Breaking Bars, Building Hope

Redefining Rehabilitation with Open Prisons in India
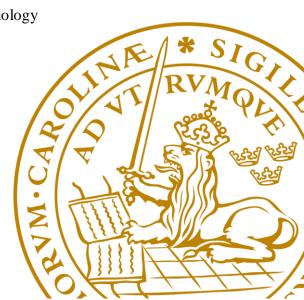
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SOCM04, MASTER'S THESIS, 30 CREDITS

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Spring Term, 2023

Abstract

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Title: "Breaking Bars, Building Hope": Redefining Rehabilitation with Open Prisons in India

Supervisor: Magnus Ring

Word Count: 19,500

India's open prisons offer an innovative method of confinement by giving some prisoners more freedom and chances for rehabilitation. However, little is known about how individuals who are directly involved, such as detainees, their families, and prison staff, see these jails. This thesis aims to investigate their viewpoints and experiences, with a particular emphasis on stigma, incarceration, and the sequence of rehabilitation. Understanding their perspectives can help us identify the system's advantages and disadvantages as well as potential areas for change, resulting in more efficient and compassionate methods of criminal justice in India.

This thesis aims to highlight the lived experiences and viewpoints of these important participants in order to highlight the advantages, drawbacks, and potential development areas of the open prison system in India. *"How are the inmates, their families and the officials affected by the functioning of an open prison in India?"*

This study has important ramifications for criminal justice policy and practice in India. Further, the study can aid in the creation of more efficient and humane correctional practices by providing insights into the experiences and viewpoints of prisoners, their relatives, and prison staff. The results may also help treatments that work to lessen the stigma attached to jail and to encourage the reintegration of criminals into society.

Key Words: Open prisons, stigma, rehabilitation, narrative experiences, restorative justice, India

Popular Science Summary

Imagine a unique type of prison where those who have erred are given the opportunity to grow, learn, and improve their life. These unique prisons, which are known as "open prisons," are present in India. Today, we are going to embark on a delightful adventure to learn what makes open prisons special and how they aid in the reintegration of former inmates into society. Because they provide offenders more freedom and opportunity for self-rehabilitation, open prisons differ from traditional ones. People who have committed crimes are housed in cells in traditional prisons. In contrast, convicts in open prisons have the option of living in modest homes or hostels and leaving their homes during the day to work, pick up new skills, and enjoy a more regular life.

In order to emphasize the benefits, limitations, and prospective improvement areas of the open jail system in India, this thesis intends to highlight the lived experiences and points of view of these significant players. How do the open prisons in India operate and/or influence the convicts, their relatives, and the officials? In this thesis, through the exploration of lived experiences of prisoners from different testimonials posted on the Instagram page of 'Open Prison Voices', a research is being conducted to understand their stories in terms of the comparison between closed and open prisons, the systems of violence, the difference of environment between the two; amongst other indicators. This will add value to the study to understand how the mainstream society recognises this narrative and how it needs to change in India; so as to allow the accused to also live a life of dignity, once released.

The findings of this study have significant implications for Indian criminal justice practice and policy. The study can also help in the development of more effective and compassionate correctional methods by shedding light on the perspectives and experiences of inmates, their families, and prison staff. The findings might also be useful for therapies that aim to minimize the negative connotations associated with incarceration and to promote convicts' rehabilitation into society.

Acknowledgements

I want to offer my sincere gratitude to the following people who were instrumental in helping me finish my thesis. Their advice, assistance, and encouragement have been priceless, throughout this process.

First and foremost, I want to express my sincere gratitude to my supervisor, Magnus Ring. Your knowledge and unwavering dedication to quality have been crucial in the development of my thesis. I am very grateful for the chance to learn from you because your direction and perceptive criticism have pushed me to achieve new heights. I appreciate your continued encouragement and your faith in my abilities.

I will always be grateful to my parents, Om Prakash Mishra and Alka Mishra for their undying love, my brother's unshakable support, and your never-ending encouragement. Through all of my academic endeavours, you have been my pillar of support. Your confidence in me, despite times when I doubted myself, has strengthened my resolve to overcome challenges and pursue achievement. This accomplishment is a result of your sacrifices and ongoing drive.

My circle of friends, who have given me continuous support and a sense of community, also deserve my deepest gratitude. My darkest days have been made brighter by your presence, and the journey has been more joyful. Your supportive remarks, late-night study sessions, and shared victories have helped me to stay focused and motivated. I appreciate you supporting me, freaking out with me, and giving me new ideas when I went completely blank.

Additionally, I want to thank Erik and Sebastian, two of my instructors, for enhancing my educational experience. Their commitment to learning, enthusiasm for research, and eagerness to impart information have been motivating. Their insightful advice and scholarly knowledge have impacted my understanding and motivated me to pursue new lines of research. I am incredibly appreciative of their guidance and the chances they have given me.

Table of Contents

Introduction

This chapter will provide an insight into the entire contents of this thesis, which revolves around the model of open prisons in India. The current chapter begins by describing the research problem and aim, followed by the research question. It will then go on to outline the different chapters following the introduction chapter.

1.1 Research Problem

The vast population of the country, plus the various social groups and sub-cultures in India have given rise to increased crime rates and therefore, accounted for mass incarcerations and penal punishments across the country. As per a report by the National Crime Records Bureau (2021), the *"crime rate registered per lakh population has declined from 487.8 in 2020 to 445.9 in 2021"* (pp. ix). However, this figure contradicts the reality in India of many cases of crime that go unreported or are not registered by the authorities.

In India's criminal justice system, imprisonment has historically been seen as a punishing punishment intended to prevent crime and uphold social order. However, there has been a rising understanding of the necessity of rehabilitating criminals and reintegrating them into society over time. In India, an alternative to traditional prisons has arisen as part of this growing strategy. For some convicts, open prisons offer a more tolerant and accommodating environment that gives them more freedom to move around and opportunities for job and vocational training.

The usefulness of these facilities in encouraging rehabilitation, lowering recidivism, and resolving the problems faced by convicts, their families, and prison officials is still up for debate despite the introduction of open prisons. Numerous problems, including congestion, high rates of recidivism, and cultural stigma attached to incarceration, plague the Indian criminal justice system. These difficulties have an effect on the overall operation and results of open prisons, necessitating a thorough analysis of both their features and the viewpoints of those involved.

Since the occupancy rate within the prisons in India is quite high, moving inmates to open prisons might reduce the crime rate in the country, since these kind of prisons allows the prisoners to live a life of dignity without any stigma or judgement. A major example of open

prisons in India exists in the state of Rajasthan, wherein documentation of prisoner experiences surrounding their life in an open prison has been conducted. Besides the prisoner, accounts and testimonials have also been taken from the guards (wardens), researchers, etc to ascertain whether this has been a suitable approach.

However, the question that arises (amid the rights as citizens and/or humans) is what next? Should the prisoners that have been released, be stigmatized and left to fend for themselves? As mentioned by Innes (2003), *"Punishment is thus identified as a necessary condition of moral order, reinforcing the authority and legitimacy of key social institutions"* (pp. 82). Considering the recidivism theory, wouldn't that person turn to crime again in order to survive in the society? In this regard, the research problem, question and the research objectives focuses on the impact of incarceration, in terms of the cultural notions of the society.

1.2 Research Question

This thesis aims to highlight the lived experiences and viewpoints of these important participants in order to highlight the advantages, drawbacks, and potential development areas of the open prison system in India. *"How are the inmates, their families and the officials affected by the functioning of an open prison in Rajasthan?"* The following goals are the focus of the research:

- Examining the perceptions and experiences of prisoners in open prisons, paying particular attention to their views on incarceration, the effects of stigma, and the success of rehabilitation programs.
- Examine the perspectives of families of convicts in open prisons, focusing on their impressions of the rehabilitation process, their experiences with societal stigma, and the difficulties they encounter in supporting their loved ones who are incarcerated.
- Understanding the perspectives of administrators, correctional officers, and rehabilitation specialists within the open prison system with regard to the operation, benefits, and drawbacks of open prisons in India.

The goals and aims mentioned above are being researched and studied for a complete understanding of this alternative method of detention, a thorough investigation of the cultural

effects of open jails in Rajasthan is necessary. This thesis seeks to offer important insights into the cultural dynamics of open prisons and their function in fostering rehabilitation, reintegration, and societal change by researching the experiences of convicts, relatives, and officials. The successful implementation of open jails in Rajasthan and elsewhere can be ensured with the help of these findings informing future policies and initiatives.

1.3 Significance of this Study

India's open prisons offer an innovative method of confinement by giving some prisoners more freedom and chances for rehabilitation. However, little is known about how individuals who are directly involved, such as detainees, their families, and prison staff, see these jails. This thesis aims to investigate their viewpoints and experiences, with a particular emphasis on stigma, incarceration, and the sequence of rehabilitation. Understanding their perspectives can help us identify the system's advantages and disadvantages as well as potential areas for change, resulting in more efficient and compassionate methods of criminal justice in India.

This study has important ramifications for criminal justice policy and practice in India. Further, the study can aid in the creation of more efficient and humane correctional practices by providing insights into the experiences and viewpoints of prisoners, their relatives, and prison staff. The results may also help treatments that work to lessen the stigma attached to jail and to encourage the reintegration of criminals into society.

1.4 Outline of the Consequent Chapters

The second chapter on 'Background' provides a contextual history of India, the crime rates across the country, the prison statistics and the evolution of justice in India. It will focus on the contextual history of India; the background of crime in the country; the evolution of the justice system; certain prison statistics; the need for restorative justice in India; and finally a brief about open prisons in India.

The third chapter focuses on tracing the previous literature surrounding the history of crime and punishment, with a specific context in India with respect to the sub-culture (religion, ethnicity, caste and class) and institutional structure. This will be followed with a brief about

the need for restorative justice as well as the development of prison institutions as one way of restorative justice, how the concept of open prisons is one of the ways of restorative justice and how it can mediate the victim-offender relationship.

The fourth chapter talks about the *'Theoretical Frameworks'* and provides a foundation for future empirical research on open prisons by highlighting key theoretical concepts and frameworks that can guide future investigations into the effectiveness and impact of open prisons on prisoners, communities, and the criminal justice system. The section starts with describing the master narratives that have been applied in relation to the theoretical perspectives and will further go on to also be utilised in the analysis chapter, including those of the deterrence theory, restorative justice theory and the stigma theory.

Following the chapter on theoretical perspectives surrounding restorative justice and open prisons, the fourth chapter on *'Methodology'* will aim to narrate the different methods, tools and approaches used to analyse the data. It will also discuss certain limitations and ethical considerations as well as my reflexivity that originated during this study. The research question that was theorised and will be analysed in the following chapter is: *"How are the inmates, their families as well as the officials affected by the functioning of an open prison in Rajasthan?*

The fifth chapter will focus on and analyse major narratives surrounding the environment of the prisons; the prospect of a livelihood; the notions around stigma; violence; and gender within the closed and open prisons through the different testimonials that were collected in the previous chapter. Relating to the research question, this chapter will assess the advantages and disadvantages of the open and closed prisons as characterised by the prisoners, their families and the officials working around the open prison in Rajasthan.

The sixth and last chapter will be a concluding summary discussion of the entire thesis that will also aim to address the open prison system's strengths, weaknesses, and potential areas for improvement by examining their experiences and perspectives. It will further go on to also explain the relationship finding between the theories used in the thesis and the data; and that it is evident that open prisons in India have the potential to address the difficulties of incarceration, stigma, and rehabilitation by analyzing these findings through the lenses of restorative justice theory and stigma theory.

Contextual Background on Deviance, Crime and Open Prisons in India

This chapter provides a contextual history of India, the crime rates across the country, the prison statistics and the evolution of justice in India. It will focus on the contextual history of India; a background of crime in the country; the evolution of the justice system; certain prison statistics; the need for restorative justice in India; and finally a brief about open prisons in India.

2.1 Sub-Nationalism in India

Sub-nationalism is the policy of asserting the interest of one's state/region/province, as separate from the interest of the nation and the common interest of all other states/regions/provinces (Insights Mind Maps, 2017). There is no question that in India there are regional divides based on religions, ethnicities and various dialects. This creates further divide amongst the people staying in these regions and not due to the area but because of their background (ancestry), where they come from and how they have "appropriated" themselves in this surrounding. *"[…] 'Indian social policy' too is heterogeneous particularly due to the federal arrangement of governance and 'social welfare' allocated as a state-subject (rather than a central subject) for the regional governments under the Indian Constitution"* (Pellissery, Sony, et al, 2015; pg. 786). Article 21 of the Constitution of India states *"No person shall be deprived of his life or personal liberty except according to procedure established by law"* (pp. 11).

2.2 History of Crime in India

Coming from a contextual history of India, we can now move on to understanding the nature of traditional penal punishments, pre and post-independence knowledge of crime and punishment, the prison and the legal system and finally the situation of the institution of the prison system as it is today. Ancient civilizations, empires, and invasions have all left their marks on India's history, influencing its social structure and criminal behaviour. Crime has existed throughout history in many different forms, from tribal wars and land disputes in prehistoric times to organized crime and cybercrime in modern civilization. Historical accounts

emphasize how common theft, murder, adultery, fraud, and other misdeeds are, highlighting the ongoing struggle against crime that Indian cultures have faced throughout time.

For the purpose of upholding law and order, traditional Indian cultures established their own systems of justice and punishment. Due to the influence of religious and cultural customs, these systems vary between countries and eras. The ancient Indian legal system placed a strong emphasis on moral responsibility and societal harmony, or dharma (duty). With approaches such as fines, public humiliation, exile, and corporal punishments like whipping or amputation, punishments were created to ensure deterrence and vengeance (Nath, 2022).

The concept of imprisonment as a form of punishment was common in antiquity, which is when India's prison system first emerged. Principles for managing prisons were laid out in Kautilya's (also known as Chanakya's) ancient Indian treatise on statecraft and government, the Arthashastra. Emperor Akbar made changes to the prison system during the Mughal dynasty, including creating separate facilities for men and women (Tripathi, 2018).

However, it was under British colonial control that India's current prison system emerged. The deterrent, reformation, and incapacitation tenets served as the foundation for the penal system that the British implemented. One of the most notorious jails from the colonial era was the Cellular Jail in the Andaman and Nicobar Islands, popularly known as "Kala Pani," where political prisoners were imprisoned in solitary confinement (Ranjan, 2021). The prison system underwent an overhaul after India attained independence in 1947. Concerns about inmates' rights, living circumstances, and rehabilitation programs led to revisions and modernizations of the Prisons Act of 1894, which established the legislative foundation for prison administration. Instead of only punishing, the goal switched to encouraging reformation and reintegration (Mishra and Raj, 2022).

The Indian prison system still faces several difficulties today. The issue of overpopulation is one of the most urgent ones. The overcrowding in Indian prisons frequently results in unclean living conditions, inadequate healthcare, and elevated tension among convicts. The minimal resources available for rehabilitation and prisoner care initiatives are additionally strained by overcrowding. The slowness of the legal system, which leads to a sizable number of prisoners awaiting trial, makes the situation even worse. In many cases, people spend longer than the maximum sentence they could have received in prison while they are being held in custody for

trial. In addition to aggravating crowded conditions, this violates people's fundamental rights (Goyal and Vedula, 2021).

2.3 Evolution of Justice in India

For centuries, India has been plagued by a justice system that is heavily weighted toward punishing offenders without regard to the harm they have caused. This system places little emphasis on rehabilitation or restorative practices that could help individuals who have committed crimes rebuild their lives and re-integrate into society. The dharmic ideals of ancient India, which placed a strong emphasis on restitution and reconciliation, served as the foundation for the concept of justice. Conflicts and disagreements were frequently settled through discussion, mediation, and community involvement. Instead of only penalizing offenders, the focus was on bringing peace and mending bridges. While acknowledging the limitations of the existing criminal justice system, India has recently taken steps to introduce new policies and practices based on restorative justice principles.

Traditional justice procedures that are in line with restorative principles have a long history in India. These procedures, such as Panchayats (village councils), were crucial in resolving disputes within the local community. The goal of panchayats was to bring the victim, the perpetrator, and the community together to find amicable solutions that addressed the harm done and encouraged healing. The adversarial legal system, which was largely concerned with retaliation and punitive measures, was implemented during the British colonial administration. This strategy resulted in a shift toward punishment as the main goal of the justice system by lessening the emphasis on restorative justice ideals.

In India, restorative justice has been increasingly adopted as a way to address conflict and crime, especially in rural areas. This is due in part to the fact that traditional criminal justice systems are often perceived as being corrupt and ineffective. Additionally, many communities in India lack access to formal legal channels, making restorative justice an appealing option. As per a report on 'Prison Statistics India' (2021):

> *"Earlier system of prison with a punitive attitude where in*
> *inmates were forcibly confined and deprived of a variety of*

freedom as a form of punishment has changed with a change in social perception towards prison and prisoners. It is now treated as correction or improvement facility which itself indicates that there is more emphasis on reformation of prisoners than to punish them" (pp. 1).

This comeback can be ascribed to a number of things, such as increasing awareness of the shortcomings of the criminal justice system, the need for more victim-centred strategies, and rising interest in non-confrontational dispute resolution techniques. The ideals of restorative justice have been incorporated into the Indian legal system. In order to include measures for victim-offender mediation and reconciliation, the Code of Criminal Procedure was revised in 2009. In specific situations, these revisions offer a legal basis for the application of restorative justice approaches.

2.4 Prison Statistics in India

According to PAAR, a prisoner is a term for someone who is both a "convict and under trial prisoner who hasn't been proven guilty" (Open Prison Voices, 2022). As per recent statistics from December 2021[1], the total prison population in India (including pre-trial detainees/remand prisoners) is at 554,034; whereas the official capacity is of 425,609 (130.2% of occupancy level). Open prisons are a kind of prison system where the inmates are not kept behind bars 24x7; within this kind of a set-up, they are given the option of pursuing their livelihoods, education, skill, etc to live their future life with dignity (after release) and without the stigma of the society. Within India, there are only *"[…] 17 States have reported about the functioning of open prisons in their jurisdiction"* (Prison Statistics India, 2021; pp. 7). Furthermore, the same report has provided a table on the number, capacity, inmate population and the occupancy rate within the open prisons in India (pp. 29); approximately 44% of the open prisons out of a total of 88 open prisons in India exist in the region of Rajasthan, the State-wise figure can be seen in the table below:

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[1] "World Prison Brief Data - India." *India | World Prison Brief*, https://www.prisonstudies.org/country/india.

S. No.	State	Number of Open Jails
1	Andhra Pradesh	1
2	Arunachal Pradesh	0
3	Assam	1
4	Bihar	1
5	Chhattisgarh	0
6	Goa	0
7	Gujarat	4
8	Haryana	0
9	Himachal Pradesh	1
10	Jharkhand	1
11	Karnataka	1
12	Kerala	3
13	Madhya Pradesh	6
14	Maharashtra	19
15	Manipur	0
16	Meghalaya	0
17	Mizoram	0
18	Nagaland	0
19	Odisha	1
20	Punjab	1
21	Rajasthan	39
22	Sikkim	0
23	Tamil Nadu	3
24	Telangana	1
25	Tripura	0
26	Uttar Pradesh	0
27	Uttarakhand	1
28	West Bengal	4

Fig. 1

2.5 The Need for Restorative Justice in India

The current criminal justice system in India is primarily retributive in nature. This means that the main focus is on punishing the offender, rather than rehabilitating them or repairing the

harm they have caused. This approach has several drawbacks. First, it fails to address the underlying reasons why someone may have committed a crime in the first place. Second, it can further alienate and marginalize offenders, making it more likely that they will re-offend in the future. More than often, restorative justice processes focus on individuals who are termed 'accidental offender'. This is typically associated with individuals who are often targets of bad luck and/or misfortune; or they are falsely accused of a crime.

Restorative justice is an alternative approach that focuses on repairing the harm caused by crime and addressing the needs of all those affected by it. This includes victims, offenders, and their families and communities. Restorative justice takes many different forms, but some key principles include:

- Encouraging dialogue and communication between all parties involved.
- Addressing the underlying causes of crime.
- Focusing on rehabilitation and reintegration rather than punishment.
- Providing support for victims and their families.

Prison rehabilitation programs that focus on education, psychiatric counselling, and skill development are relatively rare and require expansion. These initiatives are essential for improving prisoner rehabilitation and lowering recidivism rates. Despite these difficulties, several promising developments have occurred. Modern technology has been implemented for jail management, including the use of e-prisons and the digitization of prisoner records. These initiatives contribute to process simplification, decreased administrative overhead, and increased openness (Prison Statistics India, 2021).

Additionally, a number of organizations and civil society groups are actively striving to enhance prison conditions, promote restorative justice practices, and advocate for inmates' rights. The judiciary has also been crucial in ensuring that prisoners' rights are upheld and addressing problems like torture and physical abuse while in custody. To fix the underlying problems with the jail system, nevertheless, ongoing efforts are required. This covers infrastructural expenditures, staff development and training, and extensive prison changes. An increasing number of people are also seeing the value of alternatives to incarceration, like community-based sentencing and diversion programs, which can help ease the strain on jails

and encourage restorative justice. In particular, within the state of Rajasthan; "prisoners are encouraged to pursue their education through open school system and Open University up to Degree and PG Level (Prison Statistics India, 2021; pp. 201).

2.6 Open Prisons in India

The term *'open prisons'* refers to a type of prison facility where inmates are given the chance to live with dignity, build their self-esteem, and regain their respect, identity, and trust from members of society at large. It is regarded as an alternative to incarceration in India, which places more of an emphasis on rehabilitation and reform than punishment. While exact data may change over time, the basic goal, i.e., encouraging the successful rehabilitation of offenders and their successful reintegration into society remains constant.

There are no barriers like walls, bars, or locks at this institution and promoting the reformation and reintegration of convicts into society is the main goal of open prisons in India. They want to provide inmates with a chance to live a disciplined, accountable life while serving their sentence. An important thing to note here is that the selection of prisoners for open prisons is based on a number of factors, including the behaviour of the inmate, the offence committed, the remaining time of the sentence, and the likelihood of reoffending.

> *"[...] not all prisoners are to be transferred from closed institutions to open prisons. [...] a screening committee is tasked with the job of ascertaining the mental and physical fitness, behavioural conduct, reformatory potential, etc, of inmates who complete a minimum mandatorily prescribed period of incarceration in closed prisons for eligibility for transfer to these semi-open/open institutions"* (Parikshit and Vedula, 2021).

As per PAAR (May 2021), a convict is eligible to stay in the open prisons if they have maintained good conduct, have completed 5 years inside a closed prison and are convicted. Due to high demand and low availability, on average a convict has to wait 10 years to get a seat at an Open Prison. Even though these prisons provide tethered freedom to their prisoners, it gives importance to the human touch and societal interaction. Instead of creating a fear of

the outside world in the process of reformation, it follows the principle of normalcy and allows the prisoner to interact with the outside world in a controlled manner. It allows prisoners to live a life such that they are incentivized to re-integrate within society, without the mental and physical trauma of closed prisons.

The organisation further goes on to say that the prisoners within open prisons have the opportunity to live out their sentence while being able to interact with their families and with people outside the community of the prison. Moreover, they can move towards financial independence while incarcerated which enables them to envision a life outside of prison.

An alternative method of incarceration that places a strong emphasis on rehabilitation and reintegration into society is the use of open prisons. The efficiency of open prisons in various contexts and demographics, as well as the possible advantages and disadvantages of various open prison models, should all be further investigated in future studies.

Review of Previous Literature

This section focuses on tracing the history of crime and punishment, with a specific context in India with respect to the sub-culture and institutional structure. This will be followed with a brief about the need for restorative justice as well as the development of prison institutions as one way of restorative justice, how the concept of open prisons is one of the ways of restorative justice and how it can mediate the victim-offender relationship.

3.1 History of Crime in India

Nils Christie believes that the social order is undergoing suffering and that conflicts have been monopolised by certain social institutions. As a criminologist, Christie believes that every country, culture, as well as sub-culture, has an indication of certain kinds of institutional or non-institutional order that communicates with the individuals on how to live and survive in that particular community (Christie, 1977). A system of social control has been observed through the measures of crime, deviance, different kinds of justice systems and ultimately the 'vision' which may have changed (Cohen, 1985; Ellickson, 2005). They believe that deviance and social control are key elements under which patterns like deterrence, and rehabilitation fall under. It is through these patterns and behaviour that individuals act in society. The different sub-cultures (religion, ethnicity, caste and class) across India follow their own traditions and practice surrounding *"crime and punishment"* due to which they may have developed their own possible initiatives (in conjunction with the constitution as well as the national authority) to lessen the burden of crime on society through rehabilitative practices. Brown (2009) in her book mentions that *"the force of punishment is always implied in the foundations of social order"* (pp. 33).

Any kind of deviance (even the slightest) might result in a culture of discipline and/or deprivation (petty, moderate or extreme). As per Kumar et al (2022), the prevailing criminal justice system in India is a combination of sets of institutions comprising of the legislature, enforcement (police, court and prison), adjudication and reforms (community services, social work, etc). As Cohen mentions (1990; pp. 37), *"[…] the original structures have become stronger; far from any decrease, the reach and intensity of state control have been increased; centralization and bureaucracy remain; professions and experts are proliferating dramatically*

and society is more dependent on them; informalism has not made the legal system less formal or more just; treatment has changed its forms but certainly has not died […]".

Situational prevention aims to decrease the possibilities for a certain type of crime by raising the risks and challenges involved while lowering the benefits. It is made up of a set of opportunity-reducing tactics, a common methodology for addressing particular crime problems, and an articulated theoretical framework. Several "opportunity" theories, such as the routine activity and rational choice views, have been incorporated into the theoretical framework. The typical methodology is an adaptation of the action research paradigm, in which researchers collaborate with practitioners to define and analyze the issue, find and test potential solutions, and then assess and communicate the findings (Clarke, 1995).

The vast population of the country, plus the various social groups and sub-cultures in India have given rise to increased crime rates and therefore, accounted for mass incarcerations and penal punishments across the country (Hazra, 2020). As per a report by the National Crime Records Bureau (2021), the *"crime rate registered per lakh population has declined from 487.8 in 2020 to 445.9 in 2021"* (pp. ix). However, this figure contradicts the reality in India of many cases of crime that go unreported or are not registered by the authorities. According to the National Crime Record Bureau data published in 2021, the total population of under-trial prisoners is around 77% in India (Crime in India, 2021 Statistics).

3.2 Need for Restorative Justice

As per several theorists, restorative justice is an alternative approach that focuses on repairing the harm caused by crime and addressing the needs of all those affected by it. This includes victims, offenders, and their families and communities (Braithwaite, 2004; Brown, 2009; Zehr, 1990). In such a case, restorative justice takes many different forms, but some key principles may include: (a) Encouraging dialogue and communication between all parties involved; (b) Addressing the underlying causes of crime; (c) Focusing on rehabilitation and reintegration rather than punishment; and (d) Providing support for victims and their families.

In such a case then, restorative justice may help bring about a change in the social order as well as an acceptance of the prisoner in the larger society. *"Restorative justice frameworks insist*

upon a movement away from the infliction of pain and the experience of harm and redirect personal and social efforts toward reparation and healing" (Brown, 2009; pp. 203). Restorative justice is a philosophy and set of principles that emphasize repairing the harm caused or revealed by criminal behaviour. It is an alternative to traditional justice systems, which often focus on retribution and punishment (Boyes-Watson, 2014; Kramer, 2021).

The aspect of rehabilitation (including the attitudes and beliefs) surrounding the rejection of criminality and the roles of a prison in the society also has a major impact on the restorative justice practices (Eagleson, 2022). One could then assume restorative justice to be an alternative approach that focuses on repairing the harm caused by crime and addressing the needs of all those affected by it, including the victims, offenders, and their families and communities.

3.3 Prisons as a Form of Restorative Justice

It is no secret that prison systems around the world are seen as closed-off, guarded institutions that will one day instil a sense of justice and righteousness into individuals who seem to have turned deviant (Treviño, 2019). Improper implementation of policies, programmes and schemes not only makes the regulation subject to failure, but at the same time, it creates havoc for the underprivileged, weaker and marginalized sections of society (Kumar et al., 2022; pp. 3).

As per David Garland, mass incarceration can mean two things: *"a rate of imprisonment that contrasts sharply with historical and comparative norms for similar societies, and a demographic concentration of imprisonment which results in the systematic imprisonment of entire groups of the broader population"* (Brown, 2009; pp. 199). This results in a differential response as well as the consequence of such actions from the inmates, their families as well as in the mainstream society (Kumar et al, 2022; Goffman, 1961).

Re-quoting Foucault's thoughts, Innes (2003) also mentions that closed prisons are often seen as an institution that conforms the inmates to live a certain way of life. This may impact their ability and willingness to be closed off, even when they are released as they feel a certain kind of pressure to stay conformed in the mainstream society (pp. 85). He further goes on to then

provide a resolution to this issue with the concept of restorative justice; *"the modes of social control that involve the enforcement of law in some sense pivot around the role of state, restorative justice focuses upon the victim and offender, the harm caused by the incident and how this harm can suitably be redressed – either through an apology or some other form of reparation"* (pp. 93).

The labelling perspective has failed to distinguish the crime-producing consequences of the stigma that is open-ended, out-casting, and person rather than offence-centred from the crime-reducing consequences of shaming that is re-integrative (Braithwaite, 1989). He further goes on to establish that women are less likely to commit crimes due to their familial bond, and moreover, the risk of being "shamed". Furthermore, Angela Davis (2003) also talks about transformative "experience" or justice and how a prisoner can change his/her outlook by accepting the consequences of their actions and *"acquire autonomy of their mind"* (pp. 57). She goes on to express that prisoners devised new methods and found new ways to self-rehabilitate their prison experience and not focus on just violence and a life of crime outside.

Coming from this, the prison systems are often seen as an institution whereby the inmate is sent to "pay for the crime" (Eagleson, 2022). As Turner et al (2022) mention *"[...] prison space presents itself as a flat, texture-less landscape, often purposefully devoid of sensory engagements and their effects, which is altogether reasonable when we consider the stark imagery of, in particular, maximum security custodial spaces"* (pp. 4-5). The prisons are often looked at as a routinized, bureaucratic form of administration that is known for its cultural meanings and how individuals in the mainstream society view them (Smith, 2008).

3.4 Open Prisons

Coming to the concept of open prisons, they have usually been spoken about in literature as being structures of rehabilitative justice. With regard to this paper, open prisons are seen as facilities that set themselves apart from the conventional closed prisons by giving the inmates more freedom of movement and access to services and activities (such as employment opportunities; residing with family, etc); which further helps them to be reintegrated into the mainstream society. One of the more significant pieces of literature is by Roger Matthews's (2009) 'Doing Time: An Introduction to the Sociology of Imprisonment' where he examines

the different purposes that prisons serve in contemporary society, along with the social and economic causes that lead to high rates of incarceration. Although the book doesn't exclusively focus on open prisons, it does provide a framework for comprehending the larger environment in which these institutions exist.

As mentioned above, Christie has spoken about the concepts of social order and social institutions bringing about the acceptance of social norms and dismissal of acts of deviance. However, contrary to this Matthews says that *"Crime, in the new order, came to be seen as a transgression not against the sovereign but against society. The offender, having broken the 'social contract', is not to be brutalised or ridiculed, but rather should be allowed to repay society in a way which would regenerate respect for property, liberty and the freedom of others"* (pp. 5). So in a way, he is challenging the punitive ways of punishment and going towards understanding the socio-cultural perspectives of crime and imprisonment.

Continuing from this, to understand the institutional system of open prisons in India, Trishna Senapaty's article titled 'The Closed and the Open Prison: Contested Imaginaries and the Limits of Openness' (2023) talks about how the concept of open prisons are designed to aid in the rehabilitation of inmates by allowing them to live in modest homes with their family and pursue employment outside the gates of the facility. The paper explores the discrepancies between how "openness" is conceptualized in prison reform texts and the various ways it is imagined and manifested in day-to-day activities. Senapaty in her article talks about the functionality of the open prison and says *"Prisoners occupy multiple subject positions within and beyond the gates of the open prison, as they navigate the city with their conditional freedom"* (pp. 11).

As a scholar who has studied forms of restorative justice (including open prisons), Martin Wright in his book 'Justice for Victims and Offenders: A Restorative Response to Crime' (1996) contends that by enabling offenders to accept responsibility for their misdeeds and make amends to their victims, open prisons can help to advance restorative justice. As a criminologist, John Pratt examines the development of open prisons in Europe and how they can replace more traditional and conventional types of incarceration. Talking about the language of penal punishment, Pratt (2002) in 'Punishment and Civilization: Penal Tolerance and Intolerance in Modern Society' said that *"[…] in line with the values of punishment in the*

civilized world, it reflected both the technocratic efficiency of the authorities and their humanitarian intent" (pp. 97).

Lastly, according to Tiwari (2021), *"The conditions of the open prisons have made it feasible that the prisoners after the release do not relapse into crimes and the wage labour makes them economically independent"* (pp. 1036). He goes on to say that the open prison system in India has emerged as a result of the growing influence of the reformative philosophy of punishment and the necessity to protect specific rights of inmates that guarantee basic human dignity.

Theoretical Frameworks and Perspectives

This chapter will provide a foundation for future empirical research on open prisons by highlighting key theoretical concepts and frameworks that can guide future investigations into the effectiveness and impact of open prisons on prisoners, communities, and the criminal justice system. The section starts with describing the master narratives that have been applied in relation to the theoretical perspectives and will further go on to also be utilised in the analysis chapter, including those of the deterrence theory, restorative justice theory and the stigma theory.

4.1 Master Narratives

To understand the model of open prisons in the state of Rajasthan, I will be using three major theories or master narratives of deterrence, restorative justice and stigma. These are arranged and written in an order that is taken from, spoken and suggested by the cultural narratives as experienced by the prisoners, their families and the officials working in and around the prison system. However, before this, we need to understand the concept of *'master narratives'* and how it figures into the institution of the prison system in India. In his 1979 book "The Postmodern Condition: A Report on Knowledge," Jean-Francois Lyotard developed the concept of *'master narratives'* which can also be understood as an overarching tale or meta-narrative that rules and influences how society perceives history, knowledge, and advancement. These stories are frequently employed to defend and legitimize hierarchies and power structures from a post-modernist approach.

Edward W. Said (1978) spoke about 'master narratives in terms of Western discourses and how they presented the East as being illogical, foreign, and subpar to the West. Theorists and researchers have examined the ideology of 'master narratives' through the lens of discourse analysis and how power interacts with knowledge, saying that what is included and excluded from historical accounts is affected by power relations and social conflicts (Foucault, 1966 and 1969; Trouillot, 1995). An outlook or a different perspective of any individual into their own (or the societal) situation is what; McLean et al (2017) also identifies as 'master narratives' and

defines it as *"[…] shared stories that provide frameworks within which individuals can locate and […] view as enduring parts of the structure of society"* (pp. 633).

A further look at the theory of master narratives focuses on the fact that they often provide counter-stories to the current popular leading narrative. Another interpretation of *'master narratives'* is provided by popular historian and theorist Hayden White (2010) who understands this as factual representations of history that are influenced by the social context in which they are created as well as the historian's theoretical frameworks. He goes on to say that *"[…] there is no such thing as a real story. Stories are told and or written, not found"* (pp. xxv). Looking at it from a narrower perspective into the institution of prison systems, American professor and researcher, Donna Haraway (1984) argues for the necessity of challenging prevailing narratives and the significance of acknowledging the situated-ness and bias of knowledge. She goes on to further explain that oppressive power structures are reinforced by prevailing narratives of identity and difference, and these structures can be overthrown by an approach to identity that is more fluid and intersectional.

4.2 Deterrence

One of the sub-theories in punishment, the classical school of criminology (18th century) talks about deterrence as the *"[…] end of punishment, therefore, is no other, than to prevent others from committing the like offence"* (Beccaria, 1872; pp. 47). Furthermore, Bentham also says that the punishment or restraint unables the individual to commit the act and *"he is deterred from doing"* (Bentham, 1789; pp. 137). These scholars argued that punishment could be used as a deterrent to crime, by making the cost of committing a crime higher than the potential benefits. The two main components in the deterrence theory, which is also spoken by Beccaria and Bentham is of certainty and severity. The idea of certainty deduced that if individuals believed that they would be caught and punished for their crimes, they would be less likely to engage in criminal behaviour. Apart from this, the severity of punishment (the more severe, the better) focused on deviant individuals receiving the punishment, so as to avoid committing the crime again.

Moving from the classical school, the contemporary theorists in criminology talk about deterrence as an individual's way of preventing getting caught; and factors that go beyond

punishment. This includes perceptions of risk, social norms, situational factors and stigmatization. Taking notes from classical theorists, the modern school talks about deterrence in terms of conviction rather than punishment as the idea of a social stigma attached poses a sense of fear into an individual. Becker (1968) mentions *"offenders are more deterred by the probability of conviction than by the punishment"* (pp. 178); meaning that the perpetrators may be tempted to commit an act of crime if the chances of them being caught (and by extension, the severity of the punishment) are significantly less.

Wilson (2013) speaks along the same lines and says that *"One may deter a criminal by increasing the costs or reducing the benefits of crime"* (pp. 37). This may be understood in terms of institutional forms of punishment and can be seen as a critical view of the classical theorists to understand that every form of punishment cannot be certain and severe. Talking about the implications of imprisonment and the disutility of the deterrence theory, Polinsky and Shavell (1999) also agree when they say *"[…] raising the sentence and lowering the probability so as to maintain deterrence saves enforcement costs and either does not affect the public cost of imprisonment (if the disutility of imprisonment rises proportionally) or causes it to decline (if disutility rises more than proportionally)"* (pp. 2).

Theorists like Daniel Nagin (1998) say *"If fear of stigma is a key component of the deterrence mechanism, such fear would seem to depend on the actual meting out of the punishment being a relatively rare event"* (pp. 4). This also falls and means that individuals are forced to conform to social sanctions and tied to ideologies of deviance and cultural norms. Anderson (2002), when talking about punishment and deterrence mentions that *"Deterrence effects requires potential criminals to perceive a positive probability of detection and some type of punishment"* (pp. 296). Comparatively agreeing with Bentham's and Beccaria's wordings; Carlsmith et. al (2002) say that *"deterrence theory requires that the crime rate and publicity of the sentence be proportionate to the severity of the punishment but that detection rate and punishment be inversely proportionate to each other"* (pp. 286).

4.3 Restorative Justice

Restorative justice is a potent alternative to conventional methods of justice that can foster a more just and compassionate society by placing a strong emphasis on healing, accountability,

and community involvement. In all theories, the aspect of restorative justice points to the fact that every crime does not deserve a penal punishment. Rather, it should point towards an outlook of life that even the inmates should be treated humanely so as to have a positive viewpoint once they are released from the society. An important point to be noted in this section of the 'restorative justice' theory is that since the focus of this thesis is on the offender, the perspectives of the victims and the related theories have not been discussed in this section.

Some of the theorists' work has also contributed to the development of a potent substitute for conventional methods of justice that places an emphasis on healing, relationship-building, and community involvement. This theory was first applied by Albert Eglash in 1958 when he described the responses to different justice paradigms for the offenders. These included: "*(a) retributive justice, based on punishment; (b) distributive justice, based on therapeutic treatment of offenders; and (c) restorative justice, based on restitution*" (Ness & Strong, 1997; pp. 22). Howard Zehr (1990) went one step further to incorporate all the relationships between a crime and the actors involved in it. He wrote about this theory as *"[…] Justice involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance"* (pp. 181).

Looking at it from a humane aspect, Sherman and Strang (2007) talk about restorative justice as a theory that *"can prevent crime by making offenders feel more sympathy for their victims. […] If restorative justice can work to prevent crime and repair harm, it seems likely to do so by fostering remorse, not fear"* (pp. 12). Continuing from this aspect, author Michelle Brown (2009) explains the restorative justice theory as something *"[…] insist upon a movement away from the infliction of pain and the experience of harm and redirect personal and social efforts toward reparation and healing"* (pp. 203).

Going a bit away from the theory of restorative justice, authors Jonathan Burnside and Nicola Baker (1994), spoke about *'relational justice'* in terms of viewing the aspect of crime as *"achieving justice becomes more than simply punishing the wrong-doer; it is about putting right the wrong"* (pp. 72). However, apart from the aspect of the victim and offender perspectives; Angela Davis (2003) points out an interesting outlook of transformative "experience" or justice and how a prisoner can change his/her outlook by accepting the outcomes of their actions and *"acquire autonomy of their mind"* (pp. 57). This leads the prisoner to take accountability for his/her actions and consequences and then further mitigate

the damage caused. Continuing from this, Umbreit and Armour (2010) have also said *"Restorative justice, [...] views accountability as central to the rehabilitation of offenders. [...] attempts to draw upon the strengths of offenders and crime victims and their capacity to openly address the need to repair the harm caused instead of focusing on the offender's weaknesses or deficits"* (pp. 7).

Analysing this theory with regard to the open prisons in India, it is an upcoming development that is required, so as to augment the rehabilitative structure of the prisoners in the mainstream society. One key concept that we can explore and apply here is Emile Durkheim's (1960) *mechanical and organic solidarity* while exploring the concept of restorative justice in open prisons in India. Mechanical solidarity works around the collective conscience of the degree of crime and its deviance from the normal order of the society. Punishment would usually be met with quite harsh terms, looking at the moral as well as the ethical values of the community or society and will be relatively constraining in nature.

Contrary to the concept of mechanical solidarity is *'organic solidarity'* (as formulated by Durkheim) which examines the way interdependence within societies and individuals works. Although it seems to be more individualised than mechanical solidarity; it is often regarded as being evenly more humanely oriented with a focus on justice and restitution. Studying this concept in relation to the community and societal interactions within the open prison system, we can say that the model of open prisons seems to contest the notion of *'mechanical solidarity'* in which the inmates are allowed to leave the premises temporarily for the day-time for employment, and allowed to repair the damage or harm that they may have caused in order for them to be reintegrated into the society (Durkheim, 1960).

4.4 Stigma

Although there are many theoretical perspectives with respect to stigma (physical, mental, sexual, disability, etc), for this paper, I am going to focus on the cultural perspective. The theory of stigma was first conceptualised by sociologist Erving Goffman in 1963 'Stigma: Notes on the Management of Spoiled Identity' where he defines stigma as *"[...] will be used to refer to an attribute that is deeply discrediting, but it should be seen that a language of relationships"* (pp. 3). He goes on to explain this with respect to the stereotype attribute and says that *"[...]*

that not all undesirable attributes are at issue, but only those which are incongruous with our stereotype of what a given type of individual should be" (pp. 3). Similar to the theory of Goffman, Howard Becker in 1997 introduced the *'labelling theory'* which said that *"social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labelling them as outsiders"* (pp. 9).

Preceding to Becker's *'labelling theory'*, Kai Erikson (1962) spoke about stigma in terms of *"[…] formal confrontation between the deviant suspect and representatives of his community (as in the criminal trial or psychiatric case conference); they announce some judgment about the nature of his deviancy (a 'verdict' or 'diagnosis', for example); and they perform an act of social placement, assigning him to a special deviant role"* (pp. 311). Continuing from this, the theory of stigma as understood by Bruce Link and Jo Phelan (2001) can be defined as *"[…] entirely contingent on access to social, economic, and political power that allows the identification of differentness, the construction of stereotypes, the separation of labelled persons into distinct categories, and the full execution of disapproval, rejection, exclusion, and discrimination"* (pp. 367).

Braithwaite (1989) through his texts of 'Crime, Shame and Reintegration' understands and defines stigma as something *"Stigma is a deterrent […] a criminogenic transformation of a person's identity, role and behaviour more often than it prompts a rejection of deviance by the labelled person, stigmatization may still have a general deterrent effect on other persons who witness the misfortune of the outcast"* (pp. 20). Understanding this with respect to the open prisons in India, and agreeing with Becker's *'labelling theory'*, Braithwaite also concurs that stigma plays a big role within cultural perspectives; and further into subcultures as well; and how actions and consequences to the social norms and deviance take place. As already spoken by Becker, deviance has an additional aspect, i.e., *'secondary deviance'* devised by Edwin Lemert in 1951; *"[…] a person begins to employ his deviant behaviour or a role based upon it as a means of defence, attack, or adjustment to the overt and covert problems created by the consequent societal reaction to him, his deviation is secondary"* (pp. 76).

The labelling theory offers a useful framework for comprehending the social and cultural dynamics of deviance as well as how social labels and identities can affect people's behaviour and self-concepts. Theorists can gain an understanding of the ways in which institutions and social norms support the creation of deviant identities and create more equitable and just

policies and practices to address these challenges by investigating the social processes of labelling and stigmatization.

According to the stigma theory in criminology, certain groups are stigmatized as a result of cultural perceptions of crime and deviance. For instance, stigmatizing people with criminal records or incarceration can have a major impact on their capacity to obtain resources or find jobs, prolonging cycles of poverty and exclusion. Looking at the processes of open prisons in India, the idea of stigma plays a major role as it removes a certain objectivity of negative intentions that may befall them (or their families) if they continue to stay in prison. Adversely, the open prisons gives them an additional opportunity to be rehabilitated into the society with ease.

Approach to Research Methodology

Following the chapter on theoretical perspectives surrounding restorative justice and open prisons, this chapter will aim to narrate the different methods, tools and approaches used to analyse the data. It will also discuss certain limitations and ethical considerations as well as my reflexivity that originated during this study. The research question that was theorised and will be analysed in the following chapter is: *"How are the inmates, their families as well as the officials affected by the functioning of an open prison in Rajasthan?*

5.1 Data Collection

This thesis paper has been written based on the testimonials that were taken from an open-access account of the Instagram page called *'Open Prison Voices'*. The page itself is owned by Prison Aid + Action Research (PAAR), an organisation focused on advocacy and research surrounding open prisons in India. The open prison being studied is based in the city of Sanganer which is in the State of Rajasthan (west India) and hence the analysis and references in the following chapters refer to the state of Rajasthan, instead of India. There were 105 testimonials available on the Instagram page, out of which 91 testimonials that were gathered and studied. These included the testimonials from the prisoners, their families, officials working within the prison system and some working outside of it. Apart from this, certain analysis and references were also taken from secondary literature; including PAAR's official website, reports and documents from the National Crime Records Bureau and other literature surrounding restorative justice and open prisons.
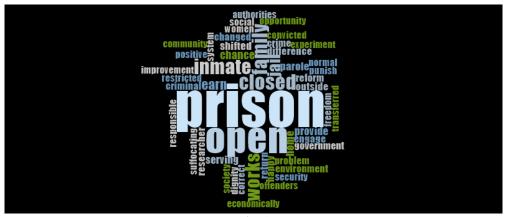

Fig. 1

As the Instagram page had a lot of posts, reels, as well as statistics; I sat down to segregate the data as per a work plan on One Note which included the creation of separate pages that are as follows: (a) General Information; (b) Testimonials from the prisoners; (c) Testimonials from relatives and others; (d) Testimonials from the officials at PAAR; (e) Statistics; (f) Published news and articles; (g) Important terms and concepts; (h) Other information; (i) Reels and/or videos. From the variety of testimonials, 91 testimonials were uploaded and added as documents on NVivo for further coding to take place. The words and phrases within the testimonials that were originally spoken in Hindi were then translated into English, and certain abbreviations have been expanded for the ease of the reader. The same has been mentioned in the *'Introduction'* chapter as well. Based on the initial coding and thematic analysis of the data on NVivo, the important key words that were found were transformed into a word cloud and can be seen as depicted in Fig. 2.

However, an important piece of information that came to light was that a lot of material and communication that was provided by PAAR on their website and Instagram page was incorrect and most often the references provided did not prove accurate. In such a case, those facts and statistics have not been included in this thesis. Additionally, the data that has been gathered is only till the end of March 2023 as I had to begin coding and analysing the data to write the thesis.

5.2 Coding Strategies

Continuing from this, once the testimonials had been uploaded on NVivo software for qualitative narrative analysis, I began to read through these to determine the codes that may be used for the *Analysis* chapter. For the coding strategy, I decided to use thematic analysis as it offers a certain level of flexibility and accountability and allows the researcher to create patterns (Braun & Clarke, 2012) and different kinds of coding patterns to arrive at their themes, analysis and an ultimate conclusion. Based on the first reading of the testimonials, similar patterns and themes were found and initial codes were generated along with the code book which is as follows:

Codes	Description
Environment	• *Landscape:* Setting and atmosphere (including the comparison) between the closed and open prisons. • *Physical*: Examines the resources and facilities that are provided to the inmates. • S*ocial climate*: Explores the concepts of social beings and enforces a culture of keeping in touch with their families.
Opportunity to Earn	Analyses how prisoners have a chance and opportunity to rehabilitate themselves a second time through gaining employment outside the prison.
Stigma	Examines the idea of loss of respect and identity, undertaking responsibility and second chances
Violence	• *Institutional*: Examines the pain and suffering that the inmates are put through which is indirectly a result of the kind of environment that they are staying in. • *Power relation*: Inspects the fact that power and authority plays a key role in determining the attitudes and behaviour of the inmates as well as the mainstream society.
Gender	Examines the gendered aspect through the lens of women and girls and their survival in the society (or with their families) in the closed and open prison.

5.3 Limitations and Ethical Considerations

During the research, study and writing of this paper, I faced certain limitations and ethical challenges. The data that has been gathered is only testimonials of prisoners in the open prisons. Although these prisoners have been shifted from a closed prison, a solid reality of living life in the closed prison could have been gathered. However given the time frame, and due to some logistic reasons, I could not travel to India to collect all the data. The research focuses only on cultural perspectives surrounding open prisons and with reference to India. The aspects and factors related to psychology, laws and policies which examine open prisons in India are not being analysed to an extent in this thesis. These have been mentioned in the *Background* chapter and to some extent may be explained in the *Conclusion* chapter.

The names and details of the testimonial respondents have been kept anonymous. Furthermore, the data has been gathered from PAAR's Instagram page (which is public and has open access) and although they will be acknowledged in the references section; I did not receive any official permission from the organisation. This is due to the fact that they have not been responding to either emails or messages via Instagram. I have tried to reach out since December (2022) via email and Instagram, but there has been no response. Additionally, I tried sending them a message on LinkedIn as well, but once again there was no reply from their side.

With regard to the data and narratives that were collected, an aspect of biasness might come into play as I did not use all the narratives (testimonials) posted on the Instagram page for my coding and analysis. Certain testimonials were left out due to absence of relevant information with regard to the thesis idea. As there were not a lot of testimonials by women (either prisoners or others), a lot of content within the gender couldn't be written. Apart from this, since the major part of the thesis focused only on the aspect of prisoners' point of view; an analysis into the victim's story and the accused-victim mediation was not conducted.

5.4 Positionality and Reflexivity

The research is based on some subjective interests and an objective viewpoint. With regard to this, as a native Indian woman, I am deeply aware of the rules, regulations, policies and laws that are in place concerning incarceration, gendered violence and stigma, etc. This leads me to assume a narrative position within the analysis section, some of which may be stemming from my own biases, judgements and assumptions. However, I have added these biases and judgements to my analysis to understand the narratives surrounding open prisons, stigma, violence and the environment within the prison system.

Recognising the Narratives in an Open Prison in India

As mentioned in the Methodology chapter, the narratives as well as the analysis surrounds the aspects, perspectives, and experiences of prisoners, families of the inmates as well as the officials and representatives of an open prison in Rajasthan. This chapter focuses on and analyses major narratives surrounding the environment of prisons; the prospect of a livelihood; the notions around stigma; violence; and gender within the closed and open prisons through the different testimonials that were collected in the previous chapter. Relating back to the research question, this chapter assesses the advantages and disadvantages of open and closed prisons in relation to the open prison in Sanganer (Rajasthan).

6.1 Environment

It's critical to acknowledge how colonialism has shaped the current prison system in India when discussing the principal narratives around them. The prison system was employed by the British colonial government to manage and penalise the Indian populace. The foundation of this system was a grand narrative that represented Indians as underdeveloped and in need of improvement and advancement. This narrative continues to influence the Indian prison system post-independence, emphasizing punishment and control over rehabilitation and reintegration. This has led to mass incarceration, overpopulation, substandard housing, and a high recidivism rate in the prisons. The need for restorative justice and community-based alternatives to incarceration are emphasized in counter-narratives that contradict the prevailing discourse. The humanisation of inmates takes priority in these narratives, recognising their agency and capacity for transformation. The foundation of this analysis follows McLean and White's theory that it is the *'story'* that shapes society.

6.1.1 Landscape

This sub-section explores the setting and atmosphere (including the comparison) between the closed and open prisons in Rajasthan. The prison systems in Rajasthan paint a picture of the environmental issues in the closed and open prisons. The closed prisons are infamously congested, often densely populated spaces that present suffocating conditions and are often compared to

being bound in 'hell' by the inmates. The landscape of the closed prisons is recounted in a manner of emotional turmoil:

> "[…] the family has to wait hours, unable to talk properly as one cannot hear a word owing to hundreds of people being present in the room"
>
> - male prisoner

The closed prisons are often seen as restrictive as they do not allow any movement and the prisoners need to stay in the cells for 20-22 hours, which then in turn does not allow them in actuality to achieve any goal, stay active or even be productive. The inmates feel that the act of 'staying idle' in a closed prison is a much worse punishment. In contrast, open prisons allow inmates to stay with their families and in doing so posits a culture that is seen to be law-abiding and encouraging. Many prisoners have seen a stark difference between the closed and open prisons; between the walls and suffocations of the closed prisons to the broad daylight of open prisons. As Beccaria (1872) and Bentham (1789) have also noted that *"[…] end of punishment, therefore, is no other, than to prevent others from committing the like offence"* (pp. 47) and *"[…] is deterred from doing"* (pp. 137) respectively; the aspect of a landscape punishment as well as the environment turns positive in an open prison.

The environment of the open prison is perceived as welcoming and accessible, allowing offenders to move about freely, dress normally, interact with others (including other inmates and staff members), and go outside and engage in a job without feeling imprisoned or limited. This also means that the prisoners may find the adaptation and rehabilitation into the mainstream society (including with their families, relatives and the larger community) quite straightforward and get accustomed within the mainstream community without any difficulties or complications.

> "The biggest difference between closed prison and open prison is access to freedom. Here, the environment within the open prison is healthy, peaceful and we can actually think about shaping our future. Whereas the closed prisons are confining, 'pinjara chahe sone ka ho pinjara toh hota hi hai' (a golden cage is still a cage)"
>
> - male prisoner

This hospitable environment of the open prison further provides the inmates with the possibility to pursue various opportunities, thus, may prove beneficial by deterring them to commit future crimes. In this regard, Angela Davis (2003) also talks about transformative "experience" or justice. She notes that a prisoner can change their outlook by accepting the consequences of their actions and *"acquire autonomy of their mind"* (pp. 57). Combined with living with their loved ones, these inmates view the open prison as an institution that is therapeutic and humane, allowing them to lead a life without any kind of regrets, stigma or shame.

6.1.2 Physical

Moving from the landscape environment, this sub-section examines the resources and facilities that are provided to the inmates within the open prison in Rajasthan. As mentioned above by an inmate, the confinement in a closed prison is seen as suffocating and traumatic. This is further fuelled by the infrastructure of the prisons that restrict movement and have resource scarcity, leading to brawls and violence amongst prisoners. As per a report of the National Crime Record Bureau (2021), *"Almost 54.3% (Rs. 1143.34 crores) of total expenses on inmates were spent on food followed by 5.0% (Rs. 106.23 Crore) on medical matters, 1.3% (Rs. 27.78 Crore) on clothing, 1.0% (Rs. 20.50 Crore) on welfare activities and 0.6% (Rs. 13.16 Crore) on vocational/educational trainings"* (pp. 265).

Due to the closed nature of prisons, inmates are often kept away from their families or are allowed to meet them for only 10-15 minutes through bars without any physical contact. Many families travel from faraway places for just a short amount of meeting time; the cost and effort for this makes them stop visiting the prison altogether and eventually leading to discontinued visits (sometimes by choice, and at other times due to the fear of losing face in the society).

Compared to traditional jails, open prisons often feature less limiting physical buildings, giving inmates more freedom of movement within predetermined limits. There could include dormitory-style housing, recreational areas, facilities for vocational training, and rooms for educational activities as part of the physical infrastructure. As Zehr (1990) said, *"[...] Justice involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance"* (pp. 181). Due to this, offenders have the chance to engage with the neighbourhood, take part in worthwhile activities, and make amends, fostering their reintegration and attending to the needs of victims.

Apart from this, some relatives or family members may also engage in bribes to stay longer or to come more often to bring personal items for the inmates. This system of *'mulakati'*[2] further confines the prisoner and adds to their feeling of inhumaneness, and an instance of this can be seen in the quote below:

> "[…] facing a life sentence generally lose the will to live".
>
> - Additional Director General (Prisons), Rajasthan

Moreover, this environment is made worse for the prisoners by not giving them a sufficient area as the cell space is shared by 50 (or more) inmates. As Turner et al (2022) say, *"[…] prison space presents itself as a flat, texture-less landscape, often purposefully devoid of sensory engagements and their affects, which is altogether reasonable when we consider the stark imagery of, in particular, maximum security custodial spaces"* (pp. 4-5). Consequently, due to less amount of prison work available in overpopulated prisons, prisoners get involved in the creation of gangs, and cults, and become the source of most conflicts. Many prisoners have also pointed out about the unhygienic nature of their prison cells where they would often have their toilets and latrines within the cell. This is furthered by overcrowding of the cells and leads to ordeals regarding breathing spaces. It seems to be crueller for *'accidental offenders'* as they are either paired up or put in cells that have high-level offenders and convicts.

In comparison, the open prisons are described as a safe haven that produces disciplined and positive inmates who are optimistic about the issues surrounding stigma and are economically productive. The physical nature of the open prison (in a structural manner) allows its inmates to live a life of choices, i.e., in terms of constructing their home (or quarters); leading a humane life close to their loved ones; and most importantly, realising how petty (or accidental) crimes can often turn into living in the most barbaric circumstances. An example of a statement for the physical conditions of the prison institutions can be seen below:

> "In the closed prison for the first few years, the introspection leads
> to the correction and thereafter provides the motivation to keep up
> the good conduct for the individual to move to the open prison".
>
> - Additional Director General (Prisons), Rajasthan

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[2] A system where inmates are allowed to meet their families for a short, limited span of time.

The architecture, amenities, and surrounding landscape make up the physical environment of open prisons. In comparison to typical prisons, open prisons frequently contain fewer limiting physical structures, allowing for more freedom of movement and autonomy for inmates within predetermined limitations. Both restorative justice and deterrence ideas must be implemented in these physical contexts. According to Wilson (2013), *"One may deter a criminal by increasing the costs or reducing the benefits of crime"* (pp. 37). The physical constructions can be planned to support the idea of oversight, responsibility, and control from a deterrence standpoint. Security precautions like perimeter fencing or surveillance cameras can serve as audible warnings of the repercussions of criminal action. This is consistent with the rational choice and situational crime prevention theories, which contend that physical barriers and overt observation deter potential perpetrators.

6.1.3 Social Climate

The aspect of social climate explores the concepts of social beings and enforcing a culture of keeping in touch with their families. Moving a bit away from the structural aspects of the prison institutions in India, this sub-section will focus on the socio-cultural aspect of the open and closed prisoners in India through the famous saying that 'Man is a social animal' by Aristotle.

> "They are engaged in the routine of everyday life – working, cooking, shopping for vegetables and sending children to school. What can be more normal than that? The prison is like any other residential colony"
>
> - female (convenience shop outside the open prison)

It is crucial to consider the social context that inmates live in while discussing a prison's surroundings. This can be either with their family or just the surroundings that builds productivity and positivity within them. The majority of the inmates agree that life in an open prison provides a better solution for reformation and rehabilitation. The fact that they are allowed to stay with their families within an open prison setup makes them feel safe, comfortable and reduces the stress. This can be seen from the point of view of a male prisoner in Sanganer's open prison below:

> "The closed prison stands for loneliness, helplessness and depression. In the open prison, I roam all day and play carrom with friends".
>
> - male prisoner

Compared to closed prisons, prisoners in open prisons have learnt to be more productive, stand on their own feet and support themselves and their families (even if they live in a distant village) by staying active. This can happen either by finding employment outside the open prison set-up or helping out with documentation, farming, etc within the prison. Coming from the previous section as well, a lot of inmates have made comparisons between the physical structure of the prison institution and the social environment playing a role in the change of attitude of the inmate. When we analyse this with what Trishna Senapaty in 2023 has said that *"Prisoners occupy multiple subject positions within and beyond the gates of the open prison, as they navigate the city with their conditional freedom"* (pp. 11). Being a socialist country, India relies majorly on family ties and communal relations; without which the citizens (especially the prisoners) would find it difficult to survive. The same can be understood by an inmate's experience, as seen below:

> "The difference between the two jail formats is that in the closed prison I would die to speak to someone and here I actually have my family come and stay with me. I have made myself useful in the open prison. The open prison does the reverse: it creates a bhookh (hunger) for the individual to go out and prove that he or she is not bekaar (useless)".
>
> - male prisoner

Contrary to what everyone assumes about the nature of a prison institution (especially with regards to the open prison), it is not about keeping people in jail but providing them with a chance to see what reformation can look like if they start to live a lawful life (or acting as deterrents for the others by making them understand about the harsh realities of living in a closed prison) and for an easy rehabilitation into the society so as to prove that the label of being a 'criminal' can be turned around. As opposed to Beccaria (1872) *"[…] end of punishment, therefore, is no other, than to prevent others from committing the like offence"* (pp. 47); the penal form of punishment in a prison institution may further push the individual to the brink humiliation rather than deterring them for committing the crime again.

> "I do not think open prisons can help in 'preventing' crimes, but the second chance that people get here can ensure that 'repeat offences' can be reduced".
>
> - male prisoner

This goes on to show that the prisoners have the ability to critically think about their futures, a willingness to change and a constant conscious reflection on their mistakes in order to bring about a transformation and improvement in their lives.

> "The open prison has had the biggest sudhaar (improvement) on me. Earlier I would get to spend 15 minutes every two months with my family, now I meet my family whenever I want. We are all saamaajik praani (social beings) but in the jail we are cut off. The atmosphere of the closed prison is such that it can break the will of even the strong".
>
> - male prisoner

Furthermore, within closed prisons, prisoners are surrounded by a certain culture of negativity; uncertainties about their future, their release and a sense of helplessness. And this is why the open prison seems like a bliss to these inmates as they keep appealing to the court to be transferred to open prisons.

> "My good conduct in the closed prison got me 'promoted' to the open prison where I could do two things: stay with my family and earn a living [...] not affected by the jail conditions as much as she/he is by the uncertainty. The open prison gives us freedom, where we can own phones, speak with our family members, friends and relatives and most importantly we can even stay here with our family. The best thing about the open prison? Everyone lives in harmony. No gaali-galouch (quarrelling and cursing)".
>
> - male prisoner

The less restrictive environment and incredible opportunities for social interaction help refine the detainees and separate them from preconceptions about jail. By giving inmates the chance to

participate in worthwhile activities and form relationships with the community, open prisons help to change society's perspectives and close the social gap that exists between the general public and those who are imprisoned. Decreased shame increases the detainees' chances of finding employment, housing, and motivating groups of people after release, which benefits their reintegration into Indian culture.

6.2 Prospect of a Livelihood

This aspect analyses how prisoners have a chance and opportunity to rehabilitate themselves a second time through gaining employment outside the prison. In the setting of open jails in India, the relationship between the restorative justice philosophy and opportunities for livelihood goes beyond simple rehabilitation. Inmates feel more empowered to accept responsibility and atone for their crimes in open prisons. Inmates develop a feeling of purpose and self-worth through meaningful work. For instance, the acquisition of vocational skills helps with their successful reintegration into society. In addition to promoting economic stability, the possibility of earning a living via employment options promotes the growth of social relationships, boosts self-esteem, and lessens the chance of recidivism. Looking at this from an accountability point of view, Howard Zehr (1990) also speaks about the idea of justice which "*involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance*" (pp. 181). This aspect of mediation, an attempt at a second chance, as well as assimilating their prison sentence with the opportunity to work in an effort to be reintegrated into the mainstream society makes the individuals reluctant from committing any other crime in the future.

> "If you consider the closed prison to be the reverse gear, then an
> open prison is the second gear that builds momentum to ready for
> the higher gears of one's life".
>
> - Additional Director General (Prisons), Rajasthan

A lot of inmates believe that the justice system in India has brought about a much-anticipated change in their lives after their shift to the open prisons. They often refer to being fortunate enough to be able to do so. Their ability to work, dwell with their families, lead a humane life and be normalised into mainstream society becomes the foundation of their existence towards a second life.

> "The savings that I make have become a foundation for my financial
> independence when I will be released. This is what makes the open
> prison futuristic. That environment helped bring about a number of
> positive changes: improved my reading, strengthened my English
> and enhanced my engagement capability with the outside world".
>
> - Input from prisoners

Within the open prison, the inmates acquire an ability to find work and sustain themselves (while also understanding that there is a time limit to when they have to be back). This motivates them to perform and accomplish a little more than what they were originally pursuing in order to raise their status in society post-release. Moreover, the incentive of staying with their families generates a sense of ease to transform and be rehabilitated into the society.

> "Open-air camps are good. One can go out for work, get a job or gainful employment and get back to the premises within the permissible time limit".
>
> - male prisoner

A lot of prisoners, in an attempt to fulfil their responsibilities and build a new identity within the prison, start new businesses or professions. They feel that it would give them a new lease of life and perhaps help them save up so that they can save up to expand their business outside the prison institution. In addition, such small prison businesses can help other fellow inmates with a head start in their professional careers. This gives them a sense of individuality to lead a life with dignity.

> "When I came to the open prison, I found work as a bike courier and it is from that occupation that I got the idea to buy my own e-rickshaw". […] a number of open prisoners becoming e-rickshaw owners to start with. Karz bhi mil jaata hain (I get a financing loan easily), the rate of interest is affordable and I make a reasonable living".
>
> - male prisoner

6.2.1 Provision of Employment to Oneself and Others

From working with certain people and businesses to owning their own, the inmates in the open prisons have come a long way and these lines of work help the prisoners to earn their own livelihood, engage with their families and fulfil their societal obligations as well.

> "In the Jaipur Central Jail I would earn only Rs. 120 each day for all the majdoori (labour), but mazey ki baat yeh hai ke (the fun of

the matter is that) I now earn about Rs. 12,000 a month. […] Earlier I would never be able to send money to my family, but that has now changed. Just last month, I sent Rs. 5,000 to my wife. I feel more fulfilled. More productive. More useful".

- male prisoner

Working within or outside the prison system makes some prisoners aware of the stigma and rehabilitative situation in the mainstream society. This motivates them to help the other inmate in terms of offering them opportunities to work or help them find work. As Angela Davis (2003) talks about 'transformative justice' and "acquire autonomy of their mind" (pp. 57); this change in the behaviour of any prisoner allows them to be free of stigma in the present or future.

"For my living, I drive a battery rickshaw. I leave every morning after the prison counting and return by 1 pm; then I go out from 3 pm to 6 pm. I earn around Rs. 800 every day. This helps me take care of my family and myself".

- male prisoner

The chance for offenders to work or receive vocational training is an important source of income in open prisons. Offenders can find a sense of purpose through meaningful work and the development of useful skills, and they can also contribute to their own financial security once they are released. As Umbreit and Armour (2010) have said, *"Restorative justice, […] attempts to draw upon the strengths of offenders and crime victims and their capacity to openly address the need to repair the harm caused instead of focusing on the offender's weaknesses or deficits"* (pp. 7). This component of open prisons aligns with the restorative justice notion of accountability because of the active steps criminals are taking to atone for their crimes by achieving independence and making constructive contributions to society.

6.3 Stigma

The stigma narratives examine the idea of loss of respect and identity, undertaking responsibility and second chances According to the stigma theory by several theorists such as Goffman and Howard Becker, those who have engaged in criminal activity (or rather deviant acts) are frequently given unfavourable labels and stereotypes, *social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labelling them as outsiders"* (Becker, 1997; pp. 9); which causes such individuals to be socially excluded and marginalized. Accidental offenders are particularly susceptible to this stigmatization because they may have committed a crime as a result of coincidental circumstances or a lack of intent. Despite their lack of criminal intent, they could be subject to harsh judgment and be classified as criminals. Open prisons take this part of the stigma theory into account and offer a supportive setting to lessen the stigmatization that unintentional offenders experience.

> "The psychology of society is such that when they even hear the word 'criminal' they instantly think of a heartless monster, someone who can never change or ever feel guilty for their mistake. If I would not have been an inmate I would have thought the same way".
>
> - male prisoner

The outlook of confinement, respect, and identity resonates with every inmate in closed prisons and they make an appeal to be shifted into the open prisons. However, the concept of stigma is often attached to any kind of inmate; whether or not they were imprisoned for or due to a petty crime, *'accidental offender'*, or just as a wrongfully-accused person. The notion of associating a narrative of 'criminal' with any person harms their chances of returning to and being assimilated into mainstream society.

> "[…] there is another reality that most people forget: 90 per cent of the inmates are not habitual offenders. Most of their criminal acts were the result of revenge or provocation but by staying in the company of habitual offenders (who evoked fear), fringe criminals got sucked into a vortex. This vortex makes it imperative to segregate those who can reform from those for whom it may be

difficult to reform. The open prison is a laboratory where prudent segregation can be carried out".

- IPS[3] (Retired), ex-Director General (Police), ex-Director General (Prisons), Rajasthan and Member of the Advisory Board of Paar

The following minor sections give us an insight into the differential role that the ideology of stigma plays in regard to the respect, identity and responsibility that the inmate may assume; either with regard to himself/herself or the larger community in general.

6.3.1 "Accidental Offenders"

As challenging as it is to reside in a prison (be it closed or open) for an inmate, the positive description and quality of the open prisons make it easier for an offender to believe that there is a chance at starting anew in society. As mentioned earlier, some individuals may be falsely accused of a crime or some, just be targets of bad luck and/or misfortune. This gives rise to the term *'accidental offender'* wherein he/she is placed in such a situation where they may regret committing an offence. The stigma that comes with being a regular prisoner is in every community, society or country; however, in the case of an *'accidental offender'*, the stigma concept often portrays harsh consequences, generally ostracised by the society. This most likely results in the prisoner or offender facing the provocation of societal implications and ignorance as well; this is also the reason why some family members cut ties with the inmates to save face within their own community.

> The Indian society provides a supportive social milieu for such institutions. In India, there is a greater understanding of the criminal act as an aberration. The objective of the penal system should not be just to punish with severity but it should be dovetailed with giving convicts a second chance in life. There is a need to reappraise the conventional approach because there is a growing recognition that not all crimes are born out of a criminal mindset and are more often than not the result of a moment's aberration for which one is

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[3] IPS stands for Indian Police Service, part of the All India Services under the Ministry of Home Affairs, Government of India.

punished across the years and whose impact extends across the decades.

- Director-General of Police and former Director-General of Prisons, Rajasthan

In this regard, the open prisons provide an institution of relief and restoration (and/or a belief) in a justice system which aims at reformation. The nature of the open prison makes the individual(s) and the larger society recognise the fact an offender has a possibility of a second chance in life and can be reintegrated into the mainstream society.

"[…] the 'accidental offender' who emerges is virtually reformed. My husband is now a changed person because he knows the pain of staying without the family. Every prisoner who wants to reform himself should get a chance to spend part of his sentence in the open prison".

- Wife of an inmate

The open prison presents an advantageous front through its restorative and rehabilitative paradigm and attempts to transform the penal form of punishment in India into a more humanitarian model.

"These prisoners have better chances of reformation in an open prison than in a closed one because staying with their families is therapeutic, enhancing their realisation of what they would miss out on if they ever shifted to the dark side. […] need to 'market' the concept of societal reintegration to state governments. […] need to address the traditional overhang of 'aadmi criminal hain to sazaa to milni chaahiye' (If a person is a criminal, he or she will need to be punished). […] concept of penal treatment needs to move to reformation and correction".

- IPS (Retired), ex-Director General (Police), ex-Director General (Prisons), Rajasthan and Member of the Advisory Board of Paar

Accidental offenders may have more trouble overcoming the stigma because society often perceives them as morally dubious or unreliable people. This stigma might make it more difficult for them to find work, housing, or community assistance, which can impede their efforts to reintegrate. With their emphasis on rehabilitation and reintegration, open prisons seek to combat this stigma by giving inadvertent offenders the chance to learn new skills, participate in fulfilling employment, and receive counselling or support services. Open prisons aim to lessen the stigmatization experienced by unintentional offenders and facilitate their successful reintegration into society by challenging societal preconceptions and offering a friendly environment.

6.3.2 Responsibility

Arising from the stigmatisation of the prisoner (or even the accidental offender) is the issue of the responsibility towards the family and inevitably the larger society in general. Traditionally in India, this responsibility is placed with the breadwinner of the family, mostly the elder males.

> "I feel good that I am finally being able to play a responsible family role. […] remember telling my wife that 'Tu chinta mat kar. Ab yahaan se main sambhaal loonga. ('I will manage everything from this point onwards)"
>
> - male prisoner

In this situation, the open prison helps play a major role in allowing the prisoners to go out and work as part of their responsibility obligations towards their families. This can also mean that the family members (especially the women) who have no educational or vocational background need not be burdened and/or left alone to fend for themselves.

> "This open prison has given me a chance to live again and do the right things in this second life. The best thing about the open prison is that I am finally out despite the fact that I am still staying in a prison. I have been able to rectify a lot of my errors primarily because my family is with me".
>
> - male prisoners

6.3.3 Respect and Identity

Respecting and protecting the identities of inmates are principal priorities in open prisons and as Braithwaite (1989) understood it, the aspect of stigma was quite a powerful deterrent clubbed with the labelling perspective for other individuals who can be prevented from committing a crime or offense, as the loss of identity and respect in society would mean all kinds of social ostracization in their own community (for the individual as well as their family members). Open prisons prevent the harmful impacts of stigmatization and help people reclaim their sense of self-worth and purpose by fostering a sense of respect and dignity. They place a strong emphasis on treating inmates with respect and dignity because they understand that everyone has the capability to change and make constructive contributions to society. This strategy aids in giving them back their sense of value, boosting their confidence, and reclaiming their identity outside of their criminal past. When Daniel Nagin (1998) spoke about stigma and deterrence in terms of, *"If fear of stigma is a key component of the deterrence mechanism, such fear would seem to depend on the actual meting out of the punishment being a relatively rare event"* (pp. 4); it meant that deviance and social sanctions have an impact on stigmatisation and the character of an inmate. As also stated by Braithwaite in 1989 *"[...] stigmatization may still have a general deterrent effect on other persons who witness the misfortune of the outcast"* (pp. 20). In this regard, open prisons prevent the harmful impacts of stigmatization and help people reclaim their sense of self-worth and purpose by fostering a sense of respect and dignity.

> Open prison allows us to do something substantial for ourselves which is not the case of closed prisons. […] allow us as convicts to engage in gainful employment, re-establish a sense of financial independence and stability and a sense of dignity. Many of us can support our families again."
>
> - male prisoners

The aspect of stigma is mostly associated with the loss of respect and identity within the family as well as the larger society. Since they are not constrained by the restrictions of a closed prison institution and are free to go out and work, care for their families, and most importantly, live with dignity, inmates in open prisons are able to lead respectable lives.

"Every prisoner I met had a dream to go to an open prison and it was not only because of the freedom but most importantly about the dignity".

- fellow prisoner (media and communications expert)

"My identity had been lost within those four walls. […] can take care of my family. It doesn't feel like I am 'confined'. Family ki nazar mein uth gaya, (I have earned respect in the eyes of my family)".

- male prisoner

The open prisons have created a different set of worlds for the inmates where they can choose to stay with their families, work in respectable surroundings, liberate themselves from the crime or offence that they committed and gain a second chance at redemption.

"Open Camps are not only liberating but allow us to live like normal people. […] leaves me with some surplus in hand to lead an izzat ki zindagi (life of respect).

- male prisoner

6.3.4 Second Chance

An openness to acquiring another possibility to reform their lives. The open prison provides the inmates and motivates them to make changes in their life, post-release so that they can be rehabilitated into the society with ease and have a life without any additional humiliation or shame. As Davis (2002) also points out, *"what audiences think they know, what they value, what they regard as appropriate and promising"* (pp. 17–18). The concept of an open prison makes the mainstream society also realise the benefits of giving individuals a second chance and normalising life for these prisoners so that they do not fall back into the world of crime again.

"The open prison is also more economical. We are at the inflection point of history where the conventional perspective of 'imprisonment' is being replaced with 'correction', where the rigidity of the 'lost chance' is being replaced with the concept of

'second chance' and where 'punishment' is being replaced by 'forgiveness'".

- Additional Director General (Prisons), Rajasthan (Jaipur)

Open prisons aid offenders' reintegration into society by allowing them to serve their sentences in a less regimented and severe setting. People in these jails have the chance to take part in educational programs, skill development projects, and vocational training. They gain new skills, enhance their work opportunities, and grow with self-sufficiency as a result of this. The focus on rehabilitation and reformation in open prisons is consistent with the notion that everyone deserves a chance to start over and make meaningful contributions to society, regardless of the wrongdoings of the past.

"Some of the myths that the successful open prison concept has demolished is that inmates will escape if they are not locked, that people don't fundamentally change and that once a criminal always a criminal. It is a refreshingly different approach to one of the oldest problems facing humankind".

- Superintendent of Women's Prisons Jaipur

Being classified as an offender has a stigma that can reinforce unfavourable opinions and limit one's options for jobs, housing, and social inclusion. These restrictions may make it more difficult for a person to properly reintegrate into society, which undermines the very idea of second chances. The idea that criminals are fundamentally unworthy or dangerous can pervade the prison atmosphere, resulting in disrespectful behaviour from both staff and other prisoners. It might be difficult to imagine a bright future or build a strong sense of self beyond the criminal past when the label of being an offender overshadows other aspects of one's personality. The open prison system challenges stigmatizing views, promotes pleasant relationships, and cultivates an atmosphere that is supportive of human development and rehabilitation by fostering a culture of respect.

6.4 Violence

As a response to crime or offence, the institution of restorative justice places an emphasis on mending the harm done and attending to the needs of both victims and offenders. It encourages

communication, empathetic behaviour, and responsibility as essential elements of the legal system. However, there are several difficulties when used in the setting of institutional violence. It may be difficult for prisoners to openly express themselves or feel empowered during the process due to the power disparity between authorities and detained people making restorative justice approaches not effective enough. As Michelle Brown (2009) has also said about the relationship between violence and restorative justice to be *"[...] insist upon a movement away from the infliction of pain and the experience of harm and redirect personal and social efforts toward reparation and healing"* (pp. 203).

Power dynamics nevertheless continue, even in open prisons. If sufficient safeguards and oversight measures are not in place, authorities still retain and exert their influence and have the power to indulge in institutional violence. Making sure that the restorative justice procedures in open prisons actually address power disparities foster healing and accountability presents a problem as open prisons' full potential is hampered by issues including resource shortages, overcrowding, and a lack of options for vocational training. To improve the efficiency of open prisons and guarantee the welfare of both inmates and staff, officials must allot sufficient funding and put evidence-based measures into place. It necessitates creating an atmosphere where inmates feel secure participating in the restorative process, have access to help and resources, and have their opinions and experiences valued.

6.4.1 Institutional

The aspect of institutional violence examines the pain and suffering that the inmates are put through which is indirectly a result of the kind of environment that they are staying in. As per the deterrence theory according to Anderson (2002) *"Deterrence effects requires potential criminals to perceive a positive probability of detection and some type of punishment"* (pp. 296). However, institutional environments (such as the open prison) should prioritize responsibility, surveillance, and obvious penalties for misconduct. The staff in open prisons ought to be extremely important in supervising and directing offenders and guaranteeing adherence to laws and regulations. The institutional setting should put special emphasis on striking a balance between preserving community safety and security while also offering options for rehabilitation and reintegration.

The philosophy of restorative justice emphasizes the value of developing an inclusive and participatory institutional environment. It is important for offenders to actively participate in

decision-making, including developing their own rehabilitation and reintegration plans. The personnel should take on a facilitative and encouraging role, encouraging the offenders to feel accountable and responsible. Additionally, the institutional setting should encourage collaborations with the neighbourhood community and their active participation in the restorative processes.

> "[…] find it ironical that we catch an offender, put him in jail and no improvement happens thereafter in a closed prison. Most inmates emerged with even more messed up minds – not because they are hard-core criminals but because the claustrophobia and depressing conditions of closed prisons breaks their last resolve to reform, emerge and contribute".
>
> - Police Inspector, Sanganer Open Prison, Jaipur

Prisons are often seen as institutions that promote a system of crime control, and this is what the mainstream society also understands that prisons should exist so that the *'criminal'* understands the consequences of his/her actions. This institutionalisation of prisoners creates a sense of discomfort and an aspect of violence. As we have seen before, the loss of confidence and the feeling of being useless is actively engaged within the inmate through authoritarian and institutional hostility.

As mentioned above, talking about the environment of the prison has an impact on the inmate as well in terms of surviving and grasping the degree of violence in closed and open prisons. Building on Christie's work (1977), certain kinds of institutional or non-institutional order communicate with the individuals on how to live and survive in that particular community. Brown (2009) in her book also mentions that *"the force of punishment is always implied in the foundations of social order"* (pp. 33). Within the open prisons, although the inmates still have to engage with the courts, they get some amount of breathing space from the constant influence of the bureaucratic authorities. The open prisons allow this system wherein the prisoners are in charge of maintaining their self-discipline, and self-preservation and seeing to it that their actions inside the prison system do not influence their consequences in the mainstream society.

> "There are a number of advantages of the open prison system. It doesn't make families pay the price for an individual's failing. The

difference in the staff; prisoners ratio is moving towards self-regulation. One can't put 2000 people into a single location and hope they will reform just because they have been boxed in for years. Initially the concept was that the government would provide inmates with work but when the government failed to do so, the inmates went out and sought work themselves – an unexpected breakthrough".

- IPS (Retired), ex-Director General (Police), ex-Director General (Prisons), Rajasthan and Member of the Advisory Board of Paar

As mentioned earlier during the analysis of the stigmatisation of a prisoner, there is a notion surrounding crime and punishment; that an inmate should suffer for the crime that he/she committed (no matter how petty it might be). But for someone who has been shifted to the open prison after a complete background and verification check; it's still a game of ritualistic psychological comparison in terms of the processing, functioning, toxicity and the cultural aspects between the closed and open prisons. The convicts mentally feel calm and tension free because of the extensive terrain and unrestricted movements, which is a prerequisite for bringing about an attitude shift and making them susceptible to rehabilitation approaches (Akhtar and Fatima, 2022; pp. 131). This can be seen from a testimonial of two male prisoners below:

The chhut-putiyas (anti-social elements) in the closed prison spoil the maahaul (environment) for everyone. "Closed prison aadmi ko khokhla bana deti hain (closed prisons make people hollow from within). […] kaam-kaaji aadmi (active person) starts to think that he is useless.

- prisoners (male)

"The biggest objective inside the closed prison is to protect one's dimaagi santulan (mental balance) and live with the dream that one day one will be summoned to the prison office and told 'Boriya-bistra baandh ke tayyar ho jaao. Tumhe khula shivir bheja ja rahaa hain. (Wrap up your belongings. You are being sent to the open prison)".

-   prisoners (male)

Understanding open prisons' effectiveness in connection to the deterrence theory requires an understanding of the institutional aspects of violence and power dynamics. As Becker (1968) mentioned, *"[...] offenders are more deterred by the probability of conviction than by the punishment"* (pp. 178). The ability of open prisons to prevent crime might be hampered by inadequate rehabilitation programs and a lack of safety precautions. The effectiveness of deterrent tactics can also be affected by power disparities between staff and inmates and within the prison population.

6.4.2 Power Relations

Coming from understand the institutional violence within the prison set-up; this sub-section inspects the fact that power and authority plays a key roles in determining the attitudes and behaviour of the inmates as well as the mainstream society

> "In a closed prison, the inmate literally trembles in the presence of the jailor. In the open prison, the power dynamics are different: there is a greater balance in the engagement and yet curiously I have discovered that no inmate will be tempted to commit excess or transgress. In a lot of ways, the environment inside an open prison is close to an ideal world where both sets of parties respond with responsibility: one wields the power but does not brandish it; the other does not take undue advantage and stays within limits".
>
> -   Police Inspector, Sanganer Open Prison, Jaipur

Usually, when we talk about power relations within the institution of prison systems, people understand it in terms of instilling or forcing authority over individuals (or rather the prisoners) to follow the norms and values of the society or the characteristic of being deviant will not permit them to exist in such a society. As per Innes (2003), *"the modes of social control that involve the enforcement of law in some sense pivot around the role of state, restorative justice focuses upon the victim and offender, the harm caused by the incident and how this harm can suitably be redressed – either through an apology or some other form of reparation"* (pp. 93). The prisoners in India are aware that there are regulations for daily life and communal living, but from a humane

standpoint, there shouldn't be a lot of authoritarian power displays because this will have a bad impact on the prisoners after they are released.

> "Zindagi niyam se chalna chaahiye (one should follow rules in life). In the closed prison, the authorities do not like to see the prisoners happy as they feel that if they did become so, they would become baraabar (equal) with the authorities. The result is that they like to keep the prisoners in a state of fear".
>
> - male prisoner

Speaking about the aspect of authority in prisons, open prisons have distinct advantages that set them apart from the closed prisons. Power relations in open prisons seek to address the challenges and detriments that come with the confinement, and loss of communal ecosystem and pursue a sense of normalisation for the prisoners and their families. Symbolically, the open prisons stand for an institution wherein the aspect of violence is seen in terms of being positive, and equal and the inmates have a sense of rehabilitation into the mainstream society once they are released.

> "I am often asked as to why I don't wear my uniform while taking the attendance of prisoners. The whole point of shifting them to an open prison is to provide them with a second chance. If you look around, you will see their children playing all day long oblivious of the fact that this is still a prison. It would be unfair if we as prison guards snatched this normalcy from their lives by treating them like a qaidi (prisoner). We redress the imbalance by treating them like normal people, a feeling most largely forget, when they come from a conventional jail".
>
> - Constable, Open Prison, Sanganer

The open prison in Sanganer (Rajasthan) has introduced an excellent concept of 'Bandi Panchayat', a unique initiative wherein the inmates are allowed to form their self-governing bodies. The panchayat maintains coherence between the prisoners and the prison staff, resolves disputes among inmates and living conditions-related issues and manages the open prison's electricity/water bill distribution (Open Prison Voices, 2023). This allows a perception of

equivalence to exist within the prisoners as well and makes them feel that they are not placed in a disadvantaged position, if and when dealing with the higher authorities.

> "When it comes to penal systems, the growing argument the world over is whether we need to de-regulate inmates to facilitate - and even accelerate - their mainstreaming. This happened not a day too soon because there is a growing recognition that high-security prisons generate their own kinds of problems that are not easy to undo and correct".
>
> - IPS (Retired), ex-Director General (Police), ex-Director General (Prisons), Rajasthan and Member of the Advisory Board of Paar

Violence and power dynamics in open prisons have an institutional component that necessitates thorough analysis and intervention. Violence occurs inside these facilities because of inadequate funding, weak regulations, and the presence of gangs. The experiences of those behind bars are further shaped by power disparities between staff and inmates, institutional stigmatization, and inmate power structures.

6.5 Gender

This last sub-section examines the gendered aspect through the lens of women and girls and their survival in the society (or with their families) in the closed and open prison. Women and girls in India often face violence and neglect due to dependence and lack of access to resources, and social prejudice (economic, political, social and/or religious). They are vulnerable to discrimination regardless of where they are positioned on the economic and social spectrum. Additionally, their vulnerability increases significantly if they are poor, socially disadvantaged or live in a backward or remote area.

> "We club two single women so that they can live together. We provide vocational training to women living in open prisons so that they can commercialise their skills in the external environment. We have opened bank accounts and introduced Aadhar cards for women, a huge psychological boost for their self-esteem. As a result, some of the women inmates of our open prisons have gone on to become computer professionals, beauticians and even teachers".
>
> - Superintendent of Women's Prison, Jaipur

When talking about penal punishments in this regard, women are severely disregarded, ridiculed and often abandoned when their husbands, fathers or sons are imprisoned. It is the women and girls that often face the indirect stigma and taboo of the society and its questionable actions when they are left alone to fend for themselves. Furthermore, the neglect from their families also causes them to lose access to resources (such as money, lawyer, etc.). This was also the case with some of the women prisoners as can be seen quoted below.

> "When a person goes to jail, their roti (food) is taken care of, but who takes care of the roti for the family? When my husband went to jail, in reality it was I who began to serve the sentence. I had to solely look after my four children for the nine years that my husband spent in a closed prison. I had to also take care of my mother-in-law who had lost her sanity due to grief".
>
> - Wife of an inmate

> "We have three children, and I had to bring them up with no help.
> He used to come home on parole only once a year. I used to
> tie bidis for a living at that time; I would get Rs.150 for every
> 1,000 bidis. My fingers used to bleed".

<div align="right">- Wife</div>

Conversely, the open prison reduces this aspect of stigma as the women can come and stay with their counterparts (or families) in the prison and help in working to support the men folk. Backing this up from what Becker and Goffman say about stigma and labelling "*that not all undesirable attributes are at issue*" (Goffman, 1963; pp. 3) and that "*making the rules whose infraction constitutes deviance, and by applying those rules to particular people*" (Becker, 1997; pp 9). Hearing about the prison set-up often makes individuals wary, especially the women and girls as they are concerned about their own safety and security. The aspect of open prisons that they are allowed to stay with their husbands or families makes them feel that it is possible to survive in a humane atmosphere. The view of the same is expressed below by a male inmate.

> "My wife was sceptical about staying in a jail at first. But gradually
> she liked the place. I still remember the day when my wife had come
> to meet me in the prison and I told her that we will again be able to
> live together. She raised her eyes to the heavens and a tear rolled
> down her cheeks".

<div align="right">- male inmate</div>

Social norms and gender stereotypes may have an impact on how people are classified and stigmatized within the criminal justice system. Women, for instance, may experience a "double deviance" as a result of breaking both legal and gender norms. While offering a more relaxed setting, open jails can nonetheless contribute to stigmatization. Due to the stigma attached to their criminal history, those who have been incarcerated, regardless of gender, may have trouble reintegrating into society. This may make it more difficult for them to acquire housing, work, and other social resources, further entrenching their marginalization.

This is not to say that there are no women prisoners in India, however, there is not enough data on them to understand and write about the culture and their predicaments of living within a closed and open prison in India. Apart from this, those women who are abandoned or left without any

skill or employment are being taken care of, to make sure that the neglect that they face does not cause any adverse effects in the longer run. As per a report on 'Prison Statistics India' (2021), "Most jails in India offer employment opportunities for women prisoners, such as training on Tailoring, Cutting and Beauty Parlour course and also give them computer education so that they can resume an independent & dignified life after their release from the jail" (pp. 211).

Concluding Discussion and Summary

Closing this thesis, I believe that there is no one particular theory or way of analysis that can perceive a way of understanding the concept of open prisons. With a particular focus on incarceration, stigma, and the order of rehabilitation, this thesis sought to investigate and comprehend the characteristics of open prisons in India as perceived by inmates, their families, and officials within the prison system. This study addresses the open prison system's strengths, weaknesses, and potential areas for improvement by examining their experiences and perspectives. A lot of individuals in the mainstream society think and feel that the entire point of a prison is to lock the prisoner in, to wear them down and compel them to be uninterested in life. However, where does this leave the prisoner once he/she has been released in terms of the status and stigmatization in society as well as the employment opportunities?

An alternative method of incarceration that places an emphasis on rehabilitation and reintegration into society is known as open prisons. They have been criticized for being too permissive or risky, but research shows that they can reduce recidivism rates and encourage successful reintegration into society. The effectiveness of open prisons in various contexts and populations, as well as the potential advantages and disadvantages of various open prison model models, should be the focus of further research.

Focusing on the restorative justice theory; between the opportunity to work, pursue other vocational activities, and staying with their families in an open prison, allows the inmates to feel dignified and empowered. As Angela Davis (2003) also spoke about this concept of 'transformative justice' concerning the outcomes and actions of an inmate and the resulting consequences on the larger society. This also results in cases of increased recidivism rates since they (prisoners) will not want to commit any other crime again and increase their chances of going back to a closed prison in order to be stigmatised by the mainstream society.

The narrative surrounding the deterrence aspect shows how every prisoner realises their mistake after being shifted from a closed to an open prison. The narrative turned quite positive when inmates realised that they could be given second chances in order to be rehabilitated into the mainstream society, and this would prevent them from committing any other offence in the future. The restorative justice narrative looks at the fact of how different notions of employment

opportunities can help the prisoners take a different outlook once they are allowed to stay with their families, work and develop a sense of repairing the harm that they may have caused. Finally, the stigma and the labelling theory narrative analyses how shame and taboo can work towards making the inmates understand that once they are released into the mainstream society; the community views them (and treats them) and their families quite differently with the label hanging over their head. However, the open prison defies this, as the prisoner now has the ability to stand up in the society and rehabilitate himself/herself without any difficulty.

The findings from the analysis reveal that the facilities of an open prison were portrayed by a not so much prohibitive but rather more local area-situated setting in contrast to those of a closed prison set-up. This was corroborated by the officials, inmates, and their families as they viewed the open prisons as having a more humane atmosphere. The prisoners valued the expanded opportunity and independence they encountered inside the open jail climate, empowering them to take part in certain opportunities. Their well-being and motivation for rehabilitation were positively impacted by this sense of normalcy and freedom. In addition, the analysis validated that open prisons in India fostered social interactions between inmates, their families, and authorities as it made it possible for inmates to build social skills and establish relationships that were supportive. In open prisons, inmates had the opportunities to connect with the community, helping to lessen their stigma and increase their chances of successful reintegration into society. The discoveries proposed that the social connections inside open prisons in India assumed an essential part in establishing a positive and strong climate helpful for recovery.

Open prisons were found to have lower levels of violence than closed prisons, contrary to popular belief, according to the research. This can be credited to a few elements, including the choice models for open jail positions, the emphasis on recovery, and the presence of expanded trust among prisoners and authorities. To support the rehabilitation process, officials, inmates, and their families emphasized the significance of maintaining a peaceful setting. The study also looked into the possibility of earning a living in India's open prisons. It was discovered that inmates in open prisons had access to a variety of educational and vocational programs that made it easier for them to acquire useful knowledge and skills. This, in turn, improved their chances of finding work after release and cut down on the likelihood of reoffending. Prisoners, their families, and authorities recognized the meaning of such projects in advancing restoration and reintegrating people into society as useful residents. By providing inmates with a sense of

purpose and a chance to rebuild their lives, the availability of livelihood opportunities within open prisons in India helps combat the stigma associated with incarceration.

According to the findings, open prisons in India have the potential to end the cycle of stigma and increase former inmates' chances of leading fulfilling lives after release. It goes without saying that open prisons in India have the potential to challenge and lessen the stigma that inmates face. The less prohibitive climate and amazing open doors for social connection add to refining the detainees and separating the generalizations related to imprisonment. Open prisons contribute to shifting societal perceptions and reducing the social distance between incarcerated individuals and the general public by providing inmates with opportunities to engage in meaningful activities and establish connections with the community. This has positive ramifications for the reintegration of detainees into Indian culture, as diminished shame expands their possibilities of tracking down businesses, lodging, and encouraging groups of people upon discharge.

In addition, the findings are consistent with the tenets of restorative justice theory, which places an emphasis on addressing the requirements of both offenders and victims and repairing the damage caused by crime. Restorative justice practices can thrive in India's open prisons, which emphasize rehabilitation and reintegration. By offering valuable open doors for self-improvement, expertise advancement, and local area commitment, open penitentiaries urge detainees to get a sense of ownership with their activities, set things straight, and foster support for social ways of behaving.

All in all, the open prisons in India are portrayed by a climate that advances recovery, challenges disgrace, and supports the reintegration of detainees into society. According to the findings of the study, open prisons provide inmates with increased autonomy, social interactions, and opportunities for earning a living, making them a more humane and efficient method of incarceration. It is evident that open prisons in India have the potential to address the difficulties of incarceration, stigma, and rehabilitation by analyzing these findings through the lenses of restorative justice theory and stigma theory. Open prisons' positive characteristics contribute to inmates' well-being, motivation, and successful reintegration, resulting in a more inclusive and restorative Indian criminal justice system.

Although the Indian prison system has undergone some positive transformations, significant obstacles persist. Concerns persist regarding overcrowding, delays in the judicial system, and inadequate rehabilitation programs. For effective rehabilitation and reintegration as well as the protection of prisoners' rights, a multifaceted strategy involving government initiatives, judicial reforms, civil society engagement, and investments in infrastructure and human resources is necessary to address these issues.

Future studies may concentrate on comparing the long-term outcomes and recidivism rates of offenders who have experienced open prisons to those in closed prisons in order to progress the open prison system in India. Additionally, looking at alternative rehabilitation models, such as restorative justice strategies, may provide fresh perspectives on how to encourage effective reintegration and lessen the negative effects of incarceration on both individuals and society.

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