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# CAN INDIAN PRISONS REPLICATE THE NORWEGIAN PRISON SYSTEM? A COMPARATIVE ANALYSIS BETWEEN MODEL PRISON MANUAL 2023 AND THE NORWEGIAN PRISON POLICY

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## I. ABSTRACT

Recidivism in India had been a major issue over a period of time, which is a direct cause of failed Indian prison policy. Indian prisons are characterized by features of overcrowding, poor management, harsh living conditions, and human rights violations. In contrast, Norwegian prisons meet and set international standards in prison policy in the global arena. Norwegian prisons are recognized by interests in rehabilitation of inmates, societal reintegration, and a humane approach to prisoners. As a result, recidivism in Norway has decreased steadily, and it also had a positive impact on the economy of the nation. The aspects and effects of the incarceration system of Norway are elucidated in this study. Indian prisons are governed by old colonial laws, which makes the prison system more complicated in India. The Union government notifies the states with model prison manuals for the governance of jails. This study describes the aspects of the Model Prison Manual 2023 and aims to predict the effectiveness of the recent prison manual. The model prison manual 2023 has some inspirations from the Norwegian prison system, which is added to make the reformatory system of justice effective in India. The addition of the policies is an appreciable step forward in the administration of justice, but the question of the applicability of these policies in Indian prisons is inevitable. This study analyses the possibilities of implementing successful policies of Norway in Indian prisons and the challenges in implementing identical policies.

## II. KEYWORDS:

Recidivism, Reintegration, Reformation, Rehabilitation

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### III. INTRODUCTION

The modern era of the criminal justice system relies on the reformatory theory of sanction for lawbreakers. Jails and incarceration systems hold the responsibility to reform, rehabilitate, and reorganize the convicts by the courts around the world. The question of its effectivity and reliability is inevitable in the current scenario. A former Indian civil servant<sup>3</sup> stated, “In my experience of handling large prisons, you put someone inside for burglary, and he comes out as a dacoit because of the negative and malicious company in the prison,” about prisons and their impact in India. The prison administration in India relies on the concerned states, often directed by the Union government<sup>4</sup>. The population of repeated offenders in India is rising as its original population, which demonstrates the failure of the colonial prison policies. The Union Government notifies model prison manuals periodically to the states in order to rectify the lacunae in old colonial incarceration laws, which are harsh and ineffective compared to modern standards. The Prisons Act 1894<sup>5</sup>, which governs prison administration in India, is criticized by the courts as inhumane<sup>6</sup> in some cases, which describes the importance of model prison manuals and their part in the progressive attempt to prison reformation. The model prison manual 2023 contains guidelines to provide the space for inmates to reform, which are not present in the original Prisons Act.

The Norwegian prison system is obliged to be mentioned in this scenario, which stands as an icon for the nations plundered by high recidivism rates. With a unique and successful approach to its jails, the Norwegian incarceration system is an evolution of modern prison administration. By analyzing the prison policies of both nations, we can find the impact and effectiveness of Norwegian prison policies in the model prison manual 2023.

### IV. INCARCERATION SYSTEM IN NORWAY: AN ICONIC EXAMPLE OF REFORMATORY CRIMINAL JUSTICE SYSTEM

The Norwegian prison system can be stated as a bold attempt at interpreting and implementing the reformatory theory of justice in the incarceration system of the nation. The rehabilitation and reformation of every individual who violates the law is the goal of the policy. The legislative body

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<sup>3</sup> Vikram Singh, An Educationalist, Former Indian Police Servant

<sup>4</sup> Prisons Act 1894

<sup>5</sup> Prisons Act 1894, s 28, 29

<sup>6</sup> State of Uttarakhand v. Mehtab [2018] SCC OnLine Utt 391

of Norway played an effective role in the success of the reformative incarceration policy, and ultimately, the legislation “The Norwegian Correctional Services Act” and the implementation of the legislation through the network of incarceration facilities, which are guided by the basic principles of humanity and responsibility, seek attention<sup>7</sup>.

### **A. A Short Description of the Norwegian Correctional Services Act**

The principle of normalization<sup>8</sup>, which is the reflection of life under normal circumstances of a society, inside the incarceration system, is the central principle of the act. It reduces the social pressure of being detained in a prison facility for a violation of law, which has a negative psychological impact on the individual. The inmates are housed in small, unit-based facilities with private rooms, with constant societal interactions rather than poorly facilitated, overcrowded prison systems<sup>9</sup>. By these initiatives, the negative impact is prevented, which also blocked the hike of recidivism rates in the nation and boosted the economy. The encouragement of community-based and personal responsibilities watered the development of the societal interactions of the inmates and engaged them in the constructive rehabilitation process.

The distinctive and notable aspect of Norwegian prison policy is the emphasis on the rehabilitative theory of justice rather than the punitive theory. The Correctional Services Act suggests the provision of education, vocational training, and work programs to develop the skills of the inmates, which is inevitable for the effective reintegration of them with society. The educational and vocational programs in the prison help in maintaining the positivity in the human resources of the nation. These programs certainly reduce recidivism and contribute to the productivity of individuals in post-incarceration.

The importance of humanity and human rights in the Correctional Services Act portrays the quality of the nation. Solitary confinement in prisons is strictly regulated<sup>10</sup>, and clear guidelines and procedures are defined in the act for the implementation of solitary confinement. The physiology and psychology of the prisoners are given paramount importance, and both the physical and mental

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<sup>7</sup> Hoidal and Nina Hanssen, *The Norwegian Prison System – Halden Prison and Beyond* (1<sup>st</sup> edition, OUP 2022).

<sup>8</sup> *Ibid.*

<sup>9</sup> Stanton Wheeler and Hugh F. Clime, *The Scandinavian Prison Study* (Palgrave Studies in Prisons and Penology) (1<sup>st</sup> edition, OUP 2020).

<sup>10</sup> *Ibid.*

healthcare services are freely accessible. The interactions between inmates and staff<sup>11</sup> have a positive nature, with established trust, mutual respect, and collaboration.

### **B. The Impact of the Norwegian Correction Services Act on the Nation**

The reformed Norwegian prison system has an exceptional outcome, which can be evidently proved with the decline of recidivism rates and the positive impact on human resources of the nation and is marked by one of the lowest incarceration rates in Europe. The prioritization of reformation, rehabilitation, community services, and individual-based treatments are the causes of the positive results and success of the policy. The humane and dignified approach towards the lawbreakers prevents the damage of social bonds and is largely helpful for restoring and maintaining societal order. The Norwegian prison system is a testament to the impact of progressive legislation and passionate governance of justice<sup>12</sup>. The policy of prison governance in Norway has established a model of incarceration system. The model for the governments that struggle with high recidivism, increasing crime rates, and an outdated retributive “pain for pain” criminal justice system.

## **V. DOES NORWAY HAVE AN IDEAL PRISON SYSTEM?**

The success of the Norwegian prison approach is well renowned in the international arena with high efficiency and low violence rates; a note on the negative incidents is important for in-depth analysis. It is necessary to note the anomalous character of these incidents, which is not common in general circumstances.

- ***2011 Attacks in Norway<sup>13</sup>:***

On July 22, 2011, Anders Brevik carried out two terrorist attacks on Norway. 69 people, mostly teenagers, were shot dead in a mass shooting that took place in a youth camp on the island of Utoya after a bomb blast detonation in the city of Oslo, which killed eight civilians. After his arrest, he was sentenced to 21 years of imprisonment, with a possibility of extension if he is considered to

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<sup>11</sup> Ibid.

<sup>12</sup> Hoidal and Nina Hanssen, *The Norwegian Prison System – Halden Prison and Beyond* (1st edition, OUP 2022)

<sup>13</sup> 10. Reuters, ‘Mass killer Breivik sues Norway in bid to end prison isolation Story by Reuters’ (CNN, 08.01.2024) <https://edition.cnn.com/2024/01/08/europe/anders-behring-breivik-sues-norway-attacks-intl/index.html> accessed by July 29, 2024

be a threat to society. This was an infamous recent act of terrorism in Norway, which is terrible and uncommon for a small Scandinavian nation, which can be linked to the lack of harsh and rigorous sentencing and punishment policy of the nation, which is common in most of the Scandinavian nations.

- **2013 Prison Escape<sup>14</sup>**

Two prisoners successfully attempted to escape out of low-security Baston Prison in April 2013, which is located on an island close to Oslo. The inmates were able to flee the island by stealing a small boat. One escaped prisoner was shortly arrested, but the other prisoner managed to be free for several days before being caught again. The security assessments and protocols were revised in the Bay prison and other prisons also after this incident to seal the concerns on the effectiveness of the reformatory justice system.

Even the nation, which stands as an icon of a pro-incarceration-based, reformatory, and rehabilitative school of criminal justice, cannot prevent these instances from occurring with its excellent criminal justice system. These instances serve as a reminder to other inspiring nations about the negative consequences of the policy of Norway. The intensity of these instances has a variable nature with respect to every nation, which must be duly calculated before the adoption and implementation of these policies.

## **VI. DEFINING THE PURPOSE OF MODEL PRISON MANUAL OF 2023: SUBSTITUTIVE OR REFORMATORY IN NATURE?**

The Union government provides certain guidelines for maintenance and administration of prisons in different states, which are the prison manuals. The prison manuals are regulatory in nature, as the prison governance falls on the state list of the constitution. The prison governance in each state differs according to the socio-economic factors, and the manuals are the key factors to ensure the process of rehabilitation and reformation and also protect the basic human rights of the inmates. In the case of *Ramamurthy v. State of Karnataka*<sup>15</sup>, the Apex Court affirmed the importance of framing an All-India Prison Regulation Manual to reformation and promotion of poor living

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<sup>14</sup> Richard Orange, 'Man escapes from Breivik's prison' (The Local Norway, 9th September 2013) <https://edition.cnn.com/2013/09/26/world/europe/norway-terror-attacks/index.html> accessed by July 29th, 2024

<sup>15</sup> *Rama Murthy v. State of Karnataka* [1997] 2 SCC 642

conditions in Indian prisons. The sources of this prison manual are considered to be the standard international principles of reformative incarceration and judicial interpretations by the High Courts and the Apex Court.

### A. Objectives of the Model Prison Manual 2023

- 1. Promotion of Human Rights:** The protection of human rights and dignity of the lawbreakers, even inside incarceration centers is one of the primary aspects of the manual. The Apex Court has ruled this principle in the iconic case of Sunil Batra<sup>16</sup>. The human rights of the convicted offenders do not cease to exist merely because they are restrained. Rights defined under Article 21 of the Indian Constitution are merely restricted for a convicted offender, not eliminated.
- 2. Rehabilitation and Reintegration:** The manual aims to develop the social skills of a convict inside the prison, rehabilitate him, and reform him into a law-abiding citizen. The root causes of criminal behavior<sup>17</sup> of an inmate are addressed inside the prison, and by educational, vocational, and therapeutic programs, the anti-social behavior is expected to fade, and a successful transition of a convicted lawbreaker into a law-abiding citizen is possible. Keeping a convict forever in prison does no justice to the existence of prisons; rehabilitation and reformation of convicts are the means for achieving justice. Imprisoning him forever is nothing but retribution<sup>18</sup>.
- 3. Effective Management:** Another key objective of the manual is to enhance the effectiveness and efficiency of prison management. The manual gives instructions for better administration of prisons, staff management, and operations to ensure safety<sup>19</sup> within prison premises. The undertrial convicts are put to harsh conditions inside the prison, which causes negative mental impact. Though these issues were addressed by the Apex Court in 1977<sup>20</sup>, they were not rectified and continued to increase over time.
- 4. Responsibility and Transparency:** The model prison manual gives recognition to the importance of responsibility and transparency in prison governance. It establishes the

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<sup>16</sup> Sunil Batra v. Delhi Administration, [1978] (4) SCC 494

<sup>17</sup> Girish Kathpalia, *Criminology and Prison Reforms* (1st edition 2014)

<sup>18</sup> Joseph v. State of Kerala, [2023] WPC No.529 of 2022

<sup>19</sup> Justice Mulla, *All India Committee in Jail Reforms (1980-1983)*, (Ministry of Home Affairs 2003)

<sup>20</sup> Rama Murthy v. State of Karnataka [1997] 2 SCC 642

governance over the daily activities of prisoners by authorities, inspection of administration by higher authorities, and reporting of events on a correctional basis in order to prevent abuses and human rights violations and promote responsibilities at all levels of the prison administration<sup>21</sup>.

5. **Promotions of Alternatives to Incarceration:** With the problems in the prison system and the constant hike in recidivism and first-time offenders' rates, the incarceration system needs to be relieved by the introduction of new forms of reformatory measures<sup>22</sup>. Community services and probation have shown positive outcomes and have the capability to reform first-time offenders who commit offences that are low-intensive in nature.

## B. Features of the Model Prison Manual (2023)

1. **Reducing Recidivism:** One of the major challenges of the Indian criminal justice system is recidivism. The model prison manual attempts to reduce the number of repeated offenders by providing the prisoners with necessary directions and skills in the prisons. The high social pressure and negative environment in prisons are the factors that directly contribute to the increased crimes and violence in society. By easing the prison environment and building positive aspects, we can reduce violence and offences in society<sup>23</sup>.
2. **Improving prison standards:** The lack of adequate cells, healthcare facilities, and other basic necessities has a negative impact on the prison environment<sup>24</sup>. One of the objectives of the manual is to improve the infrastructure of the prisons. The Krishna Iyer Committee of 1986<sup>25</sup> was a reformatory attempt regarding female prisoners, but the number of female prisoners has increased drastically from 1986, and no noticeable attempts are made by the legislation to improve the living conditions of female

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<sup>21</sup> 273rd law commission report, Implementation of 'United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment' through Legislation, 2017

<sup>22</sup> Dr. KP Singh, An Introduction to Prison Administration in India (1st edition, OUP 2021)

<sup>23</sup> Sunil Batra v. Delhi Administration, [1978] (4) SCC 494

<sup>24</sup> Hoidal and Nina Hanssen, The Norwegian Prison System - Halden Prison and Beyond (1st edition, OUP 2022)

<sup>25</sup> Justice Krishna Iyer, The National Expert Committee on Women Prisoners (1987) (Ministry of Home Affairs 2009)



prisoners. The model prison manual notifies certain difficulties of women convicts and provides required solutions for them.

- 3. Enhancing staff training and development:** The manual opens up the space for training and education of prison staff to ensure professional ethics, competence, and morality in the prison governance. By educating the officials about conflict resolution, approaches based on circumstances, and rehabilitation techniques, the effectiveness and commitments of the officials increase.
- 4. Strengthening Community Engagement:** The importance of engagement in community and social interactions are affirmed in the manual. It seeks to strengthen the relationships between staff and prisoners in a positive manner and also with other bodies like civil societies and other stakeholders. These fostering mechanisms encourage prisoners to place themselves in a supportive environment and strengthen their reintegration process.
- 5. Advancement of Principles of Restorative Justice:** Finally, the manual prefers restorative justice over retributive justice by victim and convict mediation and reconciliation processes. By initiating interactions between victims and offenders, the offenders can understand their responsibility, empathy, and the effects of their actions on the victims, which is the insight of the criminal justice system

### C. Key provisions in the Model Prison Manual 2023

- 1. Classification and Assessment of Administration:** The manual provides guidelines for classifying prisoners based on age, gender, criminal history, and rehabilitative needs. These guidelines prevent the mixing of prisoners, which may result in harmful consequences, and also provide scope for better administration and reformation. A pertinent policy choice is the methodology of classification of prisoners by a prison administration based on various reasonable grounds. The courts are equipped with powers to interfere in the decisions of prison administration in this subject matter when issues arise<sup>26</sup>.

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<sup>26</sup> State of Maharashtra v. Sayyed Noor Hasan Gulam Hussain, [1995] WPC No.843 of 1993

- 2. Educational and vocational training:** The model prison manual recognizes the importance of education in reformation. The manual mandates educational and vocational training with provisions for developing skills on various suitable aspects like baking and pottery. The educational training includes literacy classes, GED preparation, vocational skills training, and higher education opportunities<sup>27</sup>.
- 3. Healthcare services:** The manual ensures the necessary provision of healthcare services within prisons, which include medical, dental, mental health, and substance-drug treatment. With the drastic increase in drug-related offences in society, drug addiction within and outside prisons plays a major role in reducing violence in society. The timely access to healthcare services is a fundamental right recognized by the Constitution of India<sup>28</sup> that does not cease to exist when a person is convicted and imprisoned. The confidentiality of the prisoner is also covered under this provision and imposes necessary obligations on officials. The basic physical and mental healthcare of prisoners is a basic right that must be ensured by authorities.
- 4. Discipline and Grievance Procedures:** To maintain order and discipline within prisons, the manual establishes clear procedures and rules for disciplinary actions, which limits the authorities from abusing their power and violating the rights of the prisoners. The manual also provides mechanisms for prisoners to express their grievances and seek redressals for violations of rights. The courts have addressed the importance of rehabilitations and reformations in prisons<sup>29</sup>, which act as a counterbalance in the imposition of death penalties and other harsh punishments.
- 5. Family and Community Visits:** The manual mandates the requirement of family and community visits for an offender in the prison in order to maintain his mental health and ensure constant social interactions. The manual specifies regular visiting as a right of a prisoner. It also provides guidelines for the conduct of family visits to ensure safety and security within the prisons. The manual has adapted the views of the courts

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<sup>27</sup> Hoidal and Nina Hanssen, *The Norwegian Prison System – Halden Prison and Beyond* (1st edition, OUP 2022)

<sup>28</sup> *Sartaj v. State of NCT of Delhi*, 2023 SCC OnLine Del 4764

<sup>29</sup> *Samsuddin SK v. State of West Bengal*, [2023] 09 CAL CK 0025

in the importance of conjugal visits, which preserve family and societal bonds from being broken<sup>30</sup>.

Wholly, the Model Prison Manual 2023 is a progressive and significant attempt towards the modern realm of the criminal justice system. By prioritizing rehabilitation, reformation, human rights, effective management, and better infrastructure, the manual aims to transform the harsh and inhumane prisons into institutions with means to achieve positive ends. We can see by comparing the common aspects that the success of the Norwegian approach to prisons has a significant impact on the Indian Prison Manual of 2023. However, these policies are ineffective without the context of capable and effective implementation. The implementation requires commitment, resources, and collaboration from all authorities in the sphere of the criminal justice system. The challenges of implementing policies of a small Scandinavian nation in a large multi-cultural nation have a huge number of challenges to become successful and effective.

## **VII. A PERPECTUAL ANALYSIS OF POSSIBLE CHALLENGES IN THE IMPLEMENTATION OF NORWEGIAN PRISON POLICY INSPIRATIONS IN THE MODEL PRISON MANUAL:**

### **A. Philosophy:**

The Indian prison system, governed by colonial laws, relies more on a punitive approach than being rehabilitative. This punitive approach resulted in the overcrowded, inhumane prison environment and limited access to education and skill development. In addition to these aspects, India lacks resources for such mass transformation, which is nearly impossible. In contrast, Norwegian prisons successfully changed the punitive mindset to reformative over a period of time with various tools and mechanisms. They had a great advantage of their low and organized population, and less need of resources compared to India.

### **B. Infrastructure:**

Indian prisons are overcrowded and far behind compared to international humanitarian standards. They lack basic amenities such as sanitation, healthcare, and hygiene environments due to limited

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<sup>30</sup> Meharaj v. State [2022] SCC OnLine Mad 381 see also P. Muthumari v. Home secretary [2018] SCC OnLine Mad 3304

resources and governance issues. But Norway has better infrastructure of prisons and incarceration centers and basic amenities that set the international standards. With less focus on infrastructure standards, the nation has greatly altered the philosophy of punishments with reformation, which had ultimately succeeded.

### **C. Treatment of Inmates:**

In India, inmates are deprived of basic human rights, which is so common in prisons. Even the authorities ensuring justice and maintaining peace involve violations of human rights. The Indian societal structure and discriminatory practices plague the prison system even more, which results in the inhumane conditions. But, in Norway, interactions in prisons are positive and aim to the goal of societal reintegration, which helps the stability and quality of prisons in the nation. The human rights of the prisoners are held of utmost value, which positively affects their reformation.

## **VIII. CONCLUSION:**

India and Norway exist in the same world but have contrasted in many ways. They exist in various spheres, but comparing and inspiring the policies of these nations has positive effects. The Model Prison Manual has undoubtedly inspired many Norwegian aspects, which are healthy and progressive for the nation. But implementing the policies in different spheres certainly has more complexities. The judiciary and the administrative authorities have to play a vital role in the effectiveness of these policies; without their contribution, this policy has no real chances of survival in a multi-dimensional nation like India. The prison and the criminal justice system should be reformed by any attempt in order to establish India as a developed nation. The Indian society is threatened by violence and crimes every day, which is increasing constantly. Reformation and rehabilitation are the most effective ways to deal with crimes and ensure social justice.