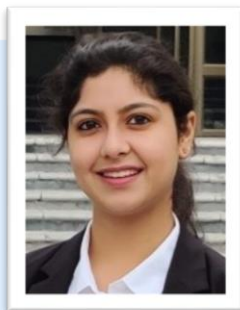


# **PRISONS DURING COVID-19: A PROMINENCE ON THE NCRB**

## **DATA**



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### **ABSTRACT**

*This paper attempts to focus on the Statistical information provided by the “Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India”, with distinct emphasis to analyze subjects like overcrowding, gender, rehabilitation of inmates and their deaths and illnesses through the records.*

*The paper also highlights the current status of this institution amidst the pandemic, the utilization of these institutions and the way the inmates were dealt with.*

### **RESEARCH METHODOLOGY**

The project involves secondary research. The use of electronic research has been made to collect information and data regarding this theme. Journals, reports, handbooks and other referral material, have been principally helpful in giving the project a firm framework. Websites and articles have also been referred.

## INTRODUCTION

Criminal justice system in its entirety is composed of various elements, with prison administration being at its core. Prison institutions are named differently in different countries like “Correctional Facilities, Detention Centre, Jails, Remand Centre” etc. The last century has witnessed a paradigm transition in a social perspective towards prisoners. Conventional system of prisons which manifested a punitive attitude has experienced a total transition in the socio-legal perception towards prison and its inmates. The same is now considered as a correctional institution which in itself connotes that there is a wider focus on reformation of inmates rather than punishing them.

Owing to the tremendous increase in prison population in the last few decades, a number of challenges have arisen before the prison administration such as hygiene issues, overcrowding, security & safety in prison, etc. The Supreme Court of India, in the recent years, has heavily attacked the sub-human conditions present in prisons.

The existing Pandemic has brought to light the overcrowding aspect of the Indian prisons – which has already been raised in the prison rights discourse, a plethora of times. Despite the multiple reminders the legislature never paid heed to the issue. This upheaval must be catered to urgently. More than 61,000 Indian prisoners have been released as an emergency response to Covid-19. But many continue to be exposed to the infection in overcrowded facilities.

Another emerging view point, on the contrary is that decongesting prisons just by releasing inmates is not the solution to arrest the spread of coronavirus, until the sub-optimal health environment prevalent in Indian prisons across the country is addressed.

This paper contains comprehensive information including statistics, analysis and appraisal, at the national level on four such aspects of these institutions:

- I. Overcrowding
- II. Gender
- III. Rehabilitation of Prisoners
- IV. Death and illness of Prisoners

The statistical information has been extracted from the NCRB report for the year 2018<sup>1</sup> as this was the latest report available and this has only been updated to a very small extent in the following two years.

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<sup>1</sup> Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India.

## I. OVERCROWDING

In order to deduce the analysis of overcrowding in the prisons, the prison institutions at different tiers have to be comprehended in depth.

Prisons exist at three levels such as “Taluk level, District level and Zonal/Range level” and Jails at these levels are called as “Sub Jail, District Jail and Central Jail” respectively. Generally, capacity in terms of infrastructure, security, educational and rehabilitation facilities, medical facilities, availability of prison staffs & their powers etc. are progressively better from “Sub jail to Central Jail”.

Prisons and their administration are a State Subject as it is listed in “List II in Schedule VII of the Constitution of India”. Prison Establishments in different States/UTs encompass several tiers of jails.

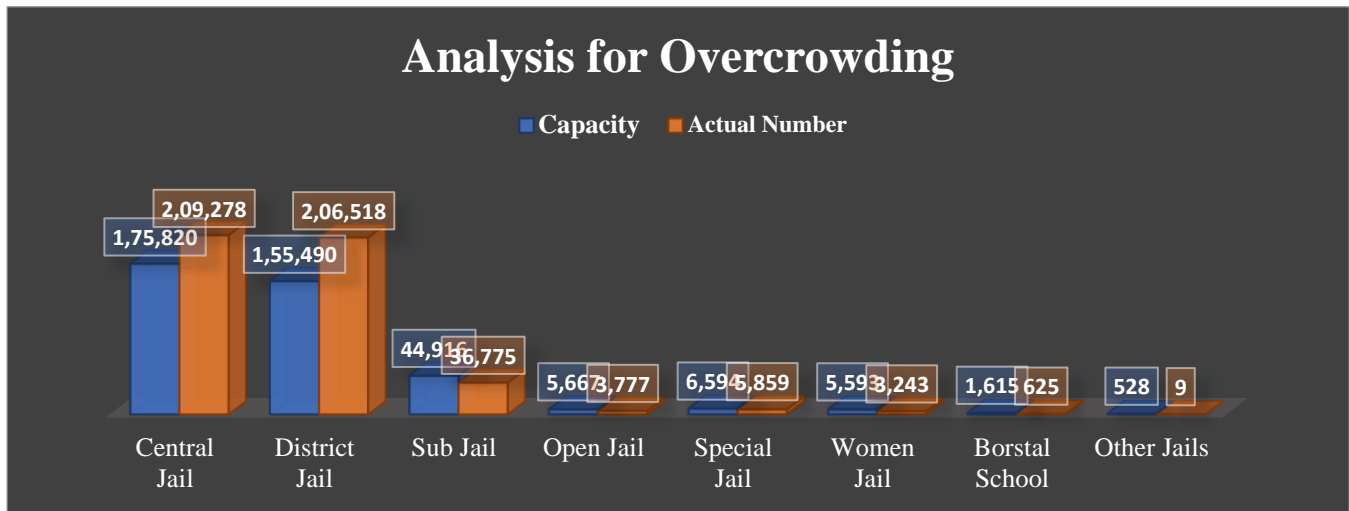
The statistical data and the comparison among different jails across various states and UTs can be understood through the following table and diagrams.

**Table 1: Types of Prisons**

| Type of Prisons      | Description  | Total No. | States/UTs Specific |   | No. of Inmates |        |          | Occupancy Rate |        |       |
|----------------------|--|-----------|---------------------|---|----------------|--------|----------|----------------|--------|-------|
|                      |  |           | Highest No.         | Lowest No.  | Male           | Female | Total    | Male           | Female | Total |
| <b>CENTRAL JAIL</b>  | “Imprisonment for more than 2 years”   | 144       | Delhi (14)          | “Arunachal Pradesh, Meghalaya, A & N Island, D & N Haveli, Daman & Diu, Lakshadweep” (0)          | 2,02,547       | 6,731  | 2,09,278 | 120%           | 96%    | 119%  |
| <b>DISTRICT JAIL</b> | “Have a capacity of approx. 500 prisoners & serve as main jails in the state where there are no central jails” | 404       | Uttar Pradesh (61)  | “Goa, Chandigarh, D & N Haveli, Daman & Diu, Delhi, Lakshadweep, Puducherry” (0)                  | 1,98,408       | 8,110  | 2,06,518 | 136%           | 83%    | 132%  |
| <b>SUB JAIL</b>      | “Sub jails are smaller institutions situated at a sub-divisional level in the States.”                         | 628       | Tamil Nadu (96)     | “Arunachal Pradesh, Goa, Haryana, Meghalaya, Mizoram, Nagaland, Sikkim, Chandigarh and Delhi” (0) | 35,972         | 803    | 36,775   | 88%            | 18%    | 81%   |

|                       |   |    |                          |  |       |       |       |       |      |       |
|-----------------------|---|----|--------------------------|--|-------|-------|-------|-------|------|-------|
| <b>OPEN JAIL</b>      | “Open jails are minimum security prisons”   | 77 | Rajasthan (31)           | “Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura & Uttar Pradesh and all the UTs” (0) | 3,651 | 126   | 3,777 | 65%   | 105% | 66%   |
| <b>SPECIAL JAIL</b>   | “Special jails are maximum security prisons for the confinement of a particular class or particular classes of prisoners”   | 41 | Kerala (16)              | “Assam, Jammu & Kashmir, Karnataka, Maharashtra & Rajasthan” (1)   | 5,639 | 220   | 5,859 | 92%   | 42%  | 88%   |
| <b>WOMEN JAIL</b>     | “Women's jails are prisons that exclusively house female prisoners.”  | 24 | Tamil Nadu (5)           | “Andhra Pradesh, Gujarat, Karnataka, Maharashtra, Mizoram, Odisha, Punjab, Telangana, Uttar Pradesh, West Bengal” (1)  | Nil   | 3,243 | 3,243 | nil   | 57%  | 57%   |
| <b>BORSTAL SCHOOL</b> | “Borstal Schools are a type of youth detention centre and are used exclusively for the imprisonment of minors or juveniles” | 19 | Tamil Nadu (12)          | “Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Punjab, Rajasthan, Telangana” (1)   | 616   | 9     | 625   | 38%   | 75%  | 38%   |
| <b>OTHER JAILS</b>    | “Jails that do not fall into the categories discussed above, fall under the category of Other Jails”                        | 2  | Kerala & Maharashtra (1) | “Rest of India” (0)  | 9     | 0     | 9     | 1.70% | 0    | 1.70% |

**Diagram 1**



## ANALYSIS FOR OVERCROWDING

### 1. Central Jail

Diagram 1 clearly depicts an overcrowding in the central jails to a considerable extent. The occupancy rate of Central Jail at National level is 119% which depicts overcrowding. Prison population in central jails were controllable at the end of the year 2018 in 13 States and 2 UTs as the habitancy rate in these States/UTs (Punjab, Bihar, Chandigarh, Mizoram) remained less than 100% whereas 14 States and 1 UT have reported more than 100% habitancy rate. Chhattisgarh has reported the highest overcrowding (196.1%) followed by Maharashtra (170.7%) and Delhi (159.3%).

### 2. District Jail

It is clearly evident from Diagram 1 that this type of jail reflects overcrowding which is at a rate of 132.8%. Prison population in District jails were controllable at the end of the year 2018 in merely 10 States/UTs (Karnataka, West Bengal, Punjab, A & N Islands) as the habitancy rate in these States/UTs remained less than 100% whereas 18 States have reported more than 100% habitancy rate (U.P., Haryana, Maharashtra, H.P.).

### 3. Sub Jail

Diagram 1 does not depict overcrowding under this category as the occupancy rate is 81.9%. Prison population of Sub - jails were controllable at the end of the year 2018 in 12 States and 5 UTs as the habitancy rate in these States/UTs (Daman & Diu, Jharkhand, Punjab, Chhattisgarh) remained less than

100% whereas 9 States have reported more than 100% habitancy rate (Uttarakhand, Assam, Uttar Pradesh, Kerala, Gujarat).

#### **4. Open Jail**

Overcrowding under this category cannot be seen in Diagram 1 as the occupancy rate is 66.6%. However, West Bengal (114.6%) have reported the highest overcrowding in open jails, followed by Bihar (93.3%).

#### **5. Special Jail**

Diagram 1 does not depict overcrowding under this category as the occupancy rate is 88.9%. However, Kerala (162.9%) has reported the highest overcrowding in Special jails, followed by Jammu & Kashmir (131.1%) and West Bengal (117.3%).

#### **6. Women Jail**

No trace of overcrowding is visible under this category in Diagram 1 as the occupancy rate is 58%. However, Maharashtra (159.2%) has reported highest overcrowding in Women jails, followed by West Bengal (142%) and Bihar (107.9%).

#### **7. Borstal School**

This category is nowhere near to overcrowding as the occupancy rate is 38.7% and none of the States/UTs shows overcrowding. The highest number of inmates were lodged in jails of Punjab (284) followed by Tamil Nadu (225) and Kerala (59).

#### **8. Other Jails**

This category too is nowhere near to overcrowding as the occupancy rate is 1.7% and none of the States/UTs shows overcrowding.

### **APPRAISAL**

The central and district jails depict an alarming rate of overcrowding. The inmates lodged in sub jails and the special jails are currently within the prison capacity but with the rising crime rate the inmates in these jails too may cross the maximum capacity. Open jail, women jail, borstal school and other jails currently seem nowhere nearing to the issue of overcrowding in prisons. Despite these observations and figures mentioned in Table 1 and Diagram 1, overcrowding may vary on day to day and jail to jail criteria.

## II. GENDER

Gender constitutes such a pedestal in the society that any and every aspect of today's world reflects a trace of gender in it, to an extent that even non-living things are categorized on the basis of gender during speech.

In the context of prisons, Table 1 and Diagram 1 reflect the aspect of gender in this institution. It can clearly be deduced that women commit less crimes than men as the prison that is exclusively for females, 'The Women Jail' is nowhere close to overcrowding and the number is well within its capacity. Also, under the number of inmates in other types of prisons, the number of females is not even half of those of males.

The reason for these kinds of numbers can be rooted down to the traditional era when man was known as the 'bread-winner' of the family and the lady, the 'home-maker'. It can be implied that the bread-winner is bound to be harsh and shrewd in this world and the home-maker is bound to be brimming with emotions. Thus, it can be interpreted that a woman in most of the cases is bound to commit a crime as a result of being over-whelmed by the emotions or out of desperation whereas a man commits a crime out of ego, revenge or vengeance.

This reasoning cannot be considered as ultimate for the lower numbers but can certainly stand as one in this context as Lombroso, the pioneer of the positive school of criminology, also advocated that women were less inclined to criminality because of constitutional and psychological factors.

In the aspect of facilities in the prisons, the following sections are stated in the Prisons Act, 1894:

➤ **"Section 24. Prisoners to be examined on admission.**

(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."

➤ **"Section 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."

Section 27 is related to the '**principle of differential association**' given by '**Edwin Sutherland**' that criminal behaviour is learnt and not inherited.

These sections go on to show that females are given a special status as compared to men and are an important subject of consideration in the prison premises. Also, since **Section 27** falls under the head ‘**Discipline of Prisoners**’, providing the women with their personal space is an essential aspect in order to maintain the discipline of the prison premises.

### **III. REHABILITATION OF PRISONERS**

The elementary aim of prison administration is the reformation and rehabilitation of offenders. In order to meet the same, numerous States/UTs being under direction and superintendence of the Central Government have been taking various initiatives in the field of welfare and rehabilitation of prisoners. Central Government via “Ministry of Home Affairs” is administering various schemes for improvement of prison infrastructure with prominence on hygiene condition and organizing national and international conferences on correctional administration for awareness building among prison staff. The “Ministry of Home Affairs” has framed “Model Prison Manual (2016)”.

In the aspect of rehabilitation of prisoners, the following sections are stated in the Prisons Act, 1894:

➤ **“Section 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.”

➤ **“Section 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: —

(2) the labour, if any, on which he was engaged on that day.”

➤ **“Section 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.”

➤ **“Section 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.”

➤ **“Section 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.”

➤ **“Section 45. Prison-offences.**

The following acts are declared to be prison-offences when committed by a prisoner:—

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work.”

➤ **“Section 46. Punishment of such offences.**

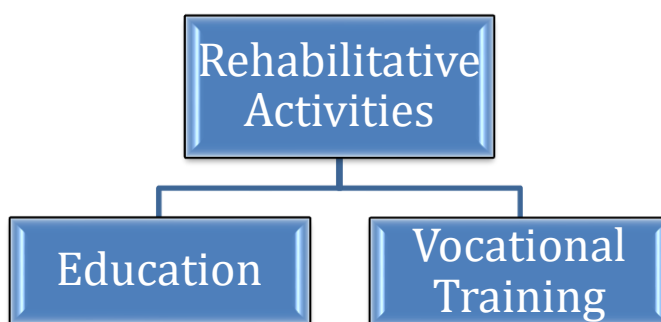
The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment.”

All the above stated sections go on to prove that involving the inmates in some task or the other for their reformation is of utmost importance to the prison administration as the aspect of ‘labour’ is mentioned in almost every important section.

Various practices have been adopted/ shared by the States/UTs out of which this paper focusses on the following two:

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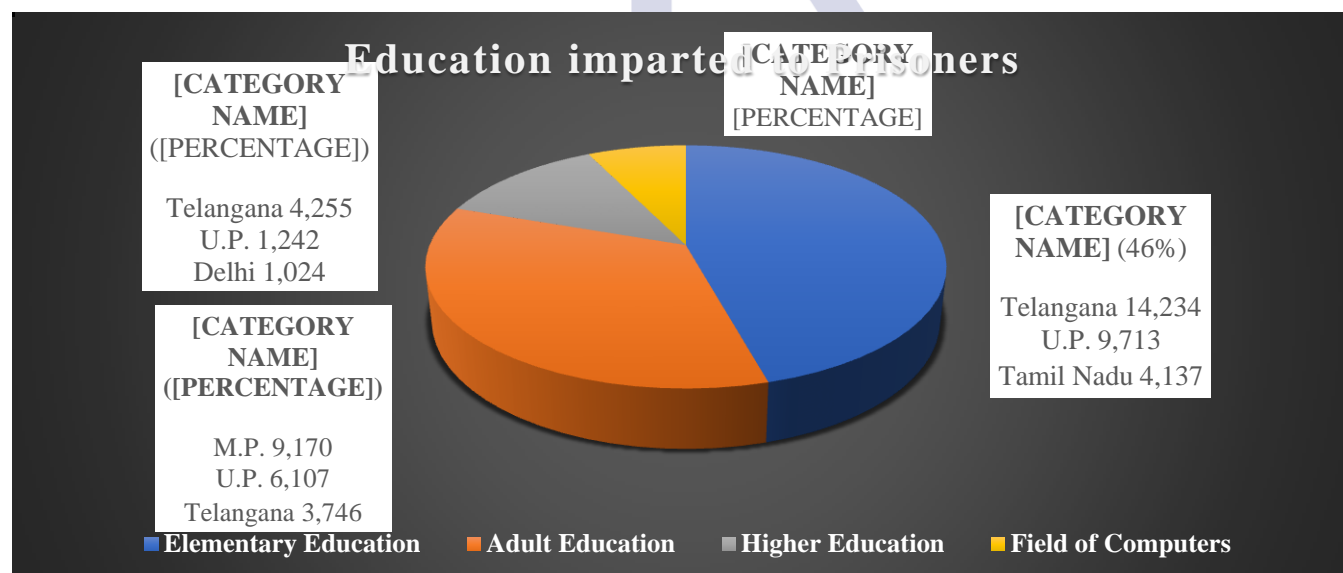


## Education

Imparting education to jail inmates not only contributes towards a corrective approach to the psyche of the felon but also goes a long way in inculcating a responsive and respectful attitude in them towards the society. Following is the statistical data in relation to the types of education imparted across different states.

| Table 2: Education   |                                |
|----------------------|--------------------------------|
| Type of Education    | No. of Prison Inmates Educated |
| Elementary education | 53,009                         |
| Adult education      | 40,122                         |
| Higher education     | 14,380                         |
| Field of Computers   | 8,443                          |
| Total                | 1,15,954                       |

**Diagram 2**



**Table 3: Initiatives undertaken by States/UTs in the field of education**

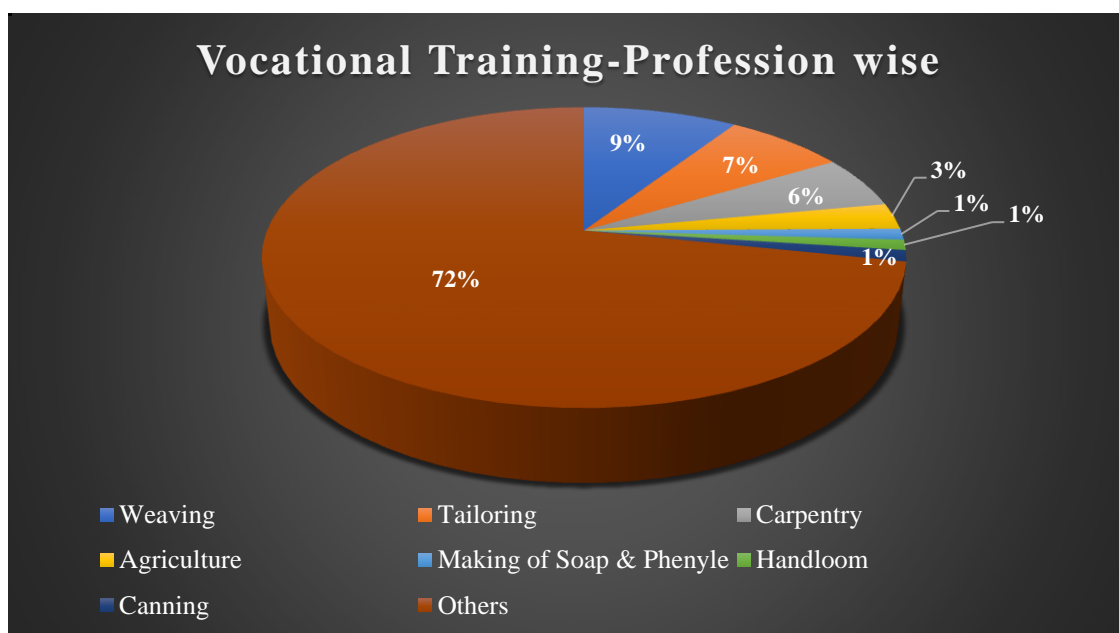
| Educational Programmes in Prisons |   | Library Facility in Prisons |   |
|-----------------------------------|---|-----------------------------|---|
| States/UTs                        | Description   | States/UTs                  | Description   |
| <b>Andhra Pradesh</b>             | <ul style="list-style-type: none"> <li>➤ “Secondary Education is being imparted by National Institute of Open School (NIOS).</li> <li>➤ Graduation &amp; Post-Graduation are being imparted by Open Universities i.e. Ambedkar Open University &amp; Andhra University.</li> <li>➤ Special remission is being awarded to those prisoners who are successful in exams.”</li> </ul> | Andhra Pradesh              | “Digital Libraries have been established at all the Central Prisons i.e. Visakhapatnam, Rajamahendravaram, Kadapa and Nellore.”   |
| <b>Manipur</b>                    | <ul style="list-style-type: none"> <li>➤ “Primary/Basic education to the inmates</li> <li>➤ An IGNOU Special Study Centre has been started in Manipur Central Jail, Sajiwa to provide opportunity for education to the different categories of inmates.”</li> </ul>   | Manipur                     | “Library has been set up for providing reading facilities to the inmates.”  |
| <b>Jammu &amp; Kashmir</b>        | <ul style="list-style-type: none"> <li>➤ “Special Study Centres of IGNOU have been established.</li> <li>➤ Education through distance mode is also provided to the willing prisoners.”</li> </ul>   | Nagaland                    | “Large number of English and Hindi books are made available to the inmates.”  |
| <b>Maharashtra</b>                | <ul style="list-style-type: none"> <li>➤ “Primary education classes</li> <li>➤ Computers aided Adult education</li> <li>➤ Higher Education Degree Courses Conducted by Yashawantrao Chavan Maharashtra Open University and IGNOU.”</li> </ul>   | Sikkim                      | “Regular supply of newspapers and materials of entertainment is being provided to the prisoners’ barracks and there is access to the prison library.”   |
| <b>Delhi</b>                      | <ul style="list-style-type: none"> <li>➤ “In the field of Education, <i>Padho aur Padhao</i> scheme is launched in collaboration with Ministry of HRD, Govt. of India for illiterate inmates.</li> <li>➤ Permanent study centres of NIOS &amp; IGNOU are established inside the jail campus, for prisoners who want to pursue further studies.”</li> </ul>                        | Delhi                       | <ul style="list-style-type: none"> <li>➤ “Library facility with newspapers and magazines is provided to the prisoners.</li> <li>➤ Legal library and computers etc. are also provided.</li> <li>➤ The e-libraries are being established in Delhi Jails for the benefit of prisoners.”</li> </ul> |
| <b>Chandigarh</b>                 | <ul style="list-style-type: none"> <li>➤ “Adult Education Department U.T. Chandigarh is running three adult education centre, two for male inmates and one for female</li> </ul>  |                             |   |

|   |  |  |
|---|--|--|
| <p>inmates.</p> <ul style="list-style-type: none"> <li>➤ Illiterate inmates are provided education up to Middle Standard.</li> <li>➤ Higher Education is provided to inmates through NIOS and IGNOU.</li> <li>➤ Illiterate or school dropout Inmates are taught by educated inmates who are called Preraks.</li> <li>➤ A <i>nukkad natak</i> was also organized to motivate the inmates to get education.”</li> </ul> |  |  |
|---|--|--|

## Vocational Training

Training is one of the essential rehabilitation measures in prison reforms. These days training of inmates in vocational skills in the Prison Institutions has received a lot of credit in all the States/UTs. Following is the statistical data in relation to various training programmes across different states.

| Table 4: Vocational Training |                               |   |
|------------------------------|-------------------------------|---|
| Vocational Programme         | No. of Prison Inmates Trained | States/U.T. Specific  |
| Weaving                      | 5,015                         | Madhya Pradesh (959)<br>Gujarat (916)<br>Telangana (913)    |
| Tailoring                    | 3,939                         | Gujarat (719)   |
| Carpentry                    | 3,057                         | Telangana (815)<br>Gujarat (481)<br>Maharashtra (328)       |
| Agriculture                  | 1,540                         | Madhya Pradesh (444)<br>Punjab (372)<br>Uttar Pradesh (120) |
| Canning                      | 656                           | Assam (520)   |
| Making of soap & phenyl      | 636                           | Telangana (158)<br>Uttar Pradesh (89)                       |
| Handloom                     | 572                           | Maharashtra (316)<br>Madhya Pradesh (160)                   |
| Others                       | 39,011                        | Delhi (9093)<br>Andhra Pradesh (3137)                       |
| <b>Total</b>                 | <b>54,426</b>                 |   |



**Diagram 3**

| Table 5: Vocational Programmes in Prisons |  |
|---|--|
| States/UTs                                | Description  |
| <b>Andhra Pradesh</b>                     | <ul style="list-style-type: none"> <li>➤ “For imparting Computer training to the prisoners, computers are provided in all Central Prisons and Special Prison for Women, Rajamahendravaram</li> <li>➤ New training programs have been introduced at various Prisons in the form of Fly Ash Brick making, Note Book Making, Bakery Products, Dairy, Fuel Outlets and Savories making units at Central Prisons, Prisoners’ Agricultural Colony, Sub Jail.</li> <li>➤ A new Retail Petrol Outlet was established in the premises of District Jail, Ongole.”</li> </ul>   |
| <b>Manipur</b>                            | <ul style="list-style-type: none"> <li>➤ “The male prisoners lodged in Manipur Central Jail, Sajiwa are taught the art of making of Plastic bags and plastic morah (sitting stools) to enable them to earn their livelihood with the skills after their release from Jail.</li> <li>➤ Female inmates lodged in Manipur Central Jail, Imphal are imparted tailoring and embroidery.</li> <li>➤ The method of making of dhoop, dolls and making of dish washing detergent powder and liquid is also imparted to the female inmates so that they can earn their livelihood after their release from Jail.”</li> </ul> |
| <b>Jammu &amp; Kashmir</b>                | <ul style="list-style-type: none"> <li>➤ “Candle Making, Electric Trade, Bamboo Art, Weaving, Hair Cutting, Embroidery, Cutting &amp; Tailoring and Carpentry”</li> </ul>  |
| <b>Maharashtra</b>                        | <ul style="list-style-type: none"> <li>➤ “Skill based trainings such as stitching, electrician, two-wheeler mechanic, paper</li> </ul>   |

|                 |  |
|-----------------|--|
|                 | <p>bag making, beautician etc. are provided to inmates.</p> <ul style="list-style-type: none"> <li>➤ Advanced fashion designing course was conducted in Yerwada Prison, Pune with raw material support provided by the Department of Prisons.</li> <li>➤ Vocational Training in industrial trades - Carpentry, Fabrication, Bakery, Paper Work, Textile, Tailoring, Chemical &amp; Leather etc. are being imparted to the prisoners.</li> <li>➤ Employment in automobile, wire harness, lock, assembly as well as finishing of metal casting, weaving of Paithani silk sarees and handloom sarees is being given to the prisoners.</li> <li>➤ Vocational training in Mushroom Production, Biogas production, Goat farming, fisheries, poultry farm and other agricultural activities”</li> </ul>   |
| <b>Delhi</b>    | <ul style="list-style-type: none"> <li>➤ “Hero Motors Cycles Repairing Centre is operational in Delhi Prisons. Trainers from Hero Honda Motor Cycles impart training to the inmates.</li> <li>➤ LED bulb assembling training classes are conducted in jails to train the inmates.</li> <li>➤ The female prisoners are taught courses like, stitching, weaving, java making, fashion jewelry, jute products, crèche/balwari, embroidery, envelope making, pottery, diya, candle making, namkeen making, artificial flowers, herbal pack, dhoop agarbatti making, pickles, papad making, beauty culture and painting.</li> <li>➤ The other activities which are carried out in the female prison are Computer Literacy, English Speaking Course, Drawing, Painting and Dance classes.</li> <li>➤ Pearl Academy is also conducting fashion designing classes for women.”</li> </ul> |
| <b>Nagaland</b> | <ul style="list-style-type: none"> <li>➤ “Inmates are imparted skills on handicrafts like basket making, bamboo stool, sling for gunny bag, murreh, decorative interior things, plates, spoons etc.”</li> </ul>  |
| <b>Punjab</b>   | <ul style="list-style-type: none"> <li>➤ “Vocational training is provided to convict prisoners in various jails in trades like carpentry, weaving, embroidery, stitching, electrician, welding, plumbing, gardening, book binding, denting painting, motor winding, agriculture training, computer training, beauty parlour courses, hair dressing, floor mill operations, cutting and tailoring, preparing of soap, cooking etc.”</li> </ul>  |

## APPRAISAL

In the aspect of education, it is observed from Tables 2 and 3 and Diagram 2 that in the states where this is prevalent, the prison inmates are being imparted knowledge, learning and schooling of different levels through institutes like IGNOU and NIOS. Concept of libraries and providing of newspapers and reading material is also catching up in various prisons across the country to instil the importance of education in the inmates.

In the aspect of vocational training, a variety of programmes have been observed from Diagram 3 and the data provided above. These also depict that the nature of programmes has changed with the evolution in times, have become modernised with the development in technology and are no longer restricted to the traditional programmes. Moreover, it can also be deduced from Tables 4 and 5 that the vocational programmes are state and area specific, so that the inmates get instant employment in the

various fields available in the market and do not inculcate the feeling of being skill deprived or left out of the society. For instance, in metropolitan cities like Delhi and technologically-advanced states like Maharashtra, it can be observed that the vocational programmes are inclusive of repairing of motor cycles, training of assembling of LED bulbs, skill-based training and for female inmates, English speaking and fashion designing courses.

#### **IV. DEATHS AND ILLNESS IN PRISONS**

Death of an inmate is always a matter of imperative nature for prison administration. Seldom such deaths lead to law and order disruption. “Sections 13, 14, 15, 17 and Chapter VIII of the Prisons Act, 1894” are all in this context, defining duties of officers and the procedure involved in relation to medical health of the prisoners.

➤ **“Section 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 2 duties as may be prescribed by rules made by the State Government under section 3.”

➤ **“Section 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.”

➤ **“Section 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.”

➤ **“Section 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.”

➤ **“Section 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.”

➤ **“Section 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.”

➤ **“Section 39. Hospital**

In every prison an hospital or proper place for the reception of sick prisoners shall be provided.”

Deaths in jails have been categorized into two i.e. Natural deaths and Unnatural deaths which are statistically discussed as follows.

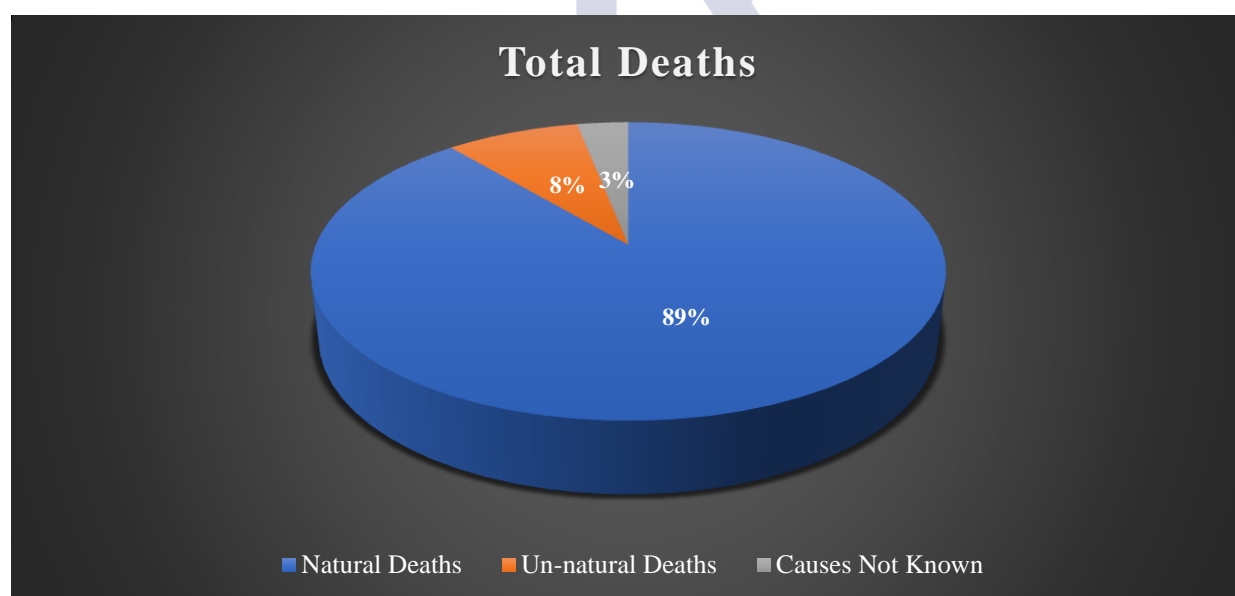
**Table 6: Natural and Unnatural Deaths**

| Natural Deaths |                        |                      | Un-Natural Deaths |                   |                                   |                                     |                    |
|----------------|------------------------|----------------------|-------------------|-------------------|-----------------------------------|-------------------------------------|--------------------|
| Ageing         | Illness                | States/UTs           | Suicide           | Murder by Inmates | Accidental Deaths                 | Deaths due to Negligence & Excesses | States/UTs         |
|                | Heart related Ailments | Uttar Pradesh (426); | Hanging           | Firing            | Forces of Nature-Natural Calamity | (i) Negligence by -                 | Punjab (28); Uttar |

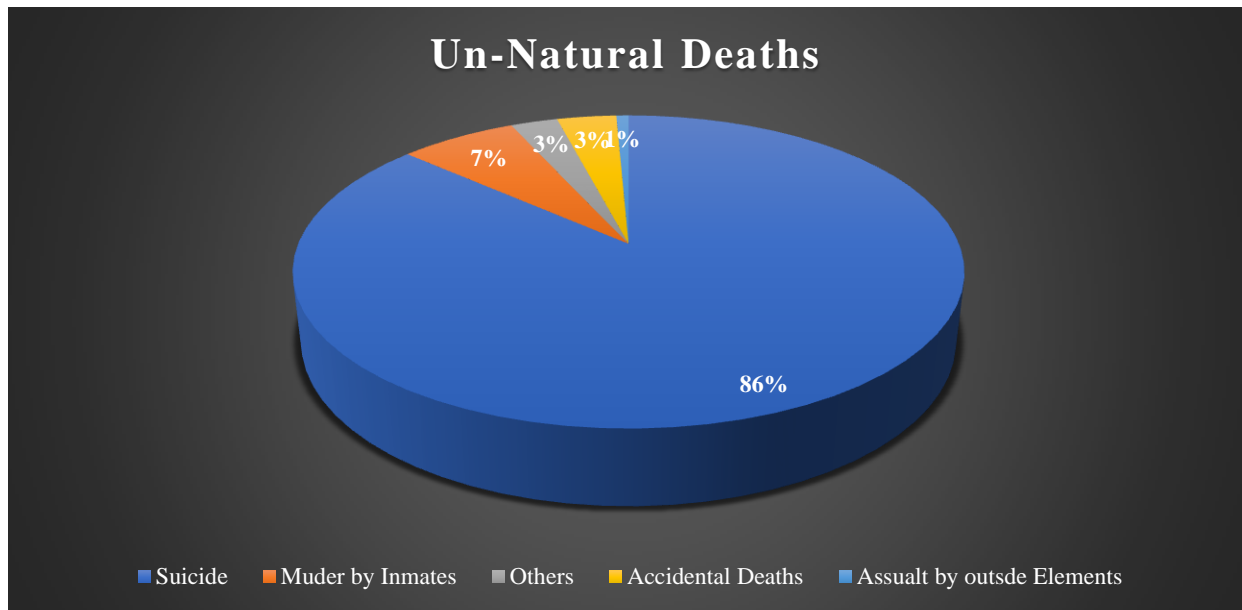


|                         |  |                       |          |                                      |   |   |
|-------------------------|--|-----------------------|----------|--------------------------------------|---|---|
| Lung related Ailments   | Madhya Pradesh (133);<br>Maharashtra (127) | Self-Inflicted Injury | Lynching | Forces other than the nature-        | Jail Staff                                | Pradesh (17);<br>Tamil Nadu (12);<br>West Bengal (12) |
| TB                      |  | Poisoning             | Stabbing | Electrocution                        | Jail medical Staff                        |   |
| Cancer                  |  | Electrocution         | Fighting | Drowning                             | Police Staff                              |   |
| Liver related Ailments  |  | Others                | Others   | Accidental Fall                      | Outside hospital medical Staff            |   |
| Brain Haemorrhage       |  |                       |          | Burn injuries                        | (ii) Excesses (torture) by Jail personnel |   |
| Kidney related Ailments |  |                       |          | Road/train accident (during transit) |   |   |
| HIV                     |  |                       |          | Drugs/Alcoholic Consumption          |   |   |
| Other ailments          |  |                       |          | Animal bite                          |   |   |
|                         |  |                       |          | Others                               |   |   |

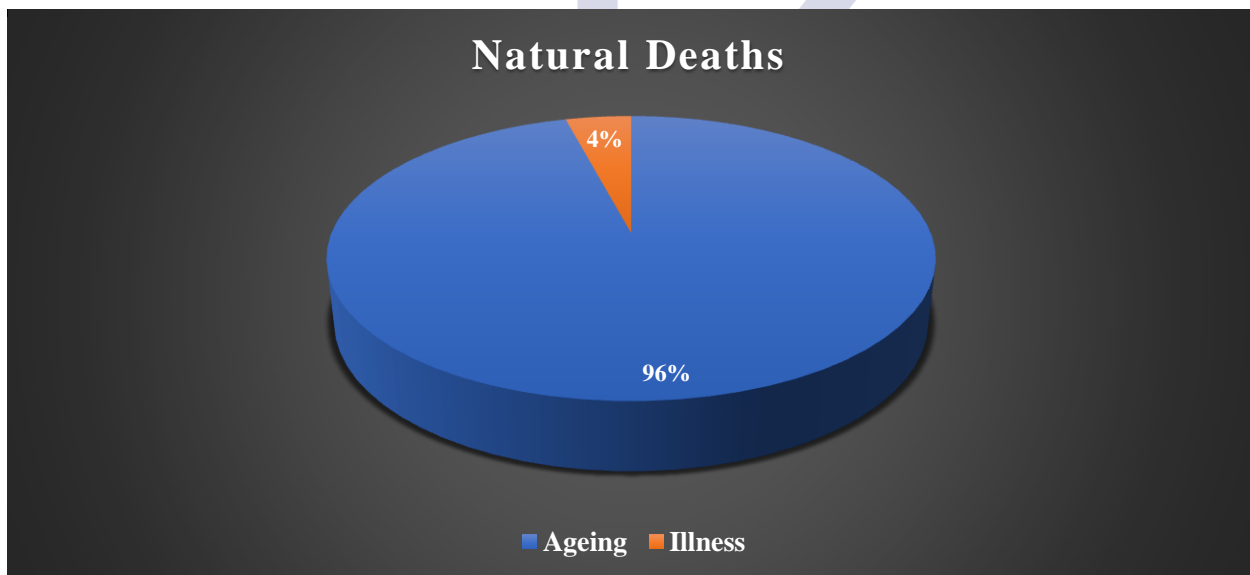
**Diagram 4**



**Diagram 5**



**Diagram 6**



## **APPRAISAL**

As recorded in the NCRB data, “a total of 1,845 prisoners have died, while they were in judicial custody during 2018, in the country, out of which 1,639 were natural deaths and 149 were due to un-natural causes and 57 deaths were reported as causes not known yet. Natural deaths accounted for 88.83% and Un-Natural deaths accounted for 8.08% of the total deaths. Out of the 1,639 Natural deaths, there were 1,559 deaths due to Illness and 80 deaths due to Ageing. Among the un-natural causes of deaths in prisons, Suicide was the pre-dominant cause followed by Murder by Inmates, Accidental Deaths, Others and Deaths Due to Assault by Outside Elements.”<sup>2</sup>

The high rate in natural deaths due to illness can be attributed to many reasons out of which the prime reason could be overcrowding in prisons leading to unhygienic living conditions and ultimately causing a rise in the number of diseases. Also, under the category of un-natural deaths, the number of suicides committed by the inmates is the highest amongst other causes as it can clearly be interpreted that mental shock, unacceptance and fear of the society can be the prime reasons for such a decision. These observations can be understood statistically through Table 6 and Diagrams 4, 5 and 6.

## **COVID-19 IN PRISONS: IS INDIA DOING ENOUGH?**

On 16 March, the Supreme Court asked the states and union territories on their plans to avoid covid-19 spread in prisons. At the time, most states showed their willingness to release certain categories of prisoners on bail and parole. The idea was to decongest the 1,401 prisons in the country, which, according to “2018 National Crime Records Bureau (NCRB)” data, were packed with around 450,000 people, nearly 60,000 over the sanctioned capacity. As of 30 June, nearly 805 jail staffers and inmates have tested positive for covid-19 across jails in the country, as per “Commonwealth Human Rights Initiative (CHRI)”.<sup>3</sup>

Prisons institution in India with their crowded spaces and insufficient healthcare facilities pose an extreme risk of becoming epicentres for the spread of COVID-19. The Hon’ble Supreme Court of India directed States/ UTs to establish a “High-Powered Committee” to ascertain the categories of prison inmates to be released on interim bail/ parole or furlough to minimise overcrowding in prisons.

The Court advised the categories below for consideration of release:

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<sup>2</sup> Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India.

<sup>3</sup> Covid-19 in Prisons (August 2, 2020, 5:30 PM), <https://www.livemint.com/mint-lounge/features/covid-19-in-prison-is-india-doing-enough-11594096672458.html>

- “Prisoners who are convicted/undertrial for one offence for which the sentence is up to seven years.
- Any categories identified by the High-Powered Committee on the basis of the nature of offence, duration of the sentence and severity of the offence.”

“Commonwealth Human Rights Initiative” tracks orders issued by the “High-Powered Committees” across states, categories of prisoners identified for release and the estimated vs actual number of releases across the country.<sup>4</sup>

New articles have suggested certain steps to combat the spread of the pandemic within jails:

- “Prisons must ensure weekly visits by doctors.
- All wards, barracks and common areas must be cleaned daily with water and disinfectant.
- Thermal thermometers should be supplied to monitor visitors and staff, and washbasins and hand wash facilities placed at entry and exit points.
- Additional mobile toilets should be set up (if required) as well as drinking and bathing water facilities augmented by water tankers.
- Sufficient supply of bathing and washing soaps as well as sanitary pads should be provided to women prisoners.
- An improved diet must be provided to pregnant women, lactating mothers and children in prisons.
- A supply of cloth masks and sanitisers for and prison staff must be ensured.
- New admissions to the prison should be screened and kept in an isolation ward for 14 days.”<sup>5</sup>

Reports suggest that “these are unprecedented times and they call for unprecedented measures. No time demanded for the spirit of the law to lead from the front than the times we are in right now. The primary onus lies on the judiciary, under whose custody, prisoners are lodged. It is up to the judiciary to rise to the occasion and put measures that will ease the burden on the system. ‘Innocent until proven guilty’—the very core of judicial principles, needs to be applied now more than ever.”<sup>6</sup>

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<sup>4</sup> “State/Ut Wise Prisons Response To Covid 19 Pandemic In India” (August 2, 2020, 5:30 PM), <https://www.humanrightsinitiative.org/content/state&ut-wise-prisons-response-to-covid-19-pandemic-in-india>

<sup>5</sup> “Covid-19: Ensure prisons do not turn into a fertile ground for the virus” (August 2, 2020, 6:30 PM), [hindustantimes.com/analysis/covid-19-ensure-prisons-do-not-turn-into-a-fertile-ground-for-virus/story-MVJdQa0f2GwwyCojTwQA3L.html](https://www.hindustantimes.com/analysis/covid-19-ensure-prisons-do-not-turn-into-a-fertile-ground-for-virus/story-MVJdQa0f2GwwyCojTwQA3L.html)

<sup>6</sup> How prisons and prisoners must deal with the pandemic (August 2, 2020, 8:00 PM), <https://www.theweek.in/news/india/2020/05/22/how-prisons-and-prisoners-must-deal-with-the-pandemic.html>

## CONCLUSION

Prisons are in a bureaucratic setup and cannot function without records. Records are essential for the generation of crime statistics and rates at which custodial violence is committed along with maintaining a medical history to analyse the death rate and its causes, in short, everything that this paper has catered to.

Emile Durkheim in his book “Crime as a Natural Phenomenon” said “A society composed of persons with angelic qualities would not be free from violations of the norms of that society”. In other words, he simply normalised the aspect of crime present in the society.

Moving on the same lines the society needed the “Panopticon Model of Prisons” by Jeremy Bentham, an exponent of the classical school of criminology. This is because when the model came up, the convicts were treated as novelty and were punished through abhorrent practices.

The basic principle for the design of the model as presented by Bentham was “to monitor the maximum number of prisoners with the fewest possible guards and other security costs. The layout consists of a central tower for the guards, surrounded by a ring-shaped building of prison cells. The building with the prisoners is only one cell thick, and every cell has one open side facing the central tower. This open side has bars over it, but is otherwise entirely exposed to the tower. The guards can thus see the entirety of any cell at any time, and the prisoners are always vulnerable and visible. Conversely, the tower is far enough from the cells and has sufficiently small windows that the prisoners cannot see the guards inside of it.”

Bentham’s architectural principle, “The Panopticon” is a manifest of a Christian belief that God be ever-pervasive and spying and should engulf one from all sides. His sole objective was to design a system wherein absolute control of the other’s mind can be taken by one being.

Getting into the depth of this, the reason behind this intricate architectural design, is *res ipsa loquitur*<sup>7</sup>. The solitary reasoning of monitoring the inmates at all times is to deduce their movements, activities and their entire lifestyle into numbers, tables and graphs with the rationale of record-keeping, comparisons or indexing.

This concept of indexing is also clearly reflected in Section 38 of the Prisons Act, 1894.

As India moves into a much worse position since the first lockdown, we can look in retrospect and analyse what could have been improved. Up till now, the national narrative has focused on “flattening

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<sup>7</sup> Legal Maxim. English translation – The thing speaks for itself.

the curve, saving employment, fighting hunger and guaranteeing the right to health to all the people”. However, one narrative which has been least discussed (if not left out) is that on “prisoners’ rights”. The Hon’ble Supreme Court’s order and the feedback of the State, seems to be deficient in the grand narrative of prison rights. The situation has brought to light two major issues:

- “The first being, the infructuous nature of the provisions of the Model Prison Manual, 2016 which were once drafted to tackle an epidemic.
- The second being the ignorance towards the mental health of prisoners by the State.

This, despite the recognition of mental health as a right through legislative provisions as well as through judicial mandate.”<sup>8</sup>

The COVID-19 pandemic has thrown life out of gear for the general population in ways that none of us could ever have fathomed. The chaos, the challenges emerging on a daily, perhaps even on an hourly, basis has been tough to grapple with. In the midst of it all, there is a population that even in the best of times, receives least attention—individuals lodged in prisons and several other such closed institutions. One may perhaps argue that the Supreme Court and state High Courts, the National Commission for Women and several other such relevant bodies have passed orders for the release of prisoners and given guidelines relevant to prevention and control of the pandemic. However, the outbreak of COVID-19 in Arthur Road Jail and the Jaipur District Jail raises certain pertinent questions as regards the sufficiency of these measures.<sup>9</sup>

The sole purpose of framing statistical records is to **‘invisiblise’ prisoners into numbers**, so that the aggregate information becomes available and also to make these institutions accountable for any activities that take place in the prison premises so the Human Rights Commission need not rely only on the testimonies of the prisoners.

Thus, all these figures, statistics and analysis, nevertheless keep the question lingering that,

*“Are we seduced by numbers or by the temptation to quantify?”*

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<sup>8</sup> “How Indian Prisoners Stand To Lose The Most During Coronavirus Pandemic” (August 1, 2020, 5:30 PM), <https://www.outlookindia.com/website/story/opinion-how-indian-prisoner-stand-to-lose-the-most-during-coronavirus-pandemic/351521>

<sup>9</sup> Id. At 6