



PRISON ADMINISTRATIVE SYSTEM AND IT'S REFORM IN INDIA: A DISCOURSE FROM LEGAL PERSPECTIVE

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Abstract-- Prisons are a place to detain the individual and it is a state matter under Entry 4 of List II of the 7th Schedule to the Constitution of India. The expansion of prison administration in India is described from the ancient - medieval periods via the British period to the post-independence period, comprising the growth of formation and the concept of management of prisoner. In the criminal justice system in India where one is fighting with the problem of providing appropriate justice, a debate on the rehabilitation of prisoners may seem futile. The objective of punishments in the schemes of the contemporary societal defence is corrections of the criminals who in many cases might be mere manifestations of deep rooted psychosocial maladjustments for which the community itself might be liable in many ways. The word rehabilitation in a correctional mechanism is apparently a romanticized word. Therefore, rehabilitation is one of the contentious aspects of criminology and penology.

The base for Prison Reform is the concept of prison as a place where treatment takes precedence over confinement. This research paper tried to examine the challenges and issues related to prison management. The study also focuses on prisoner proceedings and particular sections of prisoner rights; privatization in corrections; and jail functions, operation, governance and socialization.

This article examines the current state of prisons, recent trends in prison reform, and judicial trend associating to prison reform in India, trying to seek more clarity on the theme area of concerns about effectual and empathetic prisoner rehabilitations.

This research work concluded with the solution to these issues which the prison administration confronts in the appropriate settlement of the regular duties in supportive attempt of criminal justice administration, with a contribution toward smooth working of prisons in India.

Keywords: Prison, Reforms, Rehabilitation

INTRODUCTION

Prison is considered as an establishment for the detention of individuals who have been remanded in judicial custody or who have been deprived of their freedom following convictions for an offence¹.

Sec 3 of the Prisons Act, 1894 points out that prison means any jail or place employed everlastingly or provisionally under common or special orders of the State governments for the custody of a prisoner and comprise all land and building appurtenant thereto, but doesn't comprise any place for the confinement of prisoner who are exclusively in the police custody.

India have almost 1,400 prisons, accommodate over 5 lakh prisoners. As per the NCRB report for 2019 out of 4.5 lakh prisoners, 3.3 lakh are 'under trial inmates. In 3.3 lakh, around 2.2 lakh prisoners are either not likely to be even charge sheeted, or they are probable to be released².

Article-14 of Indian Constitution ensures the right to impartiality to all people in India. Anybody is beyond another before the laws. Though, if an individual doesn't stick to ethical communal behaviour, he might be depending on some amounts of punishment according to the Indian law. Imprisonment serves the objective of rehabilitating the criminals in order that they can have a better life after their punishment end. These criminals are kept in place termed as a prison. Indian prison systems exist from the olden period, and have been reformed ever since then. On the other hand, as the population of India grows, with social and economic issues, so does the number of offenders. Even though India has

¹ K. Jaishankar, International Perspectives on Crime and Justice, 327 (1st ed., 2009).

² <https://www.ias4sure.com/wikiias/gs2/prison-reforms/>



come long ways from what were brutal prison systems in the British period, there are many elements which still require to be regulated in prison administration³.

Because of the rising rate of offences in India, there are multiple convicts in India which eventually causes deficit of appropriate services in Indian prison. The conventions, culture and bad financial condition has badly affected the administration of prison. A prisoner is treated in a very ruthless approach by the authority and they are underprivileged of fundamental amenities. In a milestone case, *Neena Rajan Pillai vs UOI*⁴, wherein Mr. Pillai, who was one of the well known business person in Singapore, died in judicial custody in Tihar Jail, in this landmark judgement, the Court was observed that there is a clear case of breach of fundamental rights of the deceased at the part of the jail authorities, and it cause his death. The Court ordered that in such conditions where emergency medical support is needed for the prisoners, essential arrangements might be made without any hindrance or else it might cause a breach of the right to life as per Art. 21 of the Constitution of India⁵.

Indian prison administration is an inheritance of the British ruling. It is mainly based on the British prison form, which is the result of prison expansion in America in 18th century. "The Prison Act, 1894 is even today the basis for federal framework for prison regulation. In 1835, T.B. Macaulay began the reforms in the modern prison system in India. A committee was formed in the name of Prison Discipline Committee which recommended the Government to increase rigorousness of the treatment of the prisoners and rejected every humanitarian approach towards such prisoners. In 1864, another commission of enquiry of Jail management and Discipline was constituted which gave similar recommendation as it was opined in the year 1836. In 1951, the Govt. of India invited experts from UN to conduct a study on the prison administration in pursuant to which the Experts recommended the Govt. to transform jails in to Reformation centres and also to revise and repeal the outdated Jail manuals. A committee was also set up by the Govt. of India in 1980 under the chairmanship of J. Mulla with a view to jail reforms to which the report was submitted in 1983".

Different conditional provisions described in UDHR and ICCPR in regard to protection from inhuman and degrading treatments and also prescribe punishments thereof but in spite of that prison inmates are not being treated kindly.

Indian prison systems have many procedures and policy which emphasizes the issues of rehabilitation so does the international treaties yet the movement of rehabilitation of prison inmates still seem to be at growing stages. It still lack the concentration of policy makers and social planner for the welfare and rehabilitation of prison inmates and this has been observable in numerous debates and the most modern being the SDGs -2030. A lot of the objectives of SDGs on poverty, literacy, old populations etc are connected with the CJS. Particularly, Goal 16 which state to encourage calm and broad communities for sustainable growth, offer access to justice for everybody and generate effectual, responsible and comprehensive institutions at every level. These goals obviously indicate a 'peaceful and inclusive community' and for that, faith has to be made among the people and the CJS in India⁶.

The expression 'rehabilitation' denotes the processes of assisting a criminal or prisoners to readjust to his former roles and accountabilities and readapt to the community. Offence and punishments have

³ Shankardass, *Punishment and the Prison: Indian and International Perspectives* (2010), Sage Publications, New Delhi

⁴ *Neena Rajan Pillai v. Union of India* WP (c) 1894/1998

⁵ Shankardass, *Punishment and the Prison: Indian and International Perspectives* (2010), Sage Publications, New Delhi, p.58.

⁶ K.P.Malic and Dr.K.C.Rawal, *Law and social transformation in India*, Allahabad 2007, 1st edition



been significant elements while designing rehabilitation plans. With each passing year not only the concept of crimes and punishments has altered but so have our intervention plans. “It is believed that in the 19th century the concept of reformation had started in the western states, and in India, the notion of reformation and rehabilitation came forth after the Indian Jail Committee 1919-20 was set up”⁷.

Prisoners Rights are a subject of debate since the late 18th century. Because of COVID-19 being announced as an epidemic by the WHO, and in light of more than 6 lakh deaths worldwide, many measures are being taken to make sure that the prisoner rights aren’t hampered. Many prisons are resort to release prison inmates en masse, while others are testing all the prisoner for COVID19, and there are strategies for establishing centres for testing COVID within jails, as well as strategies for establishing temporary arrangements for prison inmates who may be affected by COVID19, as well as to decongest the jails. As per these expansions, it is imperative to look into the various rights for prisoners all over India.

Krishna Iyer, J opined prison as:

“A reformatory philosophy, rehabilitative strategy, therapeutic prison treatment and enlivening of prisoner’s personality through a technology of fostering the fullness of being such a creative art of social defense and correctional process activating fundamental guarantees of prisoner’s rights is the hopeful note of national prison policy struck by the constitution and the court”. Therefore now all the decorum that human holds can also be availed inside the four walls of prison. The requirement for systematic jail systems and appreciation of certain rights of prison inmates come into focal point throughout the last many decades. “The Courts have commented upon the deplorable conditions prevailing inside the prisons, resulting in violation of prisoner rights. The problem of prison administration has been examined by numerous expert bodies set up by the Government of India. The most comprehensive examination was done by the All India Jail Reforms Committee of 1980-83, popularly known as the Mulla Committee. The National and State Human Rights Commission have also, in their annual reports, drawn attention to the appalling conditions in the prisons and urged governments to introduce reforms. Prisoner rights have become an important item in the agenda for prison reforms. This is due essentially to the recognition of two important principles. *Firstly*, the prisoner is no longer regarded as an object, a ward, or a slave of the state, who the law would leave at the prison entrance and who would condemn to civil death. It is increasingly been recognized that a citizen does not cease to be citizen just because he has become a prisoner. The Supreme Court has made it clear in many judgments that except for the fact that the compulsion to live in a prison entails by its own force the deprivation of certain rights, like the right to move freely or to practice a profession of one’s choice, a prisoner is otherwise entitled to the basic freedoms guarantee by the Constitution. *Secondly*, the convicted go to the prisons as punishment and not for punishment”⁸

LITERATURE REVIEW

Dubey, Divya (2021) points out that nowadays, all prisons around the globe need a correctional programme so that rehabilitation and reintegration of prisoners can be done effectively. Correctional reform is a severe problem and has been taken critically even globally. In India, many attempts have been made to improve the situations of jails and offenders, but some alterations have been seen at the bottom level. This research paper give an outlook of the correctional reform in Indian jails and an

⁷ K. Jaishankar, *International Perspectives on Crime and Justice*, 327 (1st ed., 2009).

⁸ C.S. Chakravarthy, *Prisoners and Human Rights in India- An Analytical Study*, Indian Socio- Legal Journal, 41 (2015).



attempt to address the constraints of the rehabilitation programs which require to be identified for effective rehabilitation of inmates.

Deepak (2021) illustrated that Indian jails are not the best correctional establishments because of issues such as overcrowding, corruptions, in prison death because of torturing, cases of extortions, bad sanitary system, unhygienic situations and food. The essentials of rehabilitation and reforms have failed miserably in Indian Jails. Although, the apex court has established time and again that the Fundamental Rights of a prisoner are not buried at the gates of the prison, yet they are treated like animals. This research paper reveals an urgent requirement to lead to prison reforms.

PROBLEMS WITH UNDER TRIAL PRISONERS IN INDIA

In spite of the comparatively less prisoners in comparison with many other nations in the globe, there are some very general issues diagonally jails in India, and the condition is likely to be the same or worse in many emerging nations. Overcrowding, prolonged detention of under trial inmates, lack of hygienic food and environment, lack of medical facilities and allegations of indifferent and even inhuman approach of prison officials have frequently attracted the consideration of the critics over the years⁹.

Overcrowding: Overcrowding of prisons are the important factor to poor prison situations. It is considered as the major single issue confronting prison system and its consequence can at worst be life-threatening at best prevent prisons from fulfil their proper working. Though social distancing has been made compulsory as a necessary precautionary measure in the time of Covid-19, it is not possible for prisoners in India's already overcrowded.

Inadequate provisions for basic needs: Absence of free choice about access to medicine and health care service, and exposure to the atmosphere of jail in addition to the loss of liberty is the ordinary hazards of prison life. But the hazard is more serious when the conditions in the jail are unsanitary and when prompt and appropriate treatment is not accorded to the inmates

The Lack of Legal Aid: In India, legal aid is only obtainable to those who can't afford to utilize a lawyer during the trials, not when the captive is taken to the remand courts. "Since the vast majority of inmates, both in custody and in prison, have never been prosecuted, the lack of legal assistance before the point of trial significantly diminishes the importance of the country's legal representation system for the disadvantaged. Lawyers are unavailable at a time when many of them are most in need of support. The Mulla Committee also noticed that the majority of prison prisoners come from economically deprived families, which may be due to their failure to secure a bail bond."

Inadequate prison Program: In spite of the issues of overcrowd, staff shortages, and other managerial issues have been undertaken in some jails. For instance, the Art of Living is conducted SMART programs in Tihar Jail. It comprises two courses every month with follow up of the session all weekends. Srijan projects are aimed at offering social rehabilitation there. In most of the Jails not offering the programs such as daily structured activity, vocational training, pre discharge guidance, and post prison monitoring, etc¹⁰,

Cruel and insensitive approaches of jail staff: The jail wardens work with the insensitive approach towards inmates, by which offenders don't feel secure in the jails. Actually, some staff even behaves in a brutal behaviour by the prisoner even confront psychological and physical both types of issues.

⁹ Vijay Raghwan, Prison Reforms and Some Fundamentals, The Hindu, Sept, 26, 2008

¹⁰ Shrivastva. 2018. Impact of Visiting on Prisoner's Reformation and Rehabilitation. The Indian Police Journal. 5(4)



REHABILITATION AND RESETTLEMENT IN TIHAR JAIL

NGOs and Government make sure to provide all the necessary resources for education and training inside the Jail. Tihar Jail has Study Centers of the IGNOU, Delhi and NIOS, Delhi. Also the Jail has computer training centers for prisoners. Apart from this, willing and eligible prisoners can enroll for six months computer courses. Many other courses such as Diploma in Creative Writing in Hindi/English, Bachelor of Arts, Certificate in Human Rights, Post Graduation Diploma in Distance Education etc are also offered to prisoners at Tihar Jail¹¹.

It is true that mind of prisoners is not at peace which led to all sorts of heinous crimes. Hence to create a peace of mind, a meditative program 'Vipassana' is also organized in Tihar Jail.

To encourage living a positive life, Tihar Jail provides Creative Art Therapy to jail inmates. Art helps in releasing pent up feeling of distress and hopelessness.

Rehabilitation programs run by the Tihar Jail are must for every prisoner except for the one who are in high security cells. Resettling people after completing their sentence is indeed a very good initiative by the jail authorities. This completes the real purpose of the imprisonment.¹²

Government organisations like DLSA, NLSA and DHCLSC, along with many other NGOs, thrive to provide free legal aid to the prisoners of the Tihar Jail, as mandated by Article 39 (a) of the Indian Constitution.

The Tihar Jail authorities provide immense educational opportunities to the inmates during their stay. Various programs like the "Tihar Olympics" and the "Ethnic Tihar" ensure good light hearted recreational facilities for the inmates of the Tihar jail.

Meditation hall – For cleansing and disciplining mind, Yoga and meditation classes were started in a big way with the help of various voluntary organizations. Staff members are also encouraged, to attend meditation courses. This has helped many prisoners in changing the whole approach to life¹³.

SRIJAN (Social Rehabilitation of Inmates in Jail and Aiding the Needy) is an endeavor to provide a more holistic rehabilitative intervention to empower the prison inmates, both socially and financially.

CONCLUSION AND SUGGESTIONS

There should be regular visits by the media and press to study the condition of the inmates and these reports should be published and the plight of prisoners should be highlighted by media.

Should be provided to the prisoners as a effective legal service in every jails to guide the prisoners in the legal matters.

There should be special care for the pregnant woman inmates in the correctional systems. Lady doctor should be appointed by the government as permanent staff in the prisons.

It should be realized that if jail services in respect of reformative schemes are improved and facilities given, they can do a very important constructive job of rehabilitation.

Amending suitably the existing Section 433 of the Cr.P.C to consider and release under the Advisory Board Scheme the Lifers who offer a good prognosis for reformation and rehabilitation even before the completion of 14 years of actual imprisonment say 8-10 years.

¹¹ Ramandeep Kaur , Tihar Jail's efforts to bring the best out of prisoners, Maps of India, May 9, 2014

¹² Saroj, Rehabilitation Of Criminals With A Reference Of Government Programs, International Journal of Research in Economics and Social Sciences, Vol. 8 Issue 3, March - 2018

¹³ Jignesh L. Kilekar, Institutionalising yoga in jails to reduce recidivism rate, Young voices, Sep 12, 2019



The immediate need of research is to evaluate the existing methods of treatment and to suggest new approaches to the prevention of crime.

After-care for prisoners will assume greater importance when correctional programmes in prisons are enforced properly. Both voluntary and statutory after-care will have to be organised in future.

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