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## PRISON REFORMS IN INDIA

~ *Mishthi Jain*

### ABSTRACT

Prison reform is essential after seeing the condition of prisoners. We need reforms in prison to keep pace with the time. The 21st century is very serious about taking initiatives in prison after seeing the condition of prisoners in jail. It is a necessary social project that seeks to convert prisons in many aspects like from places of punishment into centers of rehabilitation and growth. A more comprehensive and clear view of reforming offenders and reintegrating them into society because they faced a lot of difficulty in adjusting with the society and the development which takes place in the society, they as responsible citizens should understand the value of society it is the traditional strategy of incarcerating them with the intention of punishing them. This should take place as a strong emphasis on their rehabilitation, treating them in a better way, they should only be punished for their criminal conduct, and teaching them useful skills.

### INTRODUCTION

Although the Indian prison system is essential and very important to uphold the law and it should be regulated by some rules, there were several issues that required quick attention and they were serious which prisoners were facing and they needed extensive adjustments. Some important details regarding the Indian prison system: Examples of women they were facing Sexual Abuse, sexual harassment and Torture Within correctional facilities, prisoners were facing both physical and psychological abuse in the prison. Custodial violence is a very serious issue. There were custodial deaths. Also, it is a grave concern, highlighting the main issue that is excessive use of force by law enforcement personnel. Inmates endure bodily harm, physical harm, mental torture

and unjust and unequal treatment, undermining their dignity and human rights and their basic rights.

The criminal justice system places all its focus and aspirations in prison management. If the correctional system and rules fail, the entire result of the criminal justice system will be ineffective. There is the introduction of new human rights law and legislation has significantly developed and rules have altered the criminal justice system. The term which is used as a "transformation" which has become synonymous with jail administration and management. The main motive of Human rights law is to support the idea that there should be no crime that can be punished in a cruel, inhuman treatment or heartless manner. Contrary to popular belief, it is believed that any form of punishment that culminates in inhumanity, harsh, cruel, brutality, humiliation, or remorse should be considered a separate offense. There were many questions that were raised about the criminal justice system and to reform the prison.

#### CONCEPT OF PRISON

Prisons are a tool which is used by the criminal justice system to punish the offenders, all the offenders were kept in jail for their aberrant and inhuman behavior. The renowned and famous English political theorist of the seventeenth century, John Locke, believed that humans by nature are good and most of them were decent. The rules and regulations were nevertheless necessary to keep them to live and let the people live peacefully "the few desperate men who commit crime in society" in check. Prison is described as "a building to which people are legally committed by the court as a punishment for their crime or while awaiting trial" in the Online Oxford English dictionary. In India, the word "prison" is classified as a state subject under List II of the Seventh Schedule of the Indian Constitution. The Prisons Act of 1894 which was very effective in different State Governments, Prison rules and Manuals govern the management of prisons and prisoners, which is under the authority of the State Governments. States therefore possess the authority to decide and dictate their own rules and regulations, because the condition of every state is different, that's why they were free to make their own rules and regulations for local prisons. There were also different kinds of prisons in India like open jail, bestial jail, women jail, district jail, central Jail etc., So for each jail there were different rules and reforms were made accordingly.

### Sunil Batra v. Delhi Administration<sup>1</sup>

The Court held that the classification of Prisoners is needed, Prison is not denuded of all human and basic rights, upon entering the prison premises even the prisoners right to liberty is fundamentally curtailed.

### INDIA'S PENAL REFORMS

In India, state governments have the authority to look upon the prison administration. States therefore possess the authority to decide and dictate their own rules and regulations, because the condition of every state is different, that's why they were free to make their own rules and regulations for local prisons. There were also different kinds of prisons in India like open jail, bestial jail, women jail, district jail, central jail etc., So for each jail there were different rules and reforms were made accordingly, although states are ultimately in charge of running and maintaining prisons and Prisoners, the Ministry of Home Affairs provides oversight, information and advising services to the states it is the essential and important part of the criminal justice system, the prison system helps to achieve the overarching goals and objectives of law and order. India needs prison reforms in order to establish justice and a fair procedure for Prisoners, and a restorative justice system that upholds the rights, duties and dignity of the prisoners which can also reduce or lower the country's crime rate. Here is a summary of the nation's ongoing efforts towards prisons reforms and important jail reform initiatives which are:

All India Committee on Prison Reforms (Mulla Committee):

The Mulla Committee made recommendations for the prison reforms they made recommendations for the classification of the prisoners on four bases they were:

1. Child / Juvenile
2. Convicted
3. Heinous offenders
4. Under-trial offenders

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<sup>1</sup> (legal service India), <https://www.legalserviceindia.com/legal/article-6600-prison-reforms-in-india.html> ( 16<sup>th</sup> june.2024)

Ramesh khan, Indian legal service (16 June 2024), <https://www.legalserviceindia.com/legal/article-6600-prison-reforms-in-india.html>

and it also focused on upgrading the facilities in jail and also the accommodations, and services provided to prisoners. It also guided to guarantee consistency in the hiring of jail staff, it suggested establishing an Indian Prisons as a rehabilitation and Correctional Services for the prisoners. The committee emphasized and its main focus was on the significance of media and public visits to prisons in order to guarantee accountability and openness and the local authority should come to know about the reforms.

Recommendations of Law Commission of India (268th Report):

The Law Commission recommended that inmates or the prisoners who were serving for a maximum of seven years in jail as a punishment should be released after serving one-third of their sentence. The commission also underlined the necessity of lowering and reducing bail requirements and expediting trials to lessen overcrowding and the burden of undertrial convicts.

Justice Amitava Roy Committee:

This Supreme Court established a body which is dedicated to initiate prison reform and reduce overcrowding of the prisons which is the major issue in prisons and their overpopulation of the prisoners. It suggested setting up fast-track courts mainly to handle minor offenses that had been unresolved for more than five six years.

The Krishna Iyer Committee:

The Krishna Iyer committee advocated for more female police officers for the women due to rising crime rates and its concentration on female inmates. It brought attention towards the woman Prisoners and the need for more resources and assistance specially for female and juvenile offenders inside the criminal justice system.

## WHAT IS INDIA'S CURRENT STATUS IN PRISON ADMINISTRATION

The administration and management of prisons is an important part of the criminal justice system. In the past century, the way society made their own laws regarding giving punishment is different from the present society where their views have undergone a fundamental shift. With a shift in the way of punishment, the views of the society and their perspective on jail Reforms and convict's person, the previous penal system, which involved forcibly confining inmates with cruelty and

depriving them of their freedoms of all kinds and as a form of punishment, has been altered. It is now regarded as a rehabilitation and correctional or improvement center, which shows that reforming criminals who committed the crime is given more priority than punishing them.

## IMPORTANCE OF PRISON REFORMS

Since the Vedic era, there was very Harsh punishment for a crime, there were antisocial elements which were housed in a location approved by the ruling class to protect the populace from crime, jails were also there, but the punishment given was very cruel, harsh, torturous, inhuman etc., these existed in our general population as an ancient form of punishment. Prisons were regarded as a **"Place of Captives,"**<sup>2</sup> where inmates were detained in order to punish, rehabilitate and make discipline between them. The enhanced concept of social defense is gradually replacing the earlier belief that existed during the ancient era, that detachment and correctional measures will alter those people who have committed the crime, Experts and the government occasionally identify different problems related to imprisonment and monitoring of the prisons.

**"In our world prisons are still laboratories of torture and inhuman treatment, warehouses in which human commodities are kept in a sadistic and cruel manner and where spectrums of inmates range from drift-wood juveniles to heroic dissenters,"**<sup>3</sup> as Justice V.R. Krishna Iyer has correctly noted. These days, the three main and important functions of prisons are custodial, coercive, and correctional. The motive of a prison to be used as a place of correction has historically evolved by the ruling party. In the past, the sole purpose of jails was to house accused criminals and give them punishment and this would be the lesson for others to not to commit crime. The custodial principle was introduced into Roman law by the Digest of Justinian, which stated that **"prison is for confinement, not for punishment and inhuman treatment"**<sup>4</sup>. Because of its coercive motive and purpose, imprisonment can be used to force and make rules for someone to obey a court's ruling, whether it be civil or criminal it depends on the nature of the crime; if they do, they are released from custody. It is obvious that the three main motives of prisons are to protect inmates, rehabilitation, administer punishment, or to assist in their rehabilitation.

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<sup>2</sup> Ipleaders, <https://blog.ipleaders.in/legal-backdrop-prison-reforms/>, (16<sup>th</sup> June. 2024)

Surbhi Agrawal, Legal backdrop of prison reforms, ipleaders, (16<sup>th</sup> june.2024), <https://blog.ipleaders.in/legal-backdrop-prison-reforms/>

<sup>3</sup> Ipleaders, <https://blog.ipleaders.in/legal-backdrop-prison-reforms/>, (16<sup>th</sup> June. 2024)

<sup>4</sup> Ipleaders, <https://blog.ipleaders.in/legal-backdrop-prison-reforms/>, (16<sup>th</sup> June. 2024)

## PROBLEM CONCERNING INDIAN PRISON SYSTEM

In the **Ramamurthy v. State of Karnataka**<sup>5</sup> ruling, the Supreme Court pointed out the following grave and serious problems with the correctional system.

- **Overcrowding:** India is home to a lot of overcrowded prisons where Prisoners are treated like animals, each state which was designed to hold a certain number of prisoners with different punishments, The overcrowding has a major effect on Resources because of overcrowding they do not get basis resource, which is a human right, it is mostly related to the different categories and kinds of prisoners. For example, in 2020, it was said that the Tihar Jail in Delhi, which can hold roughly 8000 prisoners, was housing approximately 15,500 offenders.

The average prison occupancy rate in the nation is 130.5%, per "Prison Statistics 2021." This makes it more difficult for prison systems to provide for inmates their Human rights and fundamental requirements, which include housing, sanitation, clothes, food, and medical attention. Additionally, this puts inmate's fundamental rights which are not available to them, such as their right to the best possible physical treatment and mental health and their right to a sufficient quality of life, sanitation, clothing etc.

- **Undertrials:** According to the Justice India Report 2022 there were many people which were undertrial and nearly 77.4% of the inmates were undertrial. One of the biggest and main reasons undertrials stay behind bars is the Nature of their cases. These prisoners who in the beginning were innocent, who are awaiting trial are influenced and motivated to enter the criminal world because of their interactions, communication with other prisoners. In India there is a large percentage of undertrial Prisoners which makes up a disproportionately large portion of those in prison awaiting sentencing; this results in the change in their behavior due to Interaction with the other Prisoners. Additionally, according to the research of National Crime Records Bureau (NCRB)-Jail Statistics India, trial prisoners make up 67.3% of the total prison population in India, which leads to unusual

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<sup>5</sup> ClearIAS <https://www.clearias.com/prison-reforms/#issues-related-to-prison-in-india> , (17<sup>th</sup> June.2024)

circumstances where undertrials sometimes due to non-solving of their cases serve longer sentences than they would have if a trial by the court had taken place. For instance, 68 percent of offenders in India, 20.4 percent of criminals in the United States, and 11.4 percent of criminals in the United Kingdom were undertrials.

- **Shortage of staff:** Because of the overcrowding there is not enough control on the Prisoners, the prison improvements are seriously understaffed, unskilled staff and underfunded, which leads to violence and crime in the prison, a lack of security and effective control, and other criminal activity inside of jails leads to inefficiency, Every jail must have a welfare officer who take control and a law officer of the prisons in accordance with the Prison Act of 1894 and the Prisoner Act of 1900, yet these posts are still unfilled and if filled then the person is unskilled. In India, for example, the detainee to staff ratio is approximately 1:8 whereas in the UK, the convict to guard ratio is two to four. In 2020, it was claimed and there was a tension between the authorities that there was one guard per 100-101 prisoners at the Puzhal Central Prison in Chennai, Tamil Nadu. There are at least 33.3% fewer people working in India's prisons which is very less than there should be, there were vacancies in the post with officer and correctional staff positions having the most open positions. This also led to an increased amount of workload and stress in the existing staff and is affecting the "correctional" side of prisons.
- **Custodial Tortures/Deaths:** Another serious and major issue with Indian jails is the cruel, inhuman treatment, harsh, torturous, physical treatment of inmates by law enforcement officials and authorities. By seeing this the National Human Rights Commission (NHRC) calculated that between 2010 and 2020, six individuals per day on average passed away due to violence, cruelty, Harsh treatment, inhuman treatment, which is being held in judicial custody by the legal officers and authorities. Prisoners are occasionally subjected to violent behavior, cruelty, undiggable bodily pain, and cruel psychological torment, torture etc.  
Custodial violence is the worst type of behavior by public personnel and the authorities, entrusted with the task of law enforcement and development according to the National

Human Rights Commission. There were 6,624 inmates with mental diseases, physically not fit Prisoners in prison as per data of 2018.

- **Lack of infrastructure:** Most Indian jails are underdeveloped and lack even the most basic amenities / facilities for example clean restrooms, clean drinking water, medical facilities, sleeping quarters, and health facilities. The amount of funding allocated to the jail system was very low and has not grown in line with population growth in the prisons.
- **Cleanliness:** Indian jails after a lot of research are regarded as some of the dirtiest in the world and poor facilities. Inmates confined to these facilities are afflicted with illnesses, not proper medical facilities; diseases including hepatitis and jaundice were affecting them among others.
- **Issues of women prisoners:** in jail there are several challenges, including a severe shortage of female staff for women due to which they face sexual harassment, ill-treatment by the male staff, a dearth of restrooms and other essential basic facilities for personal hygiene, sanitation and cleanliness. They continue to be especially susceptible to sexual assault when they were in custody of the officers, Inadequate food intake, not proper medical facilities, poor hygiene and sanitation, not clean drinking water and cases of custodial rape when victims are coerced into keeping quiet and given money are the serious challenges faced by female inmates and sometimes women staff. 19,254 women were serving prison sentences and faced violence in India in 2018.
- **Inadequate Legal Aid:** Many people who are accused remain in jail and are compelled to remain there because they cannot afford the legal fees and sometimes not even get a lawyer which is necessary to defend themselves.
- **System mentality:** People who were working in prison management and control suffer from a colonial hangover which is also one of the serious issues, which dictates severe and cruel treatment for prisoners. They still maintain and says that inmates need to receive severe and cruel treatment.

## CONCLUSION

The Malimath Committee, the Justice Krishna Iyer Committee, and most recently, the Justice Roy Committee 2019 all were in support to make reforms in prison and are among the notable groups that have been formed to bring the reforms, since the Mulla Committee to make the condition of Indian jails good for both men and women and suggest many modifications. However, the reforms suggested by them haven't been carried out effectively and properly and it seems like there is the necessary political will and effective authorities should be needed to enforce these reforms. To recognize the worth of every human life and to give every human being the basic rights and facilities the governments must recognize the potential and make these reforms for prisoners and the prisoners as members of our society who, with these basic rights and correctional facilities, reformatory care, may contribute to the development of future prisons. Indian jails, which have failed and earned the reputation for producing criminals in jail, need to make structural and effective changes to address the primary issues which a prisoner is facing.

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