



School of Law Christ University

## NATIONAL LEGISLATION DRAFTING COMPETITION, 2017

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### Concept Note

#### **The Prison Reforms Bill, 2017**

In light of the New Prison Manual, 2016 released by the Ministry of Home Affairs, it is evident that India is changing its perception towards prisoners, in compliance with the international human rights regime. Due to the presence of significant divergence and contradictions in the various laws relating to prisoners in different states, there arises a need to consolidate into a single legislation, the rights of prisoners and their official recognition thereto; the existing state laws on the prison system are not in tandem with the principles enshrined in the Constitution and judicial decisions.

The plight of prisoners in India has gradually taken centre stage in light of shocking reports on the ill-treatment of convicts and undertrials in prison, and for these reasons, there is a dire need to introduce a reform in the laws to address this situation. Most recent statistics reveal that over 67 percent of the prisoners are undertrials and may continue to be held in overcrowded prisons for years. The archaic Prisons Act of 1894 is not equipped to tackle the special requirements of mentally challenged inmates, juveniles, women and pregnant women among others. The Supreme Court in *Prakash Singh v. Union of India* laid down guidelines for the states to follow with respect to prisoners' rights and treatment, but the same has not been complied with by the States. The Bureau of Police Research and Development in 2007 released the proposal on the 'National Policy on Prison Reforms and Correctional Administration' aiming to completely transform the treatment of prisoners while proposing alternative modalities of punishment. The proposal sought to reform the criminal justice system by recommending alternatives like institutional reform, community service, etc. indicating a shift from a deterrence policy to a reformatory policy in the prison system.

This scenario calls for an immediate need in legislation that focuses on two main concerns, i.e., prisoner's rights and prison administration. With respect to the former, the Supreme Court has made it very clear in many judgements that a prisoner, like every other citizen, is entitled to the basic freedoms guaranteed by the Constitution. Prison administration, on the

other hand, requires reformation in the police system to counter the violation of human rights of prisoners.

Notably, in 2013, former Chief Justice of India, Justice R.C. Lahoti wrote a letter to the then Chief Justice concerning matters that dealt with the disturbing conditions in the country's prisons, drawing his attention to the inhumane treatment they are often subjected to. This letter which was then registered as a writ petition named *In-Re Inhuman Conditions in 1382 Prisons*, prompted the Supreme Court to issue guidelines for prison reforms in the country. Thus, in light of the Constitutional mandate to treat prisoners on par with ordinary citizens by recognizing their rights under Article 21, there exists a need for a specific and comprehensive legislation to govern our country's prison system and regulate the treatment of prisoners as per their needs. India also seeks to enact a legislation in tandem with the United Nations Standard Minimum Rules for the Treatment of Prisoners as a step towards fulfilling India's international human rights obligations, while upholding the spirit of the Constitution by ensuring fair and just treatment of all people, including prisoners.