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**PRISON REFORM AND HUMAN RIGHTS: A SOCIO -LEGAL  
EVALUATION OF CUSTODIAL CONDITIONS**

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**ABSTRACT**

The condition of prisons reflects the moral and legal commitments of a society toward justice, dignity, and human rights. In India, custodial institutions continue to grapple with systemic issues such as overcrowding, inadequate infrastructure, custodial violence, and the marginalization of undertrial prisoners many of whom belong to socio-economically disadvantaged communities. This paper undertakes a socio-legal evaluation of custodial conditions in Indian prisons, emphasizing the urgent need for reform grounded in human rights principles. Drawing upon constitutional provisions, statutory laws, judicial pronouncements, and international standards like the UN Nelson Mandela Rules, this research critically examines the gap between legal protections and actual practices within custodial environments. Special attention is paid to issues of gendered incarceration, mental health, the condition of prison staff, and the lack of rehabilitation mechanisms. Through this interdisciplinary lens, the paper highlights how entrenched structural inequalities based on caste, class, and gender are reproduced within the prison system, violating the constitutional promise of equality and dignity. The study also evaluates the effectiveness of recent reform initiatives, including the Model Prison Manual, and explores alternative incarceration models such as open prisons, community-based correction, and restorative justice. The paper concludes by emphasizing that prison reform is not merely a matter of institutional change but a deeper legal and moral imperative. Human dignity must be preserved even behind bars, and the justice system must evolve from punitive frameworks toward rehabilitative and rights-based custodial governance.

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## INTRODUCTION

The administration of criminal justice has historically oscillated between the extremes of retribution and rehabilitation, each shaped by distinct penal philosophies and socio-political imperatives. The primary objectives of punishment—retribution, deterrence, and rehabilitation represent divergent yet overlapping conceptions of justice. Retribution, rooted in the notion of moral desert, posits that offenders ought to suffer in proportion to their crimes, reflecting a society's collective condemnation of wrongdoing<sup>2</sup>. Both general and specific deterrence work to prevent future violations by creating a fear of punishment. In contrast, rehabilitation focuses on reforming the offender, recognizing their potential for reintegration into society.

Over time, especially in the post-Enlightenment era and with the rise of human rights jurisprudence, a paradigm shift has occurred—from punitive incarceration to a more reformatory and restorative approach to justice. This transition is fuelled by increasing recognition of prisoners' rights as human rights and the understanding that mere punishment often fails to address the root causes of criminal behaviour. The Nelson Mandela Rules, also known as the United Nations Standard Minimum Rules for the Treatment of Prisoners, and other comparable frameworks emphasize the significance of providing inmates with humane confinement and access to rehabilitation programs. This evolution is reflected in the modern legal conception of prisons, which no longer serve solely as sites of retribution but are increasingly viewed as institutions for correction and social reorientation. Contemporary prison reforms now emphasize education, psychological support, vocational training, and dignified treatment of inmates, aligning penal systems more closely with international human rights standards.<sup>3</sup> However, the implementation of these ideals varies significantly across jurisdictions, and in many regions, custodial conditions remain inhumane and degrading—raising serious socio-legal and constitutional concerns.

This paper aims to critically examine custodial conditions through a socio-legal lens, assessing how well current prison systems align with evolving principles of justice and

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<sup>2</sup>Immanuel Kant, *The Metaphysics of Morals* 105–06 (Mary Gregor trans., Cambridge Univ. Press 1996).

<sup>3</sup> See Michael Coyle, *Restorative Justice in the Prison Setting*, Int'l Inst. for Restorative Practices (2002), <https://www.iirp.edu/news/restorative-justice-in-the-prison-setting>.

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human rights. It will also explore the dissonance between legal norms and ground realities, advocating for policy frameworks that prioritize humane and rehabilitative incarceration.

## CONCEPTUAL FRAMEWORK

The evaluation of prison reform and the rights of incarcerated individuals necessitates a clear understanding of the key concepts that underpin this inquiry. A nuanced interpretation of custodial conditions, human rights within incarceration, and the socio-legal approach is essential to analysing the broader implications of prison systems on justice and human dignity.

### Definition of “Custodial Conditions”

The term “custodial conditions” refers to the overall environment and treatment of individuals confined in state custody, particularly in prisons, detention centres, or police lockups. It encompasses the physical infrastructure, hygiene, food, medical care, disciplinary practices, access to legal aid, visitation rights, safety, and opportunities for rehabilitation.<sup>4</sup> Poor custodial conditions can lead to violations of fundamental rights, amounting to inhumane or degrading treatment under international and domestic legal standards. Thus, custodial conditions are not merely administrative concerns; they are central to the legality and legitimacy of penal institutions.

### Human Rights in the Context of Incarceration

Even though incarceration necessarily limits certain freedoms, prisoners do not forfeit all their fundamental rights. International legal instruments, such as the ICCPR<sup>5</sup> and the Nelson Mandela Rules,<sup>6</sup> affirm that inmates retain the right to life, dignity, equality, and protection from torture or cruel treatment. These rights impose positive obligations on the state to maintain prison conditions that meet minimum standards of humanity. The human rights discourse emphasizes that punishment should not exceed the deprivation of liberty itself, and that custodial settings should aim to preserve the inherent dignity of all individuals.

### Socio-Legal Approach: Interlinking Law and Social Realities

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<sup>4</sup>Nigel Rodley, *The Treatment of Prisoners Under International Law* 201–05 (Oxford Univ. Press 3d ed. 2009).

<sup>5</sup>International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>6</sup> G.A. Res. 70/175, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), U.N. Doc. A/RES/70/175 (Dec. 17, 2015).

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A socio-legal approach involves the integration of legal analysis with empirical and sociological insights to assess how laws operate in real-world contexts<sup>7</sup>. In the realm of prison studies, this means going beyond black-letter law to examine how institutional practices, cultural attitudes, economic inequalities, and administrative discretion affect the lived experiences of prisoners. This interdisciplinary framework allows for a critical evaluation of whether legal norms concerning prison conditions are effectively implemented or remain aspirational. It also sheds light on structural factors such as overcrowding, systemic discrimination, and underfunding that hinder meaningful reform.

## **PRISONS AS SITES OF STATE POWER AND STRUCTURAL VIOLENCE**

Prisons do not function in a vacuum—they are deeply embedded within the political, social, and economic structures of the state. They act as instruments of state power, often used not only to punish criminality but to regulate and discipline marginalized populations.<sup>8</sup> From a critical socio-legal perspective, custodial institutions reproduce and reinforce the same hierarchies of caste, class, religion, and gender that shape broader societal interactions.

### **Prisons as Mirrors of Societal Inequality**

The prison system reflects and magnifies the structural inequalities that pervade society. Individuals from impoverished or socially disadvantaged backgrounds are more likely to be targeted by law enforcement, denied access to effective legal representation, and subjected to pre-trial detention. The over-representation of the poor and illiterate in prison populations is not incidental; it reveals how penal institutions operate as mechanisms for social exclusion rather than genuine justice.

### **Disproportionate Impact on Marginalized Communities**

Empirical data from India vividly illustrates the disproportionate incarceration of Dalits, Muslims, and Adivasis, who collectively make up a significantly larger percentage of the prison population compared to their share of the general population. According to the National Crime Records Bureau (NCRB), Muslims account for around 19% of all undertrials despite being just over 14% of the population; Scheduled Castes and Scheduled Tribes

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<sup>7</sup> Roger Cotterrell, *Law, Culture and Society: Legal Ideas in the Mirror of Social Theory* 21–24 (Ashgate 2006).

<sup>8</sup> See Michel Foucault, *Discipline and Punish: The Birth of the Prison* 29–31 (Alan Sheridan trans., Vintage Books 2d ed. 1995).

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together constitute over 35% of undertrials. This overrepresentation stems not merely from higher rates of criminality—as often falsely assumed—but from systemic biases in policing, prosecution, and access to justice.<sup>9</sup> These communities are **more vulnerable to arbitrary arrests, custodial** violence, and wrongful convictions, often lacking the social capital and legal literacy needed to navigate the judicial process.

### **Intersection of Caste, Class, and Gender in Custodial Spaces**

Custodial spaces are not neutral—they are shaped by the intersectionality of caste, class, and gender, producing specific forms of vulnerability. Dalit and Adivasi women, for instance, often suffer dual discrimination based on both caste and gender, making them more susceptible to sexual violence and institutional neglect within prisons. Female prisoners, in general, face inadequate access to healthcare, menstrual hygiene, mental health services, and protection from abuse. Transgender individuals are also routinely misgendered, placed in inappropriate wards, and subjected to both institutional invisibility and overt harassment.

These realities underscore that the prison system, rather than being a mere site of legal punishment, is a space where structural violence is both enacted and normalized. It reinforces existing power dynamics under the guise of legal authority and order, often punishing the marginalized not for what they have done, but for who they are in society.

### **CONSTITUTIONAL AND HUMAN RIGHTS DIMENSIONS**

In India, Article 21 of the Constitution—guaranteeing the right to life and personal liberty—extends fully to individuals in custody, mandating not just physical survival but preservation of dignity and procedural fairness even behind bars.<sup>10</sup> Drawing from *Maneka Gandhi v. Union of India*, the Supreme Court held that Article 21 requires that any state action limiting liberty must be “just, fair, and reasonable,” a principle adopted in prison contexts to oppose arbitrary or inhumane treatment.<sup>11</sup> In *Sunil Batra v. Delhi Administration*, it asserted that “imprisonment does not deprive a person of human dignity,” thereby curbing practices such as solitary confinement or physical abuse.<sup>12</sup> Later rulings, including *Francis Coralie Mullin*,

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<sup>9</sup>Siddharth Narrain, *Criminal Law and Marginality*, in *India's Legal System: Can it be Saved?* 123 (Fali S. Nariman ed., Penguin 2017).

<sup>10</sup>*Beyond the Bars: Upholding Prisoners' Rights in India Through Law and Justice*, LegalServiceIndia (on Article 21's application to prisoners)

<sup>11</sup>*Maneka Gandhi v. Union of India*, (1978) (establishing procedural fairness under Article 21) .

<sup>12</sup>*Sunil Batra v. Delhi Administration* (1978) (dignity in prison; limits on solitary confinement) .

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affirmed that custodial life must provide basic necessities—nutrition, medical care, legal aid, communication with family—and that restraints like handcuffs raise constitutional scrutiny. Similarly, in *DK Basu*, the Court devised comprehensive safeguards to prevent torture and custodial violence.<sup>13</sup> Underpinning these protections is the broader recognition that custodial rights stem from fundamental rights; for instance, *Hussainara Khatoon* invoked Article 21 to ensure speedy trials for undertrials, and *Prem Shankar Shukla* held that dignity extends even to the manner of handcuffing<sup>6</sup>

Internationally, human rights law reinforces these protections. By promoting the separation of pretrial and convicted detainees and highlighting the penological goal of rehabilitation, Article 10 of the ICCPR requires governments to treat all people in custody with humanity and regard for their inherent dignity. Likewise, the European Convention on Human Rights' Article 3 prohibits torture or degrading treatment, a prohibition the European Court has applied to prison conditions in landmark cases such as *Assanidze v. Georgia*. Together, these constitutional and international norms recognize custodial rights as deeply rooted in the right to life and dignity, establishing that prisons must not strip individuals of their essential humanity.

## THE LEGAL ARCHITECTURE OF PRISON MANAGEMENT

India's prisons are governed by a colonial-era legal framework that remains largely intact—even as modern reform efforts seek to update it. The foundational statute is the Prisons Act, 1894, conceived during British rule. Its primary concern was maintaining discipline, order, and custodial labour, reflecting colonial objectives of deterrence, control, and economic exploitation. While the Act includes provisions for basic sanitation, health checks, food, clothing, and cell standards, these were designed more to preserve prison order than safeguard inmate welfare. Prison labour was oriented toward punishment and revenue, rather than skill-building or rehabilitation. Critically, the 1894 Act contains no mandate for reform, reformation, individualized care, or professional training—revealing its deep-rooted limitations in addressing modern penological needs.

Recognizing these deficiencies, the **Model Prison Manual (MPM) 2016**, prepared by the National Crime Records Bureau, aimed to modernize jail governance. It outlines best

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<sup>13</sup>*D.K. Basu v. State of West Bengal* (1997) (custodial violence guidelines)

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practices in inmate classification, legal aid, healthcare, vocational training, education, computerization, juvenile separation, and women's welfare. Despite its progressive recommendations including addressing custodial violence and enhancing living conditions the implementation across states has been uneven. Many state prison manuals continue to rely on outdated procedures, lacking alignment with the 2016 model. Committees have repeatedly flagged gaps in translating guidelines into practice, with sporadic adoption of reforms such as classification norms, grievance mechanisms, and staff training.

Prison administration falls under the State List of India's federal structure, resulting in significant variations across states. While central bodies like the Bureau of Police Research and Development (BPRD) provide technical guidance and the Ministry of Home Affairs encourages adoption of Model Acts, enforcement powers and legislative control rest with state governments.<sup>14</sup> Some states, such as Kerala and Punjab, have enacted more progressive prison manuals and initiated open jail models; others continue to operate under rigid colonial-era codes.<sup>15</sup> This federal arrangement leads to uneven custodial standards and correctional outcomes across jurisdictions.

## CUSTODIAL VIOLENCE AND LEGAL ACCOUNTABILITY

Custodial violence in India spans **physical**, **psychological**, and **sexual** abuse, with detainees subjected to beatings, threats, deprivation of essential needs, and even sexual assault—forms of violence recognized under IPC Sections 330, 331, and 348, and prohibited by CrPC Sections 49 and 76.<sup>16</sup> Physical violence includes beatings to extract confessions; psychological torture involves threats and humiliation; and sexual violence encompasses assault, coercion, and molestation.

Victims may seek legal remedies under the Indian Penal Code (IPC)—notably Sections 330–331 (torture to extort confession), 348 (wrongful confinement), and 166 (public servant disobeying law) as well as under the CrPC, including Section 54 (facility to medical examine to document abuse) and mandatory judicial inquiries into custodial death, rape, or disappearance under Section 176. Additionally, constitutional tort remedies empower victims to invoke Articles 14 and 21 through writ petitions; notable cases like Nil Abati Behera

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<sup>14</sup> Drishti IAS, *Model Prisons Act 2023*, noting prisons under State List and central advisory role, available at [turn0search4](#).

<sup>15</sup> Wikipedia, *Prisons in India* (variation in state-level administration and initiatives)

<sup>16</sup> Types of custodial violence—physical, psychological, sexual—and IPC/CrPC laws governing them

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established the State's liability and awarded monetary compensation for custodial death.<sup>17</sup> *D.K. Basu v. West Bengal* further laid down strict procedural safeguards aimed at preventing abuse.

Despite these safeguards, accountability mechanisms often fail. The National Human Rights Commission (NHRC), though empowered under the Protection of Human Rights Act (1993), faces chronic delays and low compliance: it issued compensation recommendations in 757 cases during 2017–18, yet states implemented only 151. The judiciary, while issuing landmark rulings, also operates under constraints in enforcing its guidelines. Recently, the Maharashtra State Human Rights Commission (MSHRC) intervened following the death of a prisoner in Nagpur Central Prison, attributing negligence to prison authorities for non-functional CCTV and recommending both punishment and ₹5 lakh compensation.

State-level bodies like Police Complaints Authorities (PCAs) and prison boards likewise suffer poor responsiveness. Court-mandated PCAs from *Prakash Singh* (2006) remain understaffed or non-committal across many states, operating more as symbolic than effective watchdogs. Further, recent incidents continue to underscore systemic inertia. In Meghalaya, five police personnel from Sohra PS were only suspended after a 19-year-old detainee was tortured; an independent officer was appointed to investigate highlighting both reactive accountability and delayed justice<sup>18</sup>. A coalition in Tamil Nadu has recently demanded a separate state-level anti-torture statute, citing Section 125(8) of the *Bhartiya Nyaya Sanhita* as inadequate and noting institutional resistance to admitting custodial torture as a crime.<sup>19</sup>

## GENDERED EXPERIENCE OF INCARCERATION

In India, incarceration often exacerbates gender-specific vulnerabilities. Women prisoners face grave challenges: inadequate prenatal and postnatal care, infantilization of their children, and pervasive stigma. Under the Model Prison Manual (2016) and Bangkok Rules, prisons are mandated to provide pregnancy tests, separate accommodations, nutritious diets, and childcare support. However, a 2024 *Guardian* investigation into West Bengal prisons revealed alarming sexual violence—resulting in pregnancies and babies born behind bars highlighting that “women are being sexually assaulted in custody” and that “196 children [were] living

<sup>17</sup> Constitutional tort and judicial remedies—*Nilabati Behera, D.K. Basu* .

<sup>18</sup> Sohra PS torture case—suspensions, independent probe

<sup>19</sup> Tamil Nadu coalition demands anti-torture law

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with their incarcerated mothers” as of January 2024.<sup>20</sup> These conditions reflect the failure to treat women not just as inmates, but as mothers and human beings deserving dignity.

Transgender prisoners endure even greater marginalization. Despite the 2014 NALSA ruling affirming the right to gender self-identification and MHA advisories (2022) urging separate wards and respectful treatment, most prisons lack policy frameworks, data systems, infrastructure, and trained personnel. The CHRI’s 2020 report found only nine out of 34 jurisdictions recorded non-binary prisoners, and no standard protocols exist for admission, searches, placements, or healthcare. Testimonies like that of Kiran Gawli describe repeated strip-searches by male authorities and sexual harassment, emphasising institutional transphobia.<sup>21</sup> A 2023 Supreme Court committee advised treating transgender inmates equally, recommending staff training and policy reforms, yet most state manuals lack explicit provisions.

These issues point to an urgent need for gender-sensitive prison policy: creating women-only facilities with maternal services, installing separate wards and hygienic spaces for transgender individuals, ensuring healthcare (prenatal, hormone therapy, mental health), and mandating staff training on gender diversity and rights. Policies must be backed by monitoring, grievance redressal, and enforcement mechanisms that translate aspirational norms into tangible protection and dignity for all incarcerated persons

### **Comparative Perspectives and Best Practices**

Globally, progressive prison systems have embraced human-rights-centred frameworks that prioritize rehabilitation over punishment. Notably, the Scandinavian model, particularly in Norway’s Halden and Bastøy prisons, operates on the *principle of normality*, where prisoners retain civil liberties aside from the restriction of movement. These facilities emphasize open architecture, professionalized correctional staff, and meaningful access to education and work, resulting in recidivism rates of around 16–20%.<sup>22</sup> APAC facilities boast recidivism rates as low as 10–15%, with operational costs lower than those in conventional state

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<sup>20</sup> Tapas Kumar Bhanja, “The staff get hush money”: the hidden scandal of rape in Indian prisons, *Guardian* (Feb. 23, 2024) (196 children and ongoing abuse)

<sup>21</sup> Supreme Court Committee on Prison Reforms (Dec. 27, 2022) (transgender prisoners must be treated at par; staff training; inclusion in model manual)

<sup>22</sup> Raffaella Della Croce, *Inside Norway’s Humane Prisons*, BBC News (May 12, 2021), last visited 10 July 2025 <https://www.bbc.com/future/article/20210512-why-norways-prison-system-is-so-successful>.

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prisons. These models prioritize human dignity and community reintegration, aligning with the UN's Mandela Rules.

India, grappling with prison overcrowding, underfunding, and custodial abuse, can realistically adapt hybrid components of both systems. For instance, India's Model Prison Manual (2016) already acknowledges principles like rehabilitation and reintegration, which can be expanded to incorporate dignity-centred infrastructure and dynamic security training for staff. Pilot programs based on the APAC model can be initiated in states like Maharashtra or Kerala, leveraging partnerships with NGOs, judiciary, and civil society organizations. Additionally, integrating green zones, vocational training hubs, and independent prison oversight bodies would strengthen institutional accountability. Incentive-based models for sentence reduction tied to education or work—akin to Brazil's one-day remission for every three days worked—could also be tested in Indian custodial settings. Ultimately, a phased reform combining restorative justice with humane incarceration principles could align India's custodial practices with global human rights standards.<sup>23</sup>

## POLICY RECOMMENDATIONS

A comprehensive and sustainable prison reform strategy in India must be rooted in legal precision, administrative modernization, and participatory governance. First, legal and institutional reforms must prioritize the codification of prisoners' rights through a central "Prisoners' Rights Act" that reflects constitutional safeguards under Articles 21 and 39A. This should be accompanied by state-level adoption and strict implementation of the Model Prison Manual 2016, which must be revised to include enforceable provisions on health care, mental well-being, grievance redressal, and regular inspections. Additionally, sentencing reform is imperative—non-custodial alternatives for minor and non-violent offences should be institutionalized, in line with the Tokyo Rules, to address overcrowding and protect low-risk offenders from carceral harm. Human rights and rehabilitation must also be embedded into correctional staff recruitment and training curricula. Second, institutional accountability demands regular human rights audits and data transparency. Each state should establish an Independent Prison Oversight Body (IPOB) comprising members from the judiciary,

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<sup>23</sup>Justice M. N. Venkatachaliah, *Report of the National Human Rights Commission: Custodial Justice & Prison Reform*, NHRC (2019).

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academia, and civil society, to conduct annual audits of custodial facilities. Simultaneously, the National Crime Records Bureau (NCRB) and prison departments must be mandated to publish disaggregated, real-time data on inmate demographics, health, deaths, and access to legal aid. Strengthening custodial death reporting through mandatory, time-bound procedures including video-recorded post-mortems—would enhance transparency and trust. Finally, greater involvement of civil society, legal aid institutions, and technology is critical. States should formalize partnerships with NGOs for prison literacy, vocational training, and post-release reintegration, drawing inspiration from Brazil's APAC model. Legal aid services, particularly District Legal Services Authorities (DLSAs), must be expanded with improved staffing and infrastructure. Legal kiosks in prisons, supported by secure video conferencing, can bridge the access gap for undertrials awaiting representation. Moreover, digital tracking of case status, inmate grievances, and health records can support both efficiency and humane governance. Together, these interlinked reforms can help Indian prisons evolve from punitive warehouses into rights-based spaces of rehabilitation and reintegration.

## CONCLUSION

The condition of custodial institutions serves as a direct reflection of a society's commitment to justice, equity, and human dignity. Reaffirming the inherent dignity of prisoners—regardless of the crime committed—is not merely a moral imperative but a constitutional obligation rooted in Article 21 of the Indian Constitution and reinforced by international human rights standards. Incarceration must not amount to social abandonment or systemic dehumanization; instead, it should serve as an opportunity for reformation and reintegration. The need for a rights-based custodial system—one that prioritizes humane treatment, procedural fairness, rehabilitation, and social reintegration—has never been more urgent. This vision must go beyond paper reforms to take concrete institutional shape through updated legal frameworks, independent oversight, community engagement, and technological integration. Bridging the gap between progressive laws and grim ground realities requires political will, bureaucratic accountability, and societal participation. A truly reformatory prison system must be built on the pillars of transparency, accountability, and empathy—ensuring that every individual behind bars is treated not merely as a convict, but as a human being with potential and rights. The time to act is now.

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