
HISTORICAL EVOLUTION OF THE PRISON SYSTEM IN INDIA

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Introduction

The Oxford English Dictionary defines prison as, “A place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or punishment”¹.

In the past, prisons were believed to be places of Captives, where inmates were held for vengeance and discipline. Initially, it was assumed that separate cells and imprisonment would improve the guilty person, but that belief is progressively being replaced as the administration and experts have recognized from time to time that prisons have certain limitations. Currently, prisons are used mainly for three purposes: custodial, coercive, and correctional. Prison's function as a place of rehabilitation has evolved over time. Over time, the concept of prison as a rehabilitation center has evolved. In the past, jails merely provided a custodial environment where criminals could be held till they could face prosecution and be punished.

Keywords: Criminal Justice System, Concept of Prisons

History of Indian Prisons

1. VEDIC PERIOD

The primary objective of discipline during the Vedic and Imperial periods in India was to prevent criminals from committing crimes again. The death penalty, hanging, lashing, and flogging were all accepted means of punishment. The detainees were mistreated, tormented, and exposed to unimaginable harm.

¹ The Oxford English Dictionary, Vol – VIII, P.1385

2. MEDIEVAL INDIA

The jail system in medieval India was similar to that of medieval civilisations. The Quran was considered to be the jurisprudence of the period. The practice of distinguishing criminality was common among the period's civilisations. As a rule, crimes were classified into three groups: sins against God, offenses against the state, and offenses against private individuals.

3. PRE-INDEPENDENCE PRISON REFORM IN INDIA

- The concept of modern prison in India began with the suggestions of TB Macaulay in 1835. In 1838, a committee, the Prison Discipline Committee, produced a report recommending an increase in the rigor of treatment while rejecting all humanitarian measures. Following the recommendations of the Macaulay Committee between 1836-1838, Central Prisons were constructed from 1846 Central Prisons were built between 1836 and 1838. As a result, India's current prison system is a vestige of British rule.
- Sir Alexander Cardio led the Indian Jail Reforms Committee in 1919-20, which made recommendations to reform Indian prisons. It was also suggested that every jail's maximum intake capacity be regulated based on its structure and form as part of prison reform. A commission was formed to provide recommendations for changes to Indian prisons in 1919-20, and Alexander Cardew served as its chairman. After reviewing the situation of prisoners around the world, the commission concluded that institutions should not only have evolving theories, but also a rehabilitation strategy. In its report, the committee stressed the need for a reformatory approach to convicts and condemned the practice of physical punishment in prison. According to the committee, prisoners should be put to constructive use. A key part of the Committee's recommendations was the importance of post-release rehabilitation programs for freed convicts.²

4. POST-INDEPENDENCE PRISON REFORM IN INDIA

The Mulla Committee

India's government established the All India Committee on Jail Reforms, headed by Justice

² Paranjape NV, *Criminology & Penology with Victimology*, (Sixteenth Edition, Central Law Publications, 470,479 (2014)

Anand Narain Mulla, in 1980-83. Committee members' main objective was to evaluate laws, rules, and regulations. The Mulla Committee published its report in 1983. Aiming to achieve parity in the legal structure governing jail management between states and union territories, All India Jail Committee seeks to implement a comprehensive jail management law. In its report, the National Prison Commission called for a permanent council to reform India's jails and safeguard society while rehabilitating offenders.

The Justice Krishna Iyer Committee

Justice Krishna Iyer, a committee of justices appointed by the government of India in 1987, was tasked with carrying out a study on the conditions of women prisoners in India. There was a recommendation for the induction of more women in the police force, as they play a special role in tackling women and child offenders.

Administration of Prison System

In the seventh schedule of the Constitution of India, item 4 of the state lists deals with the administration of prisons. In accordance with the Prisoners Act 1894 and the Prison Manuals individual state's draft the process of maintaining prisons in the state.

General Issues Concerning Prison Reform

Mulaqat System

The system of Mulaqat, or family gatherings of inmates in prison, should be treated seriously as it is considered an efficient but underutilised tool of reformation. Even so, inmates are permitted to meet their near family members at fixed intermissions, the mulaqat is for a very short period of time and in an awkward atmosphere.³ Gatherings under the oversight of jail guards are truly humiliating for inmates as well as guests who require seclusion. The right of inmates to communicate with and meet with friends, family members, and legal counsel should not be restricted beyond a certain point.

Vocational Education and Training

³ Prison reforms and social changes in India available at www.grkarlawlibrary.yolasite.com Visited on 09-03-2022

Detainee training is another device that keeps them involved and would also aid in their recovery after they are released from prison. There should be a greater emphasis on professional preparation for prisoners, which will give them significant motivation to find work after they are released. The goal is to enable them to acquire the talents and abilities which will allow them to work after they have been discharged.

Spiritual trainings

It is widely accepted that the act of yoga and reflection can empower the detainees to control their brain and furthermore twists the negative disposition to positive one.

Judicial Pronouncements

D.K. Basu v. State of West Bengal⁴

In the case, it was held that the particulars of the arrest should be communicated to the friend or relative of the accused when he is detained. In the end, it is entirely evident that by means of this correspondence, the family or friends of the accused can initiate the steps to find out what is recorded about the accused, get legal advice, provide the necessary defense to an remand request, and make the necessary preparations for bail.

M.H. Wadanrao Hoskot v. State of Maharashtra⁵

If a person isn't provided with appropriate legal aid, their human rights and personal liberties will not be of any use to them if they do not have access to justice in the event of a gross violation of their rights. It is no longer charity that provides Legal Aid; it is a legal right. As Legal Aid emphasizes, justice must be administered properly and easily accessible. Judiciary has played an instrumental role in defining and expanding the concept of legal aid.

Prem Shankar Shukla v. Delhi Administration⁶

The appellant happened to be an under-trial prisoner in the Tihar Jail. He was handcuffed while being to be taken from the jail to the magistrate and back to the prison periodically with regards

⁴ D. K. Basu v. State of West Bengal, 50 AIR 1997 SC 610.

⁵ 1978 AIR 1548

⁶ 1980 AIR 1535

to certain cases that were pending against him. The Supreme Court held that handcuffs must be used only as a last resort and should not be practiced unless there is a warrant.

In Re: Contagion of Covid 19 Virus in Prisons SMWP(C) 1/2020

The Supreme Court (SC) took suo motu cognizance of the pandemic and noted that prison occupancy rates were 117.6%. Prison occupancy rates were as high as 176.5% in Uttar Pradesh. A very high rate of ingress and egress was observed for prisoners, staff, visitors, and lawyers. As a result, the SC ruled that prisons were "fertile breeding grounds" for Covid-19.

Way Forward:

Our criminal justice system long ago shifted from the deterrent jurisprudence to rehabilitative and restorative jurisprudence. However many states don't think on these terms because some states don't have sanctions agencies such as welfare / protection observers, psychologists, lawyers, counselors, and social workers.⁷ The prison administration alone cannot successfully rehabilitate the prisoners. It can only make its humble efforts to set right the prisoners, but efforts will succeed only if our economics, our education and our social institutions and values are properly integrated into a coherent and harmonious whole based on the knowledge of the human institution.⁸ The government needs to formulate national prison policies and establish a national prison committee to investigate the issue more seriously and ensure the overall development of prisoners through stress management and yoga. There is no better time to ratify the Convention against torture and sensitize the staffs about the need to treat prisoners as humanely as possible.

⁷ Prison reforms in India- International journal of recent research aspects available at <https://www.ijrra.net>>IJRRA visited on 16-05-2020

⁸ Raghavan, Vijay. (2011). Prison Reforms from the Lens of Outcome Budgeting. The Indian journal of social work. Vol 72. 635-652.