

PRISON SYSTEM IN INDIA: AN INTRODUCTION

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Abstract

Prison, a stigmatic term for our society. It's a place meant for the detention of the people who are devoid of the norms of society. Society needs to understand the importance of prison systems in our lives. Prison not only acts as a shelter but a correctional cell for the people who lack disciplinary values governing in the society. In this paper, I have tried to summarise the concepts of prison, its evolution and importance in our society.

Keywords: Prison, British, Reforms, Jails, Society.

Introduction And Meaning Of Prison

The term prison is derived from the Latin term which means to seize. According to Oxford English Dictionary prison means a place properly efficient and equipped for the reception of persons who by legal process are committed to it for safe custody while pending of trial and punishment. Under the Government of India Prisons Act, 1870 prison means any goal or penitentiary including the airing grounds and other grounds or buildings engaged for the use of the prison. Prison means jail or any place which is used for the detention of prisoners permanently or temporarily under the general and special orders of a Local Government. According to the Encyclopaedia Britannica prison means an institution used for the confinement of persons who convicted for major crimes or felonies.

Traditionally, prison means a place in which persons are kept in custody when trial is pending or in which they are confined as punishment after conviction. The meaning of prison is different for different people like for law abiding person it is a place where criminals end up and for criminals it may be a vague peril or an unavoidable humiliation and for social inadequate it may be a shelter and for some isolated persons prison may be a place where they can find some appearance of

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championship and for prison officer prison is a place of work and for the psychologist it is a career in studying behaviour and for other persons it is an experience which slows up time, which crows them together, sets them apart and changes the course of their lives.²

Evolution of prison system in India:

Present scenario

The present scenario regarding our prison system has changed a lot compared to ancient and medieval times. In ancient times, imprisonment was prevalent but they were used only for the detention of the wrong-doer till his trial or the judgment delivered. It was believed that imprisonment was the easiest means of punishment. The prison system was not a regular mode of punishment in ancient India. At this time, there were no such penal laws that were followed. Society's law and peace solely depended on the principles of Manu.

Medieval India and ancient India

In medieval India, the condition of the prison system was as similar as the system in ancient India. During this time, the Quran was considered the source of law. The system of differentiating crime was prevalent. Crimes were divided into three different groups i.e. crime against god, crime against state, and crime against private person. Here also, the prisons were only used for detention.

During the ancient and medieval periods, the prison system in India had no specific rules for the maintenance and proper functioning of the prisons. There were no services for prisons. Even there was no arrangement of any food for the prisoners. According to Hieun Tsang, the treatment of the prisoners was very harsh and violent. Lastly, there was no existence of prisons in the modern sense.

British period

During the British rule in India, the prison system was used as a mode of punishment for criminals. This form of punishment abolished the old barbarous forms of punishment. However, the condition of the jails was still the same as it was during the Mughal era. The British administration thought to improve the condition of the jails and bring reformations in the working of the prison system.

² Sakshi Gupta, System of prison, its history and types in India, (Legal Service India), <https://www.legalserviceindia.com/legal/article-4501-system-of-prison-its-history-and-types-in-india.html>, 06 November2021.

In the year of 1835, Lord Macaulay suggested the Legislative Council of India appoint a committee to look after the conditions of the jail. The Legislative Council of India appointed a committee named The Prison Discipline Committee: The committee submitted its first report in 1838. The report pointed out the drawbacks of the jail administration in maintaining discipline among the prisoners. It also pointed out the ill condition of the jails. It rejected all forms of punishment that involved religious and moral schooling. The report created a landmark change in the prison system of India. This led to the penal administration in India.

In 1870, an initial draft of the prison act was passed, which stated that the jails should have a Superintendent, a medical officer, a jailor and if required any subordinate officers. It also stated that the female, male, and children prisoners should be kept separately. The Act also stated the duties and powers of the prison officers. In 1877 and 1894 an inquiry committee was constituted. On their proposal, the Prisons Act 1894 was passed. This eventually led to huge progress in the prison system in India.³

Prison System in India:

Prison traditionally defined as a place in which persons are kept in custody pending trial or in which they are confined as punishment after conviction. The word prison means different things to different people. To the law abiding it is a place where the criminals end up. To the criminal it may be a vague hazard or an unavoidable indignity. To the social inadequate it may be a shelter. To some isolated individuals it may be the only place where they can find some semblance of championship. To a prison officer it is his place of work. To the psychologist, a career in studying behavior. But to thousands of people, an experience which slows up time, which crowds them together, sets them apart and changes the course of their lives.⁴ A prison is something that can be defined as a kind of accommodation that is meant for individuals who have committed an offence and are undergoing trial for having committed that offence. The prisons and prisoners' law in India

³ Smaranika Sen, Prison system and the rising vagueness in documentation in India, (IPleaders, July 2021), <https://www.google.com/amp/s/blog.ipleaders.in/prison-system-and-the-rising-vagueness-in-documentation-in-india/%3famp=1>, accessed 06 November 2021.

• ⁴ DR.L.P RAJU, Historical Evolution of Prison System in India, IJAR, Volume : 4 Issue : 5.

are one of those laws that are constantly unnoticed and forgotten. They are not given sufficient importance as they should be for reform in today's scenario. There is a constant lacuna and gap as there is a lack of stringent legislations for people staying in the prisons who also have the right to live a life with all dignity and basic respect which all the citizens of the country are entitled to. There have been many instances wherein the prisoners have been subject to inhuman conditions and have been deprived of amenities such as balanced sanitary conditions and proper food.

There are special orders that have been issued by the State Governments that look into the detention of prisoners and include the land and the property that has been attached thereto. The administration of Prisons is mentioned in the State Lists as part of item 4 in the seventh schedule of the Constitution of India. The process of administration and management of prisons comes under the powers of the state in consonance with the Prisoners Act 1894 and the Prison Manuals that individual states would have individually drafted by states.

The Central Government provides certain rules and regulations with regards to prison rules to the State Government to ensure an effective administration and making sure of the safety within the four walls of the prison.

The Supreme Court of India, through various judgments that encapsulate several rules relating to prison administration. Some of them have been enlisted below-

- Every person is entitled to his very own personal liberty. This means just because a person is incarcerated or is in prison does not mean that the person becomes a non-person.
- A person who has committed an offence becomes entitled for the enjoyment of all different kinds of human rights but within the confinement and limitations of imprisonment.
- As the person is already suffering for the commission of his offence by incarceration, there should be no further aggravation of his suffering.

The Supreme Court has paid heed to various prison issues such as lack of proper healthcare and medical facilities, overcrowding, provision of proper facilities for the inmates as well as free legal aid which is explicitly provided under the Constitution of India.⁵

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

- Central jail – The criteria for a jail to be categorised as a Central Jail varies from state to state. However, the common feature observed throughout India is that prisoners sentenced to imprisonment for a long period (more than 2 years) are confined in the Central Jails, which have larger capacity in comparison to other jails. These jails also have rehabilitation facilities.
- District jail – District jails serve as the main prisons in States/UTs where there are no Central Jails. States which have considerable number of District Jails are Uttar Pradesh (53), Bihar (30), Maharashtra and Rajasthan (25 each), Madhya Pradesh (22), Assam (21), Jharkhand (17), Haryana and Karnataka (15).
- Sub jail – Sub jails are smaller institutions situated at a sub-divisional level in the States. Ten states have reported comparatively higher number of sub-jails revealing a well organized prison set-up even at lower formation.
- Women jail – Women jails are exclusively used for women prisoners, although women may also be imprisoned in other jails. They exist only in 12 States/UTs.
- Borstal School – Borstal Schools are a type of youth detention center and are used exclusively for the imprisonment of minors or juveniles. The primary objective of Borstal Schools is to ensure care, welfare and rehabilitation of young offenders in an environment suitable for children and keep them away from contaminating atmosphere of the prison. The Juveniles in conflict with law detained in Borstal Schools are provided various vocational training and education with the help of trained teachers. The emphasis is given

⁵ Haritha Dhinakaran, Prisons in India: Types and Functions, (Latest Laws, 20 May 2020), <https://www.google.com/amp/s/www.latestlaws.com/amp/articles/prisons-in-india-types-and-functions>, accessed 06 November 2021.

on the education, training and moral influence conducive for their reformation and prevention of crime.

- Open jail – Open jails are minimum security prisons. Prisoners with good behaviour satisfying certain norms prescribed in the prison rules are admitted in open prisons. Prisoners are engaged in agricultural activities.⁶

Prison Objectives and Problems:

If the objective of prison sentence is not to have retribution against the offender but to make him a better human being so as to be more useful to society, the question then arises as how to achieve it. Obviously it is a stupendous task since it involves the reconciliation of two apparently conflicting forces. On the one hand there is the compulsive element of detention with all the evil consequences in terms of social relationships and of the individual personality of the offender. On the other hand there are the efforts of society to reform him. This clearly is a contradictory situation on the face of it and one need not be over optimistic about the efficacy of various measures for correction and rehabilitation of offenders. Even if it is assumed that reformation is possible, the response to various measures will be different for different categories of offenders.⁷

Importance of Prisons:

In every democratic society, prison has a unique role as a formal agency of the criminal justice system. The purpose of imprisonment as a punishment is plain enough – the person who has committed a wrong must suffer in return. The state through the prison is entitled if not morally obligated to hurt the individual who has broken the criminal law. Since a crime is by definition a wrong committed against the state. Imprisonment should be punishment, not only by depriving the individual of his liberty, but by imposing a kind of painful condition under which the prisoner must live within the walls. Today prisons serve main three purposes, which may be described as custodial, coercive and correctional. A prison as a place of correction historically is developing and new in conception. Earlier prisons served only the custodial function, where an alleged

⁶ Adish V. Halarnkar, Prison and types of Prisons And Prisoner and types of Prisoner, <http://www.grkarelawlibrary.yolasite.com>, accessed 07 November 2021.

⁷ Prof Qadri, Ahmad Siddique's Criminology and Penology, (first published 1977, Sixth ed., Eastern Book Company) 175.

offender could be kept in lawful custody until he could be tried and if found guilty punished. The Digest of Justianian, in Roman law established the custodial principle with the statement that “a prison is for confinement, not for punishment” and in countries that followed Raman law the principle that imprisonment was not a legal punishment was dominant for many years. In England also the High Court judges went out to “deliver the gaols” – to clear them-not to fill them. The prisons of the middle ages were, therefore, concurred only with holding prisoners awaiting trial. The penal institutions were chiefly dungeons or detention rooms in secure parts of castles or city towers, used to detain prisoners awaiting trial or execution of sentence. Punishments imposed were torture, banishment, exile, death, branding, mutilation, but never imprisonment.⁸

PRISON REFORMS:

Criminal Justice reforms include reforms in Judiciary and the justice system, Police reforms and prison reforms. Though all 3 reforms are equally important to society at large, prison reforms get the low level of attention in most of the countries including India. This is why it is said Prison is a recruitment centre for the army of crime.

Need for prison reforms:

- Indian prisons face three long-standing structural constraints: overcrowding, understaffing and underfunding. The inevitable outcome is subhuman living conditions, poor hygiene, and violent clashes etc.
- Extradition of fugitive under UN Convention directly depends on prison reforms
- g.: India lost the case of bringing KIM DEVY from Denmark who is accused of PURILA ARMS DROP CASE.
- Under trials lose four of their fundamental rights: the right to liberty, freedom of movement, freedom of occupation, and freedom of dignity. And the legal right to vote as well.
- NHRC figures show that prisoners cut off from family and friends had a 50% more chance of committing suicide than those outside.

⁸ Mudasir A. Bhat, PRISON LAWS IN INDIA : A SOCIO-LEGAL STUDY, <https://ujala.uk.gov.in>, accessed 06 November 2021.

- While 33% of the total requirement of prison officials still lies vacant. Police personnel in India is 181/lakh population which is much less than the UN prescribed 222/lakh.

Challenges in prison reforms:

- Prison is a State subject.
- Prison Act 1894, which governs prisons with modifications is more than a century old and focus more on keeping them alive (headcount) not reform and rehabilitation.
- No separation between hard hand criminals and petty under trails.⁹

Open Prisons:

The need for a change of attitude towards the treatment of prisoners has been growing since independence. With the advance of the knowledge of human behaviour, the part played by psycho-social environment in the development of the criminal is being recognised. The policy of repression and vengeance which swayed the thinking of penologists and jurists until the end of the previous century is thus being gradually replaced by the policy of protection through corrective and preventive measures. The training of prison officers, the releases of offenders on probation, home leave to prisoners, introduction of wage system, release on parole, the educational, moral and vocational training of prisoners and the treatment of offenders in open conditions as similar to the outside world as possible are some of the new ideas which have come into practice recently. The approach in all such schemes had been constructive and with a purpose to rehabilitate the offenders.¹⁰

Conclusion:

The prison system as it operates today is legacy of the British rule in our country. It was the creation of the colonial rulers over our penal system with the motive of making imprisonment a terror to wrong doers. The Indian criminal administration also includes prison administration. It is true to said that a man is not a criminal by birth but the social and economical conditions makes him criminal.

⁹ PRISON REFORMS IN INDIA, (Forum IAS, November 2020), <https://blog.forumias.com/prison-reforms-in-india-21st-november-2020/>, accessed 07 November 2021.

¹⁰ Sirohi, Criminology and Penology, (7th edn., Allahabad Law Agency) 217

Proper food, shelter and health care treatment must be given to prisoners by the prison authority. Prisoners should not be treated inhuman because the main motive of imprisonment is not to punish but to reform a criminal due to which he will be able to live in society normally after the completion of his punishment. The punishment system in Indian is also based on the reformatory theory. There were many reforms in the Prison system in India but still there is need of some other reforms because the condition of prisoners in prison is degradable.

There was also no strong legislation for the prisoners. In present days there is many cases in which prisoner suicide or murdered in the prison and he was tortured or beaten up by the prison officers and these cases are increasing day by day so there is need of proper legislation for the protection of prisoners because prisoners are also human being and they also have all rights which other citizens have. There were also needs of the more numbers of the jails or prison because the capacity of all prisons is less than the number of prisoners. Some reforms in the prison system also suggested by legislative member or the jurists.

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