

PRISON REFORMS

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Abstract

The historical evolution of prisons reveals a transition from early forms of punishment, including capital punishment and forced labor, to the emergence of modern prison systems. The concept of penal colonies, such as those in Australia and America, replaced earlier practices. In the 19th century, the idea of reform through solitary confinement took hold, leading to systems like the Separate System and Silent System.

In India, the evolution of prisons is traced through Vedic, Smiriti Kala, Epic Period, Buddhist, Medieval, and Mughal Era. The British era marked a shift with Lord Macaulay's prison reforms in 1835, introducing Central Jails and an Inspector General of Prisons. Modern-day Indian prisons operate under state jurisdiction, with various types like Central Jails, District Jails, Sub Jails, Women Jails, Borstal Schools, Open Jails, and Special Jails.

The need for prison reforms in India is underscored by human rights concerns, economic factors, public health consequences, and the detrimental social impact of imprisonment. International standards, including the United Nations' guidelines, provide benchmarks for prison reform efforts globally.

Two significant committees, led by Lord Macaulay and appointed in 1836 and 1864, played pivotal roles in shaping early prison reforms in India. Recommendations included the establishment of Central Jails, appointment of Inspector Generals of Prisons, improvements in prison conditions, and separation and education of juveniles.

Despite early reform efforts, challenges persisted, and subsequent committees addressed issues like overcrowding, inadequate conditions, and the need for medical inspection. The administrative structure during this period also saw the involvement of former prisoners in executive duties.

Prison reforms in India remain an ongoing challenge, requiring a comprehensive approach that considers human rights, economic factors, public health, and social impacts. The historical context provides insights into the evolution of prison systems and the complexities associated with their reform.

Index terms-Penal Colonies,Solitary Confinement,Separate System,Silent System,Lord Macaulay's Reforms,Central Jails,Inspector General of Prisons,Human Rights in Prisons,International Standards,Ongoing Prison Reforms in India

Introduction

A prison, jail or gaol is a facility in which individuals are forcibly confined and denies a varieties of freedoms, under the authority of the State, as form of punishment. M.J.Sethna defines prisons as “A prison is a place for detention of under trials also. They are places where an offender can be lodged for his or her reformation.

Two concepts emerge from this definition, namely:

- 1.Prison is a place of temporary stay.
- 2.It is intended for reforming the criminals.

History of Prisons

Romans were among the first to use prisons as a form of punishment, rather than simply for detention. One of the most notable one was the Mamertine Prison built by Ancus Marcius around 640B.C. This prison was located within a underground sewage system, beneath the ancient Rome, and contained a large network of dungeons, where prisoners were held in squalid conditions, contaminated with human wastes. Forced labor on public works and sentencing the citizen to slavery was a common occurrence.

During the Middle Ages in Europe, castles, fortresses, and the basements of public buildings were often used as makeshift prisons. The right to imprison citizens, were however granted to all at all levels of government, from kings to regional courts to city councils; and the ability to have someone imprisoned or killed served as a signifier of who in society possessed power or authority over others. Another common punishment was sentencing people to galley slavery where they were chained together in the bottoms of ships and forced to row on naval or merchant vessels.

However, the concept of the modern prison largely remained unknown until the early 19th-century. Punishment usually consisted of physical forms of punishment, including capital punishment, mutilation whipping and public shaming rituals like stoning or branding.

Penal Colonies

During the 18th century, popular resistance to public execution and torture became more widespread both in Europe and in the United States, and rulers began looking for means to punish and control their subjects in a way that did not cause people to associate them with spectacles of tyrannical and sadistic violence. They began to look towards developing systems of mass incarceration as a solution.

In England, Penal Transportation of convicted criminals to Penal Colonies were practiced. During 1610 – 1770 America and during 1788 – 1868 Australia was used as Penal Colony by England, and penal transportation as an alternative to capital punishment.

France also sent criminals to tropical penal colonies including Louisiana in the early 18th century. Penal colonies in French Guiana operated until 1951, such as the infamous Devil's Island Katorga prisons were harsh work camps established in the 17th century in Russia in remote under populated areas of Siberia and the Russian Far East that had few towns or food sources. Siberia quickly gained its fearful connotation of punishment.

Jails contained both felons and debtors - the latter were allowed to bring in wives and children. The jailer made his money by charging the inmates for food and drink and legal services and the whole system reeked of corruption.

As the practice of penal transportation was steadily curtailed in England at the end of the 18th century, a popular alternative emerged. Old sailing vessels, which came to be called hulks, were used as places of temporary confinement. Although conditions on these ships were often appalling, their use set a precedent and persuaded many people that mass incarceration and labor was a viable method of crime prevention and punishment.

Early Period Reforms

One reform of the seventeenth century had been the establishment of the London Bridewell as a house of correction for women and children. This was the only place any medical services were provided.

Solitary confinement of prisoners became an ideal among rationalist prison reformers in 18th century, who believed that solitude would lead to penitence, which would again lead to reformation. This idea was first tried in America in 1829 at Eastern State Penitentiary in Cherry Hill, Philadelphia. Here, each prisoner was to remain aloof in his cell, working alone in his trades such as weaving, carpentry, or shoemaking. The only allowed outside contact was with the Prison Officials or a very rare outside visit. This prison system was called as Separate System.

Around this time, another system called as Silent System, also evolved in America, wherein the prisoners were allowed to work together but in complete silence. Around 1850 it was found that the Silent System was more beneficial and it became more victorious in most of the States in USA.

The practice of Penal colonies were curtailed in England during the beginning of the 19th century, as it was the first time, organized prison reformation movements took place. The State's first prison and correctional facilities was established during this period, thereby inaugurating the modern prisons as we know today.

Prison History in India

Vedic Period Prisons: In Vedas, we don't find any penal system though the concept of justice was given a place of pride. Though there were no prisons, there was a conception of heaven and hell as places of reward and punishments.

Smiriti Kala Prisons: Prison systems just began to evolve during this period. Crime and punishments were governed by the Manu Smiriti. Crime was deemed to be that which was harmful to the society, welfare and subversive of social order and organization, For different crimes, different types of punishments were awarded, based on the caste system, Brahmin was entitled to a lesser punishment than the Sudras for the same offence. A rudimentary system of prison existed, though no elaborate details are given in Manu Smriti.

Epic Period Prisons: In Ramayana period there were prisons and by the time of Mahabharata period, the prisons were fully developed. Imprisonment was the mainform of punishment. This point can be clearly seen from the fact that Lord Krishna was born in a prison.

Buddhist Prisons:Prisons reached a great level of sophistication during this period. M.J.Sethna states that prisons of pre-Buddhist era were terrible. They were dungeons and prisoners were kept chained with heavy loads and whipped at the slightest pretexts.

Medieval Prisons:In the period of Chandra Gupta, prisons were in vogue. Old

forts and forts of no strategic value were used as prisons. Kautilya describes them in Artha Sastra. His suggestion was that prison houses were to be near public parks or temples or roadside, so that it would act as deterrent to the general public. Penal System though very religious, judiciary was impartial and full justice done to each case. The prisoners were however subjected to great deal of pain, torture and hard labor. During this period, life term was awarded to serious crimes such as murder, rebellion etc.

Mughal Era Prisons: During this era, extreme barbaric methods were used to inflict pain. Prisoners were actually kept in underground holes full of rodents and cretins. These chambers were usually dark and hard labor was forcibly implemented.

British / Pre Independence Era: British Prisons were actually a takeover of the Mughal Prisons. At that time there were 143 Civil Prisons, 75 Criminal Prisons and 68 Mixed Prisons and they came under the management of the East India Company. These were managed by the District Magistrates who were reluctant to take that role, and thus jail conditions were poor. The prisoners were treated as mere slave laborers. East India Company was reluctant to spend money on prisons and thus out of 75,000 odd prisoners, 65,000 odd prisoners were engaged in construction of roads and were given exemption from prison work. Only around 1833, British Government sent Lord Macaulay to India to form uniform code of legal rules. He spearheaded the prison reforms in India by 1835.

Modern Day Prisons in India

The management and administration of prisons falls exclusively in the domain of the State governments as laid under Schedule VII - State List- Entry 4, and is governed by the Prisons Act, 1894 and the Prison manuals of the respective state governments.

Thus, states have the primary role, responsibility and authority to change the current prison laws, rules and regulations. Day-to-day administration of prisoners rests on principles incorporated in the Prisons Act of 1894, the Prisoners Act of 1900, and the Transfer of Prisoners Act of 1950.

An Inspector General of Prisons administers prison affairs in each state and territory.

The Central Government provides assistance to the states

- To improve security in prisons
- For the repair and renovation of old prisons
- Medical facilities
- Development of borstal schools
- Facilities to women offenders
- Vocational training, modernization of prison industries
- Training to prison personnel
- To create of high security enclosures etc.

Types of Prisons in India

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 categorized as a Central Jail vary 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.

In Tamilnadu we have Central Jails in Madurai, Trichy, Palayamkottai, Coimbatore, Vellore, Cuddlore and Puzhal.

District jail: District jails serve as the main prisons in States / Union Territories 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). Basically it lodges prisoners who have been sentenced to less than 2 years.

Sub jail: Sub jails are smaller institutions situated at a sub-divisional level in the States. Odisha had the highest capacity of inmates in various Sub-Jails. 8 States / Union Territories have no sub-jails namely Arunachal Pradesh, Haryana, Manipur, Meghalaya, Mizoram, Sikkim, Chandigarh and Delhi.

Women jail: Women jails are exclusively used for women prisoners, although women may also be imprisoned in other jails. As on 2011, they exist only in 12 States / Union Territories. Tamil Nadu and Kerala have 3 women jails each and Andhra Pradesh, Rajasthan & West Bengal have 2 women jails each. Bihar, Maharashtra, Odisha, Punjab, Tripura, Uttar Pradesh and Delhi have one women jail each. The total capacity of women inmates is highest in Tamil Nadu (1,569).

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 on the education, training and moral influence conducive for their reformation and prevention of crime. Ten States namely, Andhra Pradesh, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan and Tamil Nadu have Borstal schools in their respective jurisdictions. Tamil Nadu had the highest capacity for keeping 667 inmates. Haryana and Himachal Pradesh are the only states that have the capacity to lodge female inmates in 3 of their Borstal Schools. There are no Borstal schools in any of the Union Territories.

Open jail: Open jails are minimum security prisons. Prisoners with good behavior satisfying certain norms prescribed in the prison rules are admitted in open prisons. Prisoners are engaged in agricultural activities. Fourteen states have functioning Open Jails in their jurisdiction. Rajasthan reported the highest number of 23 open jails.

There are no Open Jails in any of the Union Territories. In Mumbai, there is Open Colony called Sangali, wherein the prisoners are allowed to bring in their family.

Special jail: Special jails are high security facilities that have specialized arrangements for keeping offenders and prisoners who are convicted of terrorism, insurgency and violent crimes. Special jail means any prison provided for the confinement of a particular class or particular classes of prisoners which are broadly as follows:

- Prisoners who have committed serious violations of prison discipline.
- Prisoners showing tendencies towards violence and aggression.
- Difficult discipline cases of habitual offenders.
- Difficult discipline cases from a group of professional/organised criminals.

Kerala has the highest number of special jails - 9. Provision for keeping female prisoners in these special jails is available in Tamil Nadu, West Bengal, Gujarat, Kerala, Assam, Karnataka and Maharashtra.

Other jails: Jails that do not fall into the categories discussed above, fall under the category of Other Jails. Three states - Goa, Karnataka & Maharashtra - have 1 other jail each in their jurisdiction. No other state/UT has an other jail. Here under trials, civil prisoners and at times prisoners sentenced for less than three months are lodged.

Need for Prison Reforms

Central to the arguments to promote prison reforms are a human rights argument this argument is often insufficient to encourage prison reform programs in countries with scarce human and financial resources. The detrimental impact of imprisonment, not only on individuals but on families and communities, and economic factors also need to be taken into account when considering the need for prison reforms.

Human rights considerations : A sentence of imprisonment constitutes only a deprivation of the basic right to liberty and those which are naturally restricted by the very fact of being in prison. It does not entail the restriction of other human rights. Thus prison reform is necessary to ensure the human rights of prisoners protected and their prospects for social reintegration increased.

Imprisonment and poverty: When an income generating member of the family is imprisoned the rest of the family must adjust to this loss of income. The impact can be especially severe in poor, developing countries where the state does not provide financial assistance to the indigent and where it is not unusual for one breadwinner to financially support an extended family network. The family in addition to loss of the income of the sole breadwinner faces the additional costs such as the cost of a lawyer, food for the imprisoned person, transport to prison for visits and so on. When released former prisoners are generally subject to socio-economic exclusion and are thus vulnerable to an endless cycle of poverty, marginalization, criminality and imprisonment.

Public health consequences of imprisonment: Prisons have very serious health implications. Prisoners hailing from poor socio-economic background are likely to have existing health problems due to lack of health services. Their health conditions deteriorate in prisons which are overcrowded, where nutrition is poor, sanitation inadequate and access to fresh air and exercise often unavailable. Psychiatric disorders, HIV infection, tuberculosis, hepatitis B and C, sexually transmitted diseases, skin diseases, malaria, malnutrition, diarrhea and injuries including self-mutilation are the main causes of morbidity and mortality in prison. Studies reveal that prevalence of TB can be up to 100 times higher inside the prisons. Prison staffs are also vulnerable to most of the diseases of which prisoners are at risk.

Detrimental social impact: Imprisonment disrupts relationships and weakens social cohesion, since the maintenance of such cohesion is based on long-term relationships.

When a member of a family is imprisoned, the disruption of the family structure affects relationships between spouses, as well as between parents and children, reshaping the family and community across generations.

The Benchmarks for Action in Prison Reform: The United Nations Standards and Norms

Over the years a considerable body of United Nations standards and norms related to crime prevention and criminal justice has emerged.

Key among standards and norms that relate directly to prison reform are:

- United Nations Standard Minimum Rules for the Treatment of Prisoners
- Basic Principles for the Treatment of Prisoners
- Tokyo Nations Standard Minimum Rules for Non-Custodial Measures
- Measures for Nation files es Bangkok Ret of Women Prisoners and Non-custodial
- Other UN instruments relevant to the prison system:
- Universal Declaration of Human Rights
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN Recommendations on Life Imprisonment
- Arusha Declaration on Good Prison Practice

United Nations Office For Drugs and Crimes believes that effective prison reform is dependent on the improvement and rationalisation of criminal justice policies, including crime prevention and sentencing policies, and on the care and treatment made available to vulnerable groups in the community. There is a need for integrated approach which includes areas that are not part of the conventional "criminal justice system", such as

- Development of substance dependence treatment programs
- Psycho-social counseling programs
- Serving in prison are not to be overstretched or disproportionate in nature
- Alternative Measures and Sanctions

Prison Reform in India

In 1784 British Parliament empowered the East India Company to rule India and since then some attempts were made to introduce reforms in the administration of justice.

Only around 1833, the attention of British Parliament was drawn to the anomalous and sometimes conflicting judicatures by which law was administered. There was no uniform code to give punishments. An Indian Law Committee was appointed to frame uniform code of legal rules. In India, the first experiment in prison reforms began in 1835 spearheaded by Lord Macaulay.

Lord Macaulay's Committee

Macaulay drew attention of Government of India to terrible conditions in Indian Jails and on his suggestion, a committee was appointed on 2TM January 1836, to look into conditions and report thereon. The far reaching recommendations of the committee were as follows:

- Central jails to be built to accommodate no more than 1000 inmates.
- Inspector General of Prisons to be appointed in all the provinces.
- Sufficient buildings to be built to accommodate all the prison inmates comfortably.
- Abolition of outdoor work, especially roadways work.
- Better classification of prisoners.
- Careful separation of under trial prisoners

In pursuance to the recommendations of committee a Central Prison was built in Agra in 1846 followed by Central Prisons in

- Bareilly and Allahabad in 1848
- Lahore in 1852
- Banaras and Fatehgarh in 1864
- Bombay and Alipore in 1964
- Lucknow in 1867

The first Inspector General was appointed in North - Western Province (Uttar Pradesh) for an experimental period of two years, which was then extended to four years and government of India made it permanent in 1850, and suggested that IG of Prisons be appointed in each province. IG of Prisons was appointed in

- Punjab in 1852
- Bengal, Bombay Madras in 1854

* Central Province in 1862

Until 1860 management of District Jails was under Magistrates, but since workload overwhelmed them, it was transferred to another agency, namely Civil Surgeons, at first in Northern Province in 1862 and by 1864 was extended to all the provinces, by the Government of India.

However all the recommendations of this Committee were not implemented, due to the change of rule, from the British East India Company to the British Crown. The English Criminal Law came to be applied to Indians. Indian Penal Code and Criminal Procedure Code were enacted in 1859 and 1860 respectively. The imprisonment as a form of punishment (modern prison system) which was first established in 1773 in India came to be applied on uniform basis throughout India from 1860.

Before institution of jails, the system of punishment did not require any financial burden upon the Government of India. The directors of East India Company were reluctant to spend money on the jails, although the jails were modeled along British lines there was not enough accommodation, inadequate clothing, food and medical attention for the prisoners. Thus the conditions in these jails were very bad.

Second Committee on Jail Reformation

This committee was appointed in 1864 to consider questions of jail management, because of high death rates in the prisons and other allied matters. This committee fixed a minimum space for each prisoner in jail as 640 cu.ft per prisoner and 54 superficial feet.

It also recommended for improvement in diet, clothing and bedding and also insisted upon regular medical inspection of the prisoners.

It also recommended that in every Central Jail 15% of the population should have cellular accommodation. It also recommended for separation of juveniles from other prisoners and that they are given education.

A noteworthy administrative structure during this period was participation of warders and night watchmen - promotes from prisoners - in the executive duty. This system was introduced in 1864 to

- Minimise the expenditure on the establishment and
- Give incentives to prisoners to maintain good conduct
- and by this policy of ruling prisoners through prisoners was established.

In 1870, Government of India passed the Prisons Act wherein it was laid down that there should be

- Superintendent
- Medical Officer
- Jailor
- Other personnel as deemed fit by the local government

This Act came into force in 1876.

Third All India Jail Committee

This committee was appointed in 1887 and was composed entirely of officials actually engaged in prison work. It revised jail management and matters of detail in prison work and not with general aims and principles of administration.

Fourth All India Jail Committee

This committee was appointed in 1889 and dealt with the routine working of jails.

The report thus covered the whole field of internal management of jails and laying elaborate rules for prison management. The committee recommended for

- Separation of under trial prisoners
- Classification of prisoners into casual and habitual
- Executive staff to be divided into two classes:
 1. Higher Class made of Jailors, Deputy Jailors and Assistant Jailors with promotion from one grade to another
 2. Lower Class consisted of warders for supervision of prisoners and they also had graded service

Fifth All India Committee on Prison Administration

This Committee was appointed in 1892 and supplemented the earlier Committee.

It resurveyed the whole prison administration in India and drew up proposal on subject of prison offences and punishments. The report of this committee was accepted by Government of India and based on it The Prisons Act 1894 was enacted. This Act provided that

- Convicted prisoners may be confined either in association or individually in cells or as a combination.
- Only 9 hours of labour per day, for a criminal prisoner sentenced to labour or employed at his own choice.
- Also listed what all constitutes prison offences and laid down punishments ranging from formal warning to solitary confinement for a period not exceeding 6 months.

Transport To Andaman

British settled in Andaman in 1789, but at once gave up attempts to colonize it.

But then the Revolt of 1857 in India happened. Thus England found it had large number of rebel prisoners in its hands than the jails could handle and thus they were deported to Andaman. Between 1858 and 1860 some 4000 Sepoy Mutineers were sent to Andaman and many of them died. By 1882 this system was stopped and they were placed in Central Jail in Bangalore. The construction of cellular jail taken up in 1896 and was done by the convicts themselves.

Reformatory Schools Act 1897 was passed, which directs to send offenders below the age of 15 years to reform schools, this marked a landmark in the prison reforms. Prisoners Act 1900 was enacted. Even though many Committees were appointed, there was a overall lagging in the prison reform. Prisoners were not considered as individuals and no care for their diet and health was given. The concept of deterrence was in vogue until 1919.

Sixth Indian Jail Committee

This Committee was setup in 1919 and was chaired by Sir Alexander G Gadrew.

This Committee made extensive study tour in England, Scotland, USA, Japan, Hong Kong and Philippines and submitted its report in 1920. This committee for the first time talked about prevention of crimes and reformation of prisoners as more effective methods of prison administration. The committee dealt with following areas

- Prison Staff
- Prison Labor
- Probation
- Prison Hygiene
- Borostal treatment
- Treatment of Juveniles
- Separation and classification of prisoners
- Reformatory influences in prison
- Discipline and Punishment
- Aid to prisoners on their release.

Until 1919 prison department was under the control of State, but after the Government of India Act 1919 came into effect, jail and other like services became a part of State List. Provincial governments showed great enthusiasm for jail reforms and started to appoint a series of Jail Reform Committees under their jurisdiction:

- Punjab - 1919 and 1948
- Uttar Pradesh - 1929 and 1938
- Bombay - 1936 and 1946
- Mysore - 1941
- Bihar - 1948
- Madras -1950
- Orissa - 1952
- Kerala – 1953

Jail Reform Committee 1946

A committee was constituted in 1946 for reformation of the jails. It gave the following suggestions:

- Child offenders to be treated differently.
- Modern Jails to be constructed
- Classification of offenders on following basis
- Child offenders
- Women offenders

- Adult offenders
- Casual offenders
- Habitual offenders
- Handicapped offenders
- Mentally Diseased offenders

Post Independence

India was given independence on 15th Aug 1947. The Government of India enacted Exchange of Prisoners Act 1948 and Transfer of Prisoners Act 1950 and these made provisions for removal of prisoners from one State to another. India had joined UNO before independence and continued its membership after independence. Consequently, India was expected to follow International Standards of Prison Administration.

The Indian Independence Movement leaders had suffered the prison atrocities repeatedly and thus they took great interest in prison reforms. Our Constitution had brought prisoners under State List Entry 4 of Schedule VII. The decade of 1951 - 1960 in India was a decade of enthusiasm for prison reforms. Local Committees were appointed to reform jails.

To follow international standards India had requested to UNO in 1951 to send leading Prison Expert to train select prison officials and to suggest progressive programs for scientific care and treatment of offenders. Dr. W C Reckless came to India and suggested many valuable ideas in his report "Jail Administration in India"

Reckless Commission Report

UN expert on correctional work Dr. W.C.Reckless came to India during 1951-52 to study prison administration in India and ways to improve it. He made plea for transforming jails into reformation centers and construction of new jails. He opened up the concept of reformation in juvenile prisons and opposed handling of child offenders by Courts Jails and Police meant for adults. Some of the major recommendations in his report "Jail Administration in India" are:

- Setting up of Central Bureau of Correctional Services at Delhi
- Development of probation and after care centers
- Legal substitute for short sentences of imprisonments
- Revising Jail Manuals
- Reduction in number of under trial prisoners
- Separation of juveniles from under trial prisoners

Reckless also trained a batch of 47 senior jail officers from all over the States.

Based on his ideas, Uttar Pradesh in 1952 started Sampurnananda Camp, an open air prison on an experimental basis. The prisoners were allowed furlough and parole. They were granted nominal wages. Jail training schools were setup in some States.

Government of Bombay introduced Prison Panchayat system, which brought about some measure of relief in the living conditions of the prisoners. Whipping was abolished in 1955, and Probation of Offenders Act 1958 was enacted.

United Nations Standard Minimum Rules for Treatment of Prisoners

UN held its first Congress on the Prevention of Crime and Treatment of Offenders at Geneva in 1955. The Congress approved the United Nations Standard

Minimum Rules for Treatment of Prisoners, and urged its members to modify their national practices accordingly. This further strengthened Jail Reforms in India as India was expected to follow this as a member nation.

All India Jail Manual Committee

This Committee of 1957 - 1959 studied the problems of crime and delinquency from a very progressive angle and observed solutions not only in prisons but also in larger socio-economic fields as well. Committee wanted prisoners to be treated with dignity and the prisons to be turned into correctional institutions. Among the various recommendations of the committee are:

- Detailed reports on principles necessary for modernization of the jails.
- Model Prison Manual 1960 as broad guideline for the States to revise their own Prison Manual.
- Correctional services, Prison Probation and After Care institutional services for children to be integrated under a Director / Commissioner DeCorrectional Administration and be under the control of Home
- Separate Deputy Inspector General for Health services in prison

- Probation system to be used extensively
- State After Care Organization in each State

Work Group on Prisons

In 1972 Government of India, Ministry of Home Affairs appointed a Working Group on Prisons for

- Examining the physical and administrative conditions of the jails in the country and suggest ways to improve it.
- Laying down standards in respect of different services and facilities in the jails.

Laying down an order of priorities for prison reform schemes.

The Committee submitted its report in 1973 and recommended for :

- Establishment of Research Units at the Head Quarters of Inspector General of Prisons of each State.
- Setting up of Training Institutes in each State as well as Regional
- Training Institutes.
- Inclusion of prisons in Five Year Plans and a provision of Rs. 100 corer budget.
- Free Legal Aid
- State and central government to declare there was to be no bar or restriction on employment of ex-convicts of specific categories in public service
- Close co-ordinate between the prisoners and probational services and other correctional services

All India Committee on Jail Reforms - Mulla Commission

The Supreme Court of India in various judgments brought out the shortcomings in prison administration in the country. Several reports and articles in the newspapers

trial. The government of India therefore appointed a Committee - The All India Committee on Jail Reforms headed by A.N.Mulla in April 1980, which submitted its impositions 1983, ne comite known as Mulia Commission. Among the

- Directive Principles of National Policy on Prisons had to be formulated and embodied in Part IV of our Constitution.
- Provisions for uniform framework for correctional administration, by consolidated new and uniform comprehensive legislation to be enacted by Parliament for the whole country.
- Revision of Jail Manuals to be given priority.
- Suitable amendments to be made to India Penal Code.

Committee on Women Prisoners

This Committee was constituted in 1986 and headed by Justice Krishna Iyer.

This Committee submitted it report in 1987 and it included the following recommendations:

- Provision for National Policy Relating to Women Prisoners.
- Formulation of new rules and regulations relating to their conduct and punishments.
- Provision for free Legal Aid to them.
- Construction of separate prisons for women prisoners.
- Proper care for babies born in prison as well as provision for nutrition to these mother-prisoners and children.

Juvenile Justice Act 1986 and 2000

With a view to provide uniform justice to juveniles throughout the country, the Juvenile Justice Act 1986 was enacted. The 1986 Act made special provisions for handling child offenders below the age of 15 years in the case of boys and below the age of 18 years in the case of girls through Juvenile Courts. Provisions were also made for neglected children who were to be handled by Juvenile Welfare Board. This act aimed to provide care, protection and treatment to them and also cater for their development and rehabilitation.

Though the 1986 Act was landmark legislation, it failed to make much impact and thus came to be replaced with the 2000 Ac, based on the recommendation of the Committee chaired by Justice Krishna. This committee had submitted Code Bill 2000 which was the basis of the 2000 Act, enacted during the period of then PM Mr. Vajpayee.

Juvenile Justice Act 2000, acts as a protective umbrella for all children in difficult circumstances. This Act brought uniform age limit of 18 years for both boys and girls.

The date of reckoning the age of the juvenile is the date of commission of the offence and he is not treated as an offender but rather as a Juvenile in Conflict with Law. The record of the offence committed will be wiped clean and not be a black mark in his records and will not affect the opportunity of gaining job in governmental services.

Role of Human Rights Commission (NHRC) in Prison Administration and Reforms

Since its inception in accordance with Protection of Human Rights Act 1993, NHRC has been playing major role in prison administration.

These are some of the major instances of recommendations made by NHRC:

- In its annual report in 1994-95 it recommended that Indian Prisons Act 1894 must be revised to reform the prison systems and new All India Jail Manual be prepared to serve as a model.
- Report noted that many jail such as Tihar Jail was over crowded, while some like Hyderabad Open jail were under utilized.
- It also recognized that the diet was inferior and the management denounced by the inmates as brutal and corrupt, and often within single State condition varied from jail to jail.
- It expressed deep concern over over crowding, lack of sanitation, poor medical conditions and lack of nutrition and that the core reasons for these were apathy and lack of priority accorded to the [prison conditions. NHRC observed that the conditions in our jails only helped to perpetuate criminal networks, criminal conduct and to make the inmate a lifelong outlaw; and the conditions will not improve as long as jails continue to be centers of punishment instead of reforms.
- NHRC recommended systematic reforms of police and prisons and far reaching measures for protection of civil liberties in areas hit by terrorism and insurgency.
- It rapped the Delhi Government in 1995 for making a mockery of the Parole system in Tihar Jail. Parole was introduced for under trials to leave jails in cases of medical emergencies or family emergencies like death etc. The Delhi Government, which screens these applications took more than 2 months to grant parole thus defeating the entire system. NHRC suggested that the jail officials be authorized to handle such applications and grant parole as soon as the request comes in.
- NHRC explored the possibility of privatization of jails in 1996 to improve the jail conditions. Britain had private jails called The WOLDS, which was visited by two NHRC members followed by Kiran Bedi the then Inspector General of Tihar, for running a private prison in India. To run a private prison the government must pay a fixed sum for every prisoner and leaves the rest to prison managers within given rules. NHRC found that private jails were neither viable nor a remedy to jail problems by itself.
- Concerned over the reports that several non-criminal lunatics were languishing in jails and treated at par with the criminals. NHRC ordered the State Government to place them in Mental Asylum on or before August 1996.
- Alarmed by the number of custodial deaths, NHRC in 1997 had recommended to all the States a model Autopsy Form and appropriate procedure for conducting inquests; and that custodial deaths and rapes must be reported within a day of occurrence to Secretary General of NHRC.
- NHRC noted the conditions where there were large numbers of under trials in jails. It noted that only 10% to 15% of the inmates of Tihar jails were convicts. NHRC drew attention to the very low rate of convictions secured by police for heinous crimes. Nearly 80% of such cases end in acquittals, clearly showing that police is not doing its job properly. Either, the persons arrested were wrong and innocents languished in prisons as under trials or the investigations were botched up resulting in offenders walking scot free.

Role of NGOs in Prison Reforms

Voluntary organizations have special role to play for rehabilitation of released prisoners. The services of these agencies are being utilized in prisons for organizing literacy programs, medical camps, programs for moral and spiritual education, cultural and recreational activities, and vocational training etc. The public is educated about the need for rehabilitation of ex-prisoners through print and audio-visual media.

Continuous liaison is maintained with the agencies/individuals which are willing to give employment to the released prisoners. A number of after care programmes are being run by the government with the help of non-governmental organizations (NGOs) which are acting as a bridge between the prisoners and the community. These services are offered to the prisoners on their release. Prisoners are also provided with tool kits of trades to released prisoners to achieve self-employment in Karnataka.

The following measures are taken for rehabilitation of prisoners:

- Explaining to the police the background and problems of the individual and getting help and cooperation from the police in the process of resettlement.
- References to a social service Organisation in the neighbouring area where the prisoner is likely to settle after release
 - Assistance in continuation of education and vocational training.
 - Creating interest in education, motivating them in improvement of skills, healthy recreation, and constructive use of leisure.

- Ensures in building good habits and keep them away from moxivating
- Medical treatment on long-term basis for tuberculosis, venereal diseases, leprosy and cancer, in and outside the hospital.
- Paring the resee person under the care of a person or family interested in his
 - Protection from getting associated with anti-social groups, agencies of moral hazards (like gambling dens, drinking places and brothels) and with demoralized
 - Help in establishing contacts acquaintance and friendship of reliable neighbours, co-workers and co-residents.

Mulla Committee envisioned a role for NGOs in prisoners' reforms as follows:

- Services of experts in education, medicine, psychiatry, law, social work, the media etc. could be utilized in the formulation of correctional policy by associating them with advisory committees at the national and state levels.
- Appointments of eminent citizens interested in correctional work as visitors to prisons. They could also be appointed as non-official members on sentence reviewing boards for district and central prisons.
- In conducting adult education and free legal aid programs.
- Running health camps

Supreme Court and Prison Reforms

Supreme Court of India has time and again pressed for prison reformation and recognition of basic human rights that the prisoners are entitled to as can be seen from the following cases:

M.S.Hoskot V State of Maharastra¹

Facts: The petitioner who was a Reader holding M.Sc and PhD degrees was convicted for the offence of attempting to issue counterfeit University degrees, the scheme was however foiled. The Sessions Court found him guilty but taking a lenient view of the matter, awarded him simple imprisonment till the raising of the Court. The High Court allowed State Appeal and enhanced the punishment to 3 years and this judgment was pronounced on 1973 November.

This Special Leave petition was filed by the petitioner after 4 years in Supreme Court, by which time the prisoner had undergone the entire term. The explanation given by the petitioner for condonation of delay was that he was given a copy of the judgment of 1973 only in 1978. It was found that though the High Court had dispatched the prisoner's free copy to Superintendent of Jail, he had forwarded the same to Governor for mercy petition, for remission of sentence.

Judgment: Dismissed the petition as it was settled Court practice to not to interfere in concurrent findings of two lower courts. Supreme Court further held that any Jailor who either by way of indifference or personal vendetta, withholds a copy of judgment, thwarts the Court process and violates Article. 21 of the Constitution and makes further imprisonment illegal.

Reasons for Judgment: The statutory and constitutional right to appeal includes two ingredients as follows:

- Service of a copy of the judgment to the prisoner in time to enable him to file an appeal
- Providing free legal aid to prisoner who is indigent or otherwise disabled from securing legal assistance
- These are state responsibilities under Art.142 r/w Art.39-A of constitution

Suk Das V Union Territory of Arunachal Pradesh²

Facts: Appellant was tried and sentenced to two years of imprisonment u/S.506 r/w 34 of IPC. He was not represented by any lawyer by reason of his inability to afford legal representation. High Court held that the trial was not vitiated since no application for free legal aid was made by the accused.

Judgment: Supreme Court on appeal set aside the conviction on the grounds that the appellant was not provided free legal aid at the trial court and that he need not apply for the same, but must have been nevertheless offered free legal aid by the magistrate.

Reason for Judgment: Free legal aid at State cost is a fundamental right of every person accused of an offence and this right is implicit in requirement of reasonable fair and just procedure prescribed by Art.21. The magistrate is under obligation to inform the accused of this right and inquire if he wishes to be represented on the State's cost and provide him for free legal aid unless he refuses to take advantage of the same.

¹ M.S.Hoskot V State of Maharastra(AIR 1978 SC 1548)

² Suk Das V Union Territory of Arunachal Pradesh (1986) 25 SCC 401

Sunil Batra (No.1) v Delhi Administration³

Facts: Sunil Batra was sentenced to death by District and Sessions Judges and his sentence was subject to confirmation by High Court and possible appeal to Supreme Court. Batra's complaint was that since the date of his conviction by the Sessions Court on 16th July 1976, he was kept in solitary confinement until Supreme Court intervened in 24th Feb 1978.

Charles Sobraj, a foreigner under trial, challenged the action of Superintendent of Jail putting him in bar fetters. He was arrested on 6th July 1976 and detained under S.3 of MISA (Maintenance of Internal Security Act). Since the time he was lodged in jail, he was put in bar fetters notwithstanding the recommendation of the jail doctor that the bar fetters be removed. It was contended that S.30 of the Prisons Act did not empower prison authority to impose solitary confinement and Charles Sobraj contended that S.56 of the Act which empowered bar fetters was violative of Art 14 and 21.

Judgment: It was held that, solitary confinement is a substantive punishment and thus can be imposed only by the Court of Law but upheld S.30 as the conditions imposed and procedure laid under it for curtailment of prisoners' movement in jail was fair and valid as well as just under Art 21. It was further held that, bar fetters applied continuously on a person was violative of Art 21, but held that S.56 was valid as it lays down certain conditions under which it can be done.

Reasons for Judgment: The liberty to move, mix, mingle, talk, share the company of co-prisoners if substantially curtailed would be violative of Art.21. The Sec.30 of Prisons Act enables the jailors to put prisoners of death, in a cell apart from others and kept under charge of guard. Here, the prisoner under sentence of death only means a prisoner who has exhausted all his options of right to appeal or appeal for mercy.

Holding a prisoner continuously under bar fetters day and night would reduce him from being a human to animal, a treatment so cruel that it is inherently against Constitution. S.56 of Prisons Act enables a Superintendent to use bar fetters for his own safety or for the safety of other prisoners. But even after recommendation of the jail doctor that bar fetters be removed would only be cruel, inhuman treatment and violative of the very spirit of the Constitution.

Hussainara Khatoon (No 1) V Home Secretary, State of Bihar⁴

Facts: A number of under trials were languishing in the State of Bihar jail, awaiting their trial. A habeas Corpus writ was filed in their behalf.

Judgment: Bihar government was ordered to release forthwith the under trials on their personal bonds.

Reason for Judgment: Supreme Court observed that the right to speedy trial was fundamental right enshrined in Art.21 of the Constitution and that speedy trial was the primary essence of criminal justice. J.Bagwati held that although, unlike American Constitution, speedy trial is not specifically mentioned as a fundamental right, it is implied in the broad sweep and context of the Article 21, as was interpreted in Maneka Gandhi Case.

Sunil Batra (No 2) V Delhi Administration⁵

Facts: In this case the petitioner was undergoing life imprisonment. The petitioner underwent inhuman treatment in the hands of the warden of Tihar Jail as a means to extract money. Batra a convict came to know of the same and had brought the incident to the knowledge Court through a letter. The Court converted this letter into a Habeas Corpus petition.

Judgment: The Court gave the following directions to the State and Central Government and the jail authorities:

- Held that Prem Chand, the prisoner, was tortured illegally and the Superintendent cannot absolve himself from responsibility even though he may not be directly a party.
- Directed the Superintendent to ensure that no corporal punishment or personal violence on Prem Chand shall be inflicted.
- Lawyers nominated by the District Magistrate, Sessions Judge, High Court and the Supreme Court will be given all facilities for inter views, visits and confidential communication with prisoners subject to discipline and security considerations. This has roots in the visitorial and supervisory judicial role. The lawyers so designated shall be bound to make periodical visits and record and report to the concerned court results which have relevance to legal grievances.
- Within the next three months, Grievance Deposit Boxes to be maintained by or under the orders of the District Magistrate and the Sessions Judge which are to be opened as frequently as is deemed fit and suitable action taken on complaints made. Access to such boxes shall be accorded to all prisoners.

³ Sunil Batra (No.1) v Delhi Administration (AIR 1978 SC 1575)

⁴ Hussainara Khatoon (No 1) V Home Secretary, State of Bihar (AIR 1979 SC 1360)

⁵ Sunil Batra (No 2) V Delhi Administration (AIR 1980 SC 1579)

- District Magistrates and Sessions Judges to visit prisons in their jurisdiction listen to grievances and take suitable remedial action. In appropriate cases reports to be made to the High Court for the latter to initiate, if found necessary, habeas action.
- No solitary or punitive cell, no hard labor or dietary change as painful additive, no other punishment or denial of privileges and amenities, no transfer to other prisons with penal consequences, shall be imposed without judicial appraisal of the Sessions Judge and where such intimation, on account of emergency, is difficult, such information shall be given within two days of the action.

Reason for Judgment: Justice Krishna Iyer held that "The most important right of a prisoner is to integrity of his physical person and mental personality. No prisoner can be personally subjected to deprivations not necessitated by the fact of incarceration and the sentence of court"

Sunil Gupta V State of Madhya Pradesh⁶

Facts: The petitioner were educated persons and social workers, who were remanded to judicial custody, were taken from the jail to court and then back to jail, by the prison escort party, handcuffed.

They had staged a DHARNA for a public cause and voluntarily submitted themselves for arrest. They had no intention to escape from jail, in fact they had refused to come out on bail, choosing to be in the jail for public cause.

Judgment: It was held that handcuffing by the escort party was violative of Art.21, Court directed the government to take appropriate action against the erring escort party for unjustly handcuffing the petitioners.

Reasons for Judgment: Handcuffing must be resorted to only when there is a clear and present danger of escape, breaching of police control and not a mere assumption. In this case, there was not even any remote chance for such assumption and there was no reason recorded by the escort party for their inhuman and illogical act.

Francis Coralie V Union Territory of Delhi⁷

Facts: The petitioner in this case was a detenu under the COFEPOSA. As per the Act, the detenu was allowed only one family visit per month and interview with his lawyer only after obtaining prior permission of District Magistrate and then too in the presence of the Customs official. The detenu challenged these provisions.

Judgment: It was held that these provisions of COFEPOSA were violative of Art. 14 and Art.21 of the Constitution.

Reason for Judgment: The detenu is in a higher footing than that of the under trial or a convict. The detenu must be allowed to have at least two meetings with his family per week, with the prior permission of the District Magistrate. Art.21 encompasses the Right to Socialize subject to only reasonable restrictions affecting human dignity.

Meeting with one's lawyer is also a basic right and the elaborate procedures prescribed in the Act would render the right to consult a legal advisor illusory.

DK Basu V State of West Bengal⁸

Facts: Dr.D.K.Basu Executive Chairman of Legal Aid Services, a non-political organization had filed a PIL, by way of a letter to Chief Justice drawing his attention to certain news items published in the Telegraph and Statesman and Indian Express regarding death on police lockups and custody.

Judgment: the following guidelines were laid down by the Court, to be followed in all cases of arrest and detention:

The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designation. The particular of all such personnel who handle interrogation of the arrestee must be recorded in a register.

(ii) That the police officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(iii) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at

⁶ Sunil Gupta V State of Madhya Pradesh(1990) 3 SCC 119

⁷ Francis Coralie V Union Territory of Delhi(1981 AIR 746)

⁸ DK Basu V State of West Bengal(AIR 1197 SC 610)

the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(iv) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aids Organization in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest

(v) The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(vi) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclosed the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(vii) The arrestee should, where he so request, be also examined at the time of his arrest and major and minor injuries, if any present on his her body, must be recorded at that time. The Inspector Memo' must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(viii) The arrestee should be subjected to medical examination by the trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctor appointed by Director, Health Services of the concerned State or Union Territory, Director, Health Services should prepare such a panel for all Tehsils and Districts as well

(ix) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.

(ix) The arrestee may be permitted to meet his lawyer during interrogation though not throughout the interrogation.

(xi) A police control room should be provided at all district and State headquarters where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

Reasons for Judgment: Supreme Court defined Custodial torture as "naked violation of human dignity and degradation with destroys, to a very large extent, the individual personality. In all custodial crimes that are of real concern is not only infliction of body pain but the mental agony which a person undergoes within the four walls of police station or lock-up."

Court observed that any form of torture of cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. It further observed that the precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicted undertrials, detenues and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law.

Saheli V Commissioner of Police⁹

Facts: A nine year child died due to injuries sustained by it due to the beating received from the police officer.

Judgment: Court awarded exemplary damages of Rs.75,000/- to the mother.

Reasons for Judgment: There was gross violation of human rights as a child was cruelly beaten and tortured without any mercy in the police station.

Rudul Shah V State of Bihar¹⁰

Facts: Rudul Shah remained in jail for 14 years because of the irresponsible behavior of the prison officials. He was acquitted in June 30 1968 by the Sessions Court judge, but was released only due to Court intervention on October 16 1982.

Judgment: Government was ordered to pay Rs.30,000/- as compensation to this victim of illegal detention, in addition to the sum of Rs. 5,000 already paid by it..

Reason for Judgment: This was a clear case of human rights violation and illegal detention and thus he was awarded relief under Art 21 of the Constitution.

Chandrachud, C.J observed that the State must repair the damage done by its officers to their rights.

R.D.Upadhayay V State of Andhra Pradesh¹¹

Facts: A writ petition was filed by Women's Action Research and Legal Action for Women, highlighting the plight of the children living in jails with their mother and requesting the Court to pass appropriate orders for

⁹ Saheli V Commissioner of Police(AIR 1990 SC 513)

¹⁰ Rudul Shah V State of Bihar(1983 AIR 1086)

¹¹ R.D.Upadhayay V State of Andhra Pradesh AIR 2006 SC 1946

their proper care, welfare and development. They stated that inspite of several welfare schemes and welfare legislations in India, the plight of these children in jail had not improved.

Judgment: Supreme Court issued directions and showed serious concern regarding the plight of the children living in the jails with their prisoner mother. The directions were issued regarding their food, shelter, medical care, clothing, education, recreational facilities which were declared to be the child's right, such as:

- Issued instructions regarding their diet
- Held that before sending to jail a pregnant woman, the authorities concerned must ensure that, jail in question has basic minimum child delivery facilities as well as for providing pre natal as well as post natal care, for both the mother and child.
- Birth of a child born in prison not to be recorded as Prison Birth in Birth Certificate, it should be recorded in Local Birth Registration Office.
- Child above 6 years must not be kept with the female prisoners.

The court declared that the Jail Manual must be amended suitably so as to incorporate these changes.

Ex General Ajit Singh V Union of India¹²

Facts: The petitioner a juvenile was enrolled in the army and was thereafter for some offence of theft, a Court of Enquiry ordered against the petitioner and after recording of summary of evidence, General Court Martial commenced and the petitioner was sentenced to suffer rigorous imprisonment for seven years and was dismissed from service under Army Act 1950.

Judgment: It was held that the provisions of the Juvenile Justice Act 2000, over rides the Army Act and that the General court Martial is not have any jurisdiction over the juvenile.

Reason for Judgment: Juvenile Justice (Care & Protection of Children) Act was enacted pursuant to the United Nations on 20th November, 1989 Convention on Rights of the Child, wherein a set of standards to be adhered by all State parties has been prescribed. The Convention emphasizes social re-integration of child victims, to the extent possible, without resorting to judicial proceedings. The central theme of this Act is to, act in the interest of the juvenile and his welfare and NOT on his act or the consequences of his act which resulted in him, being presented before the Court.

Dharamavir V State of Uttar Pradesh¹³

Facts: The appellant was guilty of murder and was convicted for life imprisonment. He sought for reduction of sentence.

Judgment: The conviction being one under Section 302 I.P.C., the sentence awarded namely, one of life imprisonment, is beyond interference.

Therefore, the Court issued the following directions designed to make the life of the sentence inside jail restorative of his crippled psyche:

- dispatching the two prisoners to one of the open prisons in U.P., if they substantially fulfill the required conditions;
- being agriculturists by profession they be put to use as agriculturists, whether within or without the prison campus allowing them small wages;
- by keeping the prisoners in contact with their family;
- by allowing members of the family to visit them and
- by permitting the prisoners under guarded conditions at least once a year, to visit their families and
- the prisoners to be released on parole for two weeks, once a year, which will be repeated throughout their period of incarceration provided their conduct, while at large, is found to be satisfactory.

Reason for Judgment: One of the principal purposes of punitive deprivation of liberty, constitutionally sanctioned, is decriminalization of the criminal and restoration of his dignity, self-esteem and good citizenship, so that when the man emerges from the forbidden gates he becomes a socially useful individual. But long prison terms do not humanize or rehabilitate but debase and promote recidivism. Life imprisonment means languishing in prison for years and years. Also observed that proper utilisation of services of prisoners in some meaningful employment, whether as cultivators or as craftsmen or even in creative labor will be good from the society's angle as it reduces the burden on the Public Exchequer and the tension within.

¹² Ex General Ajit Singh V Union of India(2004 CriLJ 3994)

¹³ Dharamavir V State of Uttar Pradesh 1979 SCC (3) 645

In Re Prison Reforms - Enhancement of Wages of Prisoners etc¹⁴

Facts: The question of enhancement of wages of prisoners was pending with government on a recommendation made by High Court for more than 3 years. In the meantime representations in the matter was made by the prisoners before High Court and High Court decided to take cognizance of the 19 prisoners, concerning the propriety of nonpayment of adequate wages.

Judgment: Supreme Court held that to delay the prisoners reasonable wages in return for their labor will be violative of the mandate in Art 23(1) and directed that as an ad-hoc measure Rs.8 per day may be fixed as reasonable wages until government is able to decide upon appropriate wages to be paid to the prisoners.

Reasons for Judgment: Supreme Court observed the following reasons for fixing fair wages:

- The punishment would appear to be just, and fair and not as an exhibition of vindictiveness.
- There would be a possibility of the prisoner being rehabilitated on release.
- The severity of the resultant punishment on the dependants of the prisoner may be softened by payment of a substantial part of the fair wages due to the prisoner to them.
- Any provision for payment of wages to a prisoner is a recognition of his human-hood, his right as an individual. That may preserve his self-respect.
- Such a measure would take away reasons for nursing vengeance against the society.
- A humane approach would make it easier for the prison authorities to enforce discipline.
- The prisoner may be induced to dedicate himself to the work.
- More than all these the State can absolve itself of the charge that it is exploiting the prisoners by taking free labor, a charge which in the case of a civilized Government, is certainly not commendable.

A Convict Prisoner in Central Prison V State of Kerala¹⁵

Facts: This case was registered on the basis of a petition sent to the Court- High Court of Kerala, by a prisoner lodged in Thiruvananthapuram Central jail. He lists out his grievances as follows:

- The condition in the jail is sub-human and has triggered crime and vices.
- Some convicts enjoy liberty to do as they wish, which has made the other feel indignant and rebellious.
- Some prisoners are able to get money and even narcotic drugs through silent conduits in prison.
- Money is often sent to them by the criminals, trained by them and who had served their term and gone out - there is a complex network in place.
- One life convict had the audacity to go out on parole to commit idol theft.
- Some habitual offenders who were sent to the Viyyur Jail often come back to Thiruvananthapuram and their association turns first time offenders into hard core criminals.
- Forced homosexuality and rape is rampant in prison and named a few prisoners who rule the roost.
- He also submitted that a Lord-Vassal system is prevailing in the prisons and prayed that the Court take immediate remedial action

Judgment: Several measures were directed by the High Court as follows:

- The State must build sufficient number of prisons to accommodate prisoners. High security prisons must be built to house the category of prisoners who are considered dangerous, and whose numbers are certainly not on the decrease. Scientific classification of prisoners must be made.
- State must effectively implement segregation, keeping habitual offenders away from freshers, to avoid the possibility of hard core criminals turning jails, to schools of crime.
- State must ensure that short-term appointments of prison staff are not made, and that adequate trained staff is provided in jails, keeping in view needs of security.
- State must take appropriate action to pay reasonable wages to prisoners so that, motivation for work is generated. Reasonable wages need not be the equivalent of minimum wages. State must also take appropriate measures for creation of a Fund, for victim care to which an appreciable part of prisoners' earnings could be diverted.
- The State should consider the feasibility of creating a work force, which can be useful and economical to it. Open jails and a work force go together. Vast human resources can be gainfully utilized.
- State may consider the advisability of avoiding short term imprisonment and simple imprisonment, wherever possible. Necessary statutory amendments could be thought of, substituting short term

¹⁴ In Re Prison Reforms - Enhancement of Wages of Prisoners (AIR 1983 Ker 261)

¹⁵ A Convict Prisoner in Central Prison V State of Kerala(1993 CriLJ 3242)

sentences with free work or work with regulated wages. Association with hard core criminals in jail can be avoided, thus.

- Sufficient provision will be made to segregate civil prisoners and military prisoners, from prisoners convicted of criminal charges.
- Proper arrangements will be made for escort of prisoners from jails to Courts and back; it has to be considered whether number of postings involving transport of prisoners can be reduced.
- A rational parole policy must be evolved.
- Blades for shaving, sterilized needles in Dispensaries and sufficient fans should be provided. Sanitary napkins which are not included in the clothing supplied to female prisoners, should also be supplied.
- Necessary facilities for the jail staff must be provided. There are some jails without rest rooms and toilets and staff who take turns often have to sit on verandahs. It must be remembered that congenial working environment alone can ensure a contented service.
- Reservation of a nominal percentage of jobs for convict prisoners of good behavior, can be an incentive and it would be consistent with the concept of rehabilitation.
- Educational and recreational facilities, within reasonable limits may be provided in prisons. Weekly or fortnightly discussions, availing of the good offices of religious or social organizations or enlightened citizens, can go a long way in reforming the convicts.

Reason for Judgment: The prisons must be made a place where the prisoners repent their crimes and reform and not a place where prisoners build their criminal network and jail must not be converted into a place for crime teaching centers or schools.

Present Prison Reform Scenario

Recommendations of the Jail Reform Committees as well as various Supreme Court Rulings as well as the recommendations of the National Human Rights Commission has finally influenced the Central Government to amend the century old Prisons Act in 2000. This amended Act provides for equal treatment in jails. It eradicates differential treatment of prisoners based on their social status, education etc. It also eradicated certain penalties that are against the very human nature and dignity such as use of handcuffs, bar fetters, penal diets and hard labor among others.

The new provisions allow inmates to pursue enhanced educational/vocational training, counseling, therapeutic treatments, life skills training as well as legal aid without obstruction. Furthermore it makes magisterial inquest mandatory in case of custodial deaths and provides mandatory release of under trials whose detention exceeds the minimum period of incarceration specified for the offense.

Reform Efforts in the Wake of the Amended Indian Prisons Act

In the wake of the amendment of the century old Indian Prisons Act in 2000, jail reform efforts have been undertaken by the state governments in India. Some of the instances of changes are as follows:

Delhi - Tihar Jail

A number of years before the amendment of the Indian Prisons Act in 2000, Tihar Jail one of the Indian Prisons Act in 2000, Tihar Jail, had started witnessing some remarkable transformations. As a matter of fact these changes commenced in 1994 under the tutelage of Ms.Kiran Bedi, the then Inspector General of Prison in Delhi.¹⁶

- A drug de-addiction center was established in 1999. "Ashiana" is the center where drug-addicted inmates are referred to by the jail physicians. The prisoners undergo treatment for a period of 4 weeks and then efforts are directed toward their rehabilitation. Kiran Bedi says that a number of non-governmental organizations had come forward to offer help in treatment and counseling.
- The inmates' participation in games and sport activities within the jail boundary has been encouraged by the authorities since 1998 through inter ward competitions held twice a year.
- Both adult and formal educational trainings are being offered to the inmates since
- 2000 The Indira Gandhi National Open University established a regular study center in Tihar for providing education to the inmates as well as the staff.
- Libraries with modern facilities have been established in each ward with the help of NGOs. The most engaging aspect of the educational system in Tihar Jail is that educated inmates voluntarily teach their less educated cohort.
- A permanent meditation (Vipassana) center has been in operation since 1998.

¹⁶ As seen in tiharprisons.nic.in. official website for Tihar Jail

Madhya Pradesh

Since the beginning of 2003 about 30,000 inmates detained in various jails across this state as they get trained to make use of the latest computer technology and are trained to learn the current technology DOTCOM. The inmates are learning computer operations free of any fee within the jail premises. These inmates would have a better opportunity to get jobs upon release. Also, in Bhopal [the state capital jails the authorities have started offering certificate courses IT, health care, computer, and rural development in 2001; therapeutic counseling is also made available.

Tamil Nadu - Chennai

At the beginning of 2001, the state Inspector General of Prisons rendered permission to the Indira Gandhi National Open University to offer undergraduate and graduate level degree as well as certificate courses in computers, nutrition, health care, and rural development at Chennai.¹⁷

In addition the jail authorities have revamped the recreational and health facilities as a part of their jail reform endeavors.

Areas of Reform

The following are the need of the hour prison reforms:

Accommodation: Proper accommodation with proper sunlight and ventilation.

Windows should be big enough to allow air, sunlight and ventilation. Provision of water supply for washing, bathing and cleaning utensils must be provided.

Clothing and Bedding: Proper clothing and bedding must be provided for.

Soap and oil must be provided on a weekly basis. Sanitary Napkins must be provided for the women prisoners.

Boxes must be provided to the prisoners to keep their belongings safely instead of open shelves.

Education: The objective of this programme shall be the return of these inmates

to society with a desire to conduct themselves as good citizens and with the skill and knowledge which will give them a reasonable chance to maintain themselves and their dependents through honest labour.

Prison education must be framed in such a manner as to:

- Fundamental academic education designed to provide intellectual tools and training.
- Vocational education is designed to give training for an occupation.
- Health education designed to create awareness regarding personal and community hygiene.
- Cultural education for intellectual and aesthetic satisfaction.
- Social education for reformation, rehabilitation and re-socialization of the prisoner to adjust with the society after the release.
- Must promote the prisoners' to educate themselves through distance education and open universities.

Diet: Balanced diet must be provided to the prisoners. Nutritious food is the basis for a healthy life Care must be taken to provide variety in their food and that the food is palatable and tasty. For non-vegetarians, mutton or chicken must be provided once a week; and for vegetarians case should be taken to give them adequate protein rich diet. In Karnataka, a special initiative has been taken to outsource prisoners' food. Prison Department has partially outsourced the work of providing food through Akshaya Patra Foundation - ISKON, Bangalore.

Medical Care: All prisoners must be allowed the benefit of detailed medical examination and medical care. Regular health checkups must be arranged. In certain cases special medical diet must be provided to the sick prisoners. Ambulance vans must be provided in adequate numbers to all the jails. NGOs can be roped in to help augment health services in the prisons.

Training: Vocational training must be provided to the prisoners to help them being self employed on their being released from prisons in fields such as:

Carpenter, shoe making, carpet weaving, soap making, sewing, bakery, electrical repair works and culinary skills.

Women can be specifically trained for knitting, tailoring, jewelry making, embroidery, basket weaving, fabric painting, block painting, scented candles, soft toy making and even as mid-wives and nurse training.

All these will help the prisoners earn wage while in prison and accumulate money in their account which is bound to help them when they are released. It will also help them to be self reliant and self employed, helping them to rehabilitate and reintegrate within the society.

Free Legal Aid: In coordination with the District Legal Service Authorities, Free Legal Aid

¹⁷ Indian Express, April 23, 2001

Camps must be arranged frequently and regularly. In fact legal aid centers can be opened inside the prisons itself, at least in the Central jails. Action must be taken to spread awareness about the right of every prisoner to get free legal aid.

Counseling:Provisions can be made to provide counseling to the prisoners to help them cope with their anger or frustration against any person / family / society at large. It must help them introspect about their moral and legal failings and emerge as better persons. Yoga nad mediation can also be provided to them.

Counseling must also be provided to help them cope with their family situation and also help them to reintegrate into the society successfully, without fear or trauma. It must also ensure that the prisoners do not relapse on their release and become a statistic for recidivism. NGOs can be roped in for this aspect also.

Conclusion

The first reform movement was essayed at Tihar Jail in the capital city Delhi.

Various aspects of the reform movement in Tihar Jail set examples for the rest of the country. Housing a little over twelve thousand inmates, Tihar is the largest jail in the country. Many efforts have been taken to reform the Tihar jail but the problem of overcrowding is still persistent there. As a matter of fact, overcrowding is still a problem in Indian jails especially in Bihar which has been pulled up by Patna High Court often in this aspect.¹⁸ Another lingering down side of the jails is the number of under trials spending time at these facilities. Reduction in the number of under trials in jails across the country is one of the specifications of the amended Act. Jails are still lagging behind in implementing this specification, mainly due to lack implementing this specification, mainly due to lacking new detention facilities. Some States (such as Delhi, West Bengal, Maharashtra, and Tarnil Nadu) after the amendment, have taken initiatives to end these issues¹⁹

Despite the lingering problem of overcrowding and situations of the under trials, the upside is several State governments have started jail reforms soon after the Act was amended. The jail authorities are now providing varied educational and vocational training, therapeutic counseling, drug de-addiction centers, upgraded health care, recreational facilities, and legal aid as well. The jail authorities are increasingly becoming more attentive to wards inmates' well-being as well as the rehabilitative services necessary for the inmates' reintegration into society upon release from jails.

Prisons must be treated as a reformation center and not as punitive purgatory.

Scientific approach should be taken to reform the prisoner. Treating them with humanity and dignity will go a long way in reforming and rehabilitating them.

Prisons must be changed into hospitals to give treatment to the offenders, to bring them on the correct lin. Officers of jail should be changed into doctors. The offenders shall feel that officers of jail are their friends.
—Mahatma Gandhi.

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¹⁸ Telegraph, march 12, 2003

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