

HUMAN RIGHTS STANDARDS AND THE LIVING CONDITIONS OF PRISONERS IN INDIA: ISSUES AND CHALLENGES

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Abstract:

The administration and management of prisons in India falls exclusively in the domain of the State Government and it is governed by the Prison Act, 1894 & the Prison Manuals of the respective State Governments. In India, the Protection of Human Rights Act, 1993, defined human rights as the rights relating to liberty, equality and dignity of the individual guaranteed by the Indian Constitution as embodied in the Fundamental Rights and the International Covenants. The protection of human rights of prisoners has been of great concern for the courts and human rights activists. The Supreme Court has in several rulings highlighted the miserable conditions of prisoners and the deplorable conditions prevailing inside the prisons. In the light of the observations made by the Supreme court (AIR 1997 SC 1739) of India, the present study examines the living conditions of prisoners with specific reference to their basic needs and provision of facilities compatible with the dignity of human life including issues related to food, drinking water, protective clothing, personal hygiene and sanitation, lighting, ventilation and others.

1.1 Introduction:

There are certain basic requirements that must be met if the state is to comply with its obligation to respect the prisoner's human dignity and fulfil its duty of care. There include adequate provision of accommodation, hygienic conditions, clothing and bedding, food, drink and exercise. When a judicial authority sends someone to prison, the international standards are clear that the punishment imposed should be solely the deprivation of liberty. Imprisonment must not include risk of physical or emotional abuse by staff or by other prisoners. It must not include risk of serious illness or even death because of the physical conditions or the lack of proper care. Prisoners must not be subject to living conditions which are in themselves inhuman and degrading.¹

¹ Andrew Coyle, *A Human Rights Approach to Prison Management*, 2nd edn. (London: International Center for Prison Studies, 2009). at 39.

The prison administration in India, however, has been criticized for the problems of dilapidated prison structure, overcrowding and congestion, increasing proportion of under trial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners etc., in the State Prisons. The growing advocacy for the protection of human rights in the various walks of lives has also attracted the attention of activists and judiciary for sub-human conditions prevailing in these prisons.²

After Rama Murthy case, Supreme Court of India has highlighted the right to basic needs like adequate diet, adequate potable water for drinking, bathing and cleaning purposes, health and medical care and treatment, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment and recreation.

2.1 International documents of human rights:

International documents of human rights are those which have been agreed by the international community, usually through the United Nations. The main human rights instruments, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, are treaties which are legally binding on all states including India which have ratified or acceded to them. Most of them contain reference to the treatment of peoples who are deprived of their liberty.

In addition, there are a number of international instruments which deal specifically with prisoners and conditions of detention, and provide more detailed standards. The principles and minimum rules or guidelines provide a valuable complement to the broad principles contained in the legal treaties. The instruments include The Standard Minimum Rules for the Treatment of Prisoners (1957), The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), The Body Principles for the Treatment of Prisoners (1990) and The Standard Minimum Rules for the Administration of Juvenile Justice (1995). There are also a number of instruments which refer specifically to staff working with people who have been deprived of their liberty.

² National Human Rights Commission of India, *Living Conditions and Human Rights of Prisoners*, Vol. I, (10th December, 2013). at 2.

They include the Code of Conduct for Law Enforcement Officials (1979), the principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1982) and Basic Principles on the Use of Force and Firearms (1990).³

The above documents have facilitated a change in correctional system in India and they have evolved from being reactive to proactively safeguarding prisoners' rights. The United Nations has also provided several standards and guidelines, through minimal rules or basic principles in the treatment of prisoners (United Nations 1977).

3.1 Indian human rights provisions:

In 1979, India adopted the International Covenant on Civil and Political Rights (1966), and must, therefore, "strive for the promotion and observance of the rights recognized" in the Covenant. The Indian Constitution (1949) was drafted even before the Universal Declaration (1950), but it was adopted at a time when the deliberations for the Universal Declaration were in the air, so that the framers of the Indian constitution were influenced by the concept of human rights, and already guaranteed most of the human rights which later came to be embodied in the International Covenant in 1966.⁴

Even prior to the framing of the Constitution for free India, Mahatma Gandhi had announced before the Second Round Table Conference that his aim was to establish a political society in India in which there would be no distinction between high class and low class people, that women should enjoy the same rights as men; and dignity and justice, social, economic and political, would be ensured to the teeming millions of India. This was one of the objects which inspired Pandit Jawaharlal Nehru in drafting the historic objectives Resolution in the Constituent Assembly, which was adopted on 22nd January, 1947. Clause (5) of this Resolution⁵ Stated:

³. (Ibid. at 7.)

⁴. "The draftsmen of the International Covenant as the Indian Constitution borrowed substantially from the same source, namely, the Constitution of the U.S.A., together with its judicial gloss".

⁵. Durga Das Basu, *Introduction to the Constitution of India*, 14th end. (New Delhi: Wadhwa Sales Corporation,.) at 20--22.

“This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution: Clause (5) WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought expression, belief, faith, worship, vacation, association and action, subject to law and public morality.... .”

This ideal of the objectives Resolution was reflected in the Preamble of the Constitution which was adopted in November, 1949, with specific mention of ‘dignity of the individual’.⁶

In the Indian Constitution, the justifiable human rights, broadly speaking, were included in Part- III, while the non-justifiable social and economic rights were set forth in Part IV on the Directive Principles of State Policy.

Later, the national Human Rights Commission was established. The apex court in *Paramjit Kaur V. State of Punjab and Others* case,⁷ significantly held that it was fully empowered to look into the propriety of orders passed by such commission and observed:

“The National Human Rights Commission headed by a former Chief Justice of India is unique expert body in itself. The Chairman of the Commission, in his capacity as a Judge of Supreme Court and also as Chief Justice of India, and so also two other members who have held high judicial officer as Chief Justices of the High Courts, have throughout their tenure, considered, expounded and enforced the Fundamental Rights and are, in their own way, experts in the field. In deciding the matters referred by Supreme Court, National Human Right Commission is given a free hand and is not circumscribed by any conditions. Therefore, the jurisdiction exercised by the National Human Rights Commission in these matters is of a special nature not covered by enactment or law, and thus acts *Sui generis*”.

The present study examines the living Conditions of prisoners in India in the light of the international and constitutional human rights standards.

⁶. (Durga das Basu, *Human Rights in Constitutional Law*, 2nd end. (New Delhi: Wadhwa Sales Corporation, 2003). at 17.)

⁷. AIR 1999 SC 340.

4.1 Prison Laws and living conditions of prisoners:

The contemporary Prison administration in India is a legacy of British rule. It is based on the notion that the best criminal code can be of little use to a community unless there is good machinery for the infliction of punishment. In 1864, the Second Commission of Inquiry into Jail Management and Discipline made similar recommendations as the 1836 Committee. In addition, this Commission made some specific suggestions regarding accommodation for prisoners, improvement in diet, clothing, bedding and medical care. In 1877, a Conference of Experts met to inquire into prison administration. The conference proposed the enactment of a prison law and a draft bill was prepared. In 1888, the Fourth Jail Commission was appointed. The jail offences and punishment were specially examined by a conference of experts on Jail Management. In 1894, the draft bill became law with the assent of the Governor General of India.⁸

4.2 Review of legal framework and living conditions of prisoners:

Under the chairmanship of Sh. N. C. Joshi, Director General, Bureau of Police Research and Development (BPRD&D), the Committee has examined thoroughly the Prisons Act, 1894, which is the basic legal framework available on prisons followed by some other enactments concerning prison management in the light of path breaking judicial pronouncements of various High Courts and Supreme Court on the working of prisons which is the immediate need of the day. A detailed analysis of the Prisons Act, 1894, indicating the observations of the Committee on the existing provisions of the Statute and the amendments proposed to be made to make this over hundred years old Prisons Act, 1894, and relevant provisions in some other statutes, more effective and in accordance with the changing ground realities is given in the subsequent paras.⁹

4.3.1 Food, Clothing and Bedding of existing provisions (section 31 of Prisons Act, 1894):

A civil prisoner or an un-convicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding

⁸. Suresh Bada Math, Pratima Murthy, Rajan Parthasarthy, C Naveen Kumar & Smadhusudan, *Mental Health and Substance Use Problems in prisons: Local Lessons for National Action*, (Bangalore: National Institute of Mental Health Neuro Sciences, 2011) at 31.

⁹. Ministry of Home Affairs, Government of India, Draft National Policy on Prison Reform and Correctional Administration, Part-II, (1st December, 2005) at 4.

4. 3.2 View point of the Committee:

The Committee agreed to the spirit of this provision. However, the Committee wanted certain changes in this section in order to maintain security and discipline in the prison.

4.3.3 Amendment suggested by the Committee:

- A civil prisoner, un-convicted criminal prisoner or convicted political prisoner or political detenu shall be permitted to maintain himself, and to purchase, or received from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Director/Inspector General of Prisons.
- A written undertaking shall be given by such prisoner and supplier of the food that they are entirely responsible for the wholesome for such food and that prison administration will not be responsible for any mishap that may happen. Food for only one day requirement of such prisoner shall be allowed at one time. Food articles will be tested by the person who delivers the food.
- During emergency or epidemics or for reasons of health for such prisoners outside food may be disallowed by the Superintendent.
- Prisoners allowed to receive outside food shall not be given prison food. They shall not be allowed to cook their food separately in the prison.¹⁰

5.1 Role of National Human Rights Commission and living conditions of prisoners:

The National Human Rights Commission is mandated to visit jails or other institutions under the control of State Governments, where persons are detained or lodged for the purpose of treatment, reformation or protection for the study of living conditions of the inmates and make recommendations thereon to the Government. In accordance with this mandate, the Commission has been visiting such institutions especially, prisons to obtain a first hand assessment of the living conditions prevailing there. The Commission has especially assigned this job to its Special Reporters, who have carried out a large number of visits to different prisons located across the country.

¹⁰ Ibid. at 63.

Under the Chairperson, Justice Ranganath Mishra, The National Human Rights Commission India, has visited a number of prisons all over the country and also inquired into a large number of complaints alleging violation of human rights received from the prisoners in several jails. The Commission felt that there is a crying need for revamping the prison administration of the country and bringing about systemic reforms. In this connection, vide letter No NHRC/Prisons/96/2 dated 29.08.96, the commission sent a copy of the Prison Bill prepared by them and sought co-operation for the enactment of a new prison Act to replace the century old Prison Act of 1894.¹¹

Another important function entrusted to the National Human Rights Commission under the protection of Human Rights Act, 1993 (Chairperson, Justice J. S. Verma), is to visit the prisons, study the living conditions of the prison inmates and suggest remedial measures. During the last few years the members of the Commission and its senior Officers have visited Prisons in various parts of the country and have been appalled by the spectacle of overcrowding, insanitary conditions and mismanagement of prison administration. The problem is further compounded by lack of sensitivity on the part of the prison staff to the basic human rights of the prisoners.¹²

The National Human Rights Commission under section 12 (c) of the Protection of Human Rights Act, 1993 had been entrusted with an important/ mandatory function of visiting the prisons under the control of the State Governments where persons are detained or lodged for the purpose of treatment, reformation and protection, so as to assess the living conditions of prison inmates and suggest remedial measures. In accordance with the above mandate, the Chairperson, Special Reporters, team of Investigation division had been visiting the prisons in various parts of the country to study the functioning and performance of prisons; evaluate the living conditions of prison inmates; review the protection of human rights of prisoners; and assess the strengths and weaknesses of prison administration and management.¹³

¹¹. National Human Rights Commission, India, Chairperson, Justice Ranganath Mishra, *Prison Bill*, (25th September, 1996).

¹². National Human Rights Commission, India, Chairperson, Justice J.S. Verma, (1st January, 2000).

¹³. National Human Rights Commission, India, *Living Conditions and Human Rights of Inmates*, Vol. II, (10th December, 2013) at 1.

The National Human Rights Commission under the protection of Human Rights Act, 1993 has also visited various jails in Odisha in last five years as mentioned in the table below:

6.1 Visiting reports by National Human Rights Commission and living conditions of prisoners in Odisha Jails:

Table- I

Sl. No.	Name of the Jail	Date of visiting	Name of the reporter	Purpose of visiting
1	District Jail, Koraput	13.01.2005	Sri A.B. Tripathy, I.P.S. (Retd.), N.H.R.C.	Living conditions, Grievances and problems of the prisoners
2	Sub-Jail, Rayagada	23.09.2005	Sri A.B. Tripathy, I.P.S. (Retd.), N.H.R.C.	Living conditions, grievances and problems of the prisoners
3	Review of Prison reform commotional administration and modernization of prisons of Odisha State	28.01.2008 to 31.01.2008	Dr. Laxmidhar mishra I.A.S. (Retd.) N.H.R.C.	Review of prison reforms, correctional administration and modernization of prison
4	District Jail, Bhabanipatna	23.01.2009	Sri Damodar Sarangi I.P.S. (Retd.) East Zone-I N.H.R.C.	Examine the living conditions of the prisoners
5	District Jail, Keonjhar	27.11.2009 to 29.11.2009	Sri Damodar Sarangi I.P.S. (Retd.) East Zone-I N.H.R.C.	Verification of the living conditions of the prisoners

Source - SHRC, Odisha

7.1 Mulla Jail committee and living conditions of prisoners:

The aspects of prison administration on living conditions of prisoners have been subjected to the strongest criticism by courts, prisoners and others interested in the maintenance of basic minimum standards of human dignity in places of human confinement like prisons. The criticism has been leveled on account of insufficient accommodation, indiscriminate huddling of all categories of offenders, unhygienic conditions, sub-standard food, insufficient

water supply, use of drugs and narcotics by inmates, atrocities on children and women, maltreatment of prisoners and corruption in prisons.¹⁴

8.1 Model Prison Manuals and living Conditions of Prisoners:

The Jail Manual contains a chapter which sets out in detail administrative instrument for Prison Act. It is a digest of the rules and regulations governing prisons and prisoners. Nearly every State has a Jail Manual of its own. Every jail is governed by it; every prisoner is bound by it.

Not surprisingly, Jail Manuals in India are shockingly antiquated. But for a few amendments and corrections here and there, the Manuals remain unchanged.

Prisons in India are not governed uniformly, every state applying different rules and regulations. In 1959, a Model Prison Manual was prepared by the Government of India for the purpose of updating and revising the State Manuals. It was also meant to lead uniformity to rules and regulations as also to the procedure and punishment.¹⁵

In the recent years, the Supreme Court of India has come down heavily on the sub-human conditions obtaining in prisons. In many States, the problems of dilapidated prison structure, overcrowding and congested, increasing proportion of under trail prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, etc., have been engaging the attention of the press and social activists. With a growing advocacy for the protections of human rights in the various walks of lives, the plight of prisoner has emerged as a critical issue of public policy.

In response, prison reforms are being addressed holistically. The Government of India has been providing all possible financial and technical assistance to state Government to modernize prisons as also to achieve more efficaciously the overall objective of prisons in terms of the reformation and rehabilitation of offenders.

With the transfer of the work relating to prisons by the Ministry of Home Affairs vide their OM. no. VII. 11018/14/92-GPA.IV dated November 16, 1995, the Bureau of Police

¹⁴. Ministry of Home Affairs, Government of India, All India Committee on Jail Reforms, Vol. I, (1980-83) at 71, para 6.1.

¹⁵. Kum. Kum Chadha, *Indian Jails*, (New Delhi: Vikas Publications, 1983) at.44.

Research and Development has been seriously concerned about the modernization of the number of judgments pronounced from time to time. More recently, the apex Court in

Ramamurthy case brought to the fore an urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and State Governments to formulate a new Model Prison Manual. Earlier, the All India Committee on Jail Reforms (1980-83) had also emphasized the need for a consolidated law on prisons.

Accordingly, with the approval of Ministry of Home Affairs, the BPR&D constituted a Model Prison Manual Committee at the national level for the formulation of a Model Prison Manual (2003) under the Chairmanship of Shri. L. C. Amarnathan.

Lastly, Ministry of Home Affairs (Government of India) had constituted an expert committee on 11.12.2014 to revamp and update the Model Prison Manual prepared in 2003. This Committee was constituted in a manner so as to ensure representation from across states and to gain a holistic perspective of the issues faced in prison administration. Thereafter, the committee was reconstituted including the members from National Legal Service Authority (NALSA), National Human Rights Commission (NHRC) and Civil Society Groups on 27.08.2015 on the directives of Hon'ble Supreme Court in the matter of Sue Moto Writ Petition (Civil) No. 406/2013 on titled, "Inhuman Conditions Prevailing in 1382 prisons in India". All the committee members and support staff for their invaluable contributions towards the task of preparing the Model Prison Manual, 2016.

9.1 Analysis of data relating to living conditions of inmates in district jail Keonjhar, Odisha:

I visited district Jail Keonjhar on 16.10.2015, vide letter No- 19134 on 06.07.2015. It located at Keonjhar town, to study the living conditions of the prisoners and to observe their human rights are being properly respected and adequately protected by the jail or not, Sri Ajit Kumar Routray, I/C Superintendent- cum- Jailor, and Sri Benudhara Dalei, welfare officer along with other officers of the prison took me round the wards, hospital, food arrangement area, manufacturing units and other establishments of the prison and facilitated my interactions with the inmates.

9.2 Prison population as on 16.10.2015 and living conditions of prisoners:

The sanctioned capacity and the present strength of prisoners are given in the following tables:

Table - II

Sanctioned Capacity As on 16.10.2015	Male	Female	Total
Convicts	241	10	251
U.T.Ps	116	17	133
Others	23	00	23
Total	380	27	407

Source: Keonjhar District Jail

Table - III

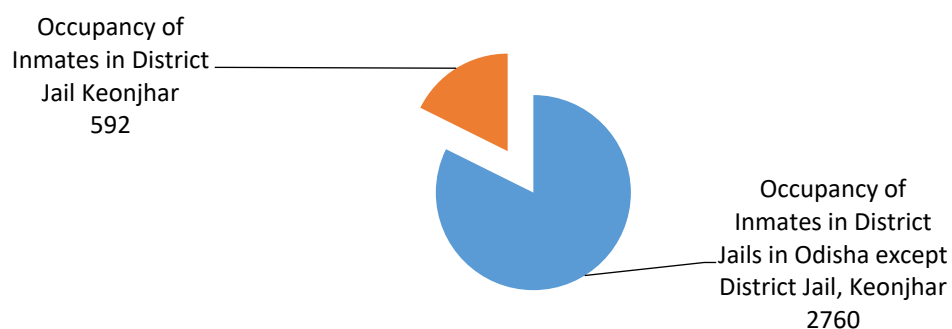
The Prison Population As on 16.10.2015	Male	Female	Total
Sessions	187	04	191
Remands	163	19	182
Simple Imprisonment	06	00	06
Rigorous Imprisonment	206	04	210
Total	562	27	589

Source: Keonjhar District Jail

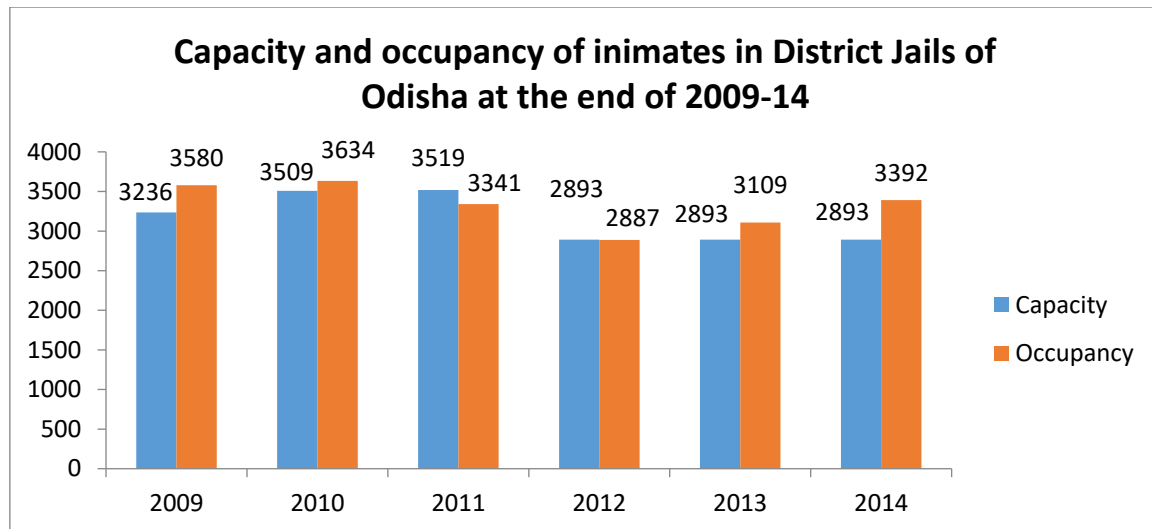
From these figures it would appear that:-

- The prison is over populated.
- Around 63% of the prisoners are under trials.

Occupancy of Inmates in District Jail in Odisha and District Jail Keonjhar at the end of 2014



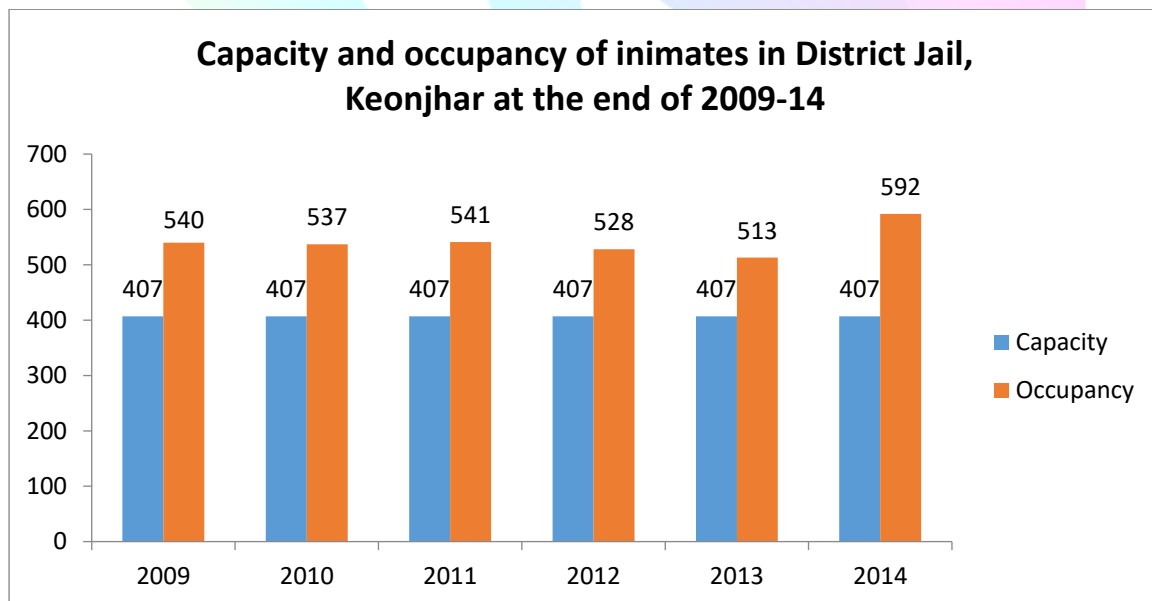
Source: Directorate of Prisons, Odisha



Year Wise

Source: Directorate of Prisons, Odisha

The occupancy of inmate's rate of district jails in odisha is at the higher side at the end of 2009 to 2014 except 2011 and 2012. (Ref: - above chart)



Year Wise

Source: District Jail, Keonjhar

The occupancy of inmates in the district jail of Keonjhar is also found to be at higher side for all the years, i.e. end of 2009 to 2014(Ref: - above chart)

9.3 Prison statistic from 31.12.2009 to 31.12.2014:

Table - IV

As On	Male		Female		Total	
	Convicts	U.T.Ps	Convicts	U.T.Ps	Convicts	U.T.Ps
31/12/2009	279	238	09	14	288	252
31/12/2010	236	280	07	14	243	294
31/12/2011	242	281	06	12	248	293
31/12/2012	242	265	06	15	248	280
31/12/2013	228	260	06	19	234	279
31/12/2014	232	333	07	20	239	353

Source: Keonjhar District Jail

The above table indicates that the Prison populations at the end of 31.12./009 to 31.12.2014 are over populated.

9.4 Accommodation of inmates in District Jail, Keonjhar:

Table - V

S L N o	Ward No	Schedu led Capaci ty	Present Popula tion	Convi cts	U.T.P s	Toilet Available (Day/Nig ht)	Fan Available (Day/Night)	Supply Drinking water (Day/Nig ht)	Remarks
1	1	29	32	30	02	01	04	Only Day	Not satisfactor y
2	2	29	23	22	01	01	04	Only Day	Not satisfactor y
3	3	29	25	25	00	01	04	Only Day	Not satisfactor y
4	4	29	24	24	00	01	04	Only Day	Not satisfactor y

5	5	29	81	01	80	01	04	Only Day	Not satisfactory
6	6	29	79	01	78	01	04	Only Day	Not satisfactory
7	7	29	75	01	74	01	04	Only Day	Not satisfactory
8	8	29	82	01	81	01	04	Only Day	Not satisfactory

Source: Keonjhar District Jail

9.5 Interactions with Prisoners in District Jail, Keonjhar:

I interacted with some convicts and under trial prisoners and received no complaints on their living condition in the jail. Sontosh Kumar Pal alias Dara Sing, one of the prisoner (convicted for life), has spent above 17 years in prison. While he was an under trail prisoner in Circle/Central jail Baripada, he had started the hunger strike against inhuman living conditions inside the jail in summer season in the year of 1999. Hence, for the first time ceiling fans were installed in that jail and also other jails in Odisha. He complained why he is not being selected for pre-mature release, when there is nothing adverse against him, during his tenure in the jail.

9.6 Senior convict prisoners in District Jail, Keonjhar:

Table-VI

Sl No	Convict No	Name & Address	Sentence	Sections	Period of Sentence this institution	Rehabilitation through the vocational training (Trade/ Work)
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1	8087/A	Lutu Sirka, S/o – Ladu Sirka, Vill – Uttam Singh Hutting, Ps – Barbil, Keonjhar	Life Imprisonment	302, 307, 327 IPC	Above 14 Years	No trade allotted
2	8025/A	Sukaram Munda, S/o – Sanu Munda, Vill – Bileipada, Ps – Joda, Keonjhar	Life Imprisonment	302, 307 IPC	Above 14 Years	No work allotted
3	8904/A	Kanda Lagur, S/o - Raghunath Laguri, Vill – Tudanghatu, Ps – Jagannathpur, West Singhbhum, Jharkhand	Life Imprisonment	302 IPC	Above 14 Years	No work allotted
4	7941/A	Bairagi Munda, S/o – Thunkura Munda, Vill – Jamirdihi, Ps – Joda, Keonjhar	Life Imprisonment	302 IPC	Above 14 Years	Allotted garden work
5	7908/A	Ganeswar Mahakud, S/o – Pitabas Mahakud, Vill – Malda, Ps – Joda, Konjhar	Life Imprisonment	302/34 IPC	Above 14 Years	Allotted night watchman

Source: Keonjhar District Jail

The above table shows that the five life convict senior prisoners are convicted U/S 302 IPC. They are passed 14 years or above the period of sentence now. None of them has allotted skillful trade like weaving, tailoring.

10.1 Judicial trend:

The Indian Supreme Court has been active in responding to human right violation in Indian jails and has, in the process, recognized a number of rights of prisoners by interpreting Article 21, 19, 22, 32, 37 and 39A of the Constitution in a positive and humane way. Given the Supreme Courts' overarching authority, these newly recognized rights are also binding on the State under Article 141 of the Constitution of India which provides that law declared by the Supreme Court shall be binding on all courts within the territory of India.¹⁶ In a number of judgments on various aspects of prison administration, the Supreme Court of India has laid

down three broad principles but, “A person in prison is entitled to all human rights within the limitations of imprisonment” is one of the vital principles.

Prior to Rama Murthy Case,¹⁷ a land mark judgment by Justice V.R. Krishna Iyer enumerated basic human rights of the prisoners. Mr. Sunil Batra had written a letter from Tihar jail, Delhi to the Supreme Court providing information about the torture and inhuman conditions of the prison. This case (Sunil Batra V. Delhi Administration)¹⁸ recognized the various rights of prisoners in the most comprehensive manner. The judgment held that:

“No prisoner can be personally subjected to deprivation not necessitated by the fact of incarceration and the sentence of the court. All other freedoms belong to him to read and write, to exercise and recreation, to meditation and chant, to comforts like protection from extreme cold and heat, to freedom from indignities such as compulsory nudity, forced sodomy and other such unbearable vulgarity, to movement within the prison campus subject to requirements of discipline and security, to the minimal joys of self-expression, to acquire skills and techniques.

A corollary of this ruling is the Rights to Basic Minimum Needs necessary for the healthy maintenance of the body and development of the human mind. This umbrella of rights would include: Right to proper Accommodation, Hygienic living conditions, wholesome diet, Clothing, Bedding, timely Medical Services, Rehabilitative and Treatment Programmes”.

The Supreme Court, in its land mark decision in Ramamurthy V. State of Karnataka,¹⁹ has identified nine major problems which need immediate attention for implementing prison reforms. The Court observed that the present prison system is affected with the major problems of (1) overcrowding (2) delay in trial (3) torture and ill-treatment (4) neglect of health and hygiene (5) insufficient food and inadequate clothing (6) prison vices (7) deficiency in communication (8) streamlining of jail visits and (9) management of open air prisons.

This decision of the Supreme Court has origin in a letter written by one Ramamurthy a prisoner in Central Jail, Bangalore, and addressed to the Hon’ble Chief Justice of India. In the letter, the grievance was regarding denial of rightful wages to the prisoners despite their hard working,

¹⁶. Sures Bada Math, Pratima Murthy, Rajanni Parthasarthy, C Naveen Kumar “&” S Madhusudhan et. al. *Minds Imprisoned: Mental Health Care in Prisons*, (Bangalore: National Institute of Mental Health Neuro Sciences, 2011) at 152.

¹⁷. AIR SC 1739.

¹⁸. AIR 1980 SC 1579.

non eatable food and mental and physical torture in jail. The Supreme Court thereupon passed an order dated 26th November, 1992 directing the District Judge, Bangalore to visit the Central Jail and find out the pattern of payment of wages and the general conditions of the such as accommodation; sanitation, food, medicine etc. The District Judge submitted his voluminous report of more than 3000 pages on 28th April, 1993 which stated that general condition of prisoners; the quality accommodation etc. was satisfactory but sanitary conditions, medical facilities, mental prisoners and sending prisoners to hospitals outside the jail was not satisfactory. Also the visits of prisoners to their homes were not proper and regular as per rules due to shortage of police escorts. The place and procedure followed for interviews between the prisoners and their kith and kin, friends, visitors etc. was far from satisfactory. The District Judge in his report also made some recommendations for consideration and implementation.

Appreciating the admirable work done by the District Judge, the Supreme Court ordered follow up action by all the 1155 prisons of India in order to ensure prison justice.²⁰

In T.N Mathur V. State of UP case,²¹ the Hon'ble Supreme Court has issued direction to the state of UP, that wherever such detentions are stored to the persons detained must be housed in a lock-up which will provide at least 40 sq. ft. per person with minimal facilities of some furniture such as a cot for each of the detained persons and supply of potable water. Having regard to the climate conditions of the place, the lock-up should provide for an electric fan. There must be hygienic arrangements for toilet. The State shall ensure the satisfactions of these conditions wherever such arrests and detentions are resorted to.

The Supreme Court, in the matter of *Suo Moto Writ Petition (Civil) No. 406/2013* titled *Re: Inhuman Conditions Prevailing in 1382 prisons in India*, asked the Centre and all States to implement its directions on prison reforms including filling up of vacancies of jail staff across the country and devise a scheme to audit their accounts. Besides, an assessment was made by the Bureau of Police Research and Development (BPR&D) on the financial requirements of the states depending on their prison population and available capacity etc. and a non-plan scheme involving a total outlay of Rs. 1800 crore to be implemented over a period of five years from 2002-03 to 2006-07 was launched with the approval of Cabinet which was later extended up to 31.03.2009.²²

11.1 Conclusion:

Prison is a State subject under List-II of the Seventh Schedule in the Constitution. The management and administration of prisons falls exclusively in the domain of the State Governments, and is governed by Prisons Act, 1894 and the Prison Manual of the respective State Governments. Therefore, States have the primary role, responsibility and power to change the current prison laws, rules and regulation for improvement the living conditions of prisoners one hands. The wave of Apex Courts' guide lines for observation of human rights and the recommendations of various jail committees to improve the living conditions of prisoners in another hands.

UN Standard Minimum Rules, All India Committee on Jail Reforms and directions of various High Courts and Supreme Court and also step already initiated by various States have made very specific provisions for the creation and maintenance of living condition of the prisoners including accommodation, hygiene, sanitation, food, clothing, health care and medical facilities, etc.

The analysis of the data relating to living condition (district jail Keonjhar) of the prisoners, discussed in this study, collected from secondary and primary sources reflect the following:

- The living conditions of said jail, as per my observation are overall good. But I found that the atmospheric temperature of the town, where the jail is situated goes up to 45⁰ Centigrade during summer and in every ward, there are only 4 ceiling fans at the height of 12 foot from the floor, while the inhabitants are 30 to 80. During winter season the atmospheric temp of Keonjhar comes down to 2⁰ to 4⁰ c. The two blankets issued to each prisoner annually is of very thin material and not sufficient to meet the low temp.
- Further I found that the drinking water is not available in closed wards at night. It is not at all sufficient for them for a well living condition. And also latrine provided for the use of the inhabitants of each ward (30 to 80 inhabitants) makes the conditions of the inhabitants precarious in every morning.
- The trade allotted to the prisoner was not also satisfactory because in the real life the trade becomes useless for them after their release for rehabilitation.
- The National Food Security Act, 2013, which is applicable to the inmates of the jails in Odisha. It has implemented by Odisha Government on 14th November, 2015. I observed that the jail kitchen is not overall neat and clean. Cooking rice for the prisoners was found stacked on cement platform. This arrangement seems to be unhygienic.

People housed in the prison are vulnerable to violation of their human rights and often end up in inhuman living conditions. The state should recognize these barest minimum needs of the prisoners and play a vital role in meeting these needs as deprivation of any of these amounts of human rights of the person in jail custody.

