10) revealed that medium degree of importance is assigned whereas 4 (14.28%) Judges believed that extremely low importance (between 0-3 on a scale of 1-10) was assigned to Human Rights.

Importance of human rights in prison administration at Colvale Jail, 234 (61.09%) advocates out of the 383 Advocates asserted that a very low degree of importance (between 0-3 on a scale of 1-10) is being given, while 57 (14.89%) advocates revealed that medium degree of importance (between 4-6 on a scale of 1-10) is assigned, whereas 92 (24.02%) advocates believed that extremely high importance (between 7-10 on a scale of 1-10) was assigned to Human Rights. The details of the above table are shown in the following Bar Graph.

Overall the stake holders have rated the importance of Human rights in the prisons a very low 0-3 on a scale of 1-10 (10 being the highest). 47.79% of the stake holders are not very happy with the amount of importance given to Human Rights inside the prisons

Figure No.12



13. Existence of wide gap between Theory and Practice

There always seems to be a huge difference between Theory and Practice. Theory and Practice should go hand in hand so as to attain maximum result of reformation of prisoners. The Prisons is a place of low visibility wherein the conditions that prevailed were inhuman and cruel. There is always a possibility to inflict injury and cause injustice on the prisoners that lurked in these closed and protected institutions. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 13

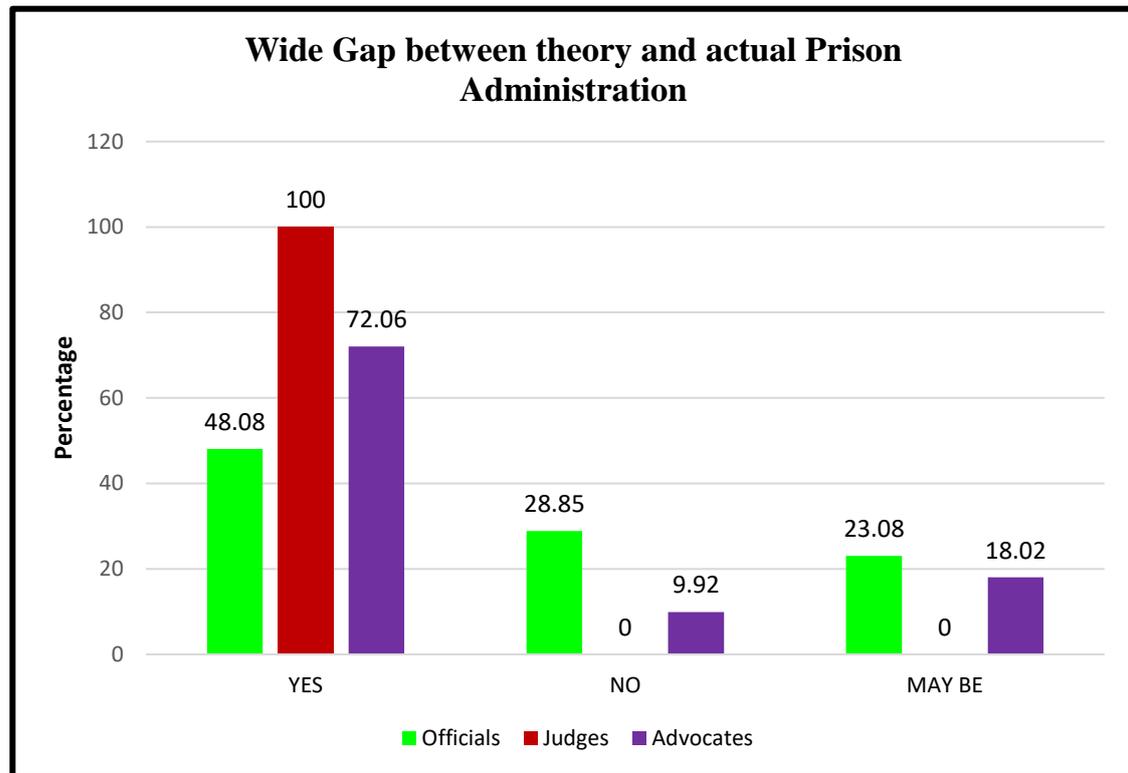
Classification	Total No of Respondents	YES		NO		MAY BE	
		No.	%	No.	%	No.	%
Officials	52	25	48.08	15	28.85	12	23.08
Judges	28	28	100	0	0	0	0
Advocates	383	276	72.06	38	9.92	69	18.02
Total Respondents	463	329	-	53	-	81	-
Total %	100	-	71.06	-	11.45	-	17.49

There exists a wide gap between the theory of Prison administration and the hard reality, 25 officials (48.08%) out of the 52 Prison Officials confirmed the existence of a Gap, 15 officials (28.85%) denied the existence of any Gap between theory and reality while 12 (23.08%) officials responded as being unsure of the situation.

There exists a wide gap between the theory of Prison administration and the hard reality, every single Judge i.e. 28 Judges (100%) out of the 28 Judges confirmed the existence of a Gap.

There exists a wide gap between the theory of Prison administration and the hard reality, 276 advocates (72.06%) out of the 383 Advocates confirmed the existence of a Gap, 38 advocates (9.92%) denied the existence of any Gap between theory and reality while 69 (18.02%) advocates, responded as being unsure of the situation. The details of the above table are shown in the following Bar Graph. (Figure No. 13).

Figure No. 13



14. Prison Reforms have to be carried out with changing times.

Changing brings in the need to carry out necessary reforms in the prison administration. Prisons have been changing its thought process from being a institution for infliction of punishment too a correctional institution and now a reformation institution so has to reform a prisoner to get better and upon release get back into the society. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 14

Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	36	69.23	16	30.77
Judges	28	28	100	0	0
Advocates	383	314	81.98	69	18.02
Total Respondents	463	378	-	85	-
Total %	100	-	81.64	-	18.36

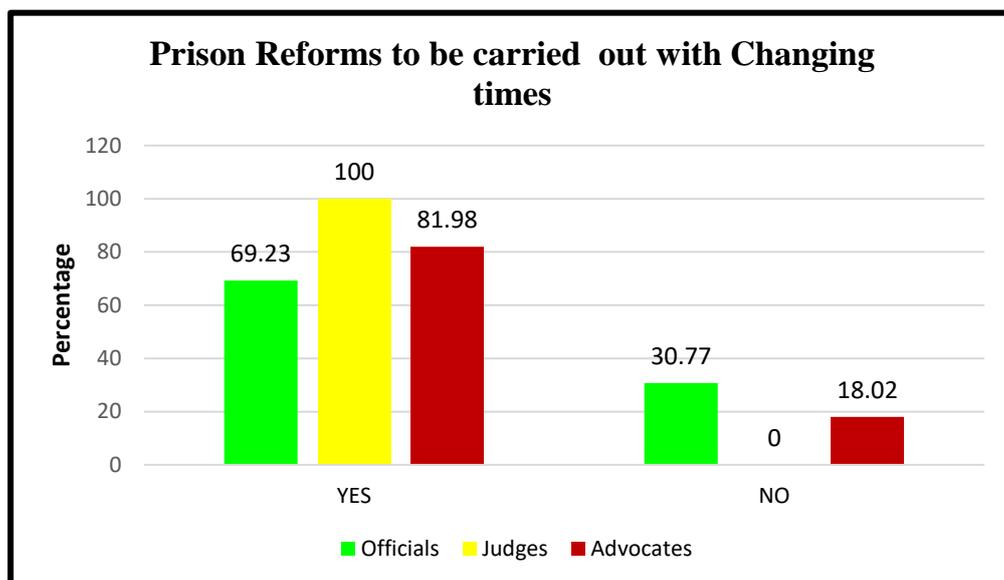
The Prison reforms have been carried out to keep up with the changing times, 36 officials (69.23%) out of the 52 Prison Officials answered in the affirmative while 16 (30.77%) opined in the negative.

The Prison reforms have been carried out to keep up with the changing times all the 28 Judges (100%) out of the 28 Judges answered in the affirmative.

A majority of 314 (84.84%) advocates out of the 383 advocates were certain that Prison reforms have to be carried out to keep up with the changing times. 69 (18.02%) advocates however, opined in the negative.

The details of the above table are shown in the following Bar Graph Figure No. 14.

Figure No.14



15. Uniform Prison Manual for all prisons in India.

Managing a Prison system is the most difficult job in the world. What keeps the prison administration going is the kind of leadership a prison administration consists off and therefore Uniform Prison Manual will help administering the Prisons uniformly throughout the country. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 15

Classification	Total No of Respondents	Agree		Disagree	
		No.	%	No.	%
Officials	52	50	96.16	2	3.84
Judges	28	28	100	0	0
Advocates	383	325	84.86	58	15.14

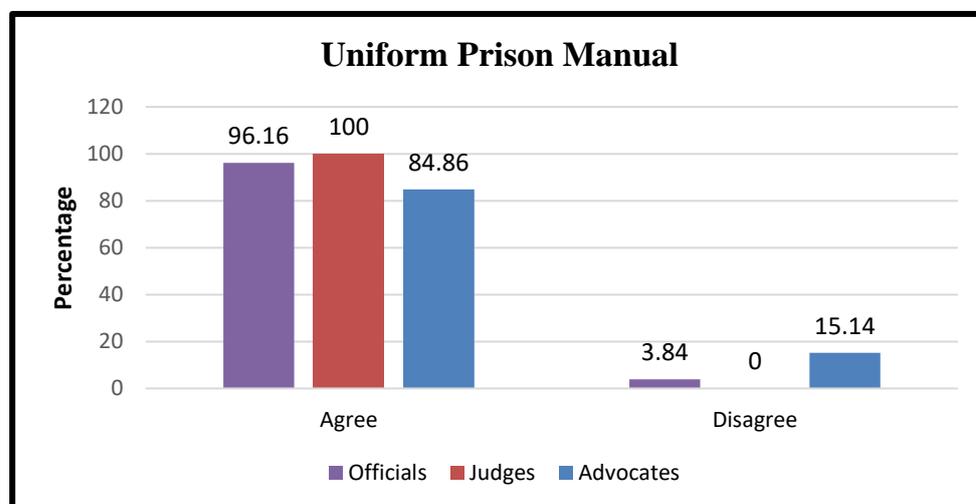
Total Respondents	463	403	-	60	-
Total %	100	-	87.04	-	12.96

There should be a Uniform Prison Manual for all Prisons in India, 27 (51.92%) officials out of the 52 Prison Officials agreed, while 23 (44.24%) officials strongly agreed. Only 2 (3.84%) officials disagreed with the proposition while none of the Prison Officials indicated a strong disagreement.

There should be a Uniform Prison Manual for all Prisons in India, 28 Judges out of the 28 Judges i.e. all 100% Judges agreed with the proposition while none of the Judges indicated any disagreement.

There should be a Uniform Prison Manual for all Prisons in India, a whopping 325 (84.86%) advocates agreed, while 58 (15.14%) advocates strongly disagreed with the proposition. The details of the above table are shown in the following Bar Graph (Figure No. 15).

Figure No.15



16. Rehabilitative measures makes a difference to the psychology of prisoner.

Prisoners are not criminals since birth. Crimes are not committed by persons who are released from prison only. Therefore what as to be looked into is the reason for the committing of crime in the society. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No.16

Classification	Total No of Respondents	Agree		Disagree	
		No.	%	No.	%
Officials	52	51	98.07	1	1.93
Prisoners	104	96	92.3	8	7.7
Judges	28	20	71.43	8	28.57
Advocates	383	96	25.06	287	74.94
Total Respondents	567	263	-	304	-
Total %	100	-	46.39	-	53.61

Rehabilitative measures, if provided to them, will make a difference to the psychology of prisoners 51 (98.07%) officials of the 52 Prison Officials agreed to the proposition while only 1 (1.93%) Prison Official strongly disagreed to the same.

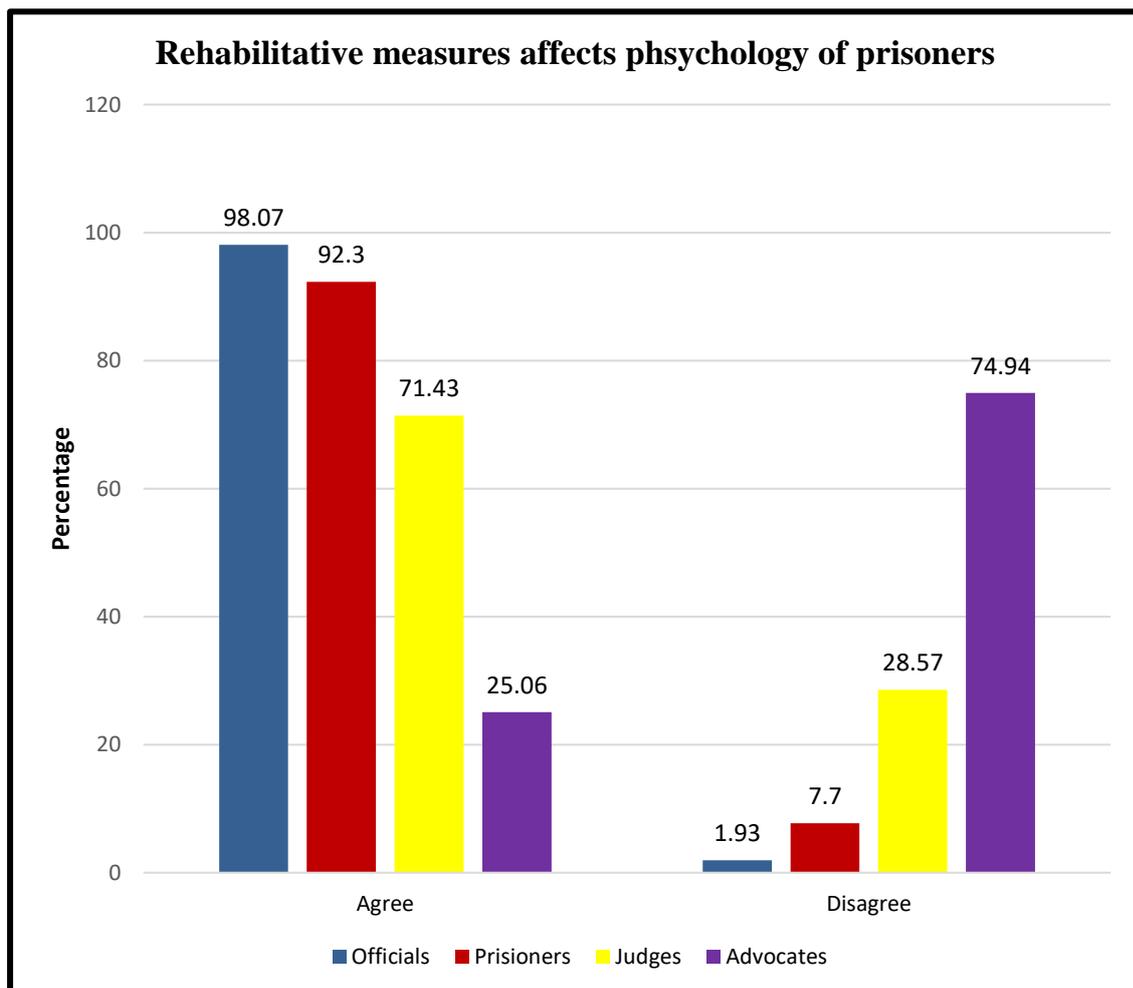
On being asked whether they believe that rehabilitative measures will make a difference to the psychology of the prisoners, 96 (92.3%) out of

104 prisoners agreed while 8 (7.7%) prisoners however, disagreed with the contention that rehabilitative measures if provided would make a difference to the psychology of the prisoners.

Rehabilitative measures, if provided to prisoners, will make a difference to the psychology of prisoners 20 (71.43%) Judges of the 28 Judges agreed to the proposition while 08 Judges (28.57%) Judges disagreed with the proposition.

When asked whether they believe that rehabilitative measures, if provided to them, will make a difference to the psychology of prisoners 287 (74.94%) advocates of the 383 Advocates agreed to the proposition while 96 Advocates (25.06%) strongly disagreed to the same. The details of the above table are shown in the following Bar Graph.

Figure No.16



17. Prison administration in Colvale Jail.

To verify the object of prison administration inside the Colvale Jail the stake holders were asked to rate the prison administration of the Colvale Jail on a scale of 1-10 (10 being the highest). The data is collected and is analysed in the table below from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 17

Classification	Total No of Respondents	0 to 3		4 to 6		7 to 10	
		No.	%	No.	%	No.	%
Officials	52	2	3.84	15	28.85	35	67.39
Judges	28	3	10.71	19	67.86	6	21.43
Advocates	383	234	61.09	57	14.89	92	24.02
Total Respondents	463	239	-	91	-	133	-
Total %	100	-	51.62	-	19.66	--	28.72

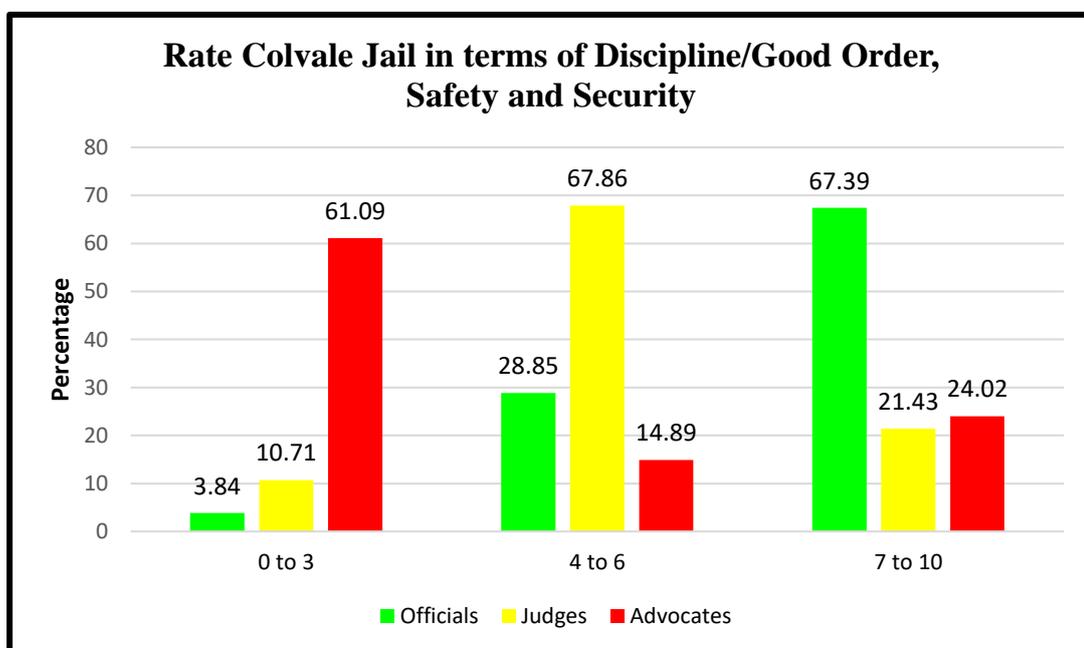
In regard to prison administration, of the 52 Prison Officials, 35 (67.31%) officials rated the administration between 7-10, on a scale of 1-10 (10 being the highest), while only 15(28.85%) officials rated prison administration to be between 4-6 on a scale of 1-10. Only 2 (3.84%) officials rated the prison administration between 0-3.

In regard to prison administration, of the 28 Judges, only 6 (21.43%) Judges rated the administration between 7-10, on a scale of 1-10 (10 being the highest), while 19 (67.86%) Judges rated prison administration

to be between 4-6 on a scale of 1-10. Only 3 (10.71%) Judges rated the prison administration between 0-3.

In regard to prison administration, of the 383 Advocates, 92 (24.02%) advocates rated the administration between 7-10, on a scale of 1-10 (10 being the highest), while 57 (14.89%) rated prison administration to be between 4-6 on a scale of 1-10. A large number of advocates i.e. 234 (61.09%) rated the prison administration between 0-3. The details of the above table are shown in the following Bar Graph (Figure No. 17).

Figure No.17



18. Methods to maintain good order in prison.

Good order basically in India is the result of the relationship that the prisoner and the prison staff share. It is the way in which they carry out the prison administration in a peaceful manner. To find out this the

researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 18

Classification	Total No of Respondents	Segregation		Isolation		Keeping without Food		All of the Above	
		No.	%	No.	%	No.	%	No.	%
Officials	52	30	57.69	6	11.54	3	5.77	13	25
Prisoners	104	45	43.26	20	19.24	10	9.62	29	27.88
Judges	28	0	0	0	0	0	0	28	100
Advocates	383	153	40	116	30.28	57	14.86	57	14.86
Total Respondents	567	228	-	142	-	70	-	127	-
Total %	100	-	40.22	-	25.05	-	12.34	-	22.39

30 (57.69%) out of 52 prison officials identified segregation as the most effective measure to maintain good order in prisons. While 6 (11.54%) officials identified Isolation as the best method to maintain good order in prisons, 3 (5.77%) officials felt that keeping the prisoners without food enables maintenance of good order in prisons. 13 (25%) officials responded by saying that all the methods i.e. segregation, isolation and keeping the prisoners without food are to be used in order to maintain good order in prisons.

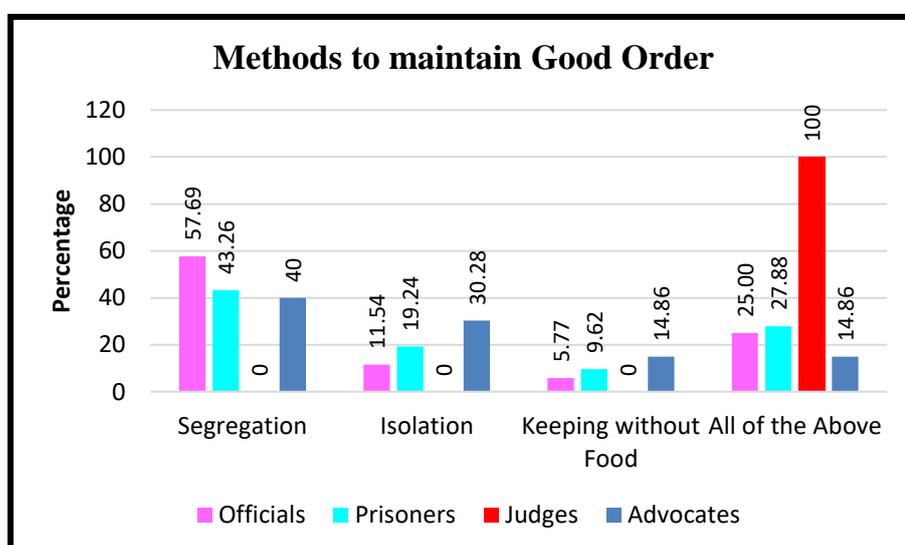
The prisoners were asked what they believed are the methods that are used to maintain good order in the prison. 45 (43.26%) out of 104

prisoners held that Segregation is the method that is used to maintain good order in the prison. 20 (19.24%) prisoners believed that it was isolation while 10 (9.62%) prisoners believed that keeping the prisoners without food would serve to maintain good order in the prison. 29 (27.88%) prisoners however, opined that all the three methods of Segregation, isolation and keeping without food would be necessary to maintain good order in the prison.

All of the 28 Judges, i.e. 100% out of the 28 Judges identified the fourth option i.e. segregation, Isolation, keeping the prisoners without food, all the above mentioned reasons enable maintenance of good order in prisons.

Out of 383 advocates 153 (40%) Advocates identified segregation as the most effective measure to maintain good order in prisons. While 57 (14.86%) advocates identified Isolation as the best method to maintain good order in prisons, 57 (14.86%) advocates felt that keeping the prisoners without food enables maintenance of good order in prisons. 116 (30.28%) Advocates responded by saying that all the methods i.e. segregation, isolation and keeping the prisoners without food are to be used in order to maintain good order in prisons. The details of the above table are shown in the following Bar Graph (Figure No. 18).

Figure No. 18



19. Reason for a breach of good order in a prison.

Some important factors that are responsible for crippling prison administration, are political interference, corruption and favouritism in prison administration along-with with an alarming rate of indiscipline among the hierarchy of the administration of Prisons. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 19

Classification	Total No of Respondents	No Freedom		Missing Family & Friends		Individual Dominance		Formation of Gang	
		No.	%	No.	%	No.	%	No.	%
Officials	52	12	23.08	15	28.85	20	38.46	5	9.61
Prisoners	104	40	38.46	19	18.27	30	28.84	15	14.43
Judges	28	3	10.71	15	53.57	10	35.72	0	0
Advocates	383	123	32	69	18	61	16	130	34
Total Respondents	567	178	-	118	-	121	-	150	-
Total %	100	-	31.39	-	20.81	-	21.34	-	26.46

According to the 20 (38.46%) of the 52 prison officials, individual dominance is the main reason for breach of good order in the prison. 15 (28.85%) officials identified missing family and friends as being the main reason for breach of good order. 12 (23.08%) identified the lack of freedom as being the main reason for breach of good order. Only 5

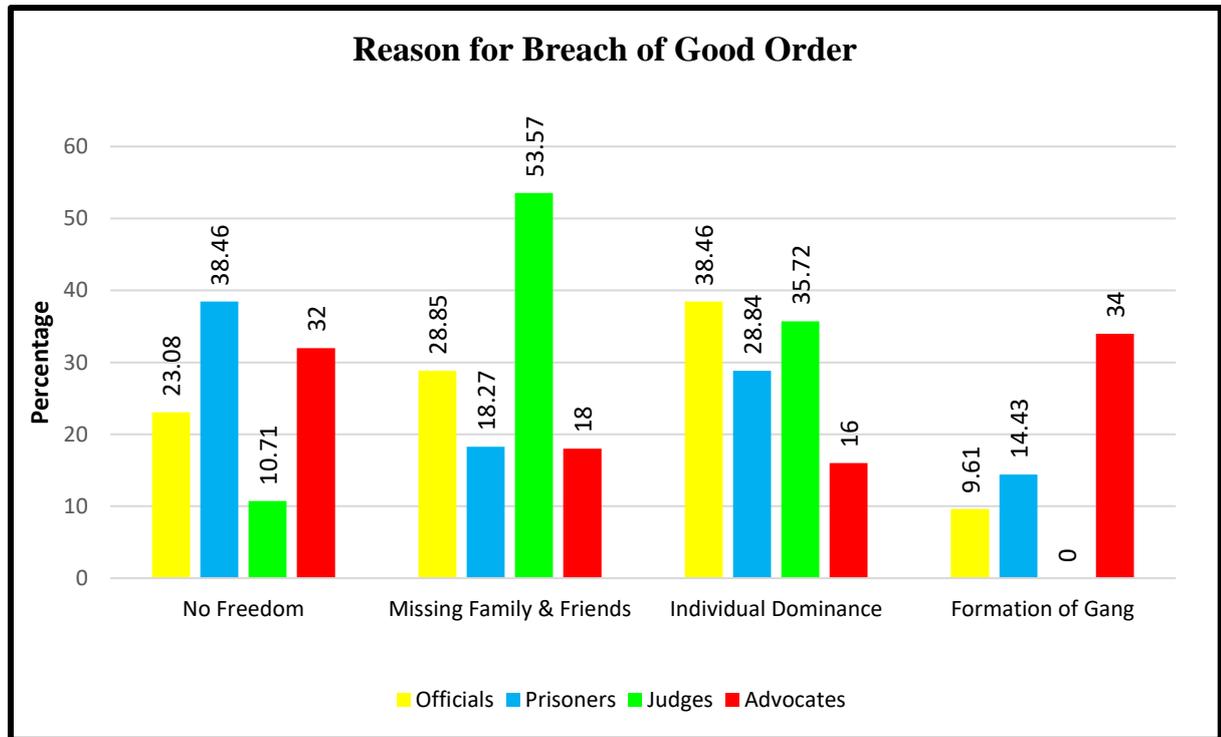
(9.61%) officials cited formation of gangs as being the cause for breach of good order in a prison.

The main reason for breach of good order in a prison, 40 (38.46%) out of the 104 Prisoners believed that it was lack of freedom that caused breach of good order. 30 (28.84%) prisoners believed that good order was breached on account of Individual dominance. 19 (18.27%) prisoners 0believed that breach of good order in a prison was a result of missing family and friends. While 15 (14.43%) prisoners identified formation of gangs was the main reason for breach of good order in a prison.

According to the 10 (35.72%) Judges, out of the 28 Judges, individual dominance is the main reason for breach of good order in the prison. 15 (53.57%) Judges identified missing family and friends as being the main reason for breach of good order. Only 3 Judges (10.71%) identified the lack of freedom as being the main reason for breach of good order. Surprisingly none of the Judges out of the 28 Judges/ Judges cited formation of gangs as being the cause for breach of good order in a prison.

383 advocates who responded were asked to identify what in their opinion was the main reason for breach of good order in a prison, (32%) i.e. 123 advocates out of the 383 Prisoners believed that it was lack of freedom that caused breach of good order. 61 (16%) advocates believed that good order was breached on account of Individual dominance. 69 (18%) advocates believed that breach of good order in a prison was a result of missing family and friends. While 130 (34%) advocates identified formation of gangs was the main reason for breach of good order in a prison. The details of the above table are shown in the following Bar Graph (Figure No. 19)

Figure No.19



20. Safety measures utilised to control a breach in good order.

Security generally refers to the external security of the prisons. Important requirement of any prison system is to keep in safe custody those prisoners whom the courts have decided should lose their liberty. When there are apt security measures along with fair treatment in the prison a prisoner most of the times will not think of escaping. To find

out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table No. 20

Classification	Total No of Respondents	Use of Force		CCTV Cameras		Dynamic Security		All of the Above	
		No.	%	No.	%	No.	%	No.	%
Officials	52	3	5.77	6	11.54	27	51.92	16	30.72
Prisoners	104	21	20.19	12	11.54	33	31.73	38	36.54
Judges	28	0	0	0	0	0	0	28	100
Advocates	383	134	34.98	115	30.02	46	12.03	88	22.97
Total Respondents	567	158	-	133	-	106	-	170	-
Total %	100	-	27.87	-	23.46	-	18.69	-	29.98

Safety measures that are used to control in breach in good order 27 of the 52 officials identified dynamic security as the most reliable safety measure that can be utilised to control a breach in good order inside the prison. Only 6 of the officials considered CCTV cameras as reliable safety measure to control breach in good order. 3 officials were of the old school of thought and identified use of force as being the best safety measure to be utilised to control breach in good order. 16 officials however, responded by saying that all the three measures i.e. dynamic security, CCTV cameras and use of force are to be used as safety measures to control breach in good order in prisons.

The prisoners were asked about what safety measures are adopted by the prison administration to control a breach in good order. While 33 (31.73%) out of 104 prisoners identified dynamic security as the primary safety measure, 21 (20.19%) prisoners believed that it was use of force that enabled control of breach in good order. 12 (11.54%) believed that CCTV cameras enabled control by the prison administration. 38 (36.54%) prisoners however, believed that all three safety measures had to be utilised to control a breach in good order.

The safety measures that are used to control in breach in good order, all of the 28 Judges (100%) , responded by saying that all the three measures i.e. dynamic security, CCTV cameras and use of force are to be used as safety measures to control breach in good order in prisons.

The safety measures that are used to control in breach in good order 46 (12.03%) of the 383 advocates identified dynamic security as the most reliable safety measure that can be utilised to control a breach in good order inside the prison. 115 (30.02%) advocates considered CCTV cameras as reliable safety measure to control breach in good order. 134 (34.98%) advocates were of the old school of thought and identified use of force as being the best safety measure to be utilised to control breach in good order. 88 advocates (22.97%) however, responded by saying that all the three measures i.e. dynamic security, CCTV cameras and use of force are to be used as safety measures to control breach in good order in prisons. The details of the above table are shown in the Following Bar Graph (Figure No. 20).

Officials	52	22	42.13	12	23.08	18	34.62
Prisoners	104	28	26.92	35	33.65	41	39.42
Judges	28	25	89.28	0	0	3	10.72
Advocates	383	276	72.06	30	7.84	77	20.1
Total Respondents	567	351	-	77	-	139	-
Total %	100	-	61.90	-	13.58	-	24.52

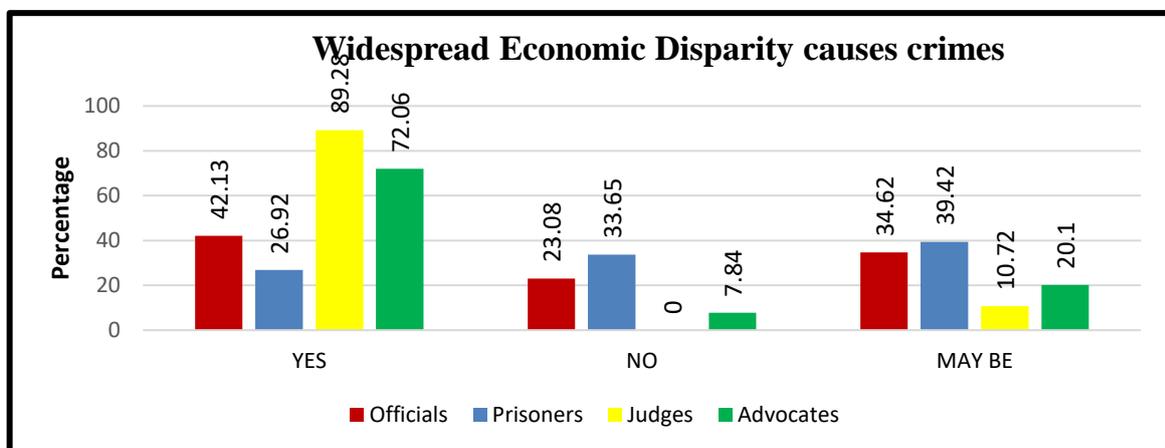
Widespread economic disparity is one of the most important factors causing crimes to be committed, 22 (42.31%) of the 52 officials answered in the affirmative. While 12 (23.08%) denied that as being the causal factor for commitment of crimes. 18 (34.62%) officials however, responded by not being sure and saying that widespread economic disparity may be an important factor to explain the commitment of crimes.

Widespread financial inequalities was one of the most important factors that caused crimes to be committed, 35 (26.92%) out of 104 prisoners agreed with the contention while 28 (33.65%) prisoners disagreed and 41 (39.42%) prisoners who responded were unsure.

Widespread economic disparity is one of the most important factors causing crimes to be committed, 25 (89.28%) of the 28 Judges answered in the affirmative. While none of the Judges denied that as being the causal factor for commitment of crimes. 03 (10.72%) Judges however, responded by not being sure and saying that widespread economic disparity may be an important factor to explain the commitment of crimes.

Out of the 383 advocates, 276 advocates (72.06%) believed that widespread economic disparity is one of the most important factors causing crimes to be committed. 30 (7.84%) of the 383 advocates answered in the Negative. 77 (20.10%) advocates however, responded by not being sure and saying that widespread economic disparity may be an important factor to explain the commitment of crimes. The details of the above table are shown in the following Bar Graph (Figure No. 21).

Figure No.21



22. CCTV, Daily Searches, Strip search etc.. is an important part of prison security.

High – Tech equipment makes the jobs of prison officials easy but takes away direct supervision of offenders. These New technologies are not just important, they are important and vital for survival. But even then strip searches and daily searches help to keep in check the safety and security and also discipline inside a Jail. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 22

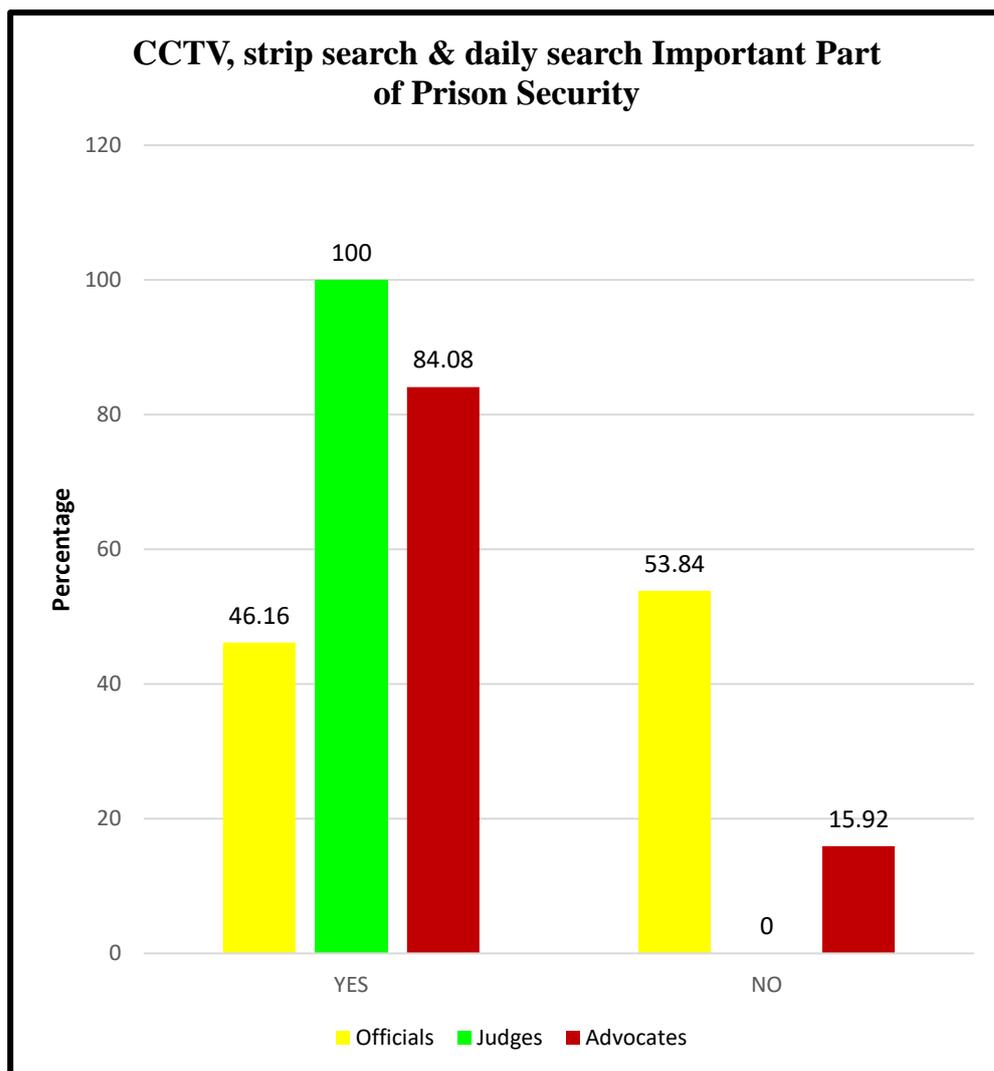
Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	24	46.16	28	53.84
Judges	28	28	100	0	0
Advocates	383	322	84.08	61	15.92
Total Respondents	463	374	-	89	-
Total %	100	-	80.77	-	19.23

Use of CCTV, conducting daily searches or carrying out strip search and other such methods are an important part of prison security, 23 (44.23%) officials out of the 52 agreed that these are an important part while 28 (54.85 %) of the officials disagreed.

Use of CCTV, conducting daily searches or carrying out strip search and other such methods are an important part of prison security, all 28 (100%) Judges agreed that these are an important part while none of the Judges disagreed.

Use of CCTV, conducting daily searches or carrying out strip search and other such methods are an important part of prison security, 322 (84.08%) advocates out of the 383 agreed that these are an important part while 61 (15.92 %) of advocates disagreed. The details of the above table are shown in the following Bar Graph (Figure No.22) .

Figure No.22



23. Commonly used safety measure.

Every Prison Contains safety measures to control the behavior of the prisoner within the prison administration. High – Tech equipment makes the jobs of prison officials easy but takes away direct supervision of offenders. These New technologies are not just important, they are important and vital for survival. But even then strip searches and daily searches help to keep in check the safety and security and also discipline inside a Jail. To find out this the researcher collected empirical data

from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 23

Classification	Total No of Respondents	CCTV		Daily Search		Strip Search		All of the Above	
		No.	%	No.	%	No.	%	No.	%
Officials	52	3	5.77	6	11.54	27	51.92	16	30.72
Judges	28	0	0	0	0	0	0	28	100
Advocates	383	107	27.94	38	9.93	77	20.13	161	42
Total Respondents	463	110	-	44	-	104	-	205	-
Total %	100	-	23.76	-	9.50	-	22.46	-	44.28

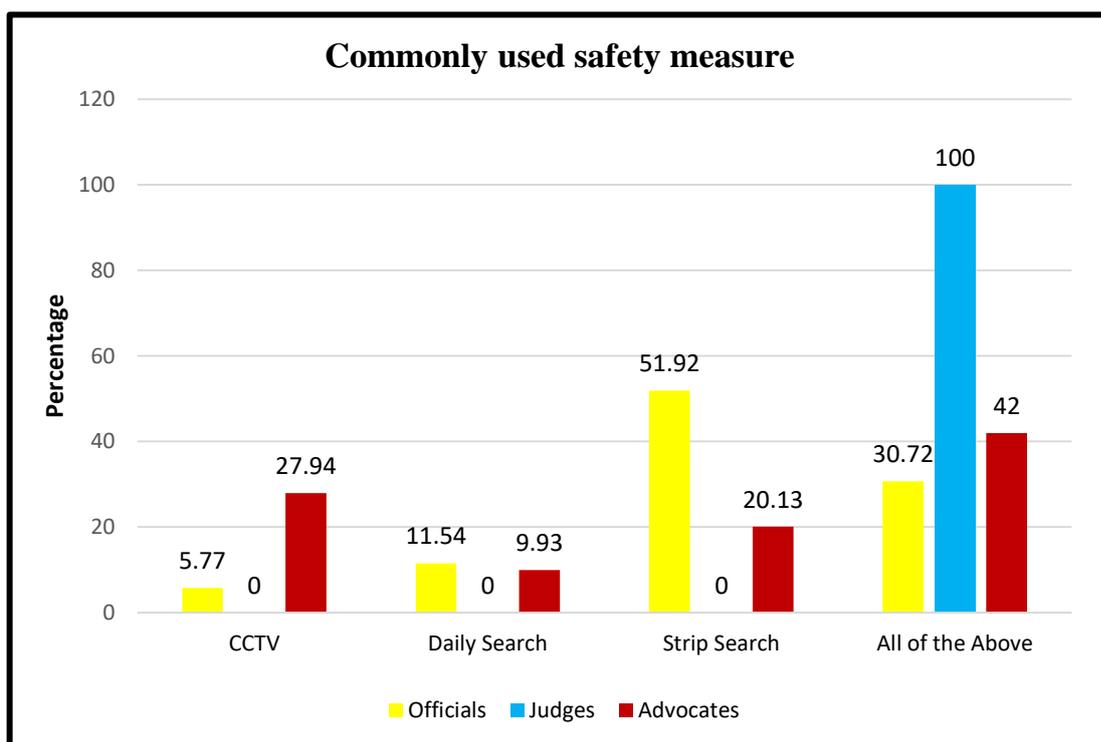
The most commonly used safety measure, 19 of the 52 officials responded by saying that CCTV is the most commonly used safety measure. 10 officials relied on daily search as being the most commonly used safety measure. 4 officials however, believed that strip search was the most commonly used safety measure. 19 of the 52 officials felt that CCTV , daily search and strip search together are the most commonly used safety measures.

The most commonly used safety measure, 28 out of the 28 Judges (100%) responded by saying that CCTV , daily search and strip search together are the most commonly used safety measures.

The most commonly used safety measure, 107 (27.94%) of the 383 advocates responded by saying that CCTV is the most commonly used safety measure. 38 (9.93%) advocates relied on daily search as being the

most commonly used safety measure. 77 (20.13%) advocates however, believed that strip search was the most commonly used safety measure. 161 advocates (42%) felt that CCTV, daily search and strip search together are the most commonly used safety measures. The details of the above table are shown in the following Bar Graph (Figure No. 23).

Figure No.23



24. Strip search constitutes degrading treatment to the prisoner and an infringement of their private life.

Prisoners do not cease to be human beings just because they are incarcerated. Prisoner is also a human being and therefore he needs to be given humane treatment inside the prison. Prison safety and security should be impeccable in the prison so that the safe custody and well-

being of the prisoners is not in jeopardy. Prisoners should be treated fairly, with justice, humanity, and respect as individuals even whilst in prison. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates..

Table No. 24

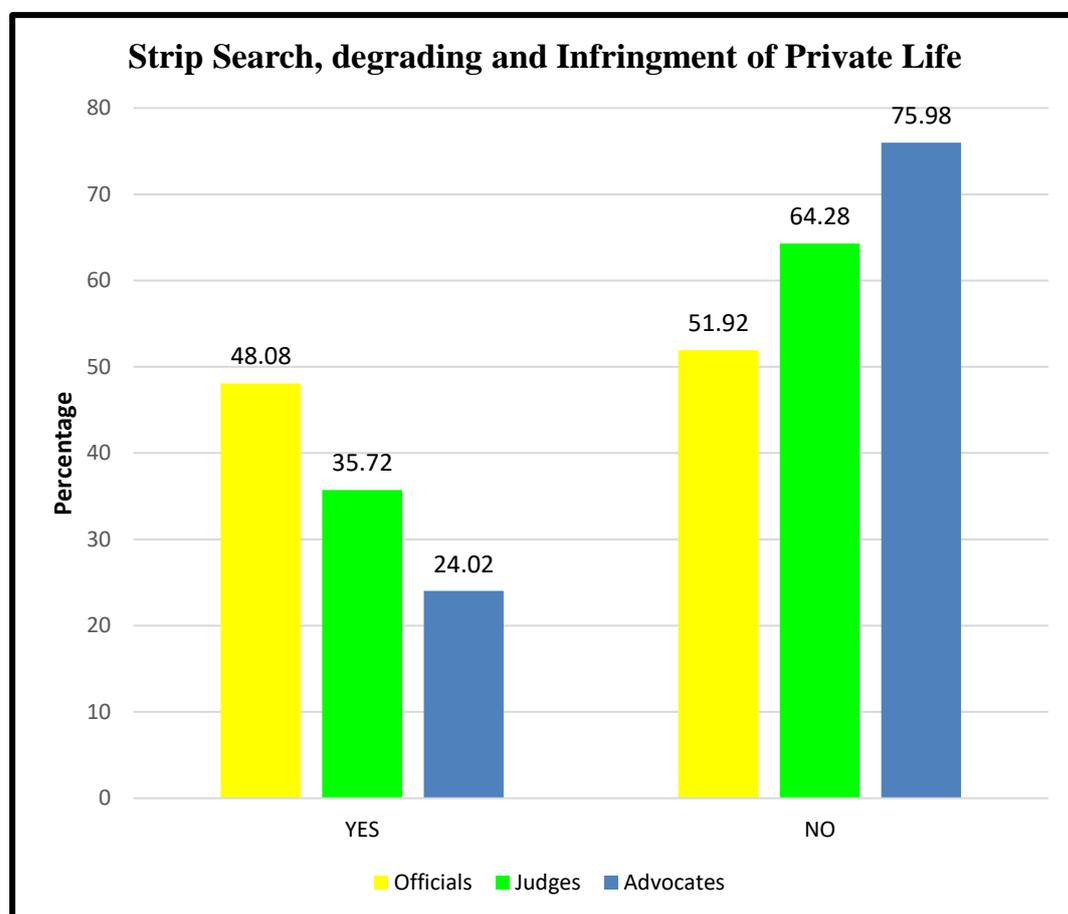
Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	25	48.08	27	51.92
Judges	28	10	35.72	18	64.28
Advocates	383	92	24.02	291	75.98
Total Respondents	463	127	-	336	-
Total %	100	-	27.42	-	72.58

The opinion of the prison officials was sought on whether they consider the safety measure of strip search as being degrading treatment to the prisoners and an infringement of their private lives. 25 (48.08%) of the 52 officials affirmed that strip search was a degrading treatment while 27 (51.92%) officials believed that it was not so.

The opinion of the Judges in the courts of Goa was sought on whether they consider the safety measure of strip search as being degrading treatment to the prisoners and an infringement of their private lives. 10 (35.72%) of the 28 Judges affirmed that strip search was a degrading treatment while 18 (64.28%) Judges believed that it was not so.

291 (75.98%) advocates opined in the negative and said that they do not consider that the safety measure of strip search as being degrading treatment to the prisoners and an infringement of their private lives. While 92 advocates (24.02%) affirmed that strip search was a degrading treatment. The details of the above table are shown in the following Bar Graph (Figure No. 24).

Figure No.24



25. Overall security in a prison.

It is the duty of the prison authority to provide and protect the safety and security of the prison and prisoners, and therefore it is termed as an

important role that has to be performed by the prison staff and officials. These officials have an important and quiet sensitive job with considerable implications for the safety and security in an institution. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Table no. 25

Classification	Total No of Respondents	Live Wire Fencing		Height of the Boundary Wall		Dynamic Security		All of the Above	
		No.	%	No.	%	No.	%	No.	%
Officials	52	3	5.77	2	3.84	19	36.55	28	53.84
Prisoners	104	11	10.58	8	7.69	38	36.54	47	45.19
Judges	28	0	0	8	28.58	10	35.71	10	35.71
Advocates	383	69	18	115	30	46	12	153	40
Total Respondents	567	83	-	133	-	113	-	238	-
Total %	100	-	14.64	-	23.46	-	19.92	-	41.98

The officials were asked about what the prison administration mainly relies on overall security in a prison. While 19 (36.55%) officials said that they rely on dynamic security, 3 (5.77%) officials believed that Live wire fencing was the more important overall security measure for a prison. 2 (3.84%) officials identified height of the boundary wall as being the most reliable overall security measure for the prison. 28 (53.84%) officials however, believed that all the measures i.e. dynamic security, live wire fencing and the height of the boundary wall are together necessary for overall security in the prison.

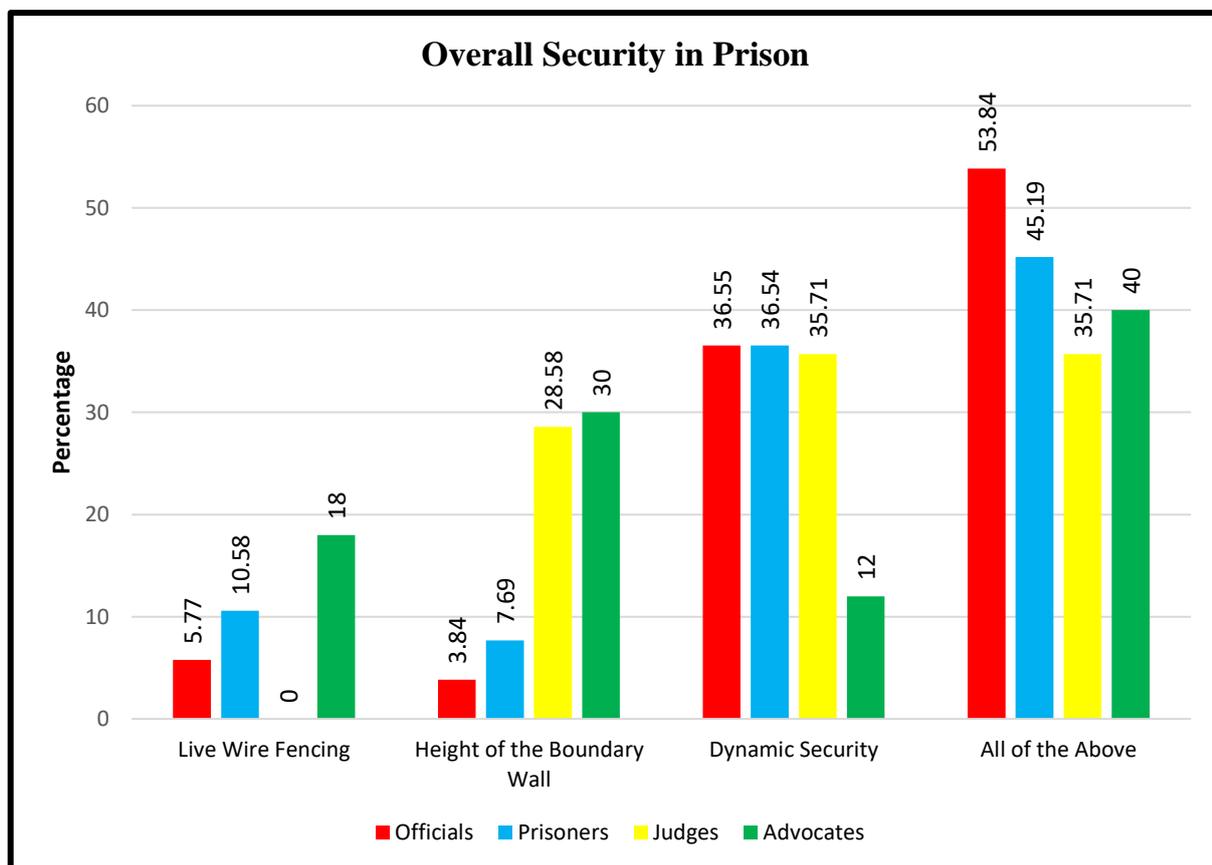
The prisoners were asked about which method was relied on by the prison administration to provide overall security in a prison. 38 (36.54%) out of 104 prisoners believed that it was dynamic security which was mainly relied on. 11 (10.58%) prisoners believed that the prison administration relied on live wire fencing for overall security, while 8 (7.69%) prisoners believed that it was height of the boundary wall that was mainly relied on for overall security. 47 (45.19%) prisoners however, opined that the prison administration relies on all the three methods namely dynamic security, live wire fencing and the height of the boundary wall to provide overall security in a prison.

The Judges in the courts of Goa were asked about what the prison administration mainly relies on overall security in a prison. While 10 (35.71%) Judges said that they rely on dynamic security, none of the Judges believed that Live wire fencing was the more important overall security measure for a prison. 8 (28.58%) Judges identified height of the boundary wall as being the most reliable overall security measure for the prison. 10 (35.71%) officials however, believed that all the measures i.e. dynamic security, live wire fencing and the height of the boundary wall are together necessary for overall security in the prison.

153 (40%) of the advocates out of 383 advocates, on being asked about what the prison administration mainly relies on overall security in a prison., believed that all the measures i.e. dynamic security, live wire fencing and the height of the boundary wall are together necessary for overall security in the prison. 46 advocates (12%) said that they rely on dynamic security, 69 advocates (18%) believed that Live wire fencing was the more important overall security measure for a prison. 115 (30%) advocates further, identified height of the boundary wall as being the

most reliable overall security measure for the prison. The details of the above table are shown in the following Bar Graph (Figure No. 25).

Figure No. 25



26. Reformation of a prisoner.

Every prison administration in the world is focusing on reformation of the criminal and not just punishment. Every prison administration have, their own methods for reformation. Basically the point that needs to be highlighted is that every prison administration needs to have an approach of reformation rather than punishment of a prisoner.

The prison administration today, is in desperate need to change its outlook towards the prisoners and try to change them rather than punish

them. The idea should be reforming a prisoner, so that he does not do another act of crime. To find out this the researcher collected empirical data from 567 stake holder which include Prisoners, Prison officials, Judges and Advocates.

Classification	Total No of Respondents	Education		Meeting Family & Friends		Probation		Parole	
		No.	%	No.	%	No.	%	No.	%
Officials	52	7	13.46	8	15.39	29	55.76	8	15.39
Prisoners	104	13	12.51	21	20.19	45	43.26	25	24.04
Judges	28	18	64.28	5	17.86	0	0	5	17.86
Advocates	383	184	48.05	84	21.93	38	9.92	77	20.1
Total Respondents	567	222	-	118	-	112	-	115	-
Total %	100	-	39.15	-	20.82	-	19.75	-	20.28

Table No. 26

Genuine reforms in a prisoner, 29 (55.76%) officials out of the 52 identified Probation as being the measure that would ensure genuine reforms. 8 (15.39%) officials opined that meeting family and friends would bring about genuine reforms in a prisoner. 8 (15.39%) other official identified Parole as the most important method of bringing about genuine reforms whereas 7 (13.46%) officials believed that genuine reform of a prisoner would be ensured through education.

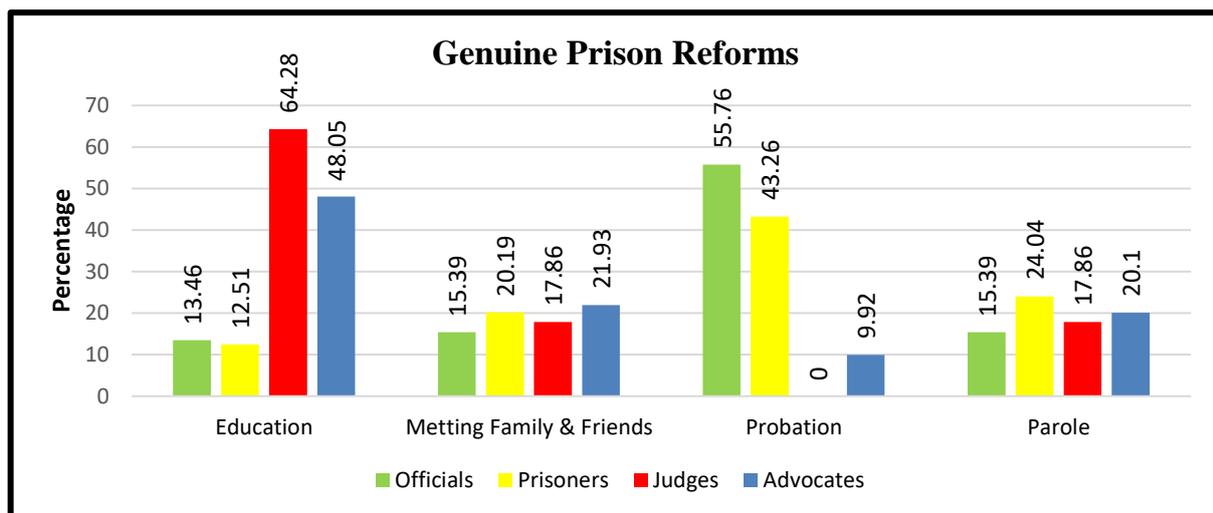
The prisoners were asked their opinion regarding what would bring about genuine reforms in the prisoners. 45 (43.26%) out of 104 prisoners

believed that it would be probation. 25 (24.04%) prisoners believed that it was the Parole facility. 21 (20.19%) prisoners opined that it would be meeting with family and friends while 13 (12.51%) prisoners believed that education would bring in genuine reforms in a prison.

Genuine reforms in a prisoner none of the Judges out of the 28 Judges identified Probation as being the measure that would ensure genuine reforms. 5 (17.86%) Judges opined that meeting family and friends would bring about genuine reforms in a prisoner. An equal No. of 5 (17.86%) Judges identified Parole as the most important method of bringing about genuine reforms whereas 18 (64.28%) Judges believed that genuine reform of a prisoner would be ensured through education.

Genuine reforms in a prisoner 184 (48.05%) advocates out of the 383 identified Education as being the measure that would ensure genuine reforms. 84 (21.93%) advocates opined that meeting family and friends would bring about genuine reforms in a prisoner. 77 advocates (20.10%) identified Parole as the most important method of bringing about genuine reforms 38 advocates (9.92%) believed that genuine reform of a prisoner would be ensured through Probation. The details of the above table are shown in the following Bar Graph as Figure No. 26.

Figure No.26



27. Awareness of necessary requirements laid down by the United Nations to run prison administration.

It is the duty of the prison administration to keep their staff updated with all the development with respect to law and international treaties. The ‘United Nations Covenant on civil and political rights’ observes that ‘all persons dispossessed of their independence should be treated with compassion and with respect for the intrinsic dignity of the human person.’¹⁰⁷ Therefore, Under both National as well as International human rights law, the state of Goa is obligated to maintain and guarantee adherence of basic human rights law in practise. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 27

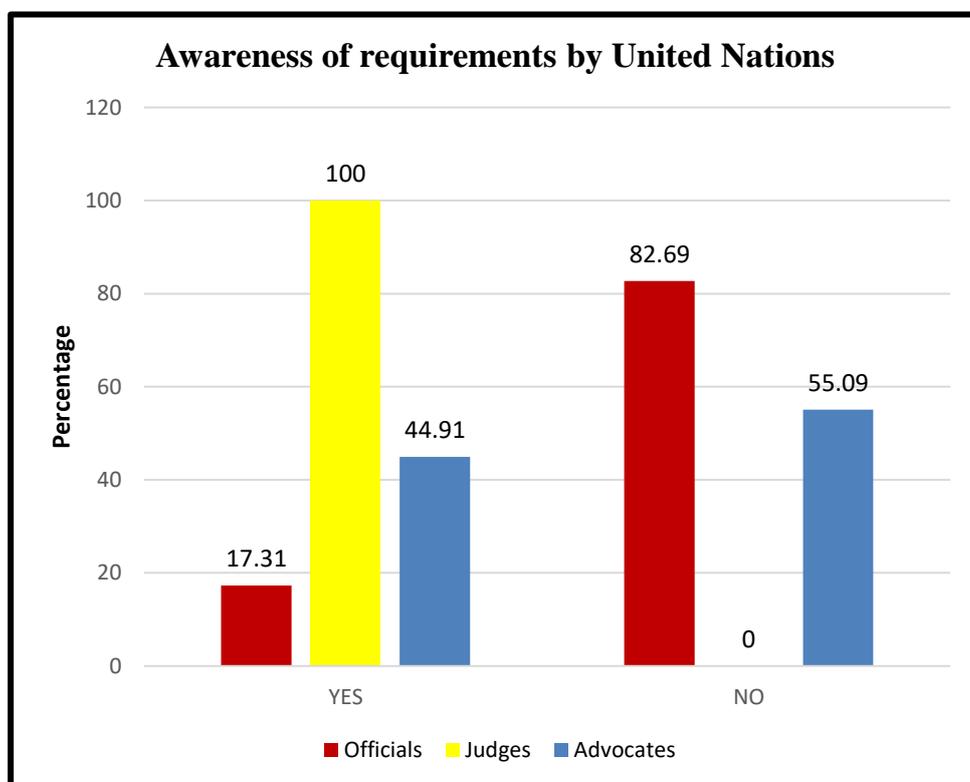
¹⁰⁷ United Nations Covenant on Civil and Political Rights, Art. 10.

Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	9	17.31	43	82.7
Judges	28	28	100	0	0
Advocates	383	172	44.91	211	55.1
Total Respondents	463	209	-	254	-
Total %	100	-	45.15	-	54.85

The prison officials were asked if they were aware of the necessary requirements laid down by the United Nations to run a prison administration, 43 (82.69%) of the 52 prison officials admitted that they were unaware while only 9 (17.31%) out of 52 officials affirmed their awareness.

Judges in the courts of Goa were asked if they were aware of the necessary requirements laid down by the United Nations to run a prison administration, all 28 (100%) of the 28 Judges admitted that they were aware while none out of 28 Judges said that they were unaware of the same.

383 advocates responded if they were aware of the necessary requirements laid down by the United Nations to run a prison administration, 211 (55%) advocates were frank enough to deny that they were not aware of the necessary requirements laid down by the United Nations whereas 172 advocates (44.91%) admitted that they were aware. The details of the above table are shown in the following Bar Graph (Figure No.27).

Figure No.27

28. Programmes/ workshop/ seminars to create awareness amongst officers in Colvale Jail about any new development/new laws.

The prison administration has to conduct Programmes/ workshop/ seminars to create awareness amongst officers in Colvale Jail about any new development/new laws in the country so as to better implementation of rules and also maintain discipline inside the prison. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 28

Classification	Total No of Respondents	YES		NO	
		No.	%	No.	%
Officials	52	9	17.31	43	82.7
Judges	28	28	100	0	0
Advocates	383	303	79.12	80	20.9
Total Respondents	463	340	-	123	-
Total %	100	-	73.43	-	26.57

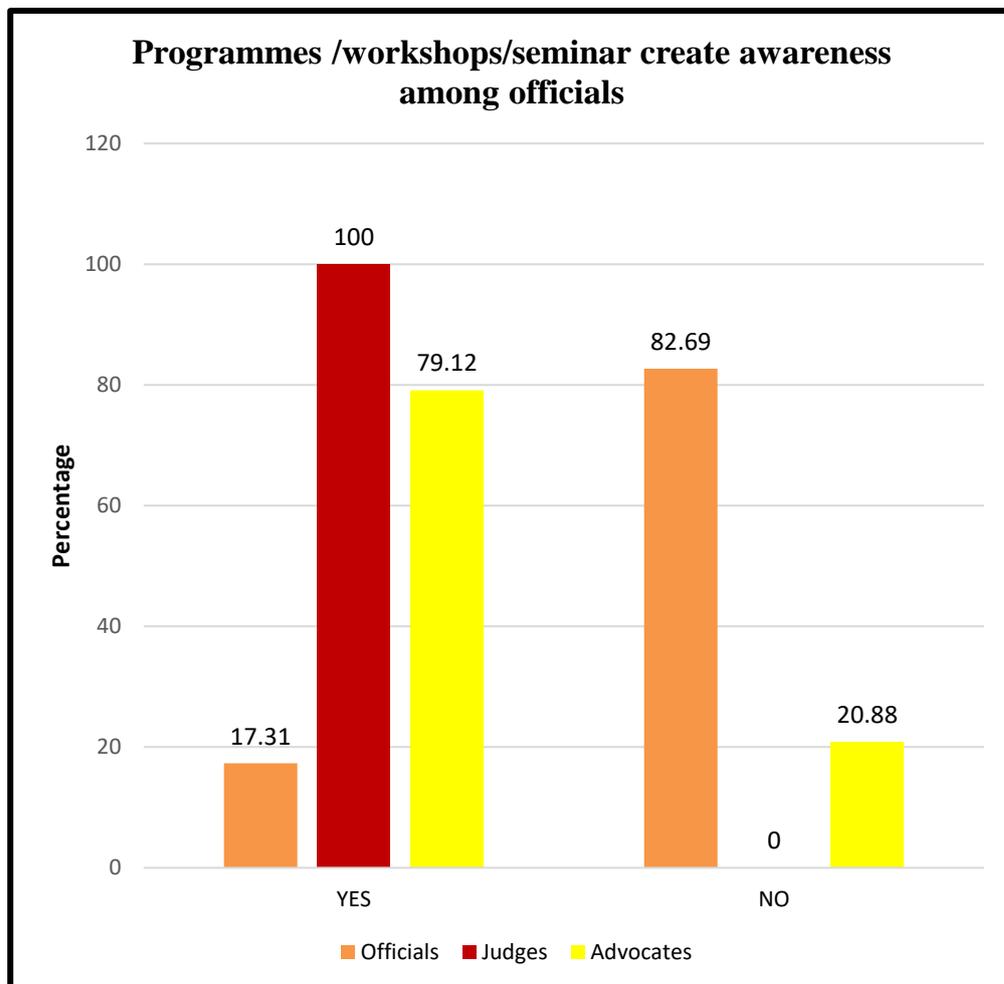
Programmes, workshops, seminars are conducted to create awareness amongst officers about new developments or new laws, 43 (82.69%) of the 52 officials admitted that such programmes like programmes, workshops, seminars were not conducted while only 9 (17.31%) officials said that awareness was created amongst the prison officials through such programmes, workshops, seminars.

Programmes, workshops, seminars are conducted to create awareness amongst officers about new developments or new laws, 28 Judges (100%) of the 28 Judges admitted that such programmes like programmes, workshops, seminars were conducted while none of the Judges said that awareness was not conducted amongst the prison officials through such programmes, workshops, seminars.

Programmes, workshops, seminars are conducted to create awareness amongst officers about new developments or new laws, 303 (79.12%) of the 383 advocates admitted that such programmes like programmes, workshops, seminars were conducted while only 80 (20.88%) advocates

said that awareness was not created amongst the prison administration officials through programmes, workshops, seminars. The details of the above table are shown in the following Bar Graph (Figure No. 28).

Figure No.28



29. Rehabilitation programme/plan for prisoners in Colvale Jail.

Prison system should provide facilities like education, vocational training etc.. to the prisoners as per their interest. This will help the prisoner after his release into the society so that he can earn his livelihood and not turn to crime again.

Prison administration should give hope to the prisoners that this can help them find a way to fit back into the society by assuring them of helping find work upon their release. It also gets difficult to judge the effectiveness of the reformative programmes also with some opinionated atmosphere influences especially in the government either state or central. To find out this the researcher collected empirical data from 463 stake holder which include Prison officials, Judges and Advocates.

Table No. 29

Classification	Total No of Respondents	YES		NO		NOT AWARE	
		No.	%	No.	%	No.	%
Officials	52	7	13.46	45	86.54	0	0
Judges	28	15	53.57	6	21.43	7	25
Advocates	383	115	30.02	46	12.03	222	57.95
Total Respondents	463	137	-	97	-	229	-
Total %	100	-	29.57	-	21.16	-	49.45

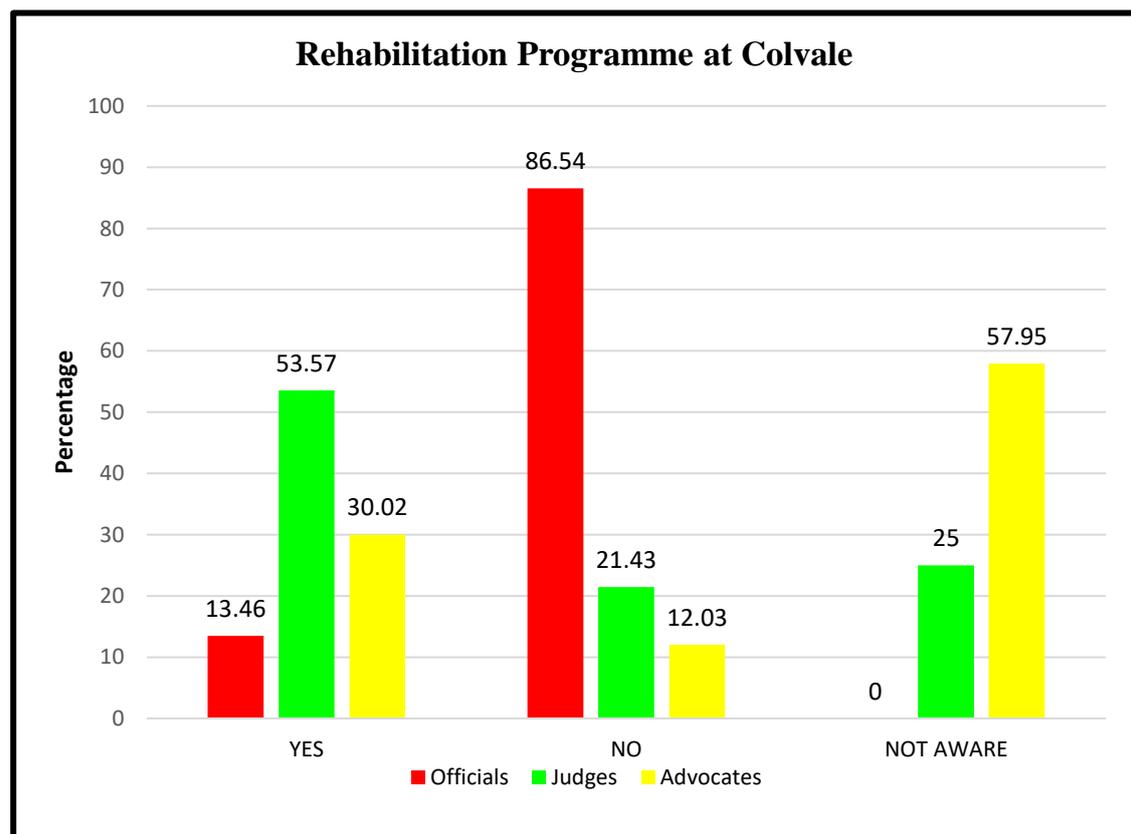
The prisons have a formal rehabilitation programme /plan for the prisoners, 45 (86.54%) of the 52 Prison Officials denied having knowledge of any such rehabilitation programme /plan however, 7 (13.46%) officials affirmed that such rehabilitation programme / plan did exist.

Colvale Jail have any formal rehabilitation programme /plan for the prisoners, 15 (53.57%) Judges of the 28 Judges affirmed having knowledge of such rehabilitation programme /plan however, 6 (21.43%) of the Judges denied that such rehabilitation programme / plan did exist.

7 of the Judges (25%) stated that they were not aware of any such rehabilitation programmes.

The prisons have a formal rehabilitation programme /plan for the prisoners, 222 (57.95%) advocates had no clue and said they were unaware / had no knowledge of any such rehabilitation programme /plan however, 115 (30.02%) advocates affirmed that such rehabilitation programme / plan did exist whereas 46 (12.03%) advocates denied that such rehabilitation programme / plan did exist. The details of the above table are shown in the following Bar Graph (Figure No. 30).

Figure No.29



30. Visits to Jail

The authorities need to visit Jails to verify the conditions the prisoners live in the prison. The authorities should also visit prisons to keep a check on the safety and security measures inside the prison. The researcher asked 411 stake holders to reveal how many times they had visited the Jail and the data is collected and analysed it in the following table.

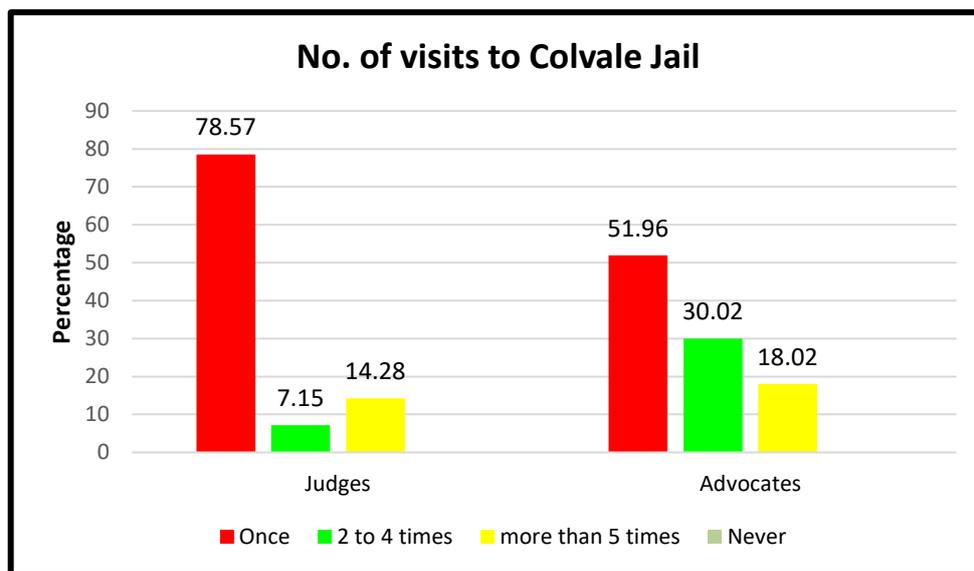
Table No. 30

Classification	Total No of Respondents	Once		2 to 4 times		More than 5 times		Never	
		No.	%	No.	%	No.	%	No.	%
Judges	28	22	78.57	2	7.15	4	14.28	0	0
Advocates	383	199	51.96	115	30.02	69	18.02	0	0
Total Respondents	411	221	-	117	-	73	-	0	-
Total %	100	-	53.77	-	28.46	-	17.77	-	-

Number of times the Judges have visited the Colvale Jail, 22 (78.57%) Judges have stated that they have visited the Colvale Jail at Least once till date. 2 (7.15%) out of the 28 Judges have stated that they have visited two times whereas 4 (14.28%) out of the 28 Judges have stated that they have visited the Colvale Jail more than 5 times. It is satisfying to see that all the Judges have at least once visited the Colvale Jail.

Out of 383 advocates 199 (51.96%) advocates affirmed that they have visited the Colvale Jail atleast once, 115 (30.02%) advocates said that they have visited Colvale Jail 2 to 4 times whereas 69 (18.02%) advocates have visited Colvale Jail more than 5 times. It is satisfying to see that all 383 of the respondent lawyers have at least once visited the Colvale Jail. The details of the above table are shown in the following Bar Graph (Figure No.31).

Figure No. 30



The data collected and the questionnaire administered to all the 567 stake holders clearly reveals the reality of the status of the safety and security measures in the prison administration. It also throws light on the knowledge of the prison officials judges and lawyers about the history of the prison system. It also gives a preview into the thought process of the stake holders about the meaning of prison to them and the causes of breach of security and safety inside the prison.

In the next chapter i.e. chapter 6, the researcher discussed the conclusion arrived at after analysing the empirical data. The researcher also suggests

some suggestions to the prison officials and the lawmakers and Judges. The researcher also provided suggestion to the prisoners.

“In our world prisons are still laboratories of torture, warehouses in which human commodities are sadistically kept and where spectrums of inmates range from drift-wood juveniles to heroic dissenters”¹⁰⁸

- Justice V.R. Krishna Iyer

6.1 Introduction

Generally, Prison system is often viewed as a cynical representation of humans being tormented in confinement. What has to be kept in mind is that a Prison is a place that only serves as a correctional place for humans who have lost their path in life and also a place that attempts to educate prisoners on how to lead an improved life in the society at large. This is only possible with sheer co-operation from both prisoners and prison officials, and in doing so the judiciary plays a key role. The entire approach should only lead to make better the sufferings of a prisoner and also help change the attitude of the society towards prisoners and create a path for the prisoners to try and get back into the society and not being judged by the free world.

Nelson Mandela said that “no one truly knows a nation until one has been inside its jails. A Nation should not be judged by how it treats its highest citizens, but its lowest ones.”¹⁰⁹

NGO’s (Non Governmental Organisation) with their philanthropic work within the prison administration, help the so called as the neglected bunch of human

¹⁰⁸ P Diwan and P Diwan, *Human Rights and the Law* (Deep & Deep Publications 1996) 169

¹⁰⁹ https://www.un.org/en/events/mandeladay/mandela_rules.shtml

beings, and make them believe that they do have the support of society, and facilitate to a larger extent in correcting these prisoners by the Prison administration.

The concept of transformation and reformation of a prisoner, is still a fanciful approach especially in prisons in Goa. One can say that there is no common target that the prisoners and the prison administration is out to achieve, there is no common goal. It will not be wrong to assume from the findings that the only thing a prisoner is expected to do is to 'obey' and 'exist'. The prison administration only seeks good conduct from the prisoner by hook or by crook. There is no thought given if and whether good conduct can be achieved by trying to reform the prisoner or correct the thought process of that prisoner.

In the words of *Hermann Mannheim*, "For centuries mankind had been accustomed to regard imprisonment as nothing but a preparatory stage for the infliction of other penalties. It is useful to remember this fact, because it may make it easier to many minds to reconcile themselves to the inevitable if imprisonment should again fall into disuse."¹¹⁰ We can see that there is a considerable decrease in awarding of capital punishment as a mode of punishment, it is almost negligible. In such situation incarceration is no doubt going to be around for a much longer time than we can imagine. To Hope for an eventual end of prison, or at least lower number of inmates, is not at all possible without having reformation and transformation tools and measures as against the means of imposing punishment as a deterrent only.

Breach in security, safety and good order in a prison system, faces the flak of public criticism and safe to say that such criticism is sure to be at its peak. The prison administration is sure to face ruthless criticism in cases where any high security prisoners turn out to be a threat to public safety or in some cases such prisoners escape from a prison. The more violent and destructive the prisoner, even though a small number is always difficult to manage by any prison

¹¹⁰ *The Dilemma of Penal Reform* (1938) at p. 45.

administration. Though in Goa, there are few to none of such kind of violent or problematic prisoners.

At times it becomes very difficult for any prison administration to manage the prisoners and also at the same time guarantee a sense of balance in the safety, security and discipline in the functioning of a prison administration. It is not difficult to assume as it goes without saying that a prisoner in every controlled environment who is imprisoned for a fairly long time has to be treated as decently and humanly as possible.

6.2 Verification of Hypothesis

The hypothesis mentioned at the beginning of the chapter is hence proved that

- d. The Prison system in the country has become outdated in relation to Discipline, Safety and Security measures adopted by the prisons, so also the system used in the State of Goa.**

In chapter five Part II of the empirical data collection at table 17 and figure 17 it clearly shows that the stake holders rate the prison administration a lowest 0-3 on a scale of 1-10 (10 being the highest). The above hypothesis is thus proved in positive.

The prison administration has to keep a number of things in mind when its trying to frame rules and regulations to maintain good order, safety, security and discipline inside a prison system. The Constitution of India irrespective of the fact if a person is a prisoner, confers a number of fundamental rights upon citizens. India is also a signatory to a variety of international instruments relating to human rights, like the 'universal declaration of human rights' which observes that 'no one shall be subject to suffering or vindictive, inhuman or

mortifying treatment of punishment.’¹¹¹ Even the ‘United Nations Covenant on civil and political rights’ observes that ‘all persons dispossessed of their independence should be treated with compassion and with respect for the intrinsic dignity of the human person.’¹¹² Therefore, Under both National as well as International human rights law, the state of Goa is obligated to maintain and guarantee adherence of basic human rights law in practise.

e. There is an urgent need for Prison reforms in areas of Discipline, Safety and Security in a prison system and the approach towards a prisoner in such areas.

In chapter five Part I of the empirical data, the data collected clearly reveals that there is urgent need to look into the safety measures of the prison administration. For a total of 388 prisoners there are only 52 prison officials on Duty. These prison officials include Dy. Superintendent of Police (Prison), and Jailor. The prison personnel manning the Jail are not given specially training specifically to deal with prison administration and are not at all trained to encounter any outbreak inside the prison.

The prison administration relies heavily only on the 10 CCTV cameras installed all over the prison.

The Indian Reserve Battalion (IRB) guards manning the 8 security towers are not equipped nor are they very well trained for any outbreak of a very serious / violent in nature.

There are no Live Wire fencing in the Jail but the boundary wall of the Jail is very high. That is the only reason that there are no jail breaks by crossing the boundary wall. The Prison administration should consider the fencing of the boundary wall on high priority.

¹¹¹ Universal Declaration of Human Rights Art. 5

¹¹² United Nations Covenant on Civil and Political Rights, Art. 10.

In chapter five Part II of the empirical data collection at table 6, 8, 10-16, 21-24 and 27 and figure 6, 8, 10-16, 21-24 and 27 clearly shows that there is an urgent need for Prison reforms in areas of Discipline, Safety and Security in a prison system. The graphs and tables also show the thought process of the stake holders is now more reformation rather than punishment. Prisoners are considered Human Beings with as much Human Rights as a normal free person. Thus clearly suggesting the above hypothesis that there is an urgent need for Prison reforms in areas of Discipline, Safety and Security in a prison system.

f. There is need to introduce various rehabilitative measures for Prisoners

In chapter five part II of the empirical data collection at table 26-29 and figure 26-29 the stake holders prove that education can bring genuine reforms in prisoners. There is also need to introduce programmes and workshops to educate the prison administrative staff and prison officials to learn the new laws and update themselves with latest cases and methods to maintain good order and safety inside the prison. The above hypothesis is thus proved in positive.

A Majority of the prison officials were aware of the theoretical basis of the Indian Prison system and Prison administration. However, it is a matter of concern that approximately 25% were unaware of the theoretical framework on which The Indian Prison system and prison administration and management is based.

It is interesting to note that while almost an equal number of officials and prisoners understood the meaning of prison as being a punishment facility or a correction facility, 60 out of 104 prisoners understood prison to be a

reformation facility while only 15 out of 52 of the officials thought of it as such.

While 58 out of 104 prisoners and 36 out of 52 officials understood the purpose of imprisonment to be reformation or improvement, a very small percentage 12 out of 52 of the officials thought of rehabilitation / recovery to be the purpose of imprisonment in comparison to 32 out of 104 prisoners.

A Large percentage of prison officials 51.92 % and prisoners 44.23% expressed that holding men and women against their will in a coercive environment does not reform the prisoners. A large number of both prison officials (46 out of 52) and prisoners (91 out of 104) agreed that treating prisoners with fairness and humanity would eventually lead to a decline in crimes when the prisoner returns to lead a normal life after completing the prison sentence. A Large number of both prison officials 48 out of 52 and prisoners 96 out of 104 agree that safety, security and discipline are the three vital elements of prison administration to maintain good order in a prison.

A large number of both officials (40 out of 52) and prisoners (92 out of 104) agree that providing an impartial surrounding to the prisoners makes it possible to achieve the objective of preventing any kind of disorder in the prison system. 73.08% of prison officials and prisoners 54.81% believe that a prisoner could reform himself / herself after serving sentence if treated humanely. The Largest number of officials (42 out of 52) declared that the importance given to Human Rights would rate between 7-10 on a scale of 1-10 (10 being the highest). It is however, pertinent to note that while 58 out of 104 of the prisoners rated the importance of given to Human Rights between 7-10 on a scale of 1-10, there were a fairly large number 32 out of 104 prisoners who rated the importance given to human rights only between 0-3 on a scale of 1-10 (10 being the highest).

It is pertinent to note that a majority of officials 48.08% believe that there exists a wide gap between theory and actual authenticities in prison administration. Majority of the officials 69.23% believe that prison reforms have to be carried out with the changing times.

A Majority of the officials 50 out of 52 agreed that there should be a uniform prison manual for all prisons in India. A large number of officials (51 out of 52) and prisoners (96 out of 104) believe that rehabilitative measures if provided to the prisoners will certainly make a difference to the psychology of the prisoners. 35 out of 52 officials rated prison administration between 7-10 on a scale of 1-10 (10 being the highest). A Large number of officials (30 out of 52) and prisoners (45 out of 104) believe that segregation is the most common method used to maintain good order in prison. While a large number of officials (20 out of 52) opine that individual dominance is the main reason for breach of good order in a prison, (40 out of 104) prisoners believed that it was the lack of freedom that was the main reason followed by individual dominance for breach of good order in the prison. Both officials (27 out of 52) and prisoners (33 out of 104) believe that dynamic security is the safety measure that is mostly utilised in comparison to use of force or CCTV cameras, to control a breach in good order inside the prison. However, a large number of prisoners (38 out of 104) opined that all three safety measures are utilised by the prison administration to control a breach in good order inside the prison.

A large number of officials 42.31% and prisoners 26.92% believe that widespread economic disparity is one of the most important factors causing commitment of crimes.

Officials were almost equally divided on CCTV, Daily Searches and Strip Search being an important part of security. While 44.23% agreed , 55.77% disagreed. While a Large number of officials (19 out of 52) opined that CCTV is the most commonly used safety measure and equal number (19 out of 52) of

officials opined that all three safety measures namely CCTV, Daily Searches and Strip Search are the most commonly used safety measures.

Officials are equally divided on whether strip search constitutes degrading treatment to the prisoner, causing infringement of their private life. While 44.23% of officials agreed, 55.77% did not subscribe to the view. The largest number of officials (28 out of 52) and prisoner (47 out of 104) believe that the prison administration relies on dynamic security, height of Boundary wall and Live Wire fencing for overall security in a prison. However, it is interesting to note that a large number of officials (19 out of 52) and prisoner (38 out of 104) believe that prison administration relies mainly on dynamic security for overall security in the prison.

A large number of both officials (29 out of 52) and prisoner (45 out of 104) believe that probation will bring in genuine reforms in a prisoner. An equal number of officials (8 out of 52) and prisoner (21 and 25 out of 104) believe that meeting family and friends and Parole would result in genuine reforms. Education is yet another factor that is identified by 7 out of 52 of officials and 13 out of 104 prisoners as an enabler of genuine reforms in a prisoner.

It is a matter of concern that an alarmingly large number of officials 82.69% are unaware of the necessary requirements laid down by the United Nations to run prison administration. It is also matter of concern that an alarmingly large number of officials 82.69% admit that no programmes, workshops or seminars are conducted to create awareness about any new development / new laws amongst the officials.

That programmes, workshops or seminars are not conducted is corroborated by the fact that an alarming large number of officials 82.69% (43 out of 52) chose not to respond to the question regarding frequency of the organisation of awareness programmes, workshops or seminars. It is a matter of serious

concern that a majority of the officials 86.54% (45 out of 52) admit the absence of rehabilitation programmes / plans for prisoners.

There is an urgent need that the state government has to recruit manpower exclusively trained and experienced for prison department's requirement. They should be allowed to escort the prisoners and also will be well trained to maintain the decorum of the prison system inside the prison.

Not only prisoners convicted of a crime but also prisoners who need to be incarcerated for medical and psychiatric treatment exclusively are housed in prisons/jails making it a multipurpose institution. The Supreme Court of India and the High Courts of various states have strictly denounced by way of various judgments the use of prisons as homes for the mentally ill. This practice continues to exist at some prison administrations.

The researcher noticed one thing in this research was that almost 70% of the prison population was illiterate. They had to use the help of others to even fill in their questionnaires as could not understand. This also means that these prisoners lack in understanding their rights. It is to be noted that the poor and illiterate prisoners are the ones who do not always get the benefit of the requirements of law in this regard.

It is imperative to impart legal literacy within the prisoners with the aim of dispersal of awareness amongst prisoners regarding their rights and responsibilities thereby sensitising the prison administration. Though in Colvale Jail there are some people whose job is that of a 'PARALEGAL helper', help in prison administration by providing Legal aid/assistance to fellow prisoners. They identify those prisoners who need and deserve legal aid.

Even though Colvale Jail is a fairly new premises, constant monitoring of the prison administration and the prison conditions is required so as to identify the

insufficiency and limitation of the prison administration. Necessary changes have to be suggested and if required implemented in law, to bring about the required reforms that are essential to the whole organization of prison administration.

Today, Indian jails are not classified on the basis of their criminal record but they are classified according to their social and economic background. In the colonial times it was essential to prevent under trials and first timers from being influenced and abused by the dominant and hard-core criminals in prisons.

Not just reformation of prisoners is what is of huge concern today, it is also the recruitment prison officials which has become a growing challenge. The job of a prison official or officer of the prison administration should not only be considered as a secured government job but it should be looked into as a job that can change the life of a prisoner and motivate the prisoners to lead a better and reformed life. A officer with integrity, with effective leadership and experienced professional attitude can make a difference in the prison administration.

Life in prison has to be one with restrictions on freedom and of course cannot be the same as the life of a free individual. It is after all, a punishment for a criminal act done against the public at large. It is also important and inevitable that the prisoners have to be treated with dignity. Presently this is not the situation. The pitiable conditions of prisoners are not confined to Goa alone. The propensity to disgrace and also offend prisoners is an attitude seen all over the country.

6.3 Conclusion and Suggestions

It is a very welcoming move that has been taken by the prison administration of the Colvale Jail that a person, from amongst the imprisoned, a prisoner himself has been appointed as a para-Legal helper to ensure safe if not smooth, flow of daily functioning of the prison administration. It gives a positive attitude to the prisoners too, and in a way helps maintain the discipline and security inside the prison. In some prison administrations in India the concept of a Prison 'Panchayat'¹¹³ is much encouraged. In such Panchayat's, the members of are elected by the prisoners from amongst themselves, as their representatives. The Colvale Jail should give it a thought to encourage this practise in their prison administration. This concept of a Panchayat can bring about good order in prisons while instilling in the prisoners a sense of society and well being and also act as a mechanism to maintain safety for all inmates and thereby ensuring a smooth functioning of the prison administration.

Colvale prison is not fully capable to handle situations regarding mass or large scale disorder in prisons, escapes, jail break etc.. It is an accepted fact that violence in prison do exists. Not very Long ago in year 2016, a noted gangster by name Mr. Ashpak Bengre who was imprisoned, was killed by another gangster by name Mr. Vinayak Karbotkar serving imprisonment, inside the premises of the prison. Later in the year 2017 Mr. Vinayak Karbotkar himself was killed by some other inmates due to a feud amongst themselves. Owing to these events no one can deny the presence of violence in a prison in Goa. It seems like these events occur from time to time inside the prison in Goa probably to show the strength of the prison inmates union or just to prove some point to the prison authorities, the fact of which is still not known.

However, the level of such violence does not remain steady and degree of the violent acts inside the prison seem to fluctuate from time to time. When such tragic event happens inside the prison premises where security is supposed to

¹¹³ Panchayat : is a body of 5 persons elected by a group of people (usually a village), wherein 1 person among the 5, is elected as a head of that elected group and also the head of people who elected them (usually 1 whole village).

be at its peak, the prison staff are more in shock as to how such thing can even occur inside prison rather than thinking what measures should they have taken so as to avoid such incidents. As the facts themselves speak that not once but twice in the last 3 years there have been 2 brutal murders inside the prison by the prisoners who are incarcerated.

The central Government in India have been approached by various State Governments concerning modernising prisons in their respective States. The state government of Goa though have constructed a new and improved prison at Colvale, they have requested for further grants to provide financial assistance. The problem of over-crowding in the Prison in Goa does not seem to be a matter of concern but what is alarming is the ratio of the Prison as compared to the number of Prisoners. The Colvale Prison in Goa is short staffed and especially with staff who have experience in handling tough and rough situations inside the prison.

As per the data from the ministry of Home, there have been many proposals received from various state Governments that will be considered only subsequent to the proposal presented by the ministry of Home Affairs is permitted by the Union Cabinet Ministry.¹¹⁴ There have only been few research works on the prison system for eg., in the states of Andhra Pradesh, Uttar Pradesh and Maharashtra, but there are so many states in India which are in dire need of standardization in the prison rules so that there can be improved working of the prisons in the country and certainly Goa prison is in need of serious rules looking at the rate at which the events violent in nature have occurred there in the past.

In the words of *Sir Lionel Fox*, “certain people are worthless from social standpoint and are in fact physically, mentally and morally a burden to society

¹¹⁴ Press Information Bureau, Govt. of India Press Release August 4, 2009

and there exists no rational reason to provide care for them.”¹¹⁵ Prison officials and other officials in the prison administration are of the opinion that those despicable criminals and the repeat offenders are more often than not an unwanted burden on the State Government but they have to realise, that, even if the said fact is true, they too, have to be acknowledged for the sake of respect to the human life and also for the sake of social security. In a Prison administration, what has to be borne in mind is that the aim of any judicial system or incarceration is to “reform the offender rather than to torture and antagonize him”.¹¹⁶ According to *Dr. Sethna*, “prisons should be ‘moral hospitals’ or places of re-education, but they should not be so comfortable as to be attractive”.¹¹⁷

The research above makes known that the policy makers of the state of Goa or on a larger thought the policy makers of our country, India, do not lack the abstract insight of the objectives and ideology, what a modern prison administration system should constitute. But what is essentially lacking is the political and also the governmental will that is crucial in such a bid to initiate the desire to bring about the desired reforms in the state of Goa, with respect to prison administration system in the Jail.

As punishment is the last resort, enforcing ordinary rules of good order, safety, discipline, and security, in Colvale prison administration is more of a difficult task. The officials have to all the time remember, that the enforcement of prison discipline has to be absolutely logical in relation to the severity of the violation in the prisons. The text book, conservative approach, to maintain good order and discipline inside a prison is no longer sufficient and necessary approach has to be amended with changing times and the development of technology.

¹¹⁵ Sir Lionel Fox : Studies in Penology (IPPC Publication) 1964, p. 112.

¹¹⁶ Curtis Bok : Problem in Criminal Law (1955) p. 78.

¹¹⁷ Sethna M. J. : Society and The Criminal (1964) p. 325.

With drastic changes in the fundamentals of the modern criminal school of thought, and the changes in theory of punishment in relation to the basic purpose of a prison administration system, the prisoner inside Goa prison, now more often than not receives no further punishment but is given the option for his necessary correction, moral regeneration that will eventually help him to resettle in the conventional social life.

One of the important aspects of correction and moral regeneration, as a form of positive encouragement can be lessening of the prison sentence of a prisoner. It will no doubt act and operate as an optimistic supportive step for any prisoner as a reward for their good behaviour and reformed attitude. This will put a much needed end to the mechanical approach, a system which otherwise is based on the whims and fancies of any prison official without ruling out that it can also be part of a strategy by some negligible section of shrewd prisoners to be of advantage to them.

In every developed or any developing country, the rise of awareness of the human rights of a person even if they are prisoners, brings along-with it a so called problem of social rehabilitation in respect of a prisoner. One of the main reasons for it being ethical awareness of a human which at times is quiet unwilling to even impose capital punishment on those who commit the gravest of crimes. People who are responsible to bring about social order like the government machinery or the judiciary find it imperative and a sort of a challenge to secure the redemption and rehabilitation of those prisoners who had drifted away for some time from the normal walks of social life but are now willing to bring about a change for the betterment of the society at large.

The government of Goa should accept and appreciate any kind of programme that serves in redemption and social rehabilitation of a prisoner and take steps for its effective implementation and its need of funds should be taken care of. Execution of any useful program always depends overly on the availability of

sufficient funds. It is therefore the most essential factor, to manage financial barrier to bring about satisfactory if not excellent improvement of prisoners with regards to their after-care activities in the state of Goa.

The researcher can conclude with the research that with the following three important viewpoint, reorganisation of uniform prison rules can be a reality to be used in any prison system throughout India and not only just Goa. First and foremost point that the prison administration should acknowledge is “Human Rights”. When the administration and the officials believe that even a prisoner can have and does possess Human Rights like any normal citizen of the country, positive reforms will take place. Secondly “Rehabilitation of the prisoners in society”, should be one of the main goals rather than just imprisoning a person for the acts committed. The officials and the prison administration should give it a thought as to how the prisoner can be reformed and sent back into the society. Lastly, the most crucial part where the state governments and the central government can play an integral part is the “Availability of Funds”.

It is a known fact that every Prison in India is a component under the state jurisdiction. That means that every state is responsible for the administration of its own prisons. Prison in every state is under the home Department that deals with law and order in that particular state. One can say that because of this structure the organisational pattern of the prison administration differs from state to state in India. The State governments therefore develop and extend prison departments in their respective states as per their home conditions and accessible funds.

From the research done at the Colvale Jail it was observed that most of the jail officials/correctional personnel are not paid sufficient salary that is proportionate to the responsibilities attached with their work. In Goa, Prison service holds very little prospect to motivated young men and women in Goa

with good education and dependable integrity. This job is only considered to be a secure Government Job with no attention paid to the reformation and rehabilitation of the prisoner. There is no aim to define and formulate rules to maintain any kind of good order in prisons nor any specific safety and security measures.

The Constitution of India classifies Prison Administration as a state subject and therefore it becomes even more imperative that there exists a uniform co-ordination amongst all the states in the country in order to ensure a unified and integrated improvement of prison services and prison rules in India. Necessary programmes and workshops have to be carried on for the prison administration officials and the members of the correctional service and make it a highly specialised profession.

There should be availability of funds necessary for the training and development of prison administration personnel. Necessary workshops and programs have to be contemplated by the prison administration and the state government for better prison reforms giving emphasis on reformation and rehabilitation of offenders. The Colvale Jail has made an effort to try and reform the prisoners by way of teaching them life skills and by trying to teach work skills and meditation. The new prison building is a stepping stone towards modernisation and mechanisation of prison industry.

The prison administration and correctional system are major components of the criminal justice system in any state. In the end, the ultimate analysis that is formulated from the research is that solution to the growing problems in a jail administration lies on the political will and the administrative intelligence, so as to bring about countless branched out reforms in various sectors of Indian criminal justice system that include the police, judiciary and eventually the prison administration being the correctional service system.

Last few years have brought about the need for even more prison reforms in the state of Goa along-with the entire country. With The Supreme Court and the high Courts in numerous judgments have observed the deplorable conditions widespread inside the prisons. These are the important reasons which eventually result in violation of the prisoner's rights. The problem of prison administration is not new and therefore has been scrutinized by abundant proficient bodies that were set up by the government of India, the most comprehensive examination being the All India Jail reforms committee of 1980 to 1983.

It is to be borne in mind that human rights are inalienable and under no circumstances can it be fortified. No authority take away any prisoners basic human rights, and under no circumstances. Though there are times where this tenet is not relevant to some of the prisoners which is neither well documented. Numerous judgements of Supreme Court of India and various high Courts, have observed and stated the kind of violations of prisoners rights. These judgements try to highlight the extremely substandard conditions widespread inside the prisons and also the malfunction of the prison authorities so as to provide surroundings which is beneficial to the safeguarding of prisoners rights. It is usually believed that the prisoners do not deserve all the rights and the protections conferred on them by the Constitution of India.

Overcrowding of prisons is one of the important reasons for a lapse in discipline, safety and security inside a prison system. Further, it is also responsible for other problems relating to poor health and living conditions and also clothing. Overcrowding also hampers prison administration and its attempt to help prisoners with skills that can provide them with gainful employment after they have served their sentence and are released back into the society. There is an urgent need for the criminal justice system to assess their sentencing policies along-with the notion of what constitutes a crime. The National police commission says that 60% of all the arrests made could have

either be prevented or were baseless. For the police, imprisonment is an effortless and uncomplicated solution. Section 151 of the criminal procedure code can be said to be used arbitrarily by the police and sometimes one can even say as per their whims and fancies. This only leads to a further problem of increased expenditure of the prison administration that could have been used for a better purpose.

One of the many solutions to try and curb the issue of overcrowding, can be to decriminalise certain petty offenses by substituting imprisonment with monetary Fine.

Overcrowding of prisons can be due delay in completion of trials. Failure of the Prison administration in the state to provide sufficient police escort to the prisoners to go to the courts on the date of their case hearing can be said to be one of the main reasons of delay in disposal of cases. The reason of such failures according to the police department is usually because of problems of law and order requirements, the security duties for VIP's etc.. where they have to install most of their manpower. There have been cases in the state wherein quite a few prisoner have fled from the custody of the police escorts on the way to court or on the way back from court to the prison. This poses a great threat to the prison administration as the staff of the police escorts are not trained for such situations and are incompetent to deal with it.

A sort of a solution to such problems has been initiated by the prison administration wherein some of the courts in Goa have started Video conferencing of the hearing of court cases. The District and Sessions Court in the state of Goa and also the Children's Court at Panaji have started taking up matters where the accused are present through Video Conferencing. Usually the video conferencing takes place at the Evidence /trial stage where witnesses have to be examined by the court in presence of the accused. This method has to be more extensively used in every court in Goa.

There is an urgent need that the state government has to recruit manpower exclusively trained and experienced for prison department's requirement. They should be allowed to escort the prisoners and also will be well trained to maintain the decorum of the prison system inside the prison.

Not only prisoners convicted of a crime but also prisoners who need to be incarcerated for medical and psychiatric treatment exclusively are housed in prisons/jails making it a multipurpose institution. The Supreme Court of India and the High Courts of various states have strictly denounced by way of various judgments the use of prisons as homes for the mentally ill. This practice continues to exist at some prison administrations.

The researcher noticed one thing in this research was that almost 70% of the prison population was illiterate. They had to use the help of others to even fill in their questionnaires as could not understand. This also means that these prisoners lack in understanding their rights. It is to be noted that the poor and illiterate prisoners are the ones who do not always get the benefit of the requirements of law in this regard.

It is imperative to impart legal literacy within the prisoners with the aim of dispersal of awareness amongst prisoners regarding their rights and responsibilities thereby sensitising the prison administration. Though in Colvale Jail there are some people whose job is that of a 'PARALEGAL helper', help in prison administration by providing Legal aid/assistance to fellow prisoners. They identify those prisoners who need and deserve legal aid.

Even though Colvale Jail is a fairly new premises, constant monitoring of the prison administration and the prison conditions is required so as to identify the insufficiency and limitation of the prison administration. Necessary changes have to be suggested and if required implemented in law, to bring about the

required reforms that are essential to the whole organization of prison administration.

Today, Indian jails are not classified on the basis of their criminal record but they are classified according to their social and economic background. In the colonial times it was essential to prevent under trials and first timers from being influenced and abused by the dominant and hard-core criminals in prisons.

An important aspect in the prison administration is the dilemma of demoralisation and lack of motivation amongst the prison staff. The environment in which the lower rank prison officials/staff lived were in some cases worse than those of the prisoners. This can be said to be an important factor that contributes to the unfortunate functioning of the prisons administration system at the Colvale Jail. The lack of interest of the prison officials/staff towards the predicament of the prisoners, corruption and the denial of the prisoners of their basic amenities gets transforms into hostility amongst and by the prisoners.

The approach of the officers at the prison administration management level, a large number of whom are on deputation from the police service, regard this as a punishment posting. These prison administration officials are generally demoralised to chip in significantly for the building up of a model prison administration department. The prison officials at the supervisory level too are demoralised for poor service conditions and lack of future career opportunities and always have low public esteem.

There are number of officials in the prison administration department who remain inside the prison walls and keep interacting with prisoners most of the time. This along-with the condition these officials live with, has affected the functioning of the prison system. These officials often develop vested interest

and more often than not bond with criminals. Another important factor for this being severe understaffing in the prison administration.

The deplorable service conditions, is just one of the factors that affects the functioning of a good prison administration system. The factor that makes it worse is the complete want of vertical mobility in the prison administration department. The prison/Jail officials are well-known to occupy the same post for almost 25 to 30 years which is often regarded as the cause for lack of motivation especially for the lower or middle order ranks in the prison administration system.

There is a growing fundamental need to periodically counsel and train the prison staff officials. The dehumanisation amongst prison staff/officials is a matter of serious concern. Not only improving the service and working conditions of prison officials/ staff, but also ensuring the elements of transparency and accountability in a prison administration system is the need of the hour. The questionable service conditions of the prison officials/ staff and also lack of motivation and low self-esteem usually extends into a way of life that persuades corruption and all kinds of malpractice. One has to not forget that this problem of corruption in the prison administration system is inextricably linked to the infringement of human rights of prisoners. To encourage the prisoners to complain against systemic and other failures inside the prison system without the fear of retribution, the Colvale jail has a Grievance/complaint box which is locked and whose keys are with the Principal District and Sessions Judge who checks the box monthly. Through this complaint system the prison administration can try to ensure some if not more accountability amongst the prison officials towards running of prison system with good order, safety, security and discipline.

In number of judgments, the Supreme Court of India and various High Courts have observed the inadequacies and deficiencies in prison administration

system. A comprehensive programme of reforms on these observations is yet to start as the reports and judgements have lingered mostly unimplemented.

The deficiency in political will is the main reason that leads to bureaucratic lack of interest towards the needs of prison administration. This indifference is revealed in the paucity of funds spared by the government at the state or the centre, out of their annual budgets for prison administration.

One can observe that the amount of funds allocated for prison administration out of their budgets at the central and State governments has shown a constant declining trend. It will not be wrong to conclude that the lack of political will in betterment of the prison administration is due to the fact that the prisoners inside the jail do not constitute an important constituency for the politicians, as they do not have a right to vote. If at all there is a time where the existing and current laws are reviewed and the prisoners indeed could exercise the right to vote, like any other citizen, may be then there will be some sort of political will that will think of betterment of the prison administration system.

Latest technological advancements can surely develop the perimeter security system in the state prison administration that can help in controlling violent outbreaks, escapes and other illegal activities inside the prison. Prison administration can use motion detectors, electric fences, CCTV (closed circuit television), and digital entrance and exit systems to be able to improve the ability of a prison official and help them to supervise the boundaries of the prison / Jail and also to be able to secure the areas even inside the Prison or Jail. Though these technological advancements have been there around for sometime, the state prison authorities have not yet installed either of it.

Digital mug-shots, Retina imaging and iris scanning equipment, along-with bar-coded wristbands or electronic bracelets and improve identification of any prisoner can be improved significantly and will require minimum workforce

and also prove to be cost effective and increase the Prison Security. Prisoner Identification can be updated with the help of other prison administration of different state in the country. Barcode scanning gear can also be used which can assist and help to keep a list, verify, and track all the personal belonging of the prisoner inside the prison/Jail.

Despite the new technology, prison administration and officials often express their ignorance or excuse of lack of funds, towards new technology and change. These high – Tech equipment that makes their jobs easy but takes away direct supervision of offenders. These New technologies are not just important, they are important and vital for survival. Elected representatives in the state, the central government budget personnel, and the representatives of the media along-with the prison administration officials have to prevail over the apathy that tends to slow the recognition of change.

With the change in mindset of the society, there is demand for harsher punishment for offenders. It is very evident with the increase in the people who are imprisoned is rising each year as we see changes made in various sentencing laws.

To maintain good order and security inside the prison the prison administration has to classify the area in their facility according to the inmate that is housed inside it. The aggressive and flee – prone inmates that require more physical security and staff resources has to be classified and defined based on their characteristics and behavioural patterns. The inmate with lesser aggressiveness and a remorseful prisoner can be fairly and accurately predicted by the prison officials/ staff. Such inmates with related characteristics in an appropriately designed facility are so much easier to manage.

With conscious stratification Escapes, assault, and drug dealing can be controlled and very rarely can they occur, though prisoners sometimes may

find ways to manoeuvre the system therefore accountability is very necessary in secure prisons / Jails.

As can be seen in the local news, as latest as March 2019, Controlling smuggled goods inside the prison should be a top priority in the prison administration, irrespective of security level of the prisoner. It is a matter of great concern that such smuggled goods, consisting always of an item or article that a prisoner is prohibited to possess, is so easily available to the prisoners. What can be a better hiding place for such goods is the untidy cells and excess in personal property of a prisoner.

There has to be an extra effort by the prison administration officials to even control prescribed medications given to a prisoner. Surprise checks randomly and frequently can greatly reduce smuggled goods and at times can even lead to the person or official who smuggles such goods inside the prison.

Trained and experienced staff who are alert and accountable to the prison population, are the need of the hour to maintain and control the prison environment as it is always a daunting task. There are number of prisoners who because of their non co-operative nature, pose a threat as well as a challenge to the prison staff as well as other inmates in a prison. Prison administration must take an extra effort to develop a culture in the prison administration and amongst the prison officials to treat all the prisoners with some amount of respect, as it will in turn reinforce optimistic relationship between officials and the prisoners.

We can see from the research that majority of the prisoners consist of the most educationally disadvantaged groups from amongst the population. Most of the inmates have not even completed Secondary school Certificate Exam. It was even difficult for them to answer a questionnaire and had to take the help of the paralegal or take help from those prisoners who were educated and could read

and write. It is even difficult from them to read their daily newspapers in their native language let alone in English.

The Colvale prison also offers educational and vocational programs to the prisoners. But even these programmes have its negative points that being the short period of incarceration of many of offenders in such reformatory facilities, also the size of the prison, the availability of resource person and the kind focus prison gives on some other programs.

With the launching of New-technologies, education and training programs to the prisoners is just a touch away. With the help of computer, internet and computer – assisted teaching systems, video classrooms, satellite broadcasting, and internet services, prison administration can avail quantifiable gains. The research strongly puts forward that educational and vocational training given to a prisoner can surely significantly improve an inmate's / prisoners success after release.

It is important to measure the success rate of the prisoner's performance post their release. It can be said that it is one of the most unobserved areas of program in prison administration. It is true measuring such data takes lengthy efforts and can encounter number of difficult situations but it is equally important to measure to be able to convince the state and central government to invest in the reformation of the prisoner. There are some sections of people who opine that prison recreation programs reduce the deterrent effect of imprisonment. This data can result in convincing such people and also the prison administration in carrying out various programmes for the reformation of the prisoners as it is an increasingly result oriented programme. The policymakers are only concerned with the result and the impact it is going to have on the society at large. With the kind of pressure there exists to get funding for prisoners and prisons, such programmes with a purpose and a demonstrable gauge of results and risks can be accomplished.

Colvale prison has adopted various policies and approach to try to rehabilitate offenders or prisoners in the prisons. These policies have been of great help to provide an insight into the criminal behaviour of a prisoner and help in facilitating a change in their behaviour. It also acts as a method to help increase a prisoner's self-esteem and in turn, the prisoner makes a serious effort to try and become a law-abiding citizen after he is released into the society.

Continuous counselling of the prisoners has to be an important strategy in the treatment of the prisoner. What has to be kept in mind is that the participation of the prisoner in such counselling sessions has to be their decision voluntarily. The prisoner has to be genuinely free, open and honest with their thoughts. Many a times prisoners are forced to go through counselling sessions who reluctantly participate and in turn jeopardises the efficiency of the program that can be of some help to those prisoners who can be benefited from it. Some prisoners can even opt for these counselling sessions in lieu of some privileges by trying to manipulate the officials by showing signs of remorse.

It is safe to say that recreational program may not be the best tool but is certainly one of the most effective tool to develop social skills in prisoners to help them post their release in free society. Prisoners are set to learn important life lessons that include fair play, anger supervision, and cordial conflict resolution. The prisoners can utilise their time in incarceration learning different skills and life lessons that proves to be constructive use of their idle time. Many prison administrators are also of the opinion that this also helps the prisoner to decrease stress and tension and encourages the prisoner to help increase self-esteem.

Corruption is not a menace prevalent just in the society beyond the prison / jail. Prison also faces this menace and at times we can say that its easier to fall for corruption inside the prison as it is a confined space for prisoners. Prison is a

place that is almost closed for public inspection. Therefore makes it even easier to carry out corrupt acts inside the prison / jail walls. Prison is a place that generally houses stubborn people who are a bit violent at times and also those people who are difficult to manage making it a stressful job for the prison officials for a long period of time. Prison officials have the job to control unwilling, challenging, and even hostile prisoners who only understand the language of corruption and are positive that by only corruption can they sustain inside the confined walls of the prison then by sincere observance of prison rules and regulations.

It is obvious that prisons / jails are the main reason because of which good order is maintained in the society as it confines anti social elements within its walls. It is also because of which Prison / jail administration has become very convoluted and even more expensive. Therefore corruption is at a rise inside the prisons.

With times, people have become more sensitive to various rights of a human being and therefore the mindset of the decision makers and the society generally has undergone a radical change. Over the last two or three decades, the introduction of various new rules have come forward that concerns the problem of overcrowding in prisons. The mindset of the judicial officers regarding review of their order or with regards to parole conditions have sort of changed keeping in view the reformation of a prisoner. Even having said that, what is still a problem inside the prison walls, is the gang members and their rivalry and drug use. This causes serious managerial problems that makes it a difficult task for the prison administration to maintain and look after. Prison discipline is at a huge risk in such situation. Therefore prison officers face far more security issues than any other social issues.

Corruption in prison administration is basically nothing but than an exploitation of power. Race and ethnicity is also a factor because of which people get

involve into corruption. Corruption in prisons is basically an abuse of authority for some personal gain. Though it is illegal to bribe a public officer or officer of the government, these officers themselves offer to take bribes or kickbacks to do a favourable act for a prisoner or to get a prisoner anything that is illegal for a prisoner to possess inside the prison. Prison officers have been time and again alleged for smuggling contraband substances in the prison as can be clearly seen in the news reports of Colvale Jail in the month of March 2019.

Though official corruption cannot be prevented it can certainly be minimised and the prison administration has to take measures to keep a check on these activities by having a time to time surprise check on the prisoners and sometimes even on the prison officials. The anti-corruption policy should be strictly adhered to and proper leadership should be implemented inside the prison to avoid these situations.

There should be clear and speaking policy to elevate awareness within the officers of the prison and make it aptly clear that the Colvale prison supports high moral demeanour and the prison administration will not excuse any prison officer from acquiescence with the anti corruption policies of the prison.

Anti corruption policy should be displayed in the prison and it should specifically spell out and mention the acts that are considered to be “corruption”. It should also articulate and specify the punishment both the prison officer who accepts bribe and the prisoner who offers bribe will have to face eventually under the situation. The prison administration should make it very clear that the motto of these policies is to ascertain justice and indemnify domestic composure.

There will always be a debate whether reformative treatment of prisoners in a prison system will ever lead to reduction in the crime rate, but it is also important to understand that the personal, social and economic factors of a

prisoner also play a very important role in the life of a prisoner. It also gets difficult to judge the effectiveness of the reformatory programmes also with some opinionated atmosphere influences especially in the government either state or central. It will be unfair to say that only reformatory programmes in the prison will help in reducing crime and the rate of prison population.

It is assuring to see that there has never been a prisoner / convict who has repeated the offence and has again got a prison sentence in the Colvale Jail. It only leads to show that the reformatory approach that the prison administration is having at their level is working and that more programmes to reform prisoners are most welcomed and will surely pave way to lesser prison population and a decrease in the crime rate too.

In the research the researcher had found that the only thing that the prisoners miss in their period of incarceration is their family and loved ones. It is them who have faced a negative result of the prisoner's incarceration. Incarceration of a prisoner only disrupts the family life of any prisoner. When the prisoner receives the kind of experience in the works inside the prison and also the kind of vocational training programmes in prisons, it helps to have good order and discipline inside the prison and also help the prisoner reintegrate into the society post his release.

Prisoners are not criminals since birth. Crimes are not committed by persons who are released from prison only. Therefore what as to be looked into is the reason for the committing of crime in the society. The discipline and good order inside a prison totally depends on the mindset of the prisoners. It also showcases the relationship of the prisoner with the prison officials. It more importantly shows the thought process of the prison administration whether it wants to only punish prisoners or actually make an effort to reform them.

However evident be the positive remarks of reformative and rehabilitative treatment of prisoners one cannot ignore the mindset of the government in power at the state and central level. The present outlook kind of encourages escalation in sentencing, reducing of the age limit for waiving juveniles into adult court and prisons. With this thought process it will surely take more than success rate figures of prisoners who have positively reformed. It is with proof that one will have to argue that rehabilitative approach to prisoners will keep good order in prisons and maintain discipline inside the prison administration.

It is not the short term profit that we appreciate i.e. just incarcerating the person who has wronged, but it is the long term gain that we must look forward i.e. good order n discipline in prisons, reforming prisoners etc.. Being held within the walls of a prison is in itself difficult and trying to change the person a prisoner is inside those walls is even harder a task to perform that is given to a prison official. What affects the offender and the society at large is the limited incapacitation of the person behind bars. In fact, in the words of Elliot Curie “the tendency for incarceration to make some criminals worse is one of the best established findings in criminology”.¹¹⁸

A world full of perfect justice and accord may be a far-fetched dream because regardless of our finest efforts, crime still persists, and so does incarceration as a form of punishment.

Managing a Prison system is the most difficult job in the world. What keeps the prison administration going is the kind of leadership a prison administration consists off. A strong prison administration requires strictly professional staff, trained and enabled prison officials and prison / jails to be places where not only are the prisoners/offenders are kept safely but also a place where such

¹¹⁸ Elliot Curie, “Rehabilitation can Work”, in Exploring Corrections: A Book of Readings. T. Gray, ed. (Boston, MA: Allyn & Bacon, 2002.)

offender and reformed transformed and rehabilitated to get into the society and be an example to the entire society.

Prisons / jails are fully dependent and functions on the authority bestowed on them by the prisoners. Here the term authority refers to the consent among the prisoners that the prison administration is as fair as it can be and works forward to the best interests of the prisoners. One cannot influence or prevail over the thought process of the prisoners. Prisoners identify with regimentation and the rules, so long as the rules are consistently applied and convincingly associated to their welfare.

A single bad prisoner can jeopardise the entire effort of reformation in a prison system. The prison administration must therefore enforce the authority given to it by the prisoners and achieve a balance between the privileges of the few and the desires of the many. Therefore the prison administration must isolate and contain that one bad prisoner in order to have a safe environment for the remaining majority of the prisoners. Appropriately assembled efforts specifically directed to the high risked prisoner and different ways to exterminate the immunogenic behaviours, can result in positive outcomes in terms of the authority of the prison administration over the prisoners.

Education and vocational training amongst the prisoners should be encouraged by the prison administration. With the help of education discipline can be instilled in the prisoners in turn assuring good order inside the prisons and also a newer and different outlook towards life from the prisoner. Prison administration officials should maximise the utilisation of the tools at their disposal so that they can provide prisoners with a motivation to obtain an education. Prison administration should give them hope that this can help them find a way to fit back into the society by assuring them of helping them, the prisoners, find work upon their release. Parole should be given not just when

there is a family emergency, it should be given as reformatory bonus although subject to supervision.

Not just reformation of prisoners is what is of huge concern today, it is also the recruitment of prison officials which has become a growing challenge. The job of a prison official or officer of the prison administration should not only be considered as a secured government job but it should be looked into as a job that can change the life of a prisoner and motivate the prisoners to lead a better and reformed life. An officer with integrity, with effective leadership and experienced professional attitude can make a difference in the prison administration.

Life in prison has to be one with restrictions on freedom and of course cannot be the same as the life of a free individual. It is after all, a punishment for a criminal act done against the public at large. It is also important and inevitable that the prisoners have to be treated with dignity. Presently this is not the situation. The pitiable conditions of prisoners are not confined to Goa alone. The propensity to disgrace and also offend prisoners is an attitude seen all over the country.

Prisoners have to live under great shame forced by the society beneath the blanket of discipline that is the ridiculous and absurd imposition of incarceration and confiscating personal liberty.

Prison administration whether successful or not should be judged by the post release rehabilitation and reduction in the crime rate and the rate of prisoners in the Jail. Just by not having repeat offenders the duty of the prison administration does not end. There should be a considerable decline in the crime rate and the prison population.

Last few years have brought about the need for even more prison reforms in the state of Goa along-with the entire country. With The Supreme Court and the High Courts in numerous judgments have observed the deplorable conditions widespread inside the prisons. These are the important reasons which eventually result in violation of the prisoner's rights. The problem of prison administration is not new and therefore has been scrutinized by abundant proficient bodies that were set up by the government of India, the most comprehensive examination being the All India Jail reforms committee of 1980 to 1983.

Careful analysis of the literature available on prison system in India and along-with the analysis and compilation of the empirical data, the researcher proposes various suggestions and recommendations for better functioning of prison system in Goa.

Any idea or suggestion of reformation and rehabilitation cannot be implemented without funds and this is the only aspect that limits the practicability of any reformative or rehabilitative scheme / prison rules. The point of consideration has to be Human Rights and rehabilitation of the prisoner in the society. They have to be acknowledged as the foremost principles of prison/jail administration in Goa. This largely depends on the financial ability of the state government for realistic consideration. The state legislators, does not matter whether as an individual or a body, should hold some amount of reasonable and an unprejudiced outlook, to give the above mentioned three viewpoints their due deliberation. The state government and the central government agencies and officials have to seek out for the involvement of related agencies to decide on the measures and rules of the prison department.

6.3.1 Suggestions to Prison Officials

The researcher has the following suggestions for the prison officials:

1. Improve their approach towards treatment of prisoners, so as to treat prisoners with dignity and humanity as even though they are incarcerated they don't cease to be human beings.
2. Introduce more educational and vocational activities in the prison so as to keep the prisoners occupied in a positive manner.
3. Treat all prisoners equally and not based on their political and financial background.
4. Encourage more workshops to train the Prison administration staff in latest laws enacted and various other methods in prison administration.
5. Prison officials should keep themselves updated towards the technological developments on methods of maintaining safety and security.

6.3.2 Suggestions to Prisoners

The researcher has the following suggestions for the Prisoners:

1. Make prisons a place to look back on the acts committed and rehabilitate into a better human.
2. Make themselves aware of their rights inside a prison.

6.3.3 Suggestions to Law makers and Judges

The researcher has the following suggestions for the Judges and the Law makers:

1. There is an urgent need to form a Uniform Prison Manual so that every state in the country follow the same set of rules.
2. Create workshops for prison officials to keep themselves updates with latest laws passed and the laws that are existing.
3. Create a body that is specifically designed to look after the running of the prison administration all over the country.
4. Treat safety and security of a prison administration as an important element.
5. The prison administration has to have specialised police officers who are capable of handling serious offenders and serious situations.

The concept of Prisoners rights have developed into a significant item on the agenda for prison reforms in the state of Goa along-with the other states in India. This is due to for all intents and purposes, the following ideology:

- a. That a prisoner is not regarded as an object, a ward/ slave of the state, any more, who the law would have condemned to civil death. According to the modern criminal researchers, thinkers and believers of Human Rights, a citizen will not cease to be a citizen, merely because he happens to be a prisoner. The Supreme Court in *Charles Shobraj v. The Superintendent, Tihar Jail*¹¹⁹ and more has observed very clearly that excluding the fact that the compulsion to live in a prison on its own leads to dispossession of certain rights, a prisoner is otherwise permitted to the essential freedoms guaranteed by the Constitution.

¹¹⁹ AIR 1978 SC 1514

- b. A person, convicted of an offence is sent to prison 'as' punishment and not 'for' punishment. The Courts orders are the guidelines as per which a prison sentence has to be carried out and no further punishment can be inflicted by the prison authorities without prior authorization. Therefore, the Prison authorities totally responsible for the manner in which they exercise their supervision over prisoners in their care, considering their lawful and wide discretionary powers.

Prison is an essential department of administration of crime and criminology in India. Paradoxically the research in the expansion of reforms in the prison administration is still in its infancy. There is a long way to go for prisons to be considered as reformative institution than a custodial home of torture. The development is mainly stalled by factors such as lack of resources, allocation of funds, deterrent functions of sentence and lack of proper rehabilitation approach.

Prisons in the country shall make an effort to transform and re-assimilate offenders in the social environment by giving them appropriate correctional treatment. Even though there have been numerous suggestions and recommendations by different committees, the major concern in India, still stands to be that of actual enforcement.

Finally, the issue of prison administration and reformation of prisoners is just a small part of the bigger picture of social resurgence. The prison administration alone cannot effectively reform the prisoners. It can only try modestly to help prisoners. The effort will only succeed when our finances, teaching, social institutions and morals & ethics are appropriately synchronized into a logical and affable view of the wisdom of the human establishment.

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ANNEXURE – I

Questionnaire for Prisoners

1. What according to you is the meaning of a prison?
 - A) Punishment Facility
 - B) Correction Facility
 - C) Reformation Facility
 - D) Preventive Facility

2. What according to you is the purpose of Imprisonment?
 - A) Reformation(improvement)
 - B) Retribution (punishment)
 - C) Rehabilitative (recovery)
 - D) Deterrent (discourage)

3. Do you feel holding men and women against their will in a restricted environment, reform a prisoner?
 - A) Yes
 - B) No
 - C) Maybe

4. Treating prisoners with fairness and humanity will eventually lead to a decline in crimes when the prisoner finishes his/her sentence and tries to lead a normal life.
 - A) Agree
 - B) Strongly Agree
 - C) Disagree
 - D) Strongly Disagree

5. Security, safety and discipline are the three vital elements of “a prison administration” to maintain good order in a prison?
- A) Agree
 - B) Strongly Agree
 - C) Disagree
 - D) Strongly Disagree
6. An impartial and positive surrounding if given to a prisoner, it possible to achieve the objective of preventing any kind of disorder in prison system.
- A) Agree
 - B) Strongly Agree
 - C) Disagree
 - D) Strongly Disagree
7. Do you believe that a prisoner can reform himself / herself after serving a sentence if treated humanely?
- A) Yes
 - B) No
8. In your prison administration, on a scale of 1 to 10 (10 being the highest), how much importance is given for human rights?
- A) 0-3
 - B) 4-6
 - C) 7-10

9. Rehabilitative measures if provided to the prisoners, will make a difference to the psychology of prisoners?
- A) Agree
 - B) Strongly Agree
 - C) Disagree
 - D) Strongly Disagree
10. What methods are used to maintain good order in prison?
- A) Segregation
 - B) Isolation
 - C) Keeping Without Food
 - D) All Of The Above
11. What according to you is the main reason for a breach of good order in a prison?
- A) No Freedom
 - B) Missing Family & Friends
 - C) Individual Dominance
 - D) Formation Of Gangs
12. What safety measures does the prison administration utilise to control a breach in good order?
- A) Use Of Force
 - B) CCTV Cameras
 - C) Dynamic Security
 - D) All Of The Above

13. Do you believe that widespread financial difference is one of the important factors in crimes committed?
- A) Yes
 - B) No
 - C) May Be
14. What does the prison administration mainly rely on for the overall security in a prison?
- A) Live Wire Fencing
 - B) Height Of The Boundary Wall
 - C) Dynamic Security
 - D) All Of The Above
15. What according to you will bring in genuine reform in a prisoner?
- A) Education
 - B) Meeting Family & Friends
 - C) Probation
 - D) Parole

ANNEXURE – II

Questionnaire for Prison Officials

1. Do you know whether the Indian Prison system was based on the British prison model?
 - A) YES
 - B) NO

2. Is your current prison management administered/based of The Indian Prison Act 1894?
 - A) YES
 - B) NO

3. Model Prison Manual (MPM) was prepared in 1960 does your prison still follow it?
 - A) YES
 - B) NO
 - C) NOT AWARE

4. Are you aware that, Supreme Court in 1996 in case of *Ramamurthy v/s state of Karnataka* held to bring uniformity in prison laws and draft a modern prison manual?
 - A) YES
 - B) NO
 - C) MAY BE

5. What according to you is the meaning of a PRISON?
 - A) Punishment Facility

- B) Correction Facility
 - C) Reformation Facility
 - D) Preventive Facility
6. What according to you is the purpose of Imprisonment?
- A) Reformation(improvement)
 - B) Retribution (punishment)
 - C) Rehabilitation (recovery)
 - D) Deterrent (discourage)
7. Do you feel holding men and women against their will in a coercive environment, reform a prisoner?
- A) Yes
 - B) No
 - C) Maybe
8. Do You Agree that treating prisoners with fairness and humanity will eventually lead to decline in crimes when the prisoner finishes sentence and tries to lead a normal life.
- A) Agree
 - B) Strongly Agree
 - C) Disagree
 - D) Strongly Disagree
9. Do You Agree that Security, Safety and Discipline are the three vital elements of “A Prison Administration” to maintain GOOD ORDER in a prison?
- A) Agree

- B) Strongly Agree
- C) Disagree
- D) Strongly Disagree

10. Do You Agree that an impartial and positive surrounding if given to a prisoner, it is possible to achieve the objective of preventing any kind of disorder in prison system.

- A) Agree
- B) Strongly Agree
- C) Disagree
- D) Strongly Disagree

11. Do you believe that a prisoner can reform himself / herself after serving a sentence if treated humanely?

- A) Yes
- B) No

12. In your prison administration, on a scale of 1 to 10 (10 being the highest), how much importance is given for Human Rights?

- A) 0 to 3
- B) 4 to 6
- C) 7 to 10

13. Do you believe that there exists a wide gap between theory and actual hard authenticities in a prison administration?

- A) Yes
- B) No

C) Cant Say

14. Do you feel that prison reforms have to be carried out with changing times?

A) Yes

B) No.

15. Do You Agree that there should be a Uniform Prison Manual for all prisons in India.

A) Agree

B) Strongly Agree

C) Disagree

D) Strongly Disagree

16. Do You Agree that Rehabilitative measures if provided to the prisoners, will make a difference to the psychology of prisoners?

A) Agree

B) Strongly Agree

C) Disagree

D) Strongly Disagree

17. On a scale of 1 – 10 (10 being the highest) how do you rate your prison administration?

A) 0 to 3

B) 4 to 6

C) 7 to 10

18. What methods are used to maintain good order in prison?
- A) Segregation
 - B) Isolation
 - C) Keeping Without Food
 - D) All Of The Above
19. What according to you is the main reason for a breach of good order in a prison?
- A) No Freedom
 - B) Missing Family & Friends
 - C) Individual Dominance
 - D) Formation Of Gang
20. What safety measures do you utilize to control a breach in good order?
- A) Use Of Force
 - B) CCTV Cameras
 - C) Dynamic Security
 - D) All Of The Above
21. Do you believe that widespread economic disparity is one of the important factors in crimes committed?
- A) Yes
 - B) No
 - C) May Be

22. Do You Agree that CCTV, Daily Searches, Strip search etc.. is an important part, of prison security?
- A) Yes
 - B) No.
23. Which is the most commonly used safety measure?
- A) Cctv
 - B) Daily Search
 - C) Strip Search
 - D) All Of The Above
24. Does strip search constitute degrading treatment to the prisoner and an infringement of their private life?
- A) Yes
 - B) No.
25. What does the prison administration mainly rely on for the overall security in a prison?
- A) Live Wire Fencing
 - B) Height Of The Boundary Wall
 - C) Dynamic Security
 - D) All Of The Above
26. What according to you will bring in genuine reform in a prisoner?
- A) Education
 - B) Meeting Family & Friends
 - C) Probation

D) Parole

27. Are you aware of the necessary requirements laid down by the United Nations to run prison administration?

A) YES

B) NO.

28. Do you conduct programmes/ workshop/ seminars to create awareness amongst your officers about any new development/new laws?

A) YES

B) NO.

29. If yes, then how often are such programme /workshop/ seminars are organised?

A) Monthly

B) Quarterly

C) Half Yearly

D) Yearly

E) Not Answered

30. Do you have any rehabilitation programme/plan for prisoners?

A) YES

B) NO.

ANNEXURE – III

Questionnaire for Advocates

1. Do you know whether the Indian Prison system was based on the British prison model?
 - A) YES
 - B) NO
2. Is your current prison management administered/based of The Indian Prison Act 1894?
 - A) YES
 - B) NO
3. Model Prison Manual (MPM) was prepared in 1960 does your prison still follow it?
 - A) YES
 - B) NO
 - C) NOT AWARE
4. Are you aware that, Supreme Court in 1996 in case of *Ramamurthy v/s state of Karnataka* held to bring uniformity in prison laws and draft a modern prison manual?
 - A) YES
 - B) NO
 - C) MAY BE
5. What according to you is the meaning of a PRISON?
 - A) Punishment Facility
 - B) Correction Facility
 - C) Reformation Facility
 - D) Preventive Facility

6. What according to you is the purpose of Imprisonment?
 - A) Reformation(improvement)
 - B) Retribution (punishment)
 - C) Rehabilitation (recovery)
 - D) Deterrent (discourage)

7. Do you feel holding men and women against their will in a coercive environment, reform a prisoner?
 - A) Yes
 - B) No
 - C) Maybe

8. Do You Agree that treating prisoners with fairness and humanity will eventually lead to decline in crimes when the prisoner finishes sentence and tries to lead a normal life.
 - A) Agree
 - B) Disagree

9. Do You Agree that Security, Safety and Discipline are the three vital elements of “A Prison Administration” to maintain GOOD ORDER in a prison?
 - A) Agree
 - B) Disagree

10. Do You Agree that an impartial and positive surrounding if given to a prisoner, it is possible to achieve the objective of preventing any kind of disorder in prison system.
 - A) Agree
 - B) Disagree

11. Do you believe that a prisoner can reform himself / herself after serving a sentence if treated humanely?
 - A) Yes

B) No

12. In your opinion, in the prison administration, on a scale of 1 to 10 (10 being the highest), how much importance is given for Human Rights?

A) 0 to 3

B) 4 to 6

C) 7 to 10

13. Do you believe that there exists a wide gap between theory and actual hard authenticities in a prison administration?

A) Yes

B) No

C) May Be

14. Do you feel that prison reforms have to be carried out with changing times?

A) Yes

E) No.

15. Do You Agree that there should be a Uniform Prison Manual for all prisons in India.

A) Agree

B) Disagree

16. Do You Agree that Rehabilitative measures if provided to the prisoners, will make a difference to the psychology of prisoners?

A) Agree

B) Disagree

17. On a scale of 1 – 10 (10 being the highest) how do you rate our prison administration in terms of Discipline, good order, safety and security?

A) 0 to 3

B) 4 to 6

C) 7 to 10

18. What methods are used to maintain good order in prison?

A) Segregation

B) Isolation

C) Keeping Without Food

D) All Of The Above

19. What according to you is the main reason for a breach of good order in a prison?

A) No Freedom

B) Missing Family & Friends

C) Individual Dominance

D) Formation Of Gang

20. What safety measures do you utilise to control a breach in good order?

A) Use Of Force

B) CCTV Cameras

C) Dynamic Security

D) All Of The Above

21. Do you believe that widespread economic disparity is one of the important factors in crimes committed?

A) Yes

B) No

C) May Be

22. Do You Agree that CCTV, Daily Searches, Strip search etc.. is an important part, of prison security?
- A) Yes
 - B) No.
23. Which is the most commonly used safety measure?
- A) Cctv
 - B) Daily Search
 - C) Strip Search
 - D) All Of The Above
24. Does strip search constitute degrading treatment to the prisoner and an infringement of their private life?
- A) Yes
 - B) No.
25. What does the prison administration mainly rely on for the overall security in a prison?
- A) Live Wire Fencing
 - B) Height Of The Boundary Wall
 - C) Dynamic Security
 - D) All Of The Above
26. What according to you will bring in genuine reform in a prisoner?
- A) Education
 - B) Meeting Family & Friends
 - C) Probation
 - D) Parole

27. Are you aware of the necessary requirements laid down by the United Nations to run prison administration?
- A) YES
 - B) NO.
28. Do you think programmes/ workshop/ seminars have to be conducted to create awareness among prison officials and prison administrators about any new development/new laws, human rights etc..?
- A) YES
 - B) NO.
29. If yes, then how often are such programmes/workshop/ seminars should be organised?
- A) Monthly
 - B) Quarterly
 - C) Half Yearly
 - D) Yearly
30. Does Colvale Jail have any rehabilitation programme/plan for prisoners?
- A) YES
 - B) NO.
31. How many times have you visited Colvale Jail?
- A) once
 - B) 2-4
 - C) more than 5 times

ANNEXURE – IV

Questionnaire for Judges

1. Do you know whether the Indian Prison system was based on the British prison model?
 - A) YES
 - B) NO
2. Is your current prison management administered/based of The Indian Prison Act 1894?
 - A) YES
 - B) NO
3. Model Prison Manual (MPM) was prepared in 1960 does your prison still follow it?
 - A) YES
 - B) NO
 - C) NOT AWARE
4. Are you aware that, Supreme Court in 1996 in case of *Ramamurthy v/s state of Karnataka* held to bring uniformity in prison laws and draft a modern prison manual?
 - A) YES
 - B) NO
 - C) MAY BE
5. What according to you is the meaning of a PRISON?
 - A) Punishment Facility
 - B) Correction Facility
 - C) Reformation Facility
 - D) Preventive Facility

6. What according to you is the purpose of Imprisonment?
 - A) Reformation(improvement)
 - B) Retribution (punishment)
 - C) Rehabilitation (recovery)
 - D) Deterrent (discourage)

7. Do you feel holding men and women against their will in a coercive environment, reform a prisoner?
 - A) Yes
 - B) No
 - C) Maybe

8. Do You Agree that treating prisoners with fairness and humanity will eventually lead to decline in crimes when the prisoner finishes sentence and tries to lead a normal life.
 - A) Agree
 - B) Disagree

9. Do You Agree that Security, Safety and Discipline are the three vital elements of “A Prison Administration” to maintain GOOD ORDER in a prison?
 - A) Agree
 - B) Disagree

10. Do You Agree that an impartial and positive surrounding if given to a prisoner, it is possible to achieve the objective of preventing any kind of disorder in prison system.
 - A) Agree
 - B) Disagree

11. Do you believe that a prisoner can reform himself / herself after serving a sentence if treated humanely?
 - A) Yes
 - B) No

12. In your opinion, in the prison administration, on a scale of 1 to 10 (10 being the highest), how much importance is given for Human Rights?
- A) 0 to 3
 - B) 4 to 6
 - E) 7 to 10
13. Do you believe that there exists a wide gap between theory and actual hard authenticities in a prison administration?
- A) Yes
 - B) No
 - C) May Be
14. Do you feel that prison reforms have to be carried out with changing times?
- A) Yes
 - F) No.
15. Do You Agree that there should be a Uniform Prison Manual for all prisons in India.
- A) Agree
 - B) Disagree
16. Do You Agree that Rehabilitative measures if provided to the prisoners, will make a difference to the psychology of prisoners?
- A) Agree
 - B) Disagree
17. On a scale of 1 – 10 (10 being the highest) how do you rate our prison administration in terms of Discipline, good order, safety and security?
- E) 0 to 3
 - B) 4 to 6
 - C) 7 to 10

18. What methods are used to maintain good order in prison?
- A) Segregation
 - F) Isolation
 - C) Keeping Without Food
 - D) All Of The Above
19. What according to you is the main reason for a breach of good order in a prison?
- A) No Freedom
 - B) Missing Family & Friends
 - C) Individual Dominance
 - D) Formation Of Gang
20. What safety measures do you utilise to control a breach in good order?
- A) Use Of Force
 - B) CCTV Cameras
 - C) Dynamic Security
 - D) All Of The Above
21. Do you believe that widespread economic disparity is one of the important factors in crimes committed?
- A) Yes
 - B) No
 - G) May Be

22. Do You Agree that CCTV, Daily Searches, Strip search etc.. is an important part, of prison security?
- A) Yes
 - B) No.
23. Which is the most commonly used safety measure?
- A) Cctv
 - B) Daily Search
 - C) Strip Search
 - H) All Of The Above
24. Does strip search constitute degrading treatment to the prisoner and an infringement of their private life?
- A) Yes
 - B) No.
25. What does the prison administration mainly rely on for the overall security in a prison?
- A) Live Wire Fencing
 - B) Height Of The Boundary Wall
 - C) Dynamic Security
 - D) All Of The Above
26. What according to you will bring in genuine reform in a prisoner?
- A) Education
 - B) Meeting Family & Friends
 - C) Probation
 - D) Parole

27. Are you aware of the necessary requirements laid down by the United Nations to run prison administration?
- A) YES
 - B) NO.
28. Do you think programmes/ workshop/ seminars have to be conducted to create awareness among prison officials and prison administrators about any new development/new laws, human rights etc..?
- A) YES
 - B) NO.
29. If yes, then how often are such programmes/workshop/ seminars should be organised?
- A) Monthly
 - B) Quarterly
 - C) Half Yearly
 - D) Yearly
30. Does Colvale Jail have any rehabilitation programme/plan for prisoners?
- A) YES
 - B) NO.
31. How many times have you visited Colvale Jail?
- A) once
 - B) 2-4
 - C) more than 5 times

ANNEXURE - V

**GOVERNMENT OF INDIA
MINISTRY OF LAW**

**THE PRISONS ACT, 1894
(Act IX of 1894)**

(As modified upto the 1st January, 1957)

THE PRISONS ACT, 1894

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY SECTIONS

1. Title, extent and commencement.

2. *[Repealed]*

3. Definitions.

CHAPTER II

MAINTENANCE AND OFFICERS OF PRISONS

4. Accommodation for prisoners.

5. Inspector General.

6. Officers of prisons.

7. Temporary accommodation for prisoners.

CHAPTER III

DUTIES OF OFFICERS

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8. Control and duties of officers of prisons.

9. Officers not to have business dealings with prisoners.

10. Officers not to be interested in prison-contracts. *Superintendent*

11. Superintendent.

12. Records to be kept by Superintendent.

Medical Officer

13. Duties of Medical Officer.

14. Medical Officer to report in certain cases.

15. Report on death of prisoner.

Jailer

16. Jailer.

17. Jailer to give notice of death of prisoner.

18. Responsibility of Jailer.

19. Jailer to be present at night.
20. Powers of Deputy and Assistant Jailers. *Subordinate Officers*
21. Duties of gate-keeper.
22. Subordinate officers not to be absent without leave.
23. Convict Officers.

**CHAPTER IV
ADMISSION, REMOVAL AND
DISCHARGE OF PRISONERS**

24. Prisoners to be examined on admission.
25. Effects of prisoners.
26. Removal and discharge of prisoners.

**CHAPTER V
DISCIPLINE OF PRISONERS**

27. Separation of prisoners.
28. Association and segregation of prisoners.
29. Solitary confinement.
30. Prisoners under sentence of death.

**CHAPTER VI
FOOD, CLOTHING AND BEDDING
OF CIVIL AND UNCONVICTED
CRIMINAL PRISONERS**

31. Maintenance of certain prisoners from private sources.
32. Restriction on transfer of food and clothing between certain prisoners.
33. Supply of clothing and bedding to civil and unconvicted criminal prisoners.

**CHAPTER VII
EMPLOYMENT OF PRISONERS**

34. Employment of civil prisoners.
35. Employment of criminal prisoners.
36. Employment of criminal prisoners sentenced to simple imprisonment.

**CHAPTER VIII
HEALTH OF PRISONERS**

37. Sick prisoners.

38. Record of directions of Medical Officers.

39. Hospital.

**CHAPTER IX
VISITS TO PRISONERS**

40. Visits to civil and unconvicted criminal prisoners.

41. Search of visitors.

**CHAPTER X
OFFENCES IN RELATION
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42. Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

43. Power to arrest for offence under section 42.

44. Publication of penalties.

**CHAPTER XI
PRISON-OFFENCES**

45. Prison-offences.

46. Punishment of such offences.

47. Plurality of punishments under section 46.

48. Award of punishments under sections 46 and 47.

49. Punishments to be in accordance with foregoing sections.

50. Medical Officer to certify to fitness of prisoner for punishment.

51. Entries in punishment-book.

52. Procedure on committal of heinous offence.

53. Whipping.

54. Offences by prison subordinates.

**CHAPTER XII
MISCELLANEOUS**

55. Extramural custody, control and employment of prisoners.

56. Confinement in irons.

57.Confinement of prisoner under sentence of transportation in irons.

58.Prisoners not to be ironed by Jailer except under necessity.

59.Power to make rules.

60.*[Repealed]*

61.Exhibition of copies of rules.

62.Exercise of powers of Superintendent and Medical Officer.

THE SCHEDULE -- *[Repealed]*

THE PRISONS ACT, 1894

(Act IX of 1894)

[22 March 1894]

An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in [India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States], and to provide rules for the regulation of such prisons; It is hereby enacted as follows:-

**CHAPTER I
PRELIMINARY**

1. Title, extent and commencement.—

(1) This Act may be called the Prisons Act, 1894.

[(2) It extends to the whole of India except [the territories which, immediately before the 1st November, 1956, were comprised in Part B States]; and.

(3) It shall come into force on the first day of July, 1894.

(4) Nothing in this Act shall apply to civil jails in the State of Bombay [as it existed immediately before the 1st November, 1956] outside the city of Bombay, and those jails shall continue to be administered under the provisions of section 9 to 16 (both inclusive) of Bombay Act 2 of 1874, as amended by subsequent enactments.

2.[Repeal]. Repealed by the Repealing Act, 1938 (1 of 1938), section 2 and Schedule.

3. Definitions.— In this Act—

(1) “prison” means any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of

prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police;

(b) any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or

(c) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail:

(2) “criminal prisoner” means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial:

(3) “convicted criminal prisoner” means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882, (10 of 1882) or under the Prisoners Act, 1871 (5 of 1871):

(4) “civil prisoner” means any prisoner who is not a criminal prisoner:

(5) “remission system” means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails:

(6) “history-ticket” means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder;

(7) “Inspector General” means the Inspector General of Prisons;

(8) “medical subordinate” means an Assistant Surgeon, Apothecary or qualified hospital Assistant: and

(9) “prohibited article” means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II

MAINTENANCE AND OFFICERS OF PRISONS

4.Accommodation for prisoners.— The State Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

5.Inspector General.— An Inspector General shall be appointed for the territories subject to each State Government and shall exercise, subject to the orders of the State Government the general control and superintendence of all prisons situated in the territories under such Government.

6.Officers of prisons.— For every prison there shall be a superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the State Government thinks necessary:

Provided that [the State Government of Bombay] may ***** declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

7.Temporary accommodation for prisoners.— **Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,**

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the State Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III DUTIES OF OFFICERS

Generally

8. Control and duties of officers of prisons.— All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section [59].

9. Officers not to have business dealings with prisoners.— No officer of a prison shall sell or let, nor shall any person in trust for or employed by him, sell or let or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

10. Officers not to be interested in prison-contracts.— No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent

11. Superintendent.— (1) Subject to the orders of the Inspector General the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the State Government, the Superintendent of a prison other than a central prison or a prison situated in a presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

12. Records to be kept by Superintendent.— The Superintendent shall keep, or cause to be kept, the following records:-

- (1) a register of prisoners admitted;
- (2) a book showing when each prisoner is to be released;
- (3) a punishment-book for the entry of the punishments inflicted on prisoners for prison- offences;
- (4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;
- (5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules under section 59

Medical Officer

13. Duties of Medical Officer.— Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the State Government under section [59].

14. Medical Officer to report in certain cases.— **Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or**

treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

15. Report on death of prisoner.— On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:

- (1) the day on which the deceased first complained of illness or was observed to be ill,
 - (2) the labour, if any, on which he was engaged on that day,
 - (3) the scale of his diet on that day,
 - (4) the day on which he was admitted to hospital,
 - (5) the day on which the Medical Officer was first informed of the illness,
 - (6) the nature of the disease,
 - (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
 - (8) when the prisoner died, and
 - (9) (in cases where a post-mortem examination is made) an account of the appearances after death,
- together with any special remarks that appear to the Medical Officer to be required.

Jailer

16. Jailer.—

- (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.
- (2) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

17. Jailer to give notice of death of prisoner.— Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

18.Responsibility of Jailer.— The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confined to his care, and for the money and other articles taken from prisoners.

19.Jailer to be present at night.— The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

20.Powers of Deputy and Assistant Jailers.— Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers

21.Duties of gate-keeper.— The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and if any such article or property be found, shall give immediate notice thereof to the Jailer.

22.Subordinate officers not to be absent without leave.— **Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.**

23.Convict Officers.— Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code. (45 of 1860).

CHAPTER IV
ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

24. Prisoners to be examined on admission.—

(1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

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

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

25. Effects of prisoners.— All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

26. Removal and discharge of prisoners.—

(1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V DISCIPLINE OF PRISONERS

27. Separation of prisoners.— The requisitions of this Act with respect to the separation of prisoners are as follows:-

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;

(2) in a prison where male prisoners under the age of [twenty-one] are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(4) civil prisoners shall be kept apart from criminal prisoners.

28. Association and segregation of prisoners.— Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

29. Solitary confinement.— No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

30. Prisoners under sentence of death.—

(1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI**FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED
CRIMINAL****PRISONERS**

31. Maintenance of certain prisoners from private sources.— A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

32. Restriction on transfer of food and clothing between certain prisoners.— No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

33. Supply of clothing and bedding to civil and unconvicted criminal prisoners.— (1) Every civil prisoner and unconvicted criminal prisoner

unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII EMPLOYMENT OF PRISONERS

34. Employment of civil prisoners.—

(1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

35. Employment of criminal prisoners.— (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3)When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

36. Employment of criminal prisoners sentenced to simple imprisonment.— Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII HEALTH OF PRISONERS

37. Sick prisoners.— (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2)The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoners desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. Record of directions of Medical Officers.— All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the State Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the

fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

39.Hospital.— In every prison an hospital or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX VISITS TO PRISONERS

40.Visits to civil and unconvicted criminal prisoners.— Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

41.Search of visitors.— (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the State Government may direct.

CHAPTER X OFFENCES IN RELATION TO PRISONS

42.Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.— Whoever, contrary to any rule under section [59] introduces or removes, or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or

attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rules, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

43. Power to arrest for offence under section 42.— When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

44. Publication of penalties.— The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

CHAPTER XI
PRISON-OFFENCES

45.Prison-offences.— The following acts are declared to be prison-offences when committed by a prisoner:-

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence;
- (2) any assault or use of criminal force;
- (3) the use of insulting or threatening language;
- (4) immoral or indecent or disorderly behaviour;
- (5) wilfully disabling himself from labour;
- (6) Contumaciously refusing to work;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment.
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
- (10) wilful damage to prison-property;
- (11) tampering with or defacing history-tickets, records or documents;
- (12) receiving, possessing or transferring any prohibited article;
- (13) feigning illness;
- (14) wilfully bringing a false accusation against any officer or prisoner;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

46. Punishment of such offences.— The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by-

(1) a formal warning:

Explanation— A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form [for such period as may be prescribed by rules made by the State Government;

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the State Government;

(5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;

(6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the State Government;

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the State Government;

(8) separate confinement for any period not exceeding [three] months;

Explanation— Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the State Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) cellular confinement for any period not exceeding fourteen days:

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement:

Explanation— Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

[(11)]penal diet as defined in clause (9) combined with [cellular] confinement ;][(12)]whipping, provided that the number of stripes shall not exceed thirty:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

47.Plurality of punishments under section 46.— [(1)] Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:-

(1)formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;

(2)penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with [cellular] confinement;

[(3) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable];

(4)whipping shall not be combined with any other form of punishment except cellular or separate confinement [or] loss of privilege admissible under the remission system;

[(5) no punishment shall be combined with any other punishment in contravention of rules made by the State Government.

[(2) No punishment shall be awarded for any such offence so as to combine with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence].

48.Award of punishments under sections 46 and 47.—(1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General.

(2)No officer subordinate to the Superintendent shall have power to award any punishment whatever.

49.Punishments to be in accordance with foregoing sections.— Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

50.Medical Officer to certify to fitness of prisoner for punishment.— (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. Entries in punishment-book.— (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

52. Procedure on committal of heinous offence.— **If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class [or Presidency Magistrate] having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try**

the charge so brought against the prisoner, and, upon conviction may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46:

[Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate : and]

Provided also that no person shall be punished twice for the same offence.

53. Whipping.— (1) No punishment of whipping shall be inflicted in installments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

54. Offences by prison subordinates.— (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.

CHAPTER XII MISCELLANEOUS

55. Extramural custody, control and employment of prisoners.— A prisoner, when being taken to or from any prison in which he may be

lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison shall be subject to all the same incidents as if he were actually in prison.

56. Confinement in irons.— Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the State Government, so confine them.

57. Confinement of prisoner under sentence of transportation in irons.—

(1) Prisoners under sentence of transportation may, subject to any rules made under section [59], be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector General may sanction such retention accordingly.

58. Prisoners not to be ironed by Jailer except under necessity.— No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the superintendent.

59. Power to make rules.— [The State Government may] make rules consistent with this Act—

- (1) defining the act which shall constitute prison-offences;
- (2) determining the classification of prison-offences into serious and minor offences;
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof;
- (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code (Act 45 of 1860) may or may not be dealt with as a prison-offence;
- (5) for the award of marks and the shortening of sentences;
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;
- [(8) for the classification of prisons, and description and construction of wards, cells and other places of detention;
- (9) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons];
- (10) for the government of prisons and for the appointment of all officers appointed under this Act;
- (11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;

(12)for the employment, instruction and control of convicts within or without prisons;

(13)for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;

(14)for classifying and prescribing the forms of labour and regulating the periods of rest from labour;

(15)for regulating the disposal of the proceeds of the employment of prisoners;

(16)for regulating the confinement in fetters of prisoners sentenced to transportation;

(17)for the classification and the separation of prisoners;

(18)for regulating the confinement of convicted criminal prisoners under section 28;

(19)for the preparation and maintenance of history-tickets;

(20)for the selection and appointment of prisoners as officers of prisons;

(21)for rewards for good conduct;

(22)for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire; subject, however, to the consent of the State Government of any other State to which a prisoner is to be transferred;

(23)for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(24)for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;

(25)for the appointment and guidance of visitors of prisons;

(26)for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882 (10 of 1882), and to the officers employed, and the prisoners confined, therein;

(27)in regard to the admission, custody, employment, dieting, treatment and release of prisoners; and

(28)generally for carrying into effect the purposes of this Act.

60.[Power of Local Government to make rules] Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

61.Exhibition of copies of rules.— Copies of rules, under [section 59] so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

62.Exercise of powers of Superintendent and Medical Officer.— All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the State Government may appoint in this behalf either by name or by his official designation.

ANNEXURE VI

Standard Minimum Rules for the Treatment of Prisoners

Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

PRELIMINARY OBSERVATIONS

1. The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.

2. In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.

3. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.

4.(1) Part I of the rules covers the general management of institutions, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures" or corrective measures ordered by the judge.

(2)Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

5.(1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions.

(2)The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

Part I

RULES OF GENERAL APPLICATION

Basic principle

6.(1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2)On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

Register7.(1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:

- (a) Information concerning his identity;
- (b) The reasons for his commitment and the authority therefor;
- (c) The day and hour of his admission and release.

(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

Separation of categories

8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;

(d) Young prisoners shall be kept separate from adults.

Accommodation

9.(1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

16. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Clothing and bedding

17.(1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep

him in good health. Such clothing shall in no manner be degrading or humiliating.

(2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

(3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food

20.(1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

(2) Drinking water shall be available to every prisoner whenever he needs it.

Exercise and sport

21.(1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

(2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

Medical services

22.(1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

(3) The services of a qualified dental officer shall be available to every prisoner.

23.(1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

25.(1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

(2)The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

26.(1) The medical officer shall regularly inspect and advise the director upon:

(a) The quantity, quality, preparation and service of food;

(b) The hygiene and cleanliness of the institution and the prisoners; (c) The sanitation, heating, lighting and ventilation of the institution;

(d) The suitability and cleanliness of the prisoners' clothing and bedding;

(e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

(2)The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

Discipline and punishment

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

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

(2)This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports

activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

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

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

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

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

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

31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

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

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

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

Instruments of restraint

33. Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

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

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

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

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

Information to and complaints by prisoners

35.(1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

36.(1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Contact with the outside world

37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

38.(1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

(2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

Books

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Religion

41.(1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

(2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.

(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

42. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

Retention of prisoners' property

43.(1) All money, valuables, clothing and other effects belonging to a prisoner which under the regulations of the institution he is not allowed to retain shall on his admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

(2) On the release of the prisoner all such articles and money shall be returned to him except in so far as he has been authorized to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him.

(3) Any money or effects received for a prisoner from outside shall be treated in the same way.

(4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

Notification of death, illness, transfer, etc.

44.(1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.

(2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.

(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution.

Removal of prisoners

45.(1) When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3)The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.

Institutional personnel

46.(1) The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.

(2)The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.

(3)To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

47. (1) The personnel shall possess an adequate standard of education and intelligence.

(2)Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

(3)After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.

48.All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

49.(1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.

(2)The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

50.(1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.

(2)He shall devote his entire time to his official duties and shall not be appointed on a part-time basis.

(3)He shall reside on the premises of the institution or in its immediate vicinity.

(4)When two or more institutions are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.

51.(1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.

(2) Whenever necessary, the services of an interpreter shall be used.

52.(1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.

(2)In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

53.(1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

54.(1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

(2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.

(3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

Inspection

55. There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

Part II

RULES APPLICABLE TO SPECIAL CATEGORIES

A. Prisoners under sentence

Guiding principles

56. The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under Preliminary Observation 1 of the present text.

57. Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.

59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.

60.(1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

(2) Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim

may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

63.(1) The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.

(2) These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

(3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.

(4) On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

64. The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

Treatment

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

66.(1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

(2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

(3)The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

Classification and individualization

67. The purposes of classification shall be:

(a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;

(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

68. So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

Privileges

70. Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and co-operation of the prisoners in their treatment.

Work

71. (1) Prison labour must not be of an afflictive nature.

(2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

(4) So far as possible the work provided shall be such as will maintain or increase the prisoners, ability to earn an honest living after release.

(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.

72.(1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.

(2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.

73.(1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.

(2) Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

74.(1) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.

(2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.

75.(1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.

(2)The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.

76. (1) There shall be a system of equitable remuneration of the work of prisoners.

(2)Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.

(3)The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release.

Education and recreation

77.(1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2)So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

78.Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

Social relations and after-care

79.Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.

80.From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or

establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.

81.(1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2)The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.

(3)It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

B.Insane and mentally abnormal prisoners

82.(1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.

(2)Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

(3)During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

(4)The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

83.It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social- psychiatric after-care.

C.Prisoners under arrest or awaiting trial

84.(1) Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as "untried prisoners" hereinafter in these rules.

(2)Unconvicted prisoners are presumed to be innocent and shall be treated as such.

(3)Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime which is described in the following rules in its essential requirements only.

85. (1) Untried prisoners shall be kept separate from convicted prisoners.

(2)Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

86.Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

87.Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.

88.(1) An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.

(2) If he wears prison dress, it shall be different from that supplied to convicted prisoners.

89. An untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it.

90. An untried prisoner shall be allowed to procure at his own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.

91. An untried prisoner shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred.

92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

93. For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official.

D. Civil prisoners

94. In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

E. Persons arrested or detained without charge

95. Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.