

PERCEIVING CORRECTIONAL ADMINISTRATION FROM THE PERSPECTIVE OF CORRECTIONAL STAFF

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Introduction

"It is said that no one truly knows a nation until one has been inside the jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

– Nelson Mandela¹

Over the years, the society has witnessed numerous changes in the dynamics of various institutions. Such changes become necessary as they help in keeping the society in pace with the complexities associated with the contemporary times. The institution of prison or correctional home is one such example which has oriented itself to its transitional role in an evolving society. This is reflected by the manner in which 'prisons', in the current times, are referred to as *correctional institutions* rather than *penal institutions*.²

Prison, also known as correctional home, jail and etc. (in accordance to regional usage) plays an important role in the criminal justice mechanism of the legal system of a country. It is the penal laws of a country which provide and maintain the security of persons and property by strictly prohibiting

¹Mandela, Nelson. *Long Walk to Freedom*. Boston: Little Brown, 1994. p. 105.

²MacCormick, Austin. "The Prison's Role in Crime Prevention." *Journal of Criminal Law and Criminology* 41.1 (1950): 36-48.

criminal acts that imperil them.³ However, when the penal laws are flouted due to a criminal act of an individual, then such an individual is institutionally accommodated in a facility for convicts and under-trial prisoners (for the period of trial), as a kind of punishment. The innate purpose of such imprisonment is to serve only as a deterrent for future criminal acts in the society but over the years, this notion has progressively shifted towards the goal of reformation of inmates too.

The reformatory approach of correctional homes contributes immensely in the integration of the inmates with the society and also gives them an opportunity to secure their livelihood, post release, rather than remain hardened and spiteful towards the society. Therefore, it becomes imperative on the part of the members of the correctional staff (also referred to as 'jail staff' or 'prison officer') to create and maintain a favourable environment within such correctional homes to realize the criminal justice system's *raison d'être* of reformation and rehabilitation of offenders into the society, during the period of their imprisonment.

Nonetheless, the role and working of correctional homes in India has been pursued as an issue of fervent discussion at various forums for quite some time now because of the apathetic conditions that have been highlighted in their administration and management. Such apathy rendered to the stakeholders of the prison system in India, especially the inmates and the correctional staff, would have pushed them to a corner which would be regarded as the origin of corruption, inhumanity and hardening of criminal tendencies among them.⁴ Situations like this stand directly antithetical to consider India as a 'welfare state' despite its possessing a constitutional framework which seeks to achieve "*a significant extent of socio-economic and political equality; freedom and opportunity for individuals to express themselves in work and leisure; along with striving for social justice.*"⁵

³Bayles, Michael D., *Principles of Law: A Normative Analysis*. Dordrecht: D. Reidel Publishing Company, 1987. p. 291.

⁴Tiwari, Arvind. "Human Rights Approach to Prison Management: Issues & Challenges." *The Indian Police Journal* 60.2 (2013): 41-78.

⁵Robson, William A. "India as a Welfare State." *The Political Quarterly* 25.2 (1954): 116-31.; The presence of 'fundamental rights' enshrined in Part III and 'directive principles of state policy' provided in Part IV of the Constitution highlight that India has been envisioned to be a welfare state.

It is also unfortunate to observe that members of the correctional staff are prone to relatively less focus in the discourse regarding reforms in the prison system of India. Such a fact is, at the same time, not surprising to notice as correctional staff-members are often negatively portrayed in the public standpoint and media. This could also explain the reason for the comparatively lower position of correctional staff-members in the social standing to other "uniformed" service officials like the police staff-members. Hence, it also becomes difficult to obtain much academic literature regarding the study of correctional staff-members, possibly, due to such lingering prejudices of the society despite their spending considerable time and energy in similarly harsh environments, to which the prisoners are exposed to.⁷

The presence of deplorable conditions of service for the members of correctional staff would be detrimental to the administration of criminal justice in the country. The existences of such conditions are reflected by the provision of inadequate salaries, negligent remuneration and benefits as well as sub-standard and unhygienic accommodation and infrastructure facilities to staff-members. This is also associated with the difficulties related to overcrowding of prisons due to high number of under-trial prisoners and the concurrent shortage of staff. Hence, it furthers the burden on the staff-members which could result in the decay of the quality of facilities provided for the inmates. Thus, such pressing issues of the correctional staff which requires to be expediently addressed as human rights in prison are intrinsically linked to the service and working conditions of the staff-members who are satisfied during the course of their service, and would further implement such values in the treatment of prisoners.⁸

As per the provisions of the International Covenant on Civil and Political Rights (ICCPR), the criminal justice mechanism is required to

⁶Detention Monitoring Tool. "Staff working conditions: Addressing risk factors to prevent torture and ill-treatment." *Penal Reform International*. 2013. Web. 13 August 2018. <<https://s16889.pcdn.co/wp-content/uploads/2016/01/factsheet-3-working-conditions-2nd-v5.pdf>>

⁷Bierie, David M. "The Impact of Prison Conditions on Staff Well-Being." *International Journal of Offender Therapy and Comparative Criminology* 56.1 (2012): 81-95.

⁸Liebling, Alison. *Prisons and Their Moral Performance: A Study of Values, Quality, and Prison Life*. Oxford: Oxford UP, 2004. p. 375.

fulfil its "*essential aim of reformation and social rehabilitation*" of prisoners.⁹ Even so, to realize this, scholars like Alison Liebling believes that "*the moral quality of prison life (which is requisite for such reformation and rehabilitation) is enacted and embodied by the attitudes and conduct of the correctional staff-members.*"¹⁰ Hence, the objective of this paper is to critically analyse the pertinent issues which revolve around the aspects of the service and working conditions of the correctional staff-members along with their living conditions, especially from the context of correctional homes in Assam.

The paper has been branched into several parts with the historical development of prison administration in India being briefly discussed in Part I. Following this, Part II shall deal with the role and functioning of the correctional staff which would provide a conceptual perspective. Further, Part III of this paper shall highlight the variety of problems and its implications, which are faced by the members of the correctional staff in their day-to-day management of correctional homes. Part IV of the paper shall look into the legal framework and guidelines, inclusive of the international, national and regional standards, which encircle the structure and functions of correctional staff-members in the prison administration. Subsequent to the analyses of the system made in the preceding parts, Part V shall give a road ahead in this discussion by providing possible suggestion which would be prudent enough to tackle the problems troubling the conditions of the correctional staff. Finally, the paper is concluded by elucidating the necessity of looking after the welfare of correctional staff and the importance of the role that is played by them, in the smooth and efficient functioning of the criminal justice system of the country.

Part I

Historical Outline of Prison Administration in India

The idea of correctional homes or better known as 'prisons', have existed in society since the ancient times as it was necessary to keep certain

⁹International Covenant on Civil and Political Rights art. 10 para 3. 16 December 1966. 999 U.N.T.S. 171.

¹⁰Liebling, Alison. "Distinctions and distinctiveness in the work of prison officers: Legitimacy and authority revisited." *European Journal of Criminology* 8.6 (2011): 484-99.

anti-social elements in a place that was authorised by the sovereign to maintain the tranquillity within the society by protecting it against criminal acts.¹¹ The concepts of giving punishments in those times were regressive in comparison to the modern era as it was focussed on the humiliation of the offenders rather than the proper maintenance of prisons.¹²

In India, Lord T.B. Macaulay introduced "the contemporary system of prison administration", as he had to pronounce the despicable conditions, prevailing in the prisons in those times, as "shocking to humanity" at the time of a presentation before the Legislative Council in 1835.¹³ Subsequently, a committee, referred to as the 'Prison Discipline Committee', had been established to propose steps to raise the standards of discipline in prisons and had submitted its report in 1838.¹⁴ As per its report, the committee had highlighted the issue of corruption among the prison staff, lax discipline and a system of employing prisoners for labour on roads. Hence, it had made recommendations of increasing the rigorousness of the treatment meted out to the prisoners while ignoring the fulfilment of their basic needs and idea of reformatory approaches.¹⁵

In 1864, Lord Dalhousie appointed the 'Second Commission of Enquiry' which had been charged with looking into the issues of prison management and discipline.¹⁶ The Commission had reiterated the recommendations of the previously established 'Prison Discipline Committee'.¹⁷ However, it is interesting to note that the Commission had also made mentions, which were regarded to be inherently subordinate

¹¹"National Policy on Prison Reforms and Correctional Administration." *Bureau of Police Research & Development*. 2007. Web. 27 July 2018. <www.bprd.nic.in/WriteReadData/userfiles/file/5261991522-Part%20I.pdf>

¹²Kini, Ananth. "A Critique on Prisons in India in the light of Re Inhuman Conditions in 1382 Prisons." *ILI Law Review* 2 (2017): 72-89.

¹³Bureau of Police Research & Development. (n 11)

¹⁴Math, Suresh Bada, Pratima Murthy, Rajani Parthasarathy, C. Naveen Kumar, and S. Madhusudhan, eds. *Mental Health and Substance Use Problems in Prisons: Local Lessons for National Action*. Bangalore: NIMHANS, 2011. p. 32.

¹⁵ibid

¹⁶Bureau of Police Research & Development. (n 11)

¹⁷Paranjape, N.V. *Criminology & Penology with Victimology*. 16th ed. Allahabad: CLP, 2014. p. 478.

to maintenance of discipline and prison management, concerning accommodation, improvement in diet, clothing, bedding and medical care.¹⁸ The notion of enacting regulations for prison management was introduced at a 'Conference of Experts' in 1877 and consequently, a draft bill on prison laws was produced with regard to the resolution of establishing uniformity in the system, which was adopted during the conference.¹⁹ The 'Fourth Jail Commission' was appointed in 1888 by Lord Dufferin, which was of the view to have a single legislation for prison management enacted, if uniformity within the system had to be achieved.²⁰ The recommendations of the Fourth Jail Commission were further expanded by the suggestions made by the 'All India Committee on Jail Administration' in 1892²¹ and as a result, all of these recommendations were brought together into the statute of the Prison Act of 1894.²²

Nonetheless, the appointments of various jail reform committees did not benefit the prison administration in attaining the approach of reformation because the inmate was perceived as a component in the prison administrative set-up rather than regarding him as an individual with basic human rights during the British Raj.²³ It was at this juncture, when the British authorities had realized that the prison administration in India required an overhauling reform and had appointed the 'All India Jail Committee' to look into the modalities of revamping the existing system in 1919-1920.²⁴ Hence, the committee, under the chairmanship of Sir Alexander Cadrew, had endorsed "the reformation and rehabilitation of inmates" as an objective for effective prison administration.²⁵

The report of this committee threw ample light on the necessity of prison staff training, medical care and aid to inmates along with other

¹⁸ibid

¹⁹Math, Suresh Bada. (n 14) p. 32.

²⁰Bureau of Police Research & Development. (n 11)

²¹Paranjape, N.V. (n 17) p. 478.

²²Roy, Sudipto. "Jail Reforms in India: A Review." *Kriminologija & Socijalna Integracija* 11.1 (2003): 33-40.

²³ibid

²⁴Bureau of Police Research & Development. (n 11)

²⁵ibid

²⁶Roy, Sudipto. (n 22) p. 36.

reformatory measures in prison²⁶, as the committee was of the opinion that prisons should possess a reformatory effect on inmates in addition to its deterring influence.²⁷ Hence, this change in attitude among the British authorities could also be contemplated to be a portrayal of the resumption in the further development of Welfarism in England which had been brought to a halt by the First World War.²⁸

After obtaining independence from the British rule in 1947, several committees, both at the local and central level, were constituted such as the East Punjab Jail Reforms Committee (1948-49), Madras Jail Reforms Committee (1950-51), Assam Jail Enquiry Committee (1956), All India Jail Manual Committee (1957), Working Group on Prisons (1972), etc. and contributed to the steady development of prison administration in India.²⁹ Amid the aforementioned committees, it is intriguing to observe that the Working Group on Prisons had put forward, inter alia, the suggestion of focussing on the appropriate training of prison staff-members and the enhancement of their service condition, which was advanced in its report in 1973.³⁰

Part II

Appreciating Correctional Staff and its nature of work

"The Prison Service is the most complex organisation I have encountered and its problems some of the most intractable."

– Sir Raymond Lygo³¹

Correctional staff are intrinsically regarded to be an important participant

²⁷Paranjape, N.V. (n 17) p. 479.

²⁸Woodroffe, Kathleen. "The Making of the Welfare State in England: A Summary of Its Origin and Development." *Journal of Social History* 1.4 (1968): 303-24.; The recommendations of the All India Jail Committee (1919-1920) could not come into being during the British Raj because of the occurrence of the World Wars and the rising vigour of the Indian independence movement. See Roy, Sudipto. (n 22) p. 36.

²⁹Kini, Ananth. (n 12) p. 73.

³⁰Bureau of Police Research & Development. (n 11)

³¹Lygo, Raymond. *Management of the Prison Service*. London: Home Office, 1991. p. 2.

in discerning the ground realities of the conditions of correctional homes.³² Scholars have also found that the practice of a correctional home is manifested in its staff-members through factors such as their attitude, approach to their work and treatment of inmates.³³ Yet, it is not astounding for members of the correctional staff to find themselves being adversely depicted as "*insensitive authoritarian figure*" in the opinion of public through films, despite their valuable service to the society.³⁴ *Vinashak*, a Bollywood movie from the year 1998, lucidly reflects such a notion as the jailor in the film was portrayed as the antagonist who had turned his prison into "*a centre for illicit weapons and narcotic substances*". However, the reason of such a portrayal could be found in the collective neglect of the system rather than the misdoings of the correctional staff.³⁵

Exploring the sphere of correctional staff is quite captivating as they possess "*a distinct, socially significant and historically under-examined role*".³⁶ Thus, the analysis of correctional staff is regarded to be significant because of three reasons.³⁷ First of all, members of the correctional staff perform an important responsibility of the state which has a humanistic influence on the inmates. Second, it is requisite to comprehend the impact caused upon them such as constant pressures, stresses and tensions due to their conspicuous distinctiveness as an organisation. Finally, understanding the nature of the work of correctional staff provides an account of broader social issues like power, order, inequality and resistance, as per the conventions followed in the correctional homes of the contemporary era.

³²Molleman, T., and T.C. van der Broek. "Understanding the links between perceived prison conditions and prison staff." *International Journal of Law, Crime and Justice* 42 (2014): 33-53.

³³Liebling, Alison, and Ben Crewe. "Prison Life, Penal Power and Prison Effect". *The Oxford Handbook of Criminology*. Eds. Mike Maguire, Rod Morgan and Robert Reiner. 5th ed. Oxford: Oxford UP, 2012. 895- 927.

³⁴Tiwari, Arvind. (n 4) p. 55.

³⁵"Prison Visiting System in India." *Commonwealth Human Rights Initiative*. 5 March 2016. Web. 15 August 2018. <www.humanrightsinitiative.org/publications/prisons/prisons_visiting_system_in%20India.pdf>

³⁶Bennett, Jamie. *The Working Lives of Prison Managers: Global Change, Local Culture and Individual Agency in the Late Modern Prison*. Basingstoke: Palgrave Macmillan, 2016. p. 1.

³⁷ibid

The occupational nature of the correctional staff is considered to be a 'protective service'.³⁸ This is also recognizable with the functions associated with this job³⁹, such as:-

- a) preserving effective security in the custody of the inmate held in confinement.
- b) delivering care, with humanity, to prisoners.
- c) providing ample space to the inmates to address their offending behaviour.
- d) assisting with the quotidian management of the organizational atmosphere in the correctional home.

Nevertheless, the reality shows that the tasks of the correctional staff, significantly differs between correctional homes and regions as in some regions, members of the correctional staff hardly goes into the inmates' boundary⁴⁰, while in other places they go out of the way to establish a positive connection with the inmates to water down tensions apart from resorting to the use of force.⁴¹ Hence, many functions of the correctional staff and their problems would be similar among various regions but in addition to this, this part would also throw sufficient light on the key issues of the correctional homes in Assam.

The requirement of noteworthy professional skills and alertness among the members of the correctional staff is considered to be beneficial for the cause of the modern management of correctional homes.⁴² However, the deplorability of their working and service conditions would have substantial effects on their work attitude, which consequently impacts the correctional institutions in whole.⁴³ Therefore, the need for assessing the correctional staff's circumstances of work and service becomes exigent as it is widely believed that the staff's working situation influences their manner of treating

³⁸Liebling, Alison. "Prison officers, policing and the use of discretion." *Theoretical Criminology* 4.3 (2000): 333-57.

³⁹ibid

⁴⁰Coyle, Andrew. *Managing prisons in a time of change*. London: International Centre for Prison Studies, 2002. p. 36.

⁴¹Liebling, Alison, David Price, and Guy Shefer. *The Prison Officer*. London: Routledge, 2012. p. 8.

⁴²Coyle, Andrew. *Managing prisons in a time of change*. (n 40) p. 69.

⁴³Lambert, Eric G., Jianhong Liu, and Shanhe Jiang. "An Exploratory Study of Organizational Justice and Work Attitudes Among Chinese Prison Staff." *The Prison Journal* 98.3 (2018): 314-33.

the inmates which, in turn, also affects the inmates' perception of the correctional home conditions.⁴⁴



Figure 1 : Impact of relationship between the staff-members and the inmates of correctional homes.

[Source : Molleman T and van der Broek T.C. (2014)]

Part III

Badgering problems of the correctional staff and its implications

"Rules in our prison have been tightened up. There are more frequent searches. . . What is required, of course, is not more frequent searches but a better class of wardresses, more educated and better paid."

– Vijaya Lakshmi Pandit ⁴⁵

It is common to find the perception of the correctional home culture to be gloomy and discourage among the members of the correctional staff because they view themselves to be a component of "*an unvalued and unappreciated occupational group.*"⁴⁶ Such an assessment is also the result of the persisting apathetic response meted towards mitigating several factors which are inimical to the service and working conditions of the correctional staff such as overcrowding in correctional homes, lack of adequate recruitment of staff, dilapidated physical infrastructure, disparity in pay, absence of career-enhancement, etc. Hence, the need to analyse the essence of the various constraints of the correctional staff remains as the objective of this remaining part.

Overcrowding

"Almost all over India overcrowding in prisons has become a common problem. In some prisons the cells and barracks which were originally meant for

⁴⁴Molleman, T., and T.C. van der Broek. (n 32) p. 38.

⁴⁵Pandit, Vijaya Lakshmi. *Prison Days*. New Delhi: Speaking Tiger, 2018. p. 130.

⁴⁶Crawley, Elaine, and Peter Crawley, "Understanding prison officers: culture, cohesion and conflicts". *Understanding prison staff*. Eds. Jamie Bennett, Ben Crewe and Azrini Wahidin, Devon: Willian Publishing, 2008. 134-50.

accommodating inmates have been converted into store-rooms, godowns, workshops, etc. The original authorized accommodation of an institution is thus slowly shrinking whereas the daily average population and the total admission indicate a steady increase. As a consequence, overcrowding has assumed the proportions of a major problem for the Correctional Administration."⁴⁷

This was the observation made by the All India Jail Manual Committee, which had been constituted in 1957 and fascinatingly, it still holds water for the present climate of correctional administration in India.⁴⁸ It is a commonly-acknowledged fact that most correctional homes in India are plagued by the problem of overcrowding.⁴⁹ In a letter addressed by Justice R.C. Lahoti, one-time Chief Justice of India to the then Chief Justice of India on 13th June, 2013, he had also pointed that the difficulty of overcrowding carried the day in 1382 correctional homes of India, as per a report that had been published in the national edition of Dainik Bhaskar.⁵⁰

Overcrowding pertains to the circumstances in which the inmates accommodated in a correctional home are more than the sanctioned strength.⁵¹ Overcrowding is understood by analysing the occupancy rate of correctional homes which is defined as "*the number of inmates staying in correctional homes against the sanctioned capacity for 100 inmates.*"⁵² In India, the average occupancy rate of the correctional homes is estimated to be 114.4% which implies the issue of overcrowding.⁵³ However, the occupancy rate of the correctional homes in Assam, despite being less than the national average, is 109.7%.⁵⁴ This shows that the drawback of overcrowding continues to hamper the smooth management of correctional administration in Assam. As per the Comptroller and Auditor General's report on the Government of

⁴⁷Neier, Aryeh, and David Rothman. "Prison Conditions in India." *Human Rights Watch*. 1991. Web. 14 July 2018. <www.hrw.org/sites/default/files/reports/INDIA914.pdf>

⁴⁸ibid

⁴⁹Paranjape, N.V. (n 17) p. 483.

⁵⁰*Re: Inhuman Conditions in 1382 Prisons*, AIR 2016 SC 993 (India). para 6.

⁵¹"Prison Statistics India, 2015." *National Crime Records Bureau*. 18 November 2016. Web. 7 July 2018. <<http://ncrb.gov.in/statpublications/psi/Prison2015/Full/PSI-2015-%2018-11-2016.pdf>>

⁵²ibid; If occupancy rate is less than 100, then it highlights the availability of space for inmates in correctional homes. However, an occupancy rate which is more than 100 would signify overcrowding in them.

⁵³Kini, Ananth. (n 12) p. 85.

⁵⁴National Crime Records Bureau. (n 49) p. 15.

Assam, it highlighted that overcrowding of inmates was a problem in 18 jails but the registered capacity of 12 jails remained unoccupied for the period of 2012-16.⁵⁵

It is common to find the problem of overcrowding in the correctional homes for reasons like the rise of inmate population, deficient infrastructure, high imprisonment rates and strict sentencing procedures, huge number of under-trial prisoners, dearth of non-custodial measures and sanctions and various social, economic and political factors.⁵⁶ It is also appalling to find the growing population of under-trial prisoners in the correctional homes have a notable contribution to the issue of overcrowding as they constitute a large majority of those confined in judicial custody.⁵⁷ This problem has several repercussions on the management of correctional homes as it becomes difficult to provide acceptable standards of sanitation and hygiene along with adequate medical facilities to the inmates.⁵⁸ Simultaneously the cost of running an overcrowded correctional home also becomes expensive due to the severe crunch in resources, both material and human, which are required to meet the needs of the inmates in such a place.⁵⁹ In totality, such attributes interact with each other and depresses the entire climate in correctional homes.⁶⁰

Another problem which is unique to the state of Assam is the presence of a very significant amount of illegal immigrants and as the Supreme Court had observed, it is not at all surprising to witness the absence of a detention

⁵⁵Accountant General (Audit) Assam. "Epitome of CAG's Reports on the Government of Assam For the Year ended 31 March 2016." *Comptroller and Auditor General*. 2016. Web. 22 August 2018. <www.agasm.cag.gov.in/forms/audit_report/epitome2.pdf>

⁵⁶United Nations Office for Project Services (UNOPS). "Technical Guidance for Prison Planning." *United Nations*. 2016. Web. 14 July 2018. <https://content.unops.org/publications/Technical-guidance-Prison-Planning-2016_EN.pdf?mtime=20171215190045>

⁵⁷Law Commission of India. Congestion of Under-trial Prisoners in Jails. Report No 78. February 1979. p. 1. para 1.5.

⁵⁸Teja, B.K. "Living Conditions and Human Rights of Inmates." *National Human Rights Commission*. 2013. Web. 17 June 2018. <http://nhrc.nic.in/Documents/Publications/Living_Conditions_HR_of_Inmates_Vol_I.pdf>

⁵⁹Bhat, Mudasir A. "Prison Laws in India: A Socio-Legal Study." *Uttarakhand Judicial & Legal Review* 2.1 (2014): 93-108.

⁶⁰Teja, B.K. (n 58)

⁶¹Order dated 12/09/2018 in *Re: Inhuman Conditions in 1382 Prisons* AIR 2016 SC 993 Writ Petition(Civil) 406/2013.

centre being established in Assam either.⁶¹ However, this issue exacerbates the current problem of overcrowding in the correctional homes as the foreign nationals are 'temporarily' detained in the correctional homes in the absence of a dedicated detention centre.⁶² To solve this crisis, the state of Assam has responded by earmarking the land in Goalpara where the detention centre would be established and it has been asked by the Apex Court to accelerate its construction as the Central Government had sanctioned the amount of ₹ 46.51 crores for the same.⁶³

Inadequacy of Correctional Staff

In the field of academics, scholars argue that provision of a custodial duty to inmates such as convict-warders, in managing the correctional homes to aid the correctional staff's function of maintaining institutional security, is an inefficacious exercise which stands antithetical to the objective of correctional administration i.e. reformation of inmates.⁶⁴ Nonetheless, the existence of this practice still continues and increasing the recruitment of correctional staff could be highly effective in dealing with this matter.

Under-staffing creates a constant pressure in the management of correctional homes⁶⁵ because there would be staff-members, who would have been already given some other responsibilities but again be burdened with additional duties as the requisite financial and manpower assets are lacking for the system.⁶⁶ The Prison Statistics report of India, under the initiative of the National Crime Records Bureau (NCRB), stated that among the sanctioned strength of 80,236 for the entire correctional staff in India, only 53,009 members constituted for the actual strength.⁶⁷ Thus, it could be

⁶²Saha, Soumyajit. "Detained Until Deported: Thousands Declared 'Foreigners' in Assam Wait in Limbo." *The Wire*. February 2018. Web. 3 October 2018. <<https://thewire.in/politics/detained-deported-thousands-declared-foreigners-assam-wait-limbo>>

⁶³Order dated 12/09/2018 in *Re: Inhuman Conditions in 1382 Prisons* AIR 2016 SC 993 Writ Petition(Civil) 406/2013

⁶⁴Narag, Raymund E., and Clarke R. Jones. "Understanding Prison Management in the Philippines: A Case for Shared Governance." *The Prison Journal* 97.1 (2017): 3-26.

⁶⁵Tiwari, Arvind. (n 4) p. 69.

⁶⁶Narag, Raymund E., and Clarke R. Jones. (n 64) p. 5.

⁶⁷National Crime Records Bureau. (n 51) p. 139.

inferred that an unfortunate 66.1% of the total sanctioned strength of correctional staff had been filled in reality.⁶⁸

The state of Assam fares slightly better than the national average in this field by having an actual strength of 51,238 members occupied for a sanctioned strength of 77,128.⁶⁹ This accounts for 74.3% of the total sanctioned strength of its correctional staff.⁷⁰ Yet, this seems contradictory as the members of its correctional staff have been despaired on the manner of being burdened with additional work quite regularly due to the shortage of staff and lack of recruitment in the correctional homes. The Superintendent of the Tezpur Central Jail had pointed to the effect of this problem ranging on the security of the correctional home. He had also claimed that people from outside the premise of Jail have been witnessed to throw mobile phones into it due to the lack of adequate staff for external perimeter security of the correctional home.⁷¹

The reader at this stage might probably notice the construction of a link between the issues of overcrowding of inmates and shortage of correctional staff in correctional homes, which carries along with itself detrimental effects on the machinery of its administration. Hence, one might also ponder about the pressure that is placed upon an insufficiently-staffed members of the correctional staff in managing the daily affairs of the correctional homes which also constitutes for maintaining the custody of a highly excessive number of inmates and their affairs that pertains beyond its gates. This shall be discussed in detail in the following stages of this paper.

Working conditions of the correctional staff

It is generally said that the environment variables of a place greatly determines an individual's behaviour of work relative to the circumstances. Similarly, the working conditions of a correctional home have a significant influence in the performance of the correctional staff.⁷² It is ordinary to find

⁶⁸ibid

⁶⁹ibid

⁷⁰ibid

⁷¹Interview with Superintendent of Tezpur Central Jail (Tezpur, Assam, India, 26 June 2018)

⁷²Narag, Raymund E., and Clarke R. Jones. (n 64) p. 20.

deprived working conditions in the correctional homes for reasons like the insufficient space, inadequate staff and lack of operational funds needed for its maintenance.⁷³



Figure 2 : Condition of a quarter for staff-members of the Jorhat District Jail. Left- Toilet.
 Right- Interior and exterior of the quarter.
 (Source: Pratidhwani: Free Legal Aid and Awareness Centre)

The physical infrastructures of the correctional homes are often found to be debilitating in nature. Hence, the working atmosphere of the correctional staff, consequently, dampens. Such was the case in the Tezpur Central Jail, the Morigaon District Jail, the Goalpara District Jail and the Jorhat Central Jail. The cracks on the walls and ceilings of the offices of these correctional homes were conspicuous which reflects on the passive attitude for maintenance. There was no sight of upgrade in the furniture used such as the desk, chairs, cupboards, etc. in these places. The absence of efficient space utilization in the office of some correctional homes like the Tezpur Central Jail as the office appeared to be nothing less than a muddle of tables and chairs occupied by the members of the staff. The unsatisfactory height of the boundary walls of the correctional homes pose a problem to the staff-members despite the acute shortages of security staff as 68 escapes have been noted in the correctional homes of Assam

⁷³ibid

from 2012 to 2015.⁷⁴ Another official from the Goalpara District Jail said that the ideal height of the perimeter wall should range between 18 feet to 22 feet. However, in reality, the perimeter wall stands close to 14 feet in height, which reflects the lax approach in improving the physical infrastructure of the correctional homes.

It was also fascinating to observe in the Tezpur Central Jail and Morigaon District Jail that despite the space-crunch in the offices, the visiting rooms of the inmates were found to be attached to them. Hence, it is not clear whether such arrangements are a result of the management or mismanagement of the office space but an official of the Morigaon District Jail did state his frustration towards such an arrangement contending that the staff members are not able to work in peace due to their nature of being proximate to the outdoors.

While it is normally assumed that the scale of pay and service conditions exhibits the importance of the service contributed to the society⁷⁵, the pay provided to the correctional staff is very low. Thus, talented individuals are not provided with any incentive to join the service by offering low levels of pay.⁷⁶ In Madhya Pradesh, the M.P. Public Service Commission kept the posts of Assistant Jailors, Naib-Tehsildars and Sub-Inspectors of Co-operative Societies/ Excise Department on the same scale with a common examination and similar academic qualification prescribed. However, in the initial stages, the government demotes the post of the correctional staff by prescribing a lower scale of pay.⁷⁷

The issue of lower scale of pay is also contended to be a persisting problem according to members of the correctional staff of Assam. After holding interviews based on lightly structured talk with the officials of the correctional homes in Tezpur, Morigaon, Goalpara and Jorhat, it was visible that the pay scale provided to them was not considered to be sufficient. Thus, the 7th Assam Pay and Productivity Pay Commission had

⁷⁴Accountant General (Audit) Assam. (n 55)

⁷⁵Allen, Rob. "Global Prison Trends 2016." *Penal Reform International*. May 2016. Web. 20 May 2018. <https://s16889.pcdn.co/wp-content/uploads/2016/05/Global_prison_trends_report_2016.pdf>

⁷⁶Coyle, Andrew. *A Human Rights Approach to Prison Management*. London: International Centre for Prison Studies, 2002. p. 28.

⁷⁷"Prisons and Human Rights." *Commonwealth Human Rights Initiative*. April 1998. Web. 22 June 2018. <http://humanrightsinitiative.org/publications/prisons/bhopal_98_workshop_report.doc>

recommended that the post of Superintendent of Jail Gr. II and Lady Superintendent were upgraded with grade pay of ₹ 5,400.⁷⁸ It had also made the recommendation of bringing the grade pay for Warder, Head Warder and Chief Head Warder at par with the grade pay of Constable, Head Constable and Assistant Sub-Inspector of Police at ₹ 2200, ₹ 2700 and ₹ 2900 respectively in order to address the disparity of scale of pay among uniformed services.⁷⁹ Yet, the delay of implementing these recommendations have agitated the members of the correctional staff as the Assam Jail Officers Association had forwarded a memorandum to the Anomaly Committee seeking a grade pay of ₹ 9100 for the rank of Assistant Jailors.⁸⁰

In the existing structure of managing correctional homes, a staff-member could be asked to work for as many hours as per requirement, without the provision of compensatory allowances for overtime other than the payment of the regular salary.⁸¹ This factors the very long work and unpredictable hours for correctional staff, which also creates stressed environment to work in.⁸² Along with the provision of less pay and absence of compensatory allowance for overtime, the members of the correctional staff are also stifled with disparity in provision of other allowances like kit allowance and ration allowance, with other governmental services like the police personnel. Thus, the memorandum that had been submitted to the Anomaly Committee had also contained the demands of providing compensatory allowance and ration allowance up to the rank of jailor, at par with that provided to the police personnel.⁸³

The grey area in the framework of correctional administration in Assam comprises of the detention of 'declared foreigners' in its correctional homes.

⁷⁸Finance Department. "Report of 7th Assam Pay and Productivity Pay Commission." *Government of Assam*. 18 November 2016. Web. 2 August 2018. <https://finance.assam.gov.in/sites/default/files/swf_utility_folder/departments/agriculture_com_oid_2/do_u_want_2_know/7th%20Assam%20Pay%20%26%20Productivity%20Pay%20Commission.pdf>

⁷⁹ibid

⁸⁰Finance Department. "Report of the Anomaly Committee." *Government of Assam*. 2017. Web. 2 August 2018. <https://finance.assam.gov.in/sites/default/files/swf_utility_folder/departments/agriculture_com_oid_2/menu/document/Report%20of%20Anomaly%20Committee.pdf>

⁸¹Coyle, Andrew. *Managing prisons in a time of change*. (n 40) p. 54.

⁸²ibid

⁸³Finance Department, 'Report of the Anomaly Committee'. (n 75)

However, the absence of the regulations on such individuals in the prison manuals makes it difficult for them to take care of themselves and also, the correctional staff-members to take care of them. For example, as jail manual rules are not legally applicable to detainees, it also signifies that they are prohibited from working for a wage which could be distressing for their family members too.⁸⁴ Hence, a good practice has been noticed among some of the staff-members who have expended money from their own sources to assist such detainees in their welfare. However, such benevolence eventually ends up being a burden for the members of correctional staff themselves.

Another bone of contention which concerns the correctional staff is the matter of promotion in their service. The prospects of promotion in the correctional service is considered to be very stationary and provide upward mobility in their career concerned.⁸⁵ It is a fact of life in this service that an average of 20-22 years of service could be beneficial in getting a promotion from one rank to another as per the opinion of an official from the Morigaon District Jail. The situation pertaining to promotion is even worse among the lower echelons of the correctional staff due to the existence of a number of warders who have been denied the opportunities of promotion for the last two decades.⁸⁶ For redressing this issue, the 7th Assam Pay and Productivity Pay Commission had made a suggestion of permitting the Warders, Head Warders and Chief Head Warders possessing graduate qualification to appear for the procedure of direct recruitment to higher posts such as Assistant Jailor.⁸⁷

The current system of correctional administration clearly represents the female members belonging to the correctional staff are a part of the minority and a lot of distinct hurdles are placed before them, in their work.⁸⁸ The

⁸⁴Saha, Soumyajit. (n 62)

⁸⁵Bedi, Kiran. *It's Always Possible: Transforming one of the largest prisons in the world*. 9th ed. New Delhi: Sterling Publishers, 2012. p. 51.

⁸⁶Commonwealth Human Rights Initiative. (n 77)

⁸⁷Finance Department, 'Report of 7th Assam Pay and Productivity Pay Commission'. (n 78)

⁸⁸Rope, Olivia, and Frances Sheahan. "Global Prison Trends 2018." *Penal Reform International*. May 2018. Web. 22 June 2018. <https://s16889.pcdn.co/wp-content/uploads/2018/04/PRI_Global-Prison-Trends-2018_EN_WEB.pdf>

consequence of a male-dominated system is that the requirements of the female staff-member are not paid with much heed. While discussing this issue with Ms Nayama Ahmed, an assistant jailor in the Tezpur Central Jail, she sheds light on the conditions of hygiene and sanitation for the prison staff.⁸⁹ She mentions that the ladies' washroom is in such a pathetic condition that the female staff-members are forced to use the gents' washroom. This highlights another severe infrastructural defect in the prison where there is an absence of the provision of separate washrooms for men and women. Being a married woman, who is blessed with 2 children, she also contended that she is left with no other option but to hire domestic helps to take care of her children due to the paucity of time that she can accord to her children.⁹⁰ Thus, she feels that having a crèche in the prison would be highly beneficial and productive to all the female staff-members of the prison including her. Hence, the question that ponders around one's head upon knowing such realities is whether the institutions of the state are still contributing to prevalence of gender-inequality in the society.

Living conditions of the correctional staff

It is important to realise that the living conditions of the correctional staff has close proximity to the conditions within the premise of the correctional home. This includes bad physical infrastructure, inadequate space, air and light along with deficiency in efficient sewerage system and waste management or other unhygienic circumstances.⁹¹ In addition to these, the remoteness or inaccessibility of the location of the correctional homes further makes it imperative to provide appropriate living conditions to the correctional staff.⁹² The construction of decent staff quarters for correctional

⁸⁹Interview with Ms Nayama Ahmed, Assistant Jailor, Tezpur Central Jail (Tezpur, Assam, India, 26 June 2018)

⁹⁰ibid

⁹¹UN Special Rapporteur on Torture. *Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention.* para 9 and 229-237. 5 February 2010. U.N. Doc. A/HRC/13/39/Add.5.

⁹²United Nations Office for Project Services. (n 56) p. 206.

personnel has been argued to augment their morale which is beneficial in the effective performance of the duty.⁹³

Nonetheless, the living conditions of the correctional staff in the correctional homes of Assam looked very decaying. Such an observation was evident from the corrugated metal roofs which appeared to be rusted and the multiple cracks on walls of the staff-quarters in the correctional homes of Tezpur, Morigaon, Goalpara and Jorhat.



Figure 3 : Staff-quarter at the Tezpur Central Jail.
(Source: Pratidhwani: Free Legal Aid and Awareness Centre)

The correctional staff-members in Jorhat complained that due to lack of maintenance of these quarters, rainwater seeps into these places through the leaking roofs during the monsoons. An official from the Goalpara District Jail maintained that even though there is a provision of running water facility, it relies itself on the power supply to run the water-pump. However, the Jail, unlike other correctional homes, is not provided with a separate sub-station/ transformer for supply of electricity and is left with no choice but to share it with the power supply of the town. Unfortunately, due to the occurrence of frequent power-cuts, its impact is felt while one is trying to obtain water for oneself. The provision of water for the inmates fare better

⁹³Tiwari, Arvind. (n 4) p. 65.

than that provided to the correctional staff of Jorhat District Jail as the inmates are provided with tanks for their supply but the correctional staff are supplied from the nearby pond. The conditions of the washrooms were horrendous in Jorhat as the staff-members had to access the toilets which were located outside their quarters. Hence, the impact on the sanitation and hygiene of the correctional home can be aptly reflected from such a groundwork.

Therefore, by providing a graphical illustration of the problems persisting in the management of correctional homes, at this stage of the paper, it is my hope to provide an even more straightforward perspective of the argument.

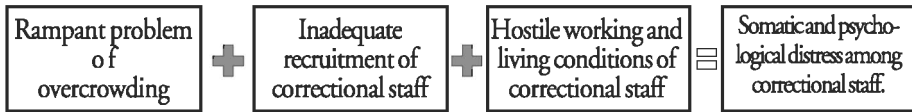


Figure 4 : Pictorial representation of the problematic hurdles that the members of correctional staff constantly deal with and its plain effect on them.

Stress and burnout among the correctional staff is not unusual as they are factored by circumstances like lack of training, under-confidence in crisis-management, working conditions, duties and responsibilities along with distribution of staff.⁹⁴ Such factors lead to rising levels of sickness related leaves taken which further aggravates stress among them.⁹⁵ From the aforementioned situations, it can also be manifested that certain basic needs of the correctional staff- members have been systematically stymied, which illustrates the institution to them as undependable, unsafe or even dubious, and consequently considering such feelings as a psychopathological threat.⁹⁶

If this problem is not nipped in the bud, then it is possible for the correctional staff-members to channel their frustration towards the inmates which can also appear as aggression towards them and hence, contributing towards the dehumanising conditions of the inmates in correctional homes.⁹⁷ Such responses are legitimate in terms of relative deprivation theory, which

⁹⁴Math, Suresh Bada, Pratima Murthy, Rajani Parthasarathy, C. Naveen Kumar, and S. Madhusudhan. (n 14) p. 154.

⁹⁵ibid

⁹⁶Maslow, A.H. "A Theory of Human Motivation." *Psychological Review* 50.4 (1943): 370-96.

⁹⁷Tiwari, Arvind. (n 4) p. 68.

states that a sentiment of dissatisfaction exists when an inconvenient discrepancy is observed between 'value expectations' and 'value capabilities' by the people.⁹⁸

Part IV

Legal Framework and Guidelines concerning the correctional staff

It is well-known that a satisfactory comprehension of the legal framework of a system is a condition precedent to introduce the policy stimuli that would be required to revamp the existing structure of management and administration of correctional homes. There are various international documents, national and state legislations and case laws along with the guidelines of various committees which carry the jurisdiction to look after the correctional administration in India. However, to remain in consonance with relevance of the topic discussed, only required parts of these sources shall be discussed in this section.

International Standards

On 17 December 2015, the United Nations General Assembly (UNGA) adopted the resolution on the revised Standard Minimum Rules for the treatment of prisoners⁹⁹ (also known as the Nelson Mandela Rules) after they were accepted to be revised for reflecting the progress in contemporary correctional practices, on the request of the UNGA to the Commission on Crime Prevention and Criminal Justice.¹⁰⁰

⁹⁸Mummendey, Amelie, Thomas Kessler, Andreas Klink, and Rosemarie Mielke, "Strategies to Cope with Negative Social Identity: Predictions by Social Identity Theory and Relative Deprivation Theory." *Journal of Personality and Social Psychology* 76.2 (1999): 229-45.; Value expectation refers to the benefits and levels of material comfort to which people convince themselves as their rightful prerogative. Value capabilities are the benefits and levels of material comfort which they could acquire and retain in their capability. See Spence, J. E. Rev. of Why Men Rebel, by Ted Robert. *Community Development Journal* 7.3 (1972): 199-200.

⁹⁹UNGA United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). 17 December 2015. U.N. Doc. A/RES/70/175.; The UNGA made it apparent, in 'preliminary observation 2' annexed to the Rules, that it was not appropriate to apply all of the rules regardless of time and location as it did acknowledge the motley of legal, social, economic and geographical positions in the world.

¹⁰⁰UNGA Twelfth United Nations Congress on Crime Prevention and Criminal Justice. 21 December 2010. U.N. Doc. A/RES/65/230.

The Nelson Mandela Rules focusses on the requirement of, "*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.*"¹⁰¹ Thus, the provisions concerning the correctional staff revolve from Rule 74 to Rule 81 of the Nelson Mandela Rules.¹⁰² Other international norms which are applicable to the correctional

¹⁰¹The Nelson Mandela Rules. (n 99) Rule 74(1)

¹⁰²ibid, Rule 74

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 staff 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

Rule 75

1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner.

2. Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

3. The prison administration shall ensure the continuous provision of in-service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

Rule 76

1. Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on: (a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates; (b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment; (c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation; (d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.

2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.

Rule 77

All prison staff 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.

staff consist of the Bangkok Rules of 2000¹⁰³, European Prison Rules of 2006¹⁰⁴, Principles and Best Practices of the Inter-American Commission of Human Rights of 2008¹⁰⁵ and Havana Rules of 1990.¹⁰⁶

Along with these, it can also be inferred from SDGs 5, 8 and 16 of the United Nations Sustainable Development Goals¹⁰⁷ that the correctional staff should be protected from all kinds of discrimination.¹⁰⁸ Further, the scale of

Rule 78

1. So far as possible, prison staff 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.

Rule 79

1. The prison director should be adequately qualified for his or her task by character, administrative ability, suitable training and experience.

2. The prison director shall devote his or her entire working time to official duties and shall not be appointed on a part-time basis. He shall reside on the premises of the prison or in its immediate vicinity.

3. When two or more prisons are under the authority of one director, he or she shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these prisons.

Rule 80

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.

Rule 81

1. In a prison for both men and women, the part of the prison set aside for women shall be under the authority of a responsible woman staff member who shall have the custody of the keys of all that part of the prison.

2. No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member.

3. Women prisoners shall be attended and supervised only by women staff members. This does not, however, preclude male staff members, particularly doctors and teachers, from carrying out their professional duties in prisons or parts of prisons set aside for women.

¹⁰³UNGA United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Rules 29-35. 6 October 2010. U.N. Doc. A/C.3/65/L.5.

¹⁰⁴Council of Europe: Committee of Ministers. Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules. Rules 71-91. 11 January 2006. Rec(2006)2.

¹⁰⁵Inter-American Commission of Human Rights. Resolution 1/08, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas. Principle XX. 13 March 2008. No. 1/08.

¹⁰⁶UNGA United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) UN Doc A/RES/45/113 Rules 81-87

¹⁰⁷"Sustainable Development Goals." *United Nations Development Programme*. January 2016. Web. 28 July 2018. <www.undp.org/content/undp/en/home/sustainable-development-goals.html>

¹⁰⁸Rope, Olivia, and Frances Sheahan. (n 88) p. 23.

pay and working conditions should depict the challenging nature of correctional work along with encouraging more recruitment of female correctional staff.¹⁰⁹

National Standards

As had been discussed in Part I of this paper, the contemporary system of correctional administration in India is the heritage of the British Raj in India. The British felt the exigent need of a uniform legislation for correctional administration and thus, enacted the Prisons Act of 1894. As noted by scholars like Amarendra Mohanty, the Act was based on the deterrent policies of the British to a large extent but however, did not take the effort of understanding the flipside of the problem i.e. treatment of inmates.¹¹⁰

Prisons Act of 1984¹¹¹ looks after the machinery of correctional homes in India and the provisions of the Act, which concern the correctional staff-members, are laid down in the following.

- Appointment of the Inspector General and the officers of the prison.¹¹²
- Responsibilities and functions of officers of prison.¹¹³
- Duties of the superintendent of prison.¹¹⁴
- Functions of medical officer.¹¹⁵
- Responsibility of jailer in prison.¹¹⁶
- Powers of Deputy and Assistant Jailers of prison.¹¹⁷

Thus, it can be said that even though the legislation provides clarity on the functions of the correctional staff, it remains silent on their conditions of service and work. However, recommendations have been suggested by various other commissions and committees, which had been constituted for reforms in correctional administration. The Government of India had requested the assistance of Dr W.C. Reckless, a noted criminologist, under

¹⁰⁹ibid

¹¹⁰Bhat, Mudasir A. (n 59) p. 103.

¹¹¹Prisons Act. No. 9 of 1894. INDIA CODE. Web. 8 August 2018. <https://indiacode.nic.in/handle/123456789/2325?view_type=browse&sam_handle=123456789/1362>

¹¹²ibid, Ss. 5, 6

¹¹³ibid, s. 8

¹¹⁴ibid, s. 11

¹¹⁵ibid, s. 13

¹¹⁶ibid, s. 16

¹¹⁷ibid, s. 20

the United Nations Technical Assistance Program in 1951, who had propounded the call for reorganizing the correctional administration on the modern parameters.¹¹⁸ This paved the path for the constitution of the All India Jail Manual Committee, 1957-59, which had prepared a Model Prison Manual for the state governments to revise their existing prison manuals.¹¹⁹

In 1980, the All India Committee on Jail Reforms was constituted by the Government of India under the chairmanship of Justice Anand Mulla.¹²⁰ Hence, this committee, which is better known as the Mulla Committee, had submitted its report in 1983 that had provided more than 500 recommendations to modernize the correctional homes on progressive lines. Among its many valuable recommendations, it is interesting to observe that it had also recognized the importance of the correctional staff.¹²¹ With regards to its recommendations regarding the correctional staff, the Mulla Committee suggested the development of correctional service as a professional career where the State "*shall endeavour to develop a well-organized prison cadre based on appropriate job requirements, sound training and proper promotional avenues.*"¹²² It had also laid down that the job status, remuneration and service conditions of correctional staff should be reflective of the qualifications and functions related to the job.¹²³

The gradual progress in the revamp of correctional administration in India has also been commendable with constitution of several committees in the last few decades such as Kapoor Committee (1986), National Expert Committee on Women Prisoners (1987), All India Model prison Manual Committee (2000), All India Committee on Reforms in Criminal Justice (2003), All India Committee on National Draft Policy on Prison Reforms and Corrections (2007) and Committee on Draft Policy on Criminal Justice reforms (2007).¹²⁴

¹¹⁸Tiwari, Arvind. (n 4) p. 53.

¹¹⁹ibid

¹²⁰ibid

¹²¹Bureau of Police Research & Development. (n 10)

¹²²ibid

¹²³ibid

¹²⁴Tiwari, Arvind. (n 4) p. 54.

The Supreme Court of India has been quite ardent in its stance to improve the current situation of the correctional homes and ameliorate the problems which have been plaguing them. The response of the judiciary towards reforms in the correctional administration has been prompt in the manner it brought its views forward in the *Hussainara Khatoon v. State of Bihar*¹²⁵ and *Ramamurthy v. State of Karnataka*¹²⁶ where the Apex Court dealt with the issues of overcrowding and the rising population of under-trial prisoners.

However, in the recent times, the Supreme Court pronounced another landmark judgment with regards to reforms in the correctional administration on March 14, 2016. In *Re-Inhuman Conditions in 1382 Prisons*¹²⁷ delves into the problems of overcrowding in correctional homes and huge number of undertrials. The Apex Court issued many guidelines to deal with the same¹²⁸, which also includes establishment of the Under Trial Review Committee in all the districts which would prepare the appropriate procedure to secure the release of under-trial prisoners for effective utilization of Sections 436 and 436A of the Code of Criminal Procedure, 1973.¹²⁹ This was viewed

¹²⁵AIR 1979 SC 1360 (India).

¹²⁶AIR 1997 SC 1739 (India).

¹²⁷AIR 2016 SC 993 (India).

¹²⁸ibid

¹²⁹Code of Criminal Procedure. No. 2 of 1973. INDIA CODE. Web. 8 August 2018. <<https://indiacode.nic.in/bitstream/123456789/1611/1/197402.pdf#search=Code%20of%20Criminal%20Procedure%20Code%20of%20Criminal%20Procedure>>

s.436- In what cases bail to be taken.

(1) When any person other than a person accused of a non- bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided: Provided further that nothing in this section shall be deemed to affect the provisions of sub- section (3) of section 116 or section 446A 1 .

(2) Notwithstanding anything contained in sub- section (1), where a person has failed to comply with the conditions of the bail- bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

s.436A- Maximum period for which an under trial prisoner can be detained

Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as

to be a great aid in engaging the issues of overcrowding in correctional homes. The Supreme Court had also instructed that there should be apposite and efficient utilization of the available funds for the betterment of the conditions of correctional homes which would be beneficial to both the inmates and the members of correctional staff. Such a guideline seems pertinent to the context of Assam as it was highlighted that funds, accumulating to ₹ 49.15 crore, remained unexpended during 2011-16 because of the abundant allocation towards salary against vacant posts and huge delay of releasing funds in the ending months of the year.¹³⁰ The Supreme Court also instructed the Ministry of Home Affairs to conduct an annual review of the Model Prison Manual 2016 to make it relevant with the moving time. Thus, upon going through the guidelines, it might seem that the Apex Court did not take the mishaps affecting the correctional staff into account. Yet, it clearly appears that the Court has taken several issues of correctional administration into consideration which would gradually ameliorate the problems of the correctional staff, indirectly if not directly.

The Model Prison Model 2016¹³¹ has caught the attention of the recent trends in reformation of correctional administration. It is viewed to be 'a living document' that would update itself with the trends of the following time as the Apex Court has clearly emphasised on the annual review of the document. It comprises of 32 chapters which discuss about the blue-print of functioning a correctional home. Of these, Chapters II, III, IV and V present the structure of the correctional administration along

one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties.

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties.

Provided further that no such person shall in any case be detained during the period of investigation inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation - In computing the period of detention under this section for granting bail the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

¹³⁰Accountant General (Audit) Assam. (n 55)

¹³¹Government of India. *Model Prison Manual 2016*. New Delhi: Ministry of Home Affairs, 2016.

with the duties and functions of the correctional staff.¹³² However, it is encouraging to observe that the Model Prison Manual 2016 holds a separate chapter which gives an insight for the welfare of the staff-members.¹³³ Yet, the reality does not seem to represent the view which is being provided by the Model Prison Manual 2016.¹³⁴ Perhaps, the momentum of complete reformation would require some more time, which could completely change the scenario of correctional administration.

Regional Standards

The correctional administration in the state of Assam is guided by the following:-

- a. Assam Prisons Act of 2013
- b. Assam Jail Manual 1987
- c. The Assam Jail Service Rules of 1986

The legislation for the correctional administration in Assam comes with the enactment of Assam Prisons Act of 2013. This Act is emulous to the Prisons Act of 1894 but tailored according to the requirement of the state. Chapter IV of the statute holds relevant for the purpose of this paper as the provisions from Section 6 to Section 19 lay down the duties and functions of members of the correction staff of Assam such as the Inspector General, Superintendent, Medical Officer, Jailor, Deputy Jailor and the remaining others. Unfortunately, there is nothing in this statute which delivers a stand on the welfare of the staff as seen in the Model Prison Manual 2016.

The framework related to correctional administration in Assam is still governed by the Assam Jail Manual¹³⁵ which was published in 1987. The Assam Jail Manual, revised again after 1934, comprises "the laws including Rules, Regulations, Orders, etc. which govern the conditions of prisons and

¹³²Chapter II- Institutional Framework; Chapter III - Headquarters Organization; Chapter IV - Institutional Personnel and Chapter V - Custodial Management.

¹³³Chapter XXX- Staff Development

¹³⁴Government of India. *Model Prison Manual 2016*. (n 131) p. 283.; Rule 30.31 states that no staff-member shall be required to work for more than 8 hours a day. However, the reality of the issue of work hours has been clearly depicted in the preceding part.

¹³⁵Saraf, B.P., and Ashok Saraf, *Assam Jail Manual*. Guwahati: GLR Publishing House, 1987.

the prisoners."¹³⁶ However, the Assam Jail Manual remains silent on the matters of staff development or even their conditions of work, despite holding that the appalling conditions of the correctional homes are a product of the high ignorance that is persistent among the public with regards to this issue.¹³⁷ Hence, as had been mentioned earlier, the correctional administration would not be able pursue the reforms it desires, if the component of correctional staff and their facets is kept in dark.

The Assam Jail Service Rules of 1986 lays down the service conditions and recruitment procedure of members of the correctional staff in Assam. These rules have been made by the Governor of Assam as per the power conferred upon him by the proviso to Article 309 of the constitution of India¹³⁸ read with Section 59 (10) of the Prisons Act, 1894.¹³⁹ However, it is not uncommon to find that certain proponent of these Rules like the scale of pay appear to be meagre and not reflective of the contribution provided by the staff-members to the society. Hence, these Rules also seek the requirement to be updated in order to bring it in consonance with the progressing eras.

Post the developments of the *Re-Inhuman Conditions in 1382 Prisons* case¹⁴⁰, the Supreme Court has issued many orders for the adoption of the Model Prison Manual 2016 in the all the correctional homes across India. Therefore, the need for an updated document to guide the correctional administration in Assam has also reach its saturation point. Hence, the Inspector General (Prison) of the Assam Prison Headquarter contended that

¹³⁶ibid

¹³⁷ibid

¹³⁸INDIA CONST. (1950), art. 309- "...Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act."

¹³⁹Prisons Act, 1894 (India), S. 59- Power to make rules.-[The State Government may] make rules consistent with this Act...

(10) for the government of prisons and for the appointment of all officers appointed under this Act

¹⁴⁰AIR 2016 SC 993 (India).

in light of the recent trends surrounding this issue, the policy would be bring a single comprehensive document which would comprise the highly necessary parts of the Model Prison Manual 2016, Assam Prisons Act of 2013 and Assam Jail Manual of 1987.¹⁴¹ Hopefully, this revised Jail Manual for the correctional administration of Assam would consist of a part, solely dedicated for the welfare of the correctional staff.

Part V

Road ahead for the Correctional Staff

Throughout out the theme of this paper, the role of the correctional staff has been continuously emphasised for, not just the running of the correction administration, but also for the efficient functioning of the criminal justice mechanism. The reformation of inmates ultimately remains as the core objective of correctional homes and a healthy staff-inmate relationship is the most effective way to achieve this. Hence, when the interests of the correctional staff are handled, then that would contribute to an ethical atmosphere in the staff's attitude towards the inmate.¹⁴² Therefore, it remains an impending necessity to find a prudent approach to deal with the troubles of the correctional staff, which ranges from overcrowding of inmates to the inadequacy of staff members. Their depressing working and living conditions also needs to find a solution which itself is inclusive of bad working conditions due to decaying physical infrastructure, low scale of pay along with its disparity among uniformed service, absence of compensatory leaves, etc.

There is the need for more funds to be invested in the system to meet with the urgent need for the improvement in the conditions of the correctional homes.¹⁴³ Hence, the Bureau of Police Research and Development (BPR&D) did an analysis of the present conditions and based on its analysis, 'Modernization of Prisons' was initiated as a non-plan scheme with a total outlay of ₹1800 crore across 27 states.¹⁴⁴ With the

¹⁴¹Interview with the Inspector General (Prisons) (Guwahati, Assam, 4 September 2018).

¹⁴²Tiwari, Arvind. (n 4) p. 57.

¹⁴³ibid. p. 64.

¹⁴⁴Government of India. *Outcome Budget 2009-2010*. New Delhi: Ministry of Home Affairs, 2010. p. 116. para 4.82.

subject of correctional administration coming under the ambit of the state in the constitutional machinery of the India¹⁴⁵, the State governments also had to pitch into the funding of this scheme on cost sharing basis of 25: 75 with the Central government respectively, which was planned to be executed from 2002-03 to 2006-07.¹⁴⁶ These funds would witness its utilization for undertaking necessary tasks such as building of more correctional homes to allay the issue of overcrowding, improving the sanitation and supply of water along with bettering the living conditions of the correctional staff.¹⁴⁷ Such steps would definitely create a successful manner to boost their morale too.

Due to the existing problems attached to the correctional administration, the staff-members are constantly battling high levels of stress while managing their workload. Such kind of workload- stress could aggravate for the worse if not handled with sufficient care. Scholars like David Bieris have placed forward the contention that an intricate nexus is involved with cluttered living conditions (a problem pertinent to the local context) and growth of health issues, rise of stress and other such complications.¹⁴⁸ This contention could be also be corroborated by the staff-members of the correctional homes in Tezpur, Morigaon, Goalpara and Jorhat as had been learned while engaging in interviews with them.

The Inspector General (Prisons) had also acknowledged the problem of staff-shortage in the correctional homes of Assam and has responded to this problem by stating that the recruitment of staff would be conducted under the helm of the State Police Recruitment Board.¹⁴⁹ He remains hopeful that sufficient recruitments would be made to fill in the sanctioned strength of the staff.¹⁵⁰ Yet, such a procedure of recruiting correctional staff remains a perplexing concept despite the several Jail Reforms Committees and the Model Prison Manual of 2016 suggesting the establishment of a separate

¹⁴⁵Under the Seventh Schedule of the constitution of India, the subject of 'correctional system' comes under List II or State List at Entry 4.

¹⁴⁶Government of India. *Outcome Budget 2009-2010*.(n 136) p. 116. para 4.82.

¹⁴⁷*ibid.* para 4.84.

¹⁴⁸Bierie, David M. (n 7) p. 83.

¹⁴⁹Interview with Inspector General (Prison). (n 141)

¹⁵⁰*ibid*

cadre for correctional administration which would be referred as "Indian Prisons and Correctional Services."¹⁵¹

The other methods which have been suggested by the members of the correctional staff, to amend the issues of continuing stress and pressure among them, also involves the idea of efficient training, involving counselling sessions and presenting recreational facilities. Among these suggestion, it is common to find that all of these refer to an instant but effective approach in dealing with the depressing problems of the correctional administration, which would otherwise take a gradual period of time for reformation.

Tailoring the standards of training to deal with the exigent and real problems circulating their working conditions, would be an efficacious manner to have the staff-members adapted the existing scenario. Thus, regular training of correctional staff would be beneficial in their well-being itself. With the rising complexities present in our realities, taking care of one's mental health is imperative, especially for the correctional staff due to the nature of their work. A similar view was also opined by the Inspector General (Prison) and he had also focussed on the benefits of Yoga in the preservation of one's mental well-being.¹⁵²

"All work and no play makes Jack a dull boy." This proverb also stands true for the staff-members as they have made their frustration apparent due to the absence of any kind of recreational activity such as sports facilities. Few officials of the Tezpur Central Jail, the Goalpara District Jail and the Morigaon District Jail have also testified to this sort of frustration despite the Model Prison Manual 2016 making it clear that sports facilities should also be provided to the staff-members.¹⁵³ Finally, by acknowledging the contribution of the correctional staff towards the society, it would be very helpful in fostering their morale.¹⁵⁴ The Superintendent of the Tezpur Jail had stated that this could be achieved by being appreciative of correctional staffs' nature of works which could also be reflected by according awards to them.¹⁵⁵

¹⁵¹Government of India. *Model Prison Manual 2016*. (n 131) p. 281.; Rule 30.13.

¹⁵²Interview with Inspector General (Prison). (n 141)

¹⁵³Government of India. *Model Prison Manual 2016*. (n 131) p. 285.; Rule 30.49.

¹⁵⁴The Nelson Mandela Rules. (n 99) Rule 74(2).

¹⁵⁵Interview with Superintendent of Tezpur Central Jail (n 66)

Certain aggrieved staff-members have also contemplated to take recourse to the higher courts of the land for the enforcement of their rights and seeking to resolve the highlighted and other allied difficulties bothering the correctional administration. Nevertheless, the norm among these courts i.e. the Supreme Court and the High Courts, is to abstain themselves from intervening in policy matters which are exclusive to the sphere of the legislature or the executive.¹⁵⁶ In the case of *Supreme Court Employees' Welfare Association v. Union of India*¹⁵⁷, the Supreme Court maintained that it could not redress issues concerning pay scales of employees in furtherance of its jurisdiction under Article 32.¹⁵⁸

Similarly, it has also declined to resolve disputes pertaining to pay scale of employees in the case of *Prabhat Kiran Maithani v. Union of India*.¹⁵⁹ The Apex Court continued maintaining that provision of allowance and the rate at which it is provided to a section of employees, is a matter of policy and could not be challenged.¹⁶⁰ Hence, in *Dr. Duryodhan Sahu v. Jitendra K. Mishra*¹⁶¹, the highest constitutional court of the country made it a point to hold that it would not entertain public interest litigations (PIL) with regards to service matters. It had also passed the direction to the High Courts to dismiss such petitions on basis of the abovementioned decision¹⁶². However, bearing the principles of 'welfare state' in mind, the Supreme Court clarified that a party

¹⁵⁶Datar, Arvind P. Datar *Commentary on the Constitution of India*. 2nd ed. Vol. 1. Nagpur: Wadhwa, 2007. p. 546.

¹⁵⁷AIR 1990 SC 334 (India).

¹⁵⁸INDIA CONST. (1950), art. 32- "Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution."

¹⁵⁹AIR 1977 SC 1553 (India).

¹⁶⁰*Union of India v. Nanu Dev Arya*, AIR 2004 SC 2449 (India).

¹⁶¹AIR 1999 SC 114 (India).

¹⁶²*Dattaraj Nathuji Thaware v. State of Maharashtra*, AIR 2005 SC 540 (India).

would be permitted to enforce the protection of Article 14¹⁶³ regarding issues of any discrimination, where the respondent comes under the ambit of a "State" as per Article 12¹⁶⁴ of the Constitution of India.¹⁶⁵

In the current times, there have also been various findings, reports and committees which have provided ample documentation to depict the correctional staff's distressing state of affairs in correctional homes. Therefore, it is necessary to see that sufficient awareness of this issue exists among the authorities, civil society participants, academics and the public in whole. Such kind of awareness helps in creating an atmosphere which is necessary to trigger the public-spirited community in taking actions for prison reforms to ensure the betterment of the conditions in correctional homes which have the welfare of both the inmates and staff-members at stake.

Conclusion

The jurisprudence of correctional administration has evolved a lot with flow of time which has benefitted the society. Nevertheless, such a passage of time also brings along with a lot of intricacies in the system which require meticulous and patient efforts in dealing them. Thus, a consistent strategy should be adopted to bring reforms in the correctional administration, which would involve the revamp of the existing legal framework, proactive approach of the appropriate authorities and most importantly, the constructive position of the judiciary in correctional justice.

In light of these circumstances, the primordial steps that are to be taken, consist of assessing the sufficiency of staffing arrangement in correctional homes to ensure apt inmate-staff ratios. It is also necessary to address the low scales of pay and bad working conditions of the correctional

¹⁶³INDIA CONST. (1950), art. 14- "Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth"

¹⁶⁴ibid, art. 12- "Definition- In this part, unless the context otherwise requires, the State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India"

¹⁶⁵*Som Prakash Rehi v. Union of India*, AIR 1981 SC 212 (India).

staff as talented individuals must be attracted to handle one of the most complex public services. Adequate training must be secured for the staff-members, prior to and regularly during course of service so that the correctional administration remains up-to-date with dynamic trends observed in the system.

The response of the judiciary has been prompt to redress such afflictions in the correctional administration, which has also been exemplified by the constitution of a three-member Supreme Court committee on prison reforms under the chairmanship of Justice Amitava Roy, a retired judge of the Supreme Court along with Inspector General of Police, BPR&D and Director General (Prisons) Tihar Jail, New Delhi as its members.¹⁶⁶ It has been envisaged for this committee to provide its recommendations on issues related to the implementation of the Model Prison Manual 2016 by States and Union Territories (UTs), training manuals for members of the correctional staff by BPR&D, overcrowding in correctional homes and other such matters, which are in consonance with the Terms of Reference of the committee.¹⁶⁷

Therefore, the focus should be shifted to the existence of an efficiently managed correctional home which would be factored by ambient and humane environment.¹⁶⁸ In fact, lessons could be learnt even from the good practices of other uniformed services too. One such example, which also deals with the problem of institutional gender-inequality is that of the Director General of Uttar Pradesh Police, Mr O.P. Singh's decision to set up crèche facilities at police stations across the state and hence, recognizing the contribution of such facilities in improving the efficiency of the institution.¹⁶⁹

Perhaps, this might also contribute in creating a notion of organizational justice and its connection with the work-attitude of the correctional staff, if such practices are adopted by the administration in actuality.¹⁷⁰ Therefore,

¹⁶⁶Order dated 25/09/2018 in *Re: Inhuman Conditions in 1382 Prisons*, AIR 2016 SC 993 Writ Petition(Civil) 406/2013 (Reportable)

¹⁶⁷ibid

¹⁶⁸Coyle, Andrew. *Managing prisons in a time of change* (n 40) p. 97.

¹⁶⁹Chakraborty Rathikrit and Arindam Ghosh. "Cop mom takes baby to work, makes UP Police plan crèches." *The Times of India*. October 2018. Web. 1 November 2018. <<https://timesofindia.indiatimes.com/city/lucknow/cop-mom-takes-baby-to-work-makes-up-police-plan-crèches/articleshow/66407930.cms>>

¹⁷⁰Lambert, Eric G., Jianhong Liu, and Shanhe Jiang, (n 43) p. 2.

these circumstances further influences a rights based approach in their interaction with the inmates, which would guarantee the reformation and rehabilitation of the inmates.

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