

Project

In

The subject of

Penology and treatment of offenders

On the topic of

Prison and types of Prisons

And

Prisoner and types of Prisoner

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### MEANING :PRISON

A prison, jail, or gaol, is a facility in which individuals are forcibly confined and denied a variety of freedoms under the authority of the state as a form of punishment. The most common use of prisons is as part of an organized governmental justice system, in which individuals officially charged with or convicted of crimes are confined to a jail or prison until they are either brought to trial to determine their guilt or complete the period of incarceration they were sentenced to after being found guilty at their trial. Outside of their use for punishing civil crimes, authoritarian regimes also frequently use prisons and jails as tools of political repression to punish political crimes, often without trial or other legal due process; this use is illegal under most forms of international law governing fair administration of justice. In times of war or conflict, prisoners of war may also be detained in military prisons or prisoner of war camps, and large groups of civilians might be imprisoned in internment camps.<sup>1</sup>

“Prison” includes Jails or any goal or place used permanently or temporarily under the general or special orders of the Government for the detention of prisoners, under section 417 of the Code of Criminal Procedure, 1973 and includes all land and buildings appurtenant thereto, but does not include any place for the confinement of prisoners who are exclusively in the custody of the police.<sup>2</sup>

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<sup>1</sup> <http://en.wikipedia.org/wiki/Prison> visited on 03-11-2013 at 4:30 p.m

<sup>2</sup> Goa Prison Rules ,2006 which has been approved by Government of Goa on 12-10-2006 by way of Notification:9/29/2004-HD(G)/Part. Official Gazette, Series I No. 28, Panaji 13<sup>th</sup> October, 2006.

## HISTORY OF PRISONS

The origins of prisons can be traced back to the rise of the state as a form of social organization. Corresponding with the advent of the state was the development of written language, which enabled the creation of formalized legal codes as official guidelines for society. The most well known of these early legal codes is the Code of Hammurabi, written in Babylon around 1750 BC. The penalties for violations of the laws in Hammurabi's Code were almost exclusively centered around the concept of lex talionis ("the law of retaliation") where people were punished as a form of vengeance, often by the victims themselves. This notion of punishment as vengeance or retaliation can also be found in many other legal codes from early civilizations, including the ancient Sumerian codes, the Indian Manama Dharma Astra, the Hermes Trismegitus of Egypt, and the Mosaic Code.<sup>3</sup>

Some Ancient Greek philosophers, such as Plato, began to develop ideas of using punishment to reform offenders instead of simply using it as retribution. Imprisonment as a penalty was used initially for those who could not afford to pay their fines. Eventually, since impoverished Athenians could not pay their fines, leading to indefinite periods of imprisonment, time limits were set instead.<sup>4</sup>

The Romans were among the first to use prisons as a form of punishment, rather than simply for detention. A variety of existing structures were used to house prisoners, such as metal cages, basements of public buildings, and quarries. One of the most

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<sup>3</sup> <http://en.wikipedia.org/wiki/Prison> visited on 03-11-2013 at 4:30 p.m.

<sup>4</sup> *ibid*

notable Roman prisons was the Mamertine Prison, established around 640 B.C. by Ancus Marcius. The Mamertine Prison was located within a sewer system beneath ancient Rome, and contained a large network of dungeons where prisoners were held in squalid conditions, contaminated with human waste. Forced labor on public works projects was also a common form of punishment. In many cases, citizens were sentenced to slavery, often in ergastula (a primitive form of prison where unruly slaves were chained to workbenches and performed hard labor).<sup>5</sup>

During the Middle Ages in Europe, castles, fortresses, and the basements of public buildings were often used as makeshift prisons. The possession of the right and the capability to imprison citizens, however, granted an air of legitimacy to officials at all levels of government, from kings to regional courts to city councils; and the ability to have someone imprisoned or killed served as a signifier of who in society possessed power or authority over others. Another common punishment was sentencing people to galley slavery where they were chained together in the bottoms of ships and forced to row on naval or merchant vessels.<sup>6</sup>

Modern era :-During the 18th century, popular resistance to public execution and torture became more widespread, and rulers began looking for means to punish and control their subjects in a way that didn't cause people to associate them with

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<sup>5</sup> ibid

<sup>6</sup> ibid

spectacles of tyrannical and sadistic violence. They began to look towards developing systems of mass incarceration as a solution.<sup>7</sup>

Britain practiced penal transportation of convicted criminals to colonies in the British Empire, in America from the 1610s through the American Revolution in the 1770s and in Australia between 1788 and 1868. France sent criminals to tropical penal colonies including Louisiana in the early 18th century. Penal colonies in French Guiana operated until 1951, such as the infamous Île du Diable (Devil's Island). Katorgaprisons were harsh work camps established in the 17th century in Russia in remote underpopulated areas of Siberia and the Russian Far East that had few towns or food sources. Siberia quickly gained its fearful connotation of punishment.<sup>8</sup>

The first prisons in the United States were modeled on Jeremy Bentham's "panopticon" model, with wings of one-person cells radiating outward from a central control/surveillance structure. This was later replaced with what was known as the "Auburn System", where prison cells were placed inside of rectangular buildings that lent themselves more to large-scale penal labor.<sup>9</sup>

A well organized system of prisons is known to have existed in India from the earliest times. It is on record that Brahaspati laid great stress on imprisonment of convicts in closed prisons. However Manu was against this system. Kautilya in his Arthashastra has stated that rulers in ancient India made frequent use of fortresses to lodge their

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<sup>7</sup> ibid

<sup>8</sup> ibid

<sup>9</sup> ibid

prisoners. He was personally of the view that as far as possible prisons should be constructed by the road side so that monotony of prison life is reduced to a considerable extent. In ancient India, greater emphasis was laid on the spiritual aspect of human life and therefore the prisons were so modeled so as to provide sufficient opportunity for penance and remonstrance. It was a common practice to keep the prisoners in solitary confinement so as to afford them an opportunity of self-introspection.<sup>10</sup> The object of punishment during the Hindu and Mugal period in India was to deter offenders from repeating crime. The recognized modes of punishments were death sentences, hanging, mutilation, whipping, flogging, branding, or starving to death. Particularly, during the Mugal rule in India the condition of prisons was awefully draconic. The prisons were a place of terror and torture and prison authorities were expected to be tough and rigorous in implementing sentences. The British colonial rule in India marked the beginning of penal reforms in this country. The British prison authorities made strenuous efforts to improve the condition of Indian prisons and prisoners. The Prison Enquiry Committee appointed by the Government of India in 1836 recommended for the abolition of the practice of prisoners working on roads. An official called the Inspector-General of prisons was appointed for the first time in 1855, who was the Chief administrator of prisons in India. His main function was to maintain discipline among the prisoners and the prison authorities.<sup>11</sup>

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<sup>11</sup> Paranjape N.V., Criminology and Penology, Deluxe Edition 2008, Central Law Publication.

The second Jail Enquiry Committee in 1862 expressed concern for the insanitary conditions of Indian prisons which resulted into deaths of several prisoners due to illness and disease. It emphasized the need for proper food and clothing for the prison inmates and medical treatment of ailing prisoners. Thereafter certain recommendations were also made by the third Jail Enquiry Committee in 1877 followed by further suggestions in 1889 and 1892.<sup>12</sup>

As a result of these recommendations the Prison Act 1894 was enacted to bring about uniformity in the working of prisons in India. It empowered the then existing provinces to enact their own prison rules for the prison administration. The Act provided for classification of prisoners and the sentence of whipping was abolished. The medical facilities which were already made available to prisoners in 1866 were further improved and better amenities were provided to women inmates to protect them against contagious diseases.<sup>13</sup>

During the period from 1907 onwards vigorous efforts were made to improve the condition of juvenile and young offenders. They were now kept segregated from hardened adult offenders so as to prevent their contamination. A number of reformatories and Borstal institution modeled on British pattern were established for the treatment of juvenile delinquents during early twentieth century.<sup>14</sup>

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<sup>12</sup> ibid

<sup>13</sup> ibid

<sup>14</sup> ibid

## OBJECTIVE OF PRISONS

As early as in the year 1920, the Indian Jails Committee had unequivocally declared that the reformation and rehabilitation of offenders was the ultimate objective of prison administration. This declaration subsequently found its echo in the proceedings of various Prison Reforms Committees appointed by the Central and State Governments of the international influences. The United Nations Standard Minimum Rules for the Treatment of Prisoners, formulated in 1955, provides the basic framework for such a goal. The international Covenant on Civil and Political Rights, propounded by United Nations in 1977, to which India is a party, has clearly brought out that the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. It is, however, seen that whereas India is second to none in terms of an enlightened thinking with regard to the purpose and objective of imprisonment, the gap between proclaimed principles and actual practices appears to have been widening in recent years.<sup>15</sup>

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<sup>15</sup> <http://bprd.nic.in/writereaddata/linkimages/1445424768-Content%20%20Chapters.pdf> visited on 03-11-2013 at 6:00 p.m

## LEGAL REGIME

Day-to-day administration of prisoners rests on principles incorporated in the Prisons Act of 1894, the Prisoners Act of 1900, and the Transfer of Prisoners Act of 1950

As per the Prisoners Act 1900, "prison" includes any place which has been declared by the State Government, by general or special order, to be a subsidiary jail.<sup>16</sup>

As per the Prisons Act 1894, "Prison" means any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include –

Any place for the confinement of prisoners who are exclusively in the custody of the police;

Any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or

Any place, which has been declared by the State Government, by general or special order, to be a subsidiary jail.<sup>17</sup>

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<sup>16</sup>[http://aasc.nic.in/acts%20and%20rules%20\(goa\)/Home%20Department/The%20Prisoners%20Act,%201900.pdf](http://aasc.nic.in/acts%20and%20rules%20(goa)/Home%20Department/The%20Prisoners%20Act,%201900.pdf) visited on 04-11-2013 at 5:55 p.m

<sup>17</sup><http://www.humanrightsinitiative.org/programs/aj/prisons/standards/acts/The%20Prisons%20Act%201894.pdf> visited on 04-11-2013 at 6:30 p.m.

Any goal or place used permanently or temporarily under the general or special orders of a State government for the detention of prisoners, under Section 417 of Cr.P.C, 1973 and includes all land and buildings thereto, but does not include:

(a) any place for the confinement of prisoners who are exclusively in the custody of the police,

(b) any place specially appointed by the State government under Section 541 of the Code of Criminal Procedure, 1882 (10 of 1882).<sup>18</sup>

According to the transfer of Prisoners Act 1950, “prison” includes any place which has been declared by a State Government, by general or special order, to be a subsidiary jail.<sup>19</sup>

Although the terms “jail” and “prison” are sometimes used interchangeably, most members of law enforcement distinguish between the two. Primarily, the difference is that a jail is used by local jurisdictions such as counties and cities to confine people for short periods of time. A prison, or penitentiary, is administered by the state, and is used to house convicted criminals for periods of much longer duration. Both are part of a larger penal system which includes other aspects of criminal justice such as courts, law enforcement, and crime labs.

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<sup>18</sup> <http://bprd.nic.in/writereaddata/linkimages/1445424768-Content%20%20Chapters.pdf> visited on 3-11-2013 at 6:00 p.m

<sup>19</sup> [http://mha.nic.in/hindi/sites/upload\\_files/mhahindi/files/pdf/Transfer\\_prisoners\\_act1950.pdf](http://mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/Transfer_prisoners_act1950.pdf) visited on 8-11-2013 at 8:00 p.m

Because a jail is designed for short time periods only, it tends to have fewer amenities than a prison. Individuals who are being housed in a jail have access to bathrooms and are provided with food and water, and in a low security jail, they may be able to socialize in common areas during certain periods of the day. Most jails are designed to hold a very small number of criminals, and have relatively lax security when compared to prisons, although in areas prone to violence, a jail may be run along very strict lines. A jail houses people who have been convicted to serve a short sentence, individuals awaiting trial, people who have not yet paid bail, and detainees who have just been picked up on suspicion of committing a crime. The criminals are processed through a booking procedure, and the criminal justice system decides what to do with them after that.

#### LEAGAL REGIME IN GOA

Considering the aspect of bringing uniformity in the laws relating to prisons, the Bureau of Police Research and Development, Ministry of Home Affairs, Government of India, New Delhi formulated Model Prison Manual for the Superintendence and Management of Prisons in India. Based on this Manual, the Government of Goa constituted a Committee under the Chairmanship of District Magistrate to frame the Jail Manual for the State of Goa and to prepare a comprehensive report on amending/reframing the existing Prison Rules. The committee examined various aspects of institutional framework in the prison with regards to implication of the proposed Jail Manual. The Committee recommended relevant amendments to various

sets of existing Rules so as to ensure that the Manual is in conformity with the existing Laws. The Government of Goa adopted the Prison Manual framed by the said committee and based on this Manual, the Goa Prison Rules, 2006 were framed, and now, the Prisons in Goa are governed by these Rules.

Prior to liberation, Central Jail was functioning at Diu and after the liberation, it was shifted to Margao and subsequently, in the year 1968, it was shifted to Aguada Fort that was build during Portuguese regime, thus it is called a Central Jail, Aguada. There was also one Sub Jail at Reis Magos, Bardez functioning in a similar old fort as of Aguada. As these old forts were not designed for housing prisoners in a high security environment, the Sub Jail Reis Magos was closed in the year 1993 and was merged with Central Jail Aguada. Thereafter, having constructed a new building at Sada Vasco, the sub Jail started functioning in the said new building since January, 1996. Besides said Jails there were three Lock-ups, one at Margao, Panaji & Mapusa. The structure of these lock-ups were also constructed during pre-liberation time. However, the same were renovated from time to time to have smooth functioning. Subsequently, Judicial lock-up, Panaji and Margao were closed from security point of view as many escapes had been taken place from both these lock-ups due to lack of adequate security.<sup>20</sup>

Considering the fact that lock-ups and Jails in Goa were not secure for lodging prisoner and the fact that these institutions have been overcrowded and the present Central Jail, Aguada has inadequate infrastructure, the Government decided to construct Modern Central Jail at Colvale, Bardez Goa and the construction of this Jail is underway

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<sup>20</sup> <http://goaprisons.gov.in/AboutUs.aspx> visited on 29-11-2013 at 7:45 p.m

and is in progress and nearing completion. On 28/11/2012 the cabinet resolved to approve for creation of a new Inspectorate General of Prisons to be headed by Inspector General of Prisons appointed u/s 5 of Prison Act, 1894 and to function as Head of Department in the newly created Department.

The cabinet further resolved to approve that :

a) The Head of Department shall be the appointing and disciplinary authority for the newly created directorate and shall also be duly designated with powers as stated in the Goa delegation of Financial Powers Rules, 2008.

b) To amend the Business of Government of Goa (Allocation) Rules, 1987 so as to specify the newly created Department in the schedule attached thereto.

c) The newly created Inspectorate General of Prisons will be temporarily operated by the staff from the Collectorate, (North) till the posts are created and filled on regular basis in the Inspectorate General of Prisons on approval of Administrative Reforms Department and concurrence of the Finance Department.

The Cabinet also resolved on 06/12/2012 to approve that:

a) Making Central Jail Aguada into an exclusive womens prison after some renovations in the building.

b) Housing young male offenders (age group between 18-21 years) at the present Mapusa Judicial Lock-up after renovation and notification as Sub; Jail. After the

completion of age limit, prisoners will be shifted to Sub Jail Sada, Vasco or Colvale Jail as per the guidelines.

c) In colvale Jail separate enclosures meant for women and men prisoner be utilized for housing convicts and under-trials male prisoners separately.

d) Sub Jail Sada, Vasco may be converted primarily as Prison for housing under-trials (age group above 21 years).

e) Exploring the possibility of allowing Prison Department to use two acres of land at curca for setting up of Prison Department and State Prison Training Centre and rest of the land; for Open Prison/half way home in future provided the Goa Housing Board is adequately compensated.

f) The requisite staff, office equipments and logistic would be sanctioned subsequently in pursuance to above decision.<sup>21</sup>

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<sup>21</sup> *Ibid*

## PRISON IN THE UNITED STATES AND ENGLAND

In the United States, "jail" and "prison" refer to separate levels of incarceration; generally speaking, jails are county or city administrated institutions which house both inmates awaiting trial on the local level and convicted misdemeanants serving a term of one year or less, while prisons are state or federal facilities housing convicted felons serving a term of more than one year. On the federal level, this terminology has been largely superseded by a more complex five-tier system implemented by the Federal Bureau of Prisons that ranges from low security "Prison Camps" to medium security "Correctional Institutions" and finally maximum security "Penitentiaries". Federal prisons can also house pre-trial inmates. Furthermore, in recent times, supermax prisons have been created where the custody level goes beyond maximum security for people such as terrorists or political prisoners deemed a threat to national security and inmates from other prisons who have a history of violent or other disruptive behavior in prison or are suspected of gang affiliation. These inmates have individual cells and are kept in lockdown, often for more than 23 hours per day. Meals are served through "chuck holes" in the cell door, and each inmate is allotted one hour of outdoor exercise per day, alone. They are normally permitted no contact with other inmates and are under constant surveillance via closed-circuit television cameras.<sup>22</sup>

In England and Wales, prisoners are assigned security classes when they are sentenced. Prisons are given security classifications depending on the prisoners they are designed to hold.[citation needed] The British prison system is also divided into

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<sup>22</sup> <http://en.wikipedia.org/wiki/Prison> visited on 03-11-2013 at 4:30 p.m

"Open" and "Closed" prisons. Categories A-C are considered "Closed" prisons as prisoners cannot be trusted to interact with the public, while category D prisons are generally "Open", meaning that prisoners with a good record and who are approved can be allowed limited interaction with the public such as home-leave or a nominal employment. Lower-security prisons are often designed with less restrictive features, confining prisoners at night in smaller locked dormitories or even cottage or cabin-like housing while permitting them freer movement around the grounds to work or activities during the day. In countries such as the United States, where capital punishment is practiced, some prisons are equipped with a "death row", where prisoners are put to death under controlled conditions.<sup>23</sup>

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<sup>23</sup> *ibid*

## Special types of prison

### *Youth detention center*

Prisons for juveniles (people under 17 or 18, depending on the jurisdiction) are known as young offender facilities or similar designation and hold minors who have been remanded into custody or serving sentence. Many countries have their own age of criminal responsibility in which children are deemed legally responsible for their actions for a crime. Countries such as Canada may try to sentence a juvenile as an adult, but have them serve their sentence in a juvenile facility until they reach the age of majority, at which time they would be transferred to an adult facility.<sup>24</sup>

### *Military prisons and prisoner-of-war camps*

Prisons have formed part of military systems since the French Revolution. France set up its system in 1796. They were modernized in 1852, they are used variously to house prisoners of war, unlawful combatants, those whose freedom is deemed a national security risk by military or civilian authorities, and members of the military found guilty of a serious crime. Military prisons in the United States have also been converted to civilian prisons, to include Alcatraz Island. Alcatraz was formerly a military prison for soldiers during the American Civil War.<sup>25</sup>

In the American Revolution, British prisoners held by the U.S. were assigned to local farmers as laborers. The British kept American sailors in broken down ship hulks with

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<sup>24</sup> ibid

<sup>25</sup> ibid

high death rates. In the Napoleonic wars, the broken down hulks were still in use for naval prisoners. One French surgeon recalled his captivity in Spain, where scurvy, diarrhea, dysentery, and typhus abounded, and prisoners died by the thousands:

"These great trunks of ships were immense coffins, in which living men were consigned to a slow death.... [In the hot weather we had] black army bread full of gritty particles, biscuit full of maggots, salt meat that was already decomposing, rancid lard, spoiled cod, stale rice, peas, and beans."<sup>26</sup>

In the American Civil War, at first prisoners of war were released, after they promised not to fight again unless formally exchanged. When the Confederacy refused to exchange black prisoners the system broke down, and each side built large-scale POW camps. Conditions in terms of housing, food and medical care were bad in the Confederacy, and the Union retaliated by imposing harsh conditions. By 1900 the legal framework of the Geneva and Hague Convention provided considerable protection. In the First World War, millions of prisoners were held on both sides, with no major atrocities. Officers received privileged treatment. There was an increase in the use of forced labor throughout Europe. Food and medical treatment were generally comparable to what active duty soldiers received, and housing was much better than front-line conditions.<sup>27</sup>

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<sup>26</sup> ibid

<sup>27</sup> ibid

### *Political prisons and administrative detention*

Certain countries maintain or have in the past had a system of political prisons: the gulags associated with Stalinism in the Soviet Union are perhaps the best known. Administrative detention is a classification of prisons or detention centers where people are held without trial.<sup>28</sup>

### *Psychiatric facilities*

Some psychiatric facilities have characteristics of prisons, particularly when confining patients who have committed a crime and are considered dangerous. In addition, many prisons have psychiatric units dedicated to housing offenders diagnosed with a wide variety of mental disorders. The United States government refers to psychiatric prisons as "Federal Medical Centers (FMC)".<sup>29</sup>

### *Open facilities*

The Suomenlinna Island facility in Finland is an example of an "open" correctional facility that are also established in Scandinavian nations. The prison has been open since 1971 and, as of September 2013, the facility's 95 male prisoners leave the prison grounds on a daily basis to work in the corresponding township or commute to the mainland for either work or study. Prisoners can rent flat-screen televisions, sound systems, and mini-refrigerators with the prison-labor wages that they can earn—wages range between 4.10 and 7.3 Euros per hour (US\$5.30 to \$9.50). With electronic

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<sup>28</sup> *ibid*

<sup>29</sup> *ibid*

monitoring, prisoners are also allowed to visit their families in Helsinki and eat together with the prison staff. Prisoners in Scandinavian facilities are permitted to wear their own clothes.<sup>30</sup>

### *Conditional Sentences*

Conditional sentences were first introduced in 1996 in an attempt to reduce the amount of inmates in a quickly growing prison population. Conditional sentences, which are also known as indeterminate sentences, are sentences that are served outside of the prison walls and in the community with some sort of restrictions or conditions placed on the offender. The requirements or conditions may include mandatory programs such as a drug or alcohol treatment seminars, curfews, house arrest, or electronic monitoring. Most offenders who receive conditional sentences are low risk and are usually serving time for impaired driving where no death occurred. When an offender receives a conditional sentence of home confinement in comparison to incarceration, the offender is still able to see family members, maintain a normal job, and attend school. This is a huge advantage to conditional sentencing, since offenders are not completely cut off from the external world. Although the offender is not locked away in a prison cell, the offender is still expected to stay at home during certain times of the day or night. In order to verify that offenders are abiding by the restrictions placed on them, electronic monitoring is often used. The development of GPS, which allows law enforcement agencies to know the exact location of the offender by the use of satellites, has increased the effectiveness of

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<sup>30</sup> *ibid*

offenders serving home confinement sentences drastically. Offenders can now easily be identified and tracked down through the use of GPS allowing law enforcement officers to quickly move in to make an arrest when an offender is in breach of their conditions. Restorative Justice Restorative justice is an approach to justice that focuses on the needs of the victims and the offenders, as well as the involved community, instead of focusing on satisfying abstract legal principles or punishing offenders (such as imprisoning them). Victims take an active role in the process, while offenders are encouraged to take responsibility for their actions, "to repair the harm they've done—by apologizing, returning stolen money, or community service".<sup>31</sup>

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31. *ibid*

## PRISONS IN INDIA

Prisons in India, and their administration, is a state subject covered by item 4 under the State List in the Seventh Schedule of the Constitution of India. The management and administration of prisons falls exclusively in the domain of the State Governments, and is governed by the Prisons Act, 1894 and the Prison Manuals of the respective State Governments. Thus, states have the primary role, responsibility and authority to change the current prison laws, rules and regulations. Day-to-day administration of prisoners rests on principles incorporated in the Prisons Act of 1894, the Prisoners Act of 1900, and the Transfer of Prisoners Act of 1950. An Inspector General of Prisons administers prison affairs in each state and territory. The Central Government provides assistance to the states to improve security in prisons, for the repair and renovation of old prisons, medical facilities, development of borstal schools, facilities to women offenders, vocational training, modernization of prison industries, training to prison personnel, and for the creation of high security enclosures.<sup>32</sup>

The Supreme Court of India, in its judgments on various aspects of prison administration, has laid down 3 broad principles regarding imprisonment and custody. Firstly, a person in prison does not become a non-person. Secondly, a person in prison is entitled to all human rights within the limitations of imprisonment. Lastly, there is no

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<sup>32</sup> [http://en.wikipedia.org/wiki/Prisons\\_in\\_India](http://en.wikipedia.org/wiki/Prisons_in_India) visited on 03-11-2013 at 4:30 p.m

justification for aggravating the suffering already inherent in the process of incarceration.<sup>33</sup>

Prison establishments in India comprise of 8 categories of jails. The most common and standard jail institutions are Central Jails, District Jails and Sub Jails. The other types of jail establishments are Women Jails, Borstal Schools, Open Jails and Special Jails.<sup>34</sup>

### *Central jail*

The criteria for a jail to be categorised as a Central Jail varies from state to state. However, the common feature observed throughout India is that prisoners sentenced to imprisonment for a long period (more than 2 years) are confined in the Central Jails, which have larger capacity in comparison to other jails. These jails also have rehabilitation facilities.<sup>35</sup>

Maharashtra and Tamil Nadu have the highest number of 9 Central Jails each followed by Karnataka, Bihar, Madhya Pradesh, Rajasthan and Delhi with 8 each. Arunachal Pradesh, Meghalaya, Andaman & Nicobar Islands, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep do not have any Central Jails.<sup>36</sup>

### *District jail*

District jails serve as the main prisons in States/UTs where there are no Central Jails. States which have considerable number of District Jails are Uttar Pradesh (53), Bihar

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<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid

<sup>36</sup> Ibid

(30), Maharashtra and Rajasthan (25 each), Madhya Pradesh (22), Assam (21), Jharkhand (17), Haryana and Karnataka (15).<sup>37</sup>

### *Sub jail*

Sub jails are smaller institutions situated at a sub-divisional level in the States. Ten states have reported comparatively higher number of sub-jails revealing a well organized prison set-up even at lower formation. These states are Maharashtra (172), Andhra Pradesh (96), Tamil Nadu (94), Madhya Pradesh (92), Karnataka (74), Odisha (66), Rajasthan (60), West Bengal (31), Kerala (29) and Bihar (16). Odisha had the highest capacity of inmates in various Sub-Jails. 8 States/UTs have no sub-jails namely Arunachal Pradesh, Haryana, Manipur, Meghalaya, Mizoram, Sikkim, Chandigarh and Delhi.<sup>38</sup>

### *Women jail*

Women jails are exclusively used for women prisoners, although women may also be imprisoned in other jails. They exist only in 12 States/UTs. Tamil Nadu and Kerala have 3 women jails each and Andhra Pradesh, Rajasthan & West Bengal have 2 women jails each. Bihar, Maharashtra, Odisha, Punjab, Tripura, Uttar Pradesh and Delhi have one women jail each. The total capacity of women inmates was highest in Tamil Nadu (1,569).<sup>39</sup>

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<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

### *Borstal School*

Borstal Schools are a type of youth detention center and are used exclusively for the imprisonment of minors or juveniles. The primary objective of Borstal Schools is to ensure care, welfare and rehabilitation of young offenders in an environment suitable for children and keep them away from contaminating atmosphere of the prison. The juveniles in conflict with law detained in Borstal Schools are provided various vocational training and education with the help of trained teachers. The emphasis is given on the education, training and moral influence conducive for their reformation and prevention of crime.<sup>40</sup>

Ten States namely, Andhra Pradesh, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan and Tamil Nadu have borstal schools in their respective jurisdictions. Tamil Nadu had the highest capacity for keeping 667 inmates. Haryana and Himachal Pradesh are the only states that have the capacity to lodge female inmates in 3 of their Borstal Schools. There are no borstal schools in any of the UTs.<sup>41</sup>

### *Open jail*

Open jails are minimum security prisons. Prisoners with good behaviour satisfying certain norms prescribed in the prison rules are admitted in open prisons. Prisoners are engaged in agricultural activities.

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<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

Fourteen states have functioning Open Jails in their jurisdiction. Rajasthan reported the highest number of 23 open jails. There are no Open Jails in any of the UTs.<sup>42</sup>

India has 1,328 correctional facilities, of which 27 are open prisons. Open prisons, in one form or another, have existed in India for almost half a century. They have developed differently in different states, but prison authorities have always used prison labor in agricultural and other work outside the prison (Penal Reform and Justice Association/Penal Reform International, 2002). Open prisons in India can be broadly classified into three categories:

- \* Open farms, where inmates do farming and agricultural work assigned to them and live in open areas with other eligible inmates.

- \* Open farms, where inmates do farming and agricultural work assigned to them and live in an open farm area with their families and the families of other eligible inmates.

- \* Open camps, where inmates work their own trades and occupations, build their own homes and live with their families.<sup>43</sup>

Rajasthan. Sanganer Open Camp is one of seven open prisons in Rajasthan state. The seven facilities house 285 inmates. A March 2004 story in Info Change News & Features begins as follows:

"Jagdish Prasad Sharma begins his day with a prayer. After breakfast he sets about cleaning his truck till it gleams and drives off to work at a stone quarry. When he

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

returns, at 7 pm, he watches his favorite TV show and spends time with his wife. Sharma's life is no different from that of an ordinary man. But there is one big difference. He lives in a prison, where he is currently serving the last part of a 14-year murder sentence."<sup>44</sup>

Sanganer is a village about 15.5 miles from Jaipur, the capital of the northwestern state of Rajasthan. The 150 inmates/residents of Sanganer (including 10 women) have served at least one-third of their sentences; are not serial murderers, professional assassins or rapists; and have not committed crimes against the state or been convicted of drug smuggling. Some of the inmates build their own houses from their own earnings, pay taxes, pay for water and electricity, and are allowed to go out to work between 6 a.m. and 7 p.m. within a 6.2-mile radius. Their children attend nearby schools. They live as they would in their own villages. The prison department has built small two-room cottages for new inmates. Inmates can run their own business, such as selling building materials or transporting goods for local industry, or they are employed by businessmen and traders in the local community. One man, A.K. Sharma, a homeopath who was convicted of murder, runs a modest practice in Sanganer. Others teach at neighboring schools or are vegetable vendors or paanwallahs. (3) The prison in Sanganer is spread across 10 acres and has orderly rows of about 150 cement

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<sup>44</sup> <http://www.thefreelibrary.com/The+value+of+open+prisons+in+India.-a0184130862> visited on 9-11-2013 at 8:00 p.m

houses, tin sheds and thatched cottages (Centre for Communication and Development Studies, 2004).<sup>45</sup>

The use of open prisons in India started when Rajasthan's reformist Gov. Sampurnanand, who served from 1962 to 1967, was inspired by the Hindu film *Do Aankhen Baarah Haat* (Two Eyes, 12 Hands), which tells the story of a jailer who takes murderers out of a jail to see if they can work their own farm. "The Rajasthan government started the Sri Sampurnanand Khula Bandi Shivir (open jail), named after the governor, on an experimental basis in 1963. Up until the 1980s, inmates were allowed out from dawn to dusk to engage in agricultural work. A decade later, the government made it compulsory for convicted offenders to live with their families in jail as an important step toward their rehabilitation" (Centre for Communication and Development Studies, 2004).<sup>46</sup>

According to the Penal Reform and Justice Association (PRAJA), an Indian NGO affiliated with Penal Reform International (PRI), more than one-third of the families have television sets. Many also have farm animals and sell the milk from their cows on the open market. Offenders' families can have houseguests who may come and go as they please and do not have to "keep hours" as do the offenders. Several weddings

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<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

have taken place at the camp, with everyone (including people from the village) pitching in to make the events successful.<sup>47</sup>

The camp has two correctional officers and a low boundary wall. According to local police constable Bajrang Lai Meena, though the camp is run on a relationship of trust, it is very disciplined. Besides being less expensive to operate than a traditional prison, the open camp is praised for its rehabilitative success. "Everyone is anxious to get rid of prisoners," says Chandra Shekhar, Rajasthan's Minister of Jails. "The police to the courts, the courts to the prison. Somebody has to rehabilitate them and the open camp in Rajasthan is one way of doing this" (Centre for Communication and Development Studies, 2004).<sup>48</sup>

Kerala. The open prison in the state of Kerala on the coast of southwestern India is an example of a slightly different type of open prison; the inmates do not live with their families. There are more security staff and security procedures, though the operation of the facility is still based on treating the inmates with respect and giving them responsibility, especially in terms of their work on the rubber plantation. The prison is situated on 300 acres of land, and there are no fences or surveillance towers. In the first 35 years of operation, there was only one escape and one repeat offender. As an Earthwatch Gaia Fellow in 1994, American author Jim Merkel noted the atmosphere of the prison as peaceful and relaxed. When he asked the warden how the inmates were

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<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

treated, the warden laughed and said, "We have to treat them nicely, they are all murderers" (Merkel, 2000).<sup>49</sup>

The Kerala open prison is based on Gandhi's principle of "equality of religions," which taught respect for all religious faiths. Therefore, Kerala open prison does not recognize the caste system and encourages the expression of personal faith at the mosque, church or temple, Merkel observed. Inmates are required to work on the self-supporting prison's 200-acre rubber plantation, tapping rubber, preparing rubber sheets and cultivating rice paddies. Each inmate works four to six hours a day and is paid for his or her work. The harvested rubber brings in an additional 3,000,000 rupees (about \$75,000), which covers annual expenses for running the prison. The remaining money goes back to the Kerala state government (Merkel, 2000). Inmates are allowed to spend one month out of six at home with their families. Five-day leaves are granted in the event of a family member's death, wedding or other important occasion. While in the prison, inmates can have visits from their families on weekends.<sup>50</sup>

#### Advantages and Limitations

The advantages of open prisons in India are both practical and philosophical. From a practical standpoint, they are less costly than traditional prisons and often profitable for the state. They could help reduce crowding since they are relatively easy to establish and require few staff. Philosophically, open prisons are more humane and reduce the time inmates spend in locked rooms. They are much more effective in

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<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

keeping families together and help give offenders a sense of social responsibility. According to a Rajasthan State Human Rights Commission on jail reforms chaired by Justice A.N. Mulla in the early 1980s, the open prison gives inmates an effective exercise in self-reliance, cooperation and community living in a family atmosphere. The commission recommended that each state in India develop an institution such as Sanganer. The commission noted that the purpose of an open camp is to:

1. Minimize the damage of punishment;
  2. Let the community see the offender at close quarters;
  3. Lay bare an offender's day-to-day behavior to reveal that not every person who has committed a crime is hardened, vicious and unrelenting;
  4. Hand responsibility back to the offender;
  5. Demonstrate that the presence of family has a moderating effect on the offender;
- and
6. Show that offending, punishing, restoring and compensating are all part of the social process (PRAJA/PRI, 2002).<sup>51</sup>

PRI, which has studied the open prisons in India and supports them, lists the following limitations for the use of open prisons:

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<sup>51</sup> Ibid.

1. Open prisons are likely to succeed only in societies where the family has a role to play;
2. They have limited success with female offenders. Whereas a man's family is happy to unite with him, in a female offender's case, the family in all likelihood would rather abandon her;
3. Open camps can only succeed if they are well explained to the public and the community, which is becoming increasingly vindictive as tension and terror increases in society; and
4. Victims and their families feel outraged by such measures, which are seen as "soft" options.<sup>52</sup>

### *Special jail*

Special jails are high security facilities that have specialized arrangements for keeping offenders and prisoners who are convicted of terrorism, insurgency and violent crimes. Special jail means any prison provided for the confinement of a particular class or particular classes of prisoners which are broadly as follows:

Prisoners who have committed serious violations of prison  
discipline.

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<sup>52</sup> Ibid.

Prisoners showing tendencies towards violence and aggression.

Difficult discipline cases of habitual offenders.

Difficult discipline cases from a group of professional/organised criminals.

Kerala has the highest number of special jails - 9. Provision for keeping female prisoners in these special jails is available in Tamil Nadu, West Bengal, Gujarat, Kerala, Assam, Karnataka and Maharashtra.<sup>53</sup>

#### *Other jails*

Jails that do not fall into the categories discussed above, fall under the category of Other Jails. Three states - Goa, Karnataka & Maharashtra - have 1 other jail each in their jurisdiction. No other state/UT has an other jail. The capacity of inmates (male & female) reported by these three States in such jails was highest in Karnataka (250) followed by Goa (45) and Maharashtra (28).<sup>54</sup>

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<sup>53</sup> [http://en.wikipedia.org/wiki/Prisons\\_in\\_India](http://en.wikipedia.org/wiki/Prisons_in_India) visited on 03-11-2013 at 4:30 p.m

<sup>54</sup> Ibid.

## PRISONER- MEANING

A prisoner, also known as an inmate, is a person who is deprived of liberty against their will. This can be by confinement, captivity, or by forcible restraint. The term applies particularly to those on trial or serving a prison sentence.<sup>55</sup>

Any person confined in prison under the order of a competent authority.<sup>56</sup>

### Types of Prisoners

At the time when reaction to crime was purely punitive, there was no need for classifying prisoners and all of them were flocked together in a single prison. This system of singular treatment of criminals, however turned the prisons into a living hell on earth with all sorts of vices. The sole object of prisonisation in those days was to subject the inmates to maximum torture and pain and therefore there was no need to classify them. With the evolution of penal science during the late eighteenth and early nineteenth century, the offenders were classified into different categories according to their sex, age and gravity of offence. Even at this time, objective approach to prisoners was not known. It was towards the end of 19<sup>th</sup> century that the idea of individualization of prisoners drew attention of penologists and this principle has since then been firmly established into practice. Individualisation of offender as a method of rehabilitation has now become the cardinal principle of modern penology. Evidently in

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<sup>55</sup> <http://en.wikipedia.org/wiki/Prisoner> visited on 03-11-2013 at 4:30 p.m

<sup>56</sup> Goa Prison Rules ,2006 which has been approved by Government of Goa on 12-10-2006 by way of Notification:9/29/2004-HD(G)/Part

the changed circumstances the earlier classification of criminals on the basis of their physical differences serves no useful purpose. Therefore modern penologists have worked out an objective classification of prisoners according to differential treatment. In spite of being lodged in maximum security prisons, the modern prisoners are placed in quasi-penal and even non-penal institutions for their reformation. The prisoners are now classified according to the treatment to which they are likely to respond to most favourably. In the modern context, social-defence, namely the protection of society from criminals is the prime object of punishment while classification of prisoners for treatment is the method of it. To achieve this end the criminals are classified in to two broad categories, viz, (1) hardened criminals who are fit for treatment in a conventional jail, and (2) casual criminals, who are fit for treatment in a medium-custody jail or even fit to be sent to Borstal or Reformatory or released on probation.<sup>57</sup>

Under the present correctional system in United States the task of classifying inmates for their rehabilitation is performed by the following agencies:-

- (1) The Central Classification Centre;
- (2) The Classification Committee; and
- (3) The Reception Centre.<sup>58</sup>

All the convicted persons are first brought before the Central Classification Centre where their antecedents, past history and mental attitude etc. are thoroughly examined by the expert psychologists and psychiatrists. If in the opinion of these

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<sup>57</sup> Paranjape N.V., Criminology and Penology, Deluxe Edition 2008, Central Law Publication.

<sup>58</sup> ibid

experts the inmate is considered responsive to reformation, he is sent to an appropriate correctional institution as recommended by the Central Classification Centre.<sup>59</sup>

There is a Classification Committee associated with each correctional institution which decides the outline of treatment programme for individual inmate according to his mental attitude, psychology and possible reaction to the treatment.<sup>60</sup>

The Reception Centre at each Correctional Institution, on the other hand, receives the new inmate on a trial basis for a month or so and plans to prepare him for his subsequent stay in the institution. Thus the major function of Reception Centre according to Donald Traft is "inmate-orientation through group meetings, pictures booklets and interviews".<sup>61</sup>

If this pattern of classification of prisoners is adopted in India, the prison authorities may find it easy to tackle the problems of prison and prisoners and at the same time it may also accelerate the reformation of prisoners.<sup>62</sup>

Prison inmates lodged in Indian jails are categorised as Convicts, Undertrials and Detenues. A convict is "a person found guilty of a crime and sentenced by a court" or "a person serving a sentence in prison". An undertrial is a person who is currently on trial in a court of law. A detenu is any person held in custody. Prison inmates lodged in

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<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

Indian jails in relation to non-Indian Penal Code (IPC) crimes are classified as civil prisoners. They consist of Convicts and Undertrials.<sup>63</sup>

The Prisons Act 1894<sup>64</sup> talks about the following types of prisoners:-

Section 23. Convict officers. – Prisoners who have been appointed as officers shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860 (45 of 1860).

27. Separation of prisoners. – The requisitions of this Act with respect to the separation of prisoners are as follows:

(1) In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building, in such a manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;

(2) In a prison where male prisoners under the age of twenty-one are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;

(3) Unconvicted criminal prisoners shall be kept apart from convicted prisoners; and

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<sup>63</sup> [http://en.wikipedia.org/wiki/Prisons\\_in\\_India](http://en.wikipedia.org/wiki/Prisons_in_India) visited on 03-11-2013 at 4:30 p.m

<sup>64</sup> <http://www.humanrightsinitiative.org/programs/aj/prisons/standards/acts/The%20Prisons%20Act%201894.pdf> visited on 10-11-2013 at 9:30 p.m

(4) Civil prisoners shall be kept apart from criminal prisoners.

28. Association and segregation of prisoners. – Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

29. Solitary confinement. – No cell shall be used for solitary confinement unless it is furnished with the means enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

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

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

Prison inmates lodged in various jails are categorised as Convicts, Undertrials and Detenues. This population can also be further classified on other parameters such as Gender, Nationality, Mental health etc.

## CONVICTS

Madhya Pradesh has accounted for the highest number of convicted prisoners (14,391) at the end of 2005 among the States & UTs. Other States which had considerably large number of convicts were Uttar Pradesh (13,284), Maharashtra (9,229), Tamil Nadu (7,463), Bihar (5,609), Rajasthan (5,572), Jharkhand (5,294), Punjab (5,072), Andhra Pradesh (5,011), Haryana (4,793), Gujarat (4,445), Chhattisgarh (4,299), Orissa (4,196) and Karnataka (4,049). The Open Jails located in Maharashtra have reported higher number of convicts (559) followed by Rajasthan (410), Uttaranchal (304), Andhra Pradesh (290) and Kerala (262). The number of convicts kept in Special Jails was highest in Orissa (312) followed by Uttar Pradesh (266) and Assam (194).<sup>65</sup>

## UNDERTRIALS

The highest number of undertrial prisoners in various jails during the year 2005, was reported from Uttar Pradesh (43,078) followed by Bihar (40,019), Madhya Pradesh (16,991), Maharashtra (15,946), West Bengal (14,017) and Jharkhand (13,939). Other States which have also reported high number of undertrials in their jails are Delhi (9,791), Orissa (9,720), Andhra Pradesh, Haryana (7,717) and Rajasthan (7,363).<sup>66</sup>

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<sup>65</sup> Ibid.

<sup>66</sup> <http://www.humanrightsinitiative.org/programs/aj/prisons/standards/acts/The%20Prisons%20Act%201894.pdf> visited on 10-11-2013 at 9:30 p.m

## DETENUES

Tamil Nadu has reported the highest number of Detenues (827) kept in various prisons. Tamil Nadu has reported 40 female detenues in their Jails which was the highest among all the States and UTs.<sup>67</sup>

## OTHER CLASSIFICATIONS OF PRISONERS:-

The apex Court in Ramamurthy Vs. State of Karnataka (1996) 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 Bureau of Police Research and Development constituted a Model Prison Manual Committee at the national level for the formulation of a Model Prison Manual. This model Prison Manual lays down the following kinds of prisoners.<sup>68</sup>

## ADOLESCENT PRISONER

Any person

a) as who have been convicted of any offence punishable with imprisonment, or who having been ordered to give security under section 117, Code of Criminal Procedure,

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<sup>67</sup> <http://ncrb.nic.in/psi2005/CHAPTER-3.pdf> visited on 10-11-2013 at 10:15 p.m

<sup>68</sup> Ibid.

1973 (Central Act 2 of 1974) has failed to do so and who at the time of such conviction or failure to give security, is not less than 18 years, but not more than 21 years of age.

b) who has been committed to prison custody during the pendency of his trial and who at the time of commitment, is not less than 18 years, but not more than 21 years of age.<sup>69</sup>

#### ADULT PRISONER

Any prisoner who is more than 21 years of age.<sup>70</sup>

#### CASUAL PRISONER

A convicted criminal prisoner other than a habitual offender.<sup>71</sup>

#### CIVIL PRISONER

Any prisoner who is not committed to custody under a writ, warrant or order of any court or authority exercising criminal jurisdiction, or by order of a court martial and who is not a detenu.<sup>72</sup>

#### CONVICT

Any prisoner under sentence of a court exercising criminal jurisdiction or court martial and includes a person detained in prison under the provisions of chapter VIII of the Code of Criminal Procedure of 1973 and the Prisoners Act of 1900.<sup>73</sup>

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

## DETENUE

Any person detained in prison at the order of the competent authority under the relevant preventive laws.<sup>74</sup>

## HABITUAL OFFENDER

A prisoner classified as such in accordance with the provisions of the law or rules.<sup>75</sup>

## INMATE

Any person kept in an institution.<sup>76</sup>

## MILITARY PRISONER

A prisoner convicted by court martial.<sup>77</sup>

## REMAND PRISONER

A person who has been remanded by court to prison custody, pending investigation by the police.<sup>78</sup>

## UNDER-TRIAL PRISONERS

A person who has been committed to prison custody with pending investigation or trial by a competent authority.<sup>79</sup>

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<sup>73</sup> <http://bprd.nic.in/writereaddata/linkimages/1445424768-Content%20%20Chapters.pdf> visited on 03-11-2013 at 6:00 p.m

<sup>74</sup> <http://ncrb.nic.in/psi2005/CHAPTER-3.pdf> visited on 10-11-2013 at 10:15 p.m

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

## YOUNG OFFENDER

A person who has attained the age of 18 years and has not attained the age of 21 years.<sup>80</sup>

## TYPES OF PRISONERS UNDER THE GOA PRISON RULES 2006<sup>81</sup>

“Adolescent Prisoner”, means — (a) any person who has been convicted of any offence punishable with imprisonment, or who having been ordered to give security under section 117 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), has failed to do so and who at the time of conviction or failure to give security, is not less than 18 years, but not more than 21 years of age;

(b) any person who has been committed to prison custody during the pendency of his trial and who at the time of commitment is not less than 18 years, but not more than 21 years of age.

“Adult Prisoner” means any prisoner who is more than 21 years of age.

“Casual Prisoner” means a convicted criminal prisoner other than a habitual offender

“Civil Prisoner” means any prisoner who is not committed to custody under a writ, warrant or order of any court or authority exercising criminal jurisdiction, or by order of a court martial and who is not a detenué.

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<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Goa Prison Rules ,2006 which has been approved by Government of Goa on 12-10-2006 by way of Notification:9/29/2004-HD(G)/Part Official Gazette, Series I No. 28, Panaji 13<sup>th</sup> October, 2006.

“Convict” means any prisoner under sentence of a Court exercising criminal jurisdiction or court martial and includes a person detained in prison under the provisions of chapter VIII of the Code of Criminal Procedure, 1973 and the Prisoners Act, 1900.

“Criminal Lunatic” means any person for whose detention in or removal to a prison or other place of safe custody, an order has been made in accordance with the provisions of sections 328 or 330 or sections 335 and 336 of the Code of Criminal Procedure, 1973, or of section 30 of the Prisoners Act, 1900 or of section 145 of the Army Act, 1950.

“Detenu” means any person detained in a prison by the order of the competent authority under the relevant preventive laws.

“Inmate” means any person kept in an institution.

“Labouring Prisoner” means a prisoner engaged on labour.

“Lunatic Prisoner” means a prisoner who has become insane after his conviction and admission into a prison.

“Military Prisoner” means a prisoner convicted by Court Martial.

“Under-Trial Prisoner” means a person who has been committed to prison custody on account of pending investigation or trial by a competent authority.

## CONCLUSION:-

To conclude I would like to state that there is a need for a specific and specialized legislation for defining, and categorizing prisons and prisoners in India.

The Prisoners in India are still governed by the Prisons Act of 1894, the Prisoners Act of 1900, and the Transfer of Prisoners Act of 1950, which three Acts do not even exhaustively define the kinds of prisons nor do they exhaustively define and categorize the different type of prisoners in India.

The Categorizing of the various kinds of prisoners and prisons for convicts, undertrial, would I believe keep the undertrials who might be not guilty away from the hardened criminals and hence stop the formation of new criminals. Also putting limits on the prison time of various undertrials by law would further ensure that the Criminal Justice delivery system becomes more swift and would in conclusion led to less burdening of the prisons in India.

The acceptance of the form of categorization of prisoners in the United States or some form of a modified system of categorisation of prisoners in United States, in India, will to a great extent help in bringing down the burden on the Indian Prisons. It will also help to actually treat the prisoner, rather than keep him untreated in prison.

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