
PRISON REFORMS IN INDIA: ABSENCE OF A REHABILITATION APPROACH

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ABSTRACT

Under the Prisons Act of 1894, the government of each state is in charge of the major domain of prisons in India. Indian prisons resemble an obsolete and despised dwelling area where human beings are imprisoned in conditions that are detrimental to their physical and physiological wellbeing. This research paper will look at Prison Reforms in India as one of the expanding needs for an integrated criminal justice system, and it will shed more light to the already major subject of prison reforms. The paper begins with a brief overview of the significance of Prison Reforms, followed by India's Prison Reform History, Subsequent Developments, and the Integrated Theory of Criminology. A view of punishment that emphasizes correction, reformation, and rehabilitation while considering retribution and deterrence. The foundation for Prison Reform, according to me, is the concept of prison as a place where treatment takes precedence over confinement. This study further examines the current state of prisons, recent trends in prison reforms, and judicial trends relating to prison reforms in India, attempting to seek more clarity on the theme area of concerns about effective and compassionate prisoner rehabilitation. And at last, the research study indicates the many procedures that must be implemented in order for India's prisons to develop.

Keywords: Prisons, Rehabilitation, Reformative Justice, Overcrowding, Social Change.

Introduction

“Prisons are purposefully designed to give unwelcome forced separation from society. A prison is defined by severe discipline, the provision of minimum requirements, strong security measures, and a monotonous daily schedule. Life within the prison entails some constraints on inmates' freedoms, which are imposed against their will.”

All civil societies' principal role is to punish violators. Throughout history, prisons have been well documented. Correctional facilities, detention centers, jails, remand centers, and other terms are used in different nations to describe prisons. During a trial, the term "prisonization" refers to a system of punishment as well as a type of institutional setting for convicts and undertrials. There is no society without crime and criminals, which is why every country has a jail system. The goal of punishment can be accomplished by imprisonment. The objective goal of sending criminals to prison is to rehabilitate them into honest and law-abiding citizens, but in actuality, prison authorities strive to transform inmates by intimidation and coercion. As a result, the transformation in the inmates is only transient and only lasts while they are in prison; once they are released, they are once again drawn to criminality. It is for this reason that the present trend is to place a larger emphasis on inmates to help them reintegrate into society.

Nowadays, Prison is increasingly commonly referred to as a correctional or rehabilitation center, implying that there is a greater emphasis on prisoner reform than punishment. To attain this goal, a pleasant environment in jails must be developed for the benefit of convicts. Inmates require educational, recreational, and vocational training facilities in addition to a focus on social and ethical values for successful reintegration into society after release. This will help them find alternative means of income after they are released. The crux of the issue is that simply limiting them and subjecting them to harsh treatment would not stop them from committing crimes. Instead, they need to undergo a complete psychological transformation to modify their criminal thinking.

In India, prison reforms did not arise from a social movement, but rather as a result of the worst conditions of treatment encountered by political prisoners in prison during their incarceration. Since its independence, India has been attempting to improve its prisons. Various committees have been formed to emphasize the importance of humanizing prison circumstances. However, so far, less has been accomplished. In order for India's commitment to human rights protection to be fulfilled, improvements in prisons are essential.

Why is it important to support Prison Reform?

A person's right to liberty is taken away when they are sentenced to life in jail. In many situations, Prison has an impact on both the prisoner and his impoverished family. When a family member who generates revenue is imprisoned, the entire family must suffer and adjust to the loss of revenue. Moreover, the family suffers even further financially since they have to hire a lawyer, arrange for the prisoner's food, transit to the prison to visit him, and other expenses. Prisons have major health consequences. Some inmates are afflicted with various diseases before entering the jail, or they become afflicted after entering the prison. As a result, there is no conducive environment in the prison. Also, because social cohesiveness is dependent on long-term ties, imprisonment interrupts ties and diminishes social cohesion.

Considering the foregoing factors, it is important to remember that while calculating the cost of imprisonment, one must consider not just the real amounts spent on each prisoner's upkeep, which is typically much more than the amount spent on a person sentenced to non-custodial punishment, as well as indirect expenses such as social, economic, and healthcare-related expenditures, which are difficult to quantify but enormous and long-term in nature.

Another reason why Prison Reforms are essential is for the better treatment of pre-trial detainees. The size of pre-trial detainees is larger than that of convicted detainees. Pre-trial imprisonment is the most vulnerable time for criminal justice system abuse. Although pre-trial inmates should be presumed innocent until proven guilty in a court of law and treated as such, pre-trial incarceration conditions are frequently far worse than those in prisons for convicted criminals.

History of Prison Reforms in India

Prisons were utilized in secure parts of forts during the ancient-medieval period, but there was no prison system and no descriptions for the internal management of prisons. With the arrival of the British in India, imprisonment became the most popular method of punitive punishment.

The Indian Jails Committee published a report in 1919 that sparked prison reforms across the country and created the groundwork for India's contemporary jail system. However, due to administrative issues, the recommendations were not fully executed. The Committee's report resulted in the passage of **Borstal School Acts, Children Acts and Probation of Offenders Acts, and Good Conduct Prisoners Probation Release Acts** in a number of states. The

Government of India sought technical assistance from the United Nations in the post-independence period to recommend advanced programs for scientific care and treatment of offenders. The establishment of the Central Bureau of Correctional Services in Delhi and the modification of jail manuals were two of the recommendations. In Bombay in 1952, the All-India Conference of Inspectors General of Prisons suggested the formation of a committee to prepare a model prison manual.

The Central Bureau of Correctional Services (later renamed the National Institute of Social Defense) was established in 1961 with the mission of coordinating and developing uniform policy, standardizing data collection, and exchanging information with foreign governments and United Nations agencies to promote research and training. The concept of rehabilitation has substituted punitive and retributive approaches to corrections. In most states, open prisons have been built.

A Committee on Prison Reform was established by the Government of India in 1980, which was chaired by Justice AN. Mulla. The Committee's main goal was to analyze laws, rules, and regulations with the overarching goal of safeguarding society and rehabilitating offenders in mind. In 1983, **the Mulla Committee** issued its report.

A few years later, **the Krishna Iyer committee** was constituted by the Indian government in 1987 to conduct a study on the issue of women prisoners in India. It has advised that more women be recruited into the police force because of their unique role in policing women and children. In 1988, the committee submitted its report to the Indian government. Justice V.R. Krishna Iyer was strongly critical of the functioning of prisons in the country, and correctly observed that, *"Today, jails are still torture laboratories, warehouses where human commodities are kept sadistically, and where detainees vary from driftwood juveniles to brave dissident."*

Subsequent Developments

Following the Supreme Court's ruling in *Ramamurthy vs. State of Karnataka* in 1997, a committee was formed within the **Bureau of Police Research and Development** to create a single national consolidated framework on prison legislation and to write a draught model prison handbook. This case identified **nine major issues** that needed to be addressed right away in order to implement prison reforms:

- Overcrowding

- Delay in trial
- Torture and ill-treatment
- Neglect of health and hygiene
- Insufficient food and inadequate clothing
- Deficiency in communication
- Management of open prisons

The Government of India released a **Draft Model Prisons Management Law** in 1999 to replace the **Prison Act of 1894**, which controls modified prisons, is a century old and focuses on keeping inmates alive (headcount) rather than reform and rehabilitation. However, the bill is yet to be finalized.

The Supreme Court of India, the All-India Committee on Jail Reforms, and the Committee on Women's Empowerment have all emphasized the need for a comprehensive overhaul of the prison rules, but the reform and implementation process looks to have a grim outlook.

Prison Laws in India

The Indian Constitution lists prison as a state topic in List-II of the VIIth Schedule. The Prisoners Act of 1894 governs the management and administration of prisons, which is solely the responsibility of state governments. As a result, states have the authority to alter present prison laws, rules, and regulations. The following are some of India's most significant prison statutes:

- The Indian Penal Code, 1860
- The Prisons Act, 1894
- The Prisoners Act, 1900
- The Identification of Prisoners Act, 1920
- The Constitution of India, 1950
- The Transfer of Prisoners Act, 1950
- The Representation of People Act, 1951
- The Prisoners (Attendance in courts) Act, 1955
- The Probation of Offenders Act, 1958
- **The Code of Criminal Procedure, 1973**
- The Mental Health Act, 1987

- The Juvenile Justice (Care & Protection) Act, 2000
- The Repatriation of Prisoners Act, 2003
- Model Prison Manual, 2016

Techniques of Prison Reforms

i) Probation

Probation is a very important instrument in reformatory penology; it is essentially a period during which a person sentenced to serve a term is kept under supervision rather than being imprisoned. The convict on probation's release serves as a reformatory treatment plan prescribed by the convicting court, and during this treatment, the convict on probation lives in his community and modulates his own life under court-imposed conditions while remaining under the supervision of a probation officer.

Unlike other techniques, Probation power is entrusted in the judiciary so that it does not fall under the control of extrajudicial authorities, which might cause major issues because these agencies will be guided by their own values. **Sec 360 CrPC** mandates that criminal be placed on probation, which must be decided by the courts, but it makes no provision for probation officers to help the courts with supervision or other things.

ii) Parole

Parole is the release of a criminal from a prison reformatory institution while still under the observation of correctional authorities in order to determine whether he is fit to live in a free society without supervision. It is thus the final stage of the correctional process, with probation likely being the first. He is allowed to join society on a conditional basis after a thorough investigation and demonstration of the capacity for rectification.

The rules regulating the grant of parole are governed by **the Prison Act, 1894 and Prisoners Act, 1900**. The Power to Suspend or Remit Sentences is covered by **Section 432 of the Criminal Procedure Code**. However, In *Sunil Fulchand Shah v. Union of India*, the Supreme Court said explicitly that "*parole does not amount to suspension of sentence.*" As a result, it is evident that Section 432 of the Criminal Procedure Code does not apply to parole.

iii) Pardon

The phrase pardon refers to an act of mercy in which a prisoner is released from the sentence that has been inflicted on him; the pardon might be unconditional or conditional. **Articles 72 and 161 of the Indian constitution** allow the President of India and the Governors of the states, respectively, the ability to give pardon, reprieve, or commute the sentence of any offender.

iv) Open Prisons

Open prisons, often known as open air camps or open jails, are another important element in the criminal justice system. Open prisons are essentially a twenty-first-century mechanism for rehabilitating inmates back into society through an intensive aftercare programme. Instead than allowing inmates to be idle inside the prison cells, they provide them work in forests, agricultural farms, and construction sites. These jails play a vital role in a prisoner's reformation plan, which must be one of the reformatory management requirements. The first open prison in India was established in the year 1905 in the Bombay presidency, but it was closed in 1910. Following that, Uttar Pradesh constructed India's first open prison in 1953.

If the latest **Prison Statistics of India Report, 2018**, is any indication, the immediate post-independence expectations of successful implementation of the principle of open correctional institutions universally across the states have been tempered. According to the report, just 17 states and union territories had open jails as of December 31, 2018. Rajasthan has 31 open prisons out of a total of 77 in India. The state with the highest occupancy rate (114.53 percent) is West Bengal, while the state with the lowest percentage is Andhra Pradesh (15.33 percent). Only two states, Maharashtra, and Kerala, have built capacity in open jails for female detainees. Maharashtra has the maximum capacity for convicts in its open jails, despite having fewer open prisons.

Judicial Trends

The Indian judicial system has played an important role in directing convicts as well as ensuring the safety and security of those in custody or in prison. Following are such instances:

- ***Sunil Batra vs Delhi Administration (1978)***

In this landmark judgement, the Supreme Court stated that a prisoner's treatment must be proportionate to his sentence and meet the requirements of **Articles 14, 19, and 21** of the Constitution. It broadened the scope of the writ of habeas corpus by acknowledging a prisoner's right to use it to challenge jail abuses perpetrated on him or

a co-prisoner. In addition, the court issued a number of directives aimed at improving prison administration.

- ***Sheela Barse v. State of Maharashtra (1983)***

On a complaint of custodial abuse against women in prisons, the Supreme Court ordered that those helpless victims of prison injustice be granted legal counsel and be protected from torture and abuse. The court also directed that prisoner interviews are required since otherwise accurate information may not be acquired, but that such access must be limited and regulated.

- ***Sukdas v. Union Territory of Arunachal Pradesh (1986)***

The Supreme Court, in this case, ruled that a person accused of a crime that may jeopardize his life or personal liberty has a basic right to free legal representation at the expense of the state.

- ***R.D. Upadhyay v. State of Andhra Pradesh (2006)***

Before sending a pregnant woman to jail, the concerned authorities must guarantee that the jail in issue has the bare minimum of facilities for child delivery as well as pre-natal and post-natal care for both the mother and the child, according to the Supreme Court. Arrangements for temporary release/parole (or suspended sentence in the case of minor and casual offenders) should be arranged as far as feasible to allow an expectant prisoner to have her delivery outside the jail, assuming the woman prisoner has a suitable option.

Suggestions:

Here are some suggestions which could help enhance the treatment of prisoners and provide a more refined foundation for prisons:

- **Institutional publication:** Every penal system should have some form of institutional publication where inmates can freely express themselves.
- **Bail provisions should be strictly enforced:** The provision of no bail in jail should be followed to the letter.
- **Effective legal assistance:** Effective legal service should be offered to convicts in all jails to assist them with legal concerns.
- **Frequent jail officials' transfers:** Jail officials should be transferred on a regular basis so that they do not become involved in corrupt or torturous actions.
- **The role of the media:** Regular visits by the media and press to examine the conditions

of detainees should be made, and these reports should be published, as well as the situation of convicts being emphasized by the media.

- **Judicial surveillance:** Each District Judge should be assigned the task of visiting the prisons in his jurisdiction. This would put a stop to the numerous activities that occur in jails, as well as aid to reduce the threat of corruption in prisons.

Conclusion

Even though several bodies have researched the problems in Indian prisons and legislation have been enacted to improve jail conditions, it is undeniable that our prisons are plagued by numerous issues. In many situations, inmates emerge from prison as hardened criminals rather than repentant wrongdoers eager to reintegrate into society. Expert counselling methods are essential to reinforce the emphasis on the correctional aspect. The jail staff's mindset must alter. Prison administration must be defined by discipline and respect for inmates' human rights. It's not just the prison structures that need to be modified; it is also what happens inside them. Apart from improving their living conditions, the attention should be on the prisoners' human rights. In the past, the Indian judiciary has played a critical role in improving the jail system, and it is hoped that it will continue to do so in the future, eliminating some of the current system's flaws. It's simply the start of a lengthy road, as well as a little step toward better jail administration and management.

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