

# Prison Reforms in India

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**Abstract:** No general public can be a wrongdoing free society in this way; the foundation of jail is vital one. In old and medieval circumstances detainees were dealt with as depraved being, kept in isolation and subjected to punitive bondage. Thus, in the absolute starting point jails were to deflect the guilty party as the life in jail is disconnected which goes about as hindrance variable. It likewise satisfies the preventive reason for discipline. Prior detainment facilities were simple confinement houses. It keeps the culprits and wrongdoers under the authority and far from society. In any case, now in present day time jail is not a position of insignificant authority but rather it is a restorative organization whose fundamental reason for existing is to restore, right and change the culprits. In the cutting edge, dynamic view wrongdoing is dealt with as a social illness and it favors treatment through the non-punitive techniques like an open prison, parole, probation, group benefit. In this present day time of human rights, jail is not utilized for the barbaric motivation behind affecting torment. Current jail changes have come up to view that detainees are likewise people. The sentence can be held Justiciable just when it would fill its definitive need that is to change the detainee and to expel the criminal component from his identity which would thusly secure society against wrongdoing.

**Keywords:** Prison Reforms.

## I. INTRODUCTION

. Detainment facilities ought to be such compelling establishments that totally change a criminal into a well-behaved native who is sufficiently competent to manage himself after his discharge and begin another aware life. Be that as it may, in later there has been a verbal confrontation crosswise over different forms on the frail state of the jail in India. In this period of developing consciousness of the human rights the predicament of detainees has likewise risen as a basic issue in the field of an open approach. A jail ought to fill its need for remedial establishment instead of an unimportant place of confine the detainees and this must be finished by accommodating the exceptional needs of the detainees. The improvement of jail laws and direction in law based society alongside the start of universal bodies has changed the entire atmosphere of the jail life.

## II. HISTORICAL ANALYSIS

In India, the foundations of the contemporary prison administration in India were laid by the Britishers during the British rule. During this period there have been lots of reformatory changes brought up in the prison system in India.

### **Prison Enquiry Committee, 1836**

An office of Inspector general of prison was created whose duty was to maintain discipline among the prisoners and prison authorities and by this, the excesses or the abuse of power by jail authorities was brought to an end. This committee also emphasized on providing the proper food and clothing to the prisoners and that medical treatment of ailing prisoners should be given top priority. It also recommended for the abolition of the practice of prisoners working on roads. After this committee adequate steps were taken to eradicate the corruption in the prisons.

### **Prison Enquiry Committee, 1862**

It was appointed to review the prison administration in India. This committee expressed deep concern for the unsanitary condition of Indian prisons and recommended a certain minimum space for each prisoner. It also recommended for better clothing and food regular medical checkup of the prisoners.

### **Period (1907-1927)**

During this period various Reformatories and Borstals were established for the juveniles and young offenders which were modeled on the British pattern. The reason behind this was to protect the young and juvenile offenders from the hardened criminals as these adult offenders usually have sexual perplexity towards the young male offenders.

### **Post Independence**

After independence, the prison is with the state governments as Jail and police are mentioned in the State list. Since independence, it was thought that that such reformatory measures like providing an opportunity for rehabilitation, provision for health, recreation and education is more beneficial to the society at large than the inmates themselves. Therefore, there has been reform-oriented approach adopted by the governments.

### **Jail Reforms Committee, 1983**

It recommended for:

- a. The setting up of a National Prison Commission to oversee the modernization of the prisons in India.
- b. Putting a ban on clubbing together juvenile offenders with the hardened criminals in prison.
- c. Enacting a comprehensive and protective legislation for the security and protective care of delinquent juveniles.
- d. Segregation of mentally ill prisoners to a mental asylum.
- e. Classification of prisoners should be done on some scientific and rational basis.

### **The Juvenile Justice Act, 1986**

With a view to protecting the young offenders, a comprehensive legislation was passed. This legislation laid down a uniform framework for juvenile justice in the country, it was done to ensure that no child under any circumstance is lodged in jail or lockup and for this purpose juvenile welfare board and the juvenile court was established. In this Act, provision has been made for the setting up of observation homes, juvenile home, and special homes.

### III. PROBLEMS

There have been certain problems in our correctional systems which are enumerated as follows:

1. The dilapidated condition of the prison structure.
2. Harassment, torture in jails.
3. Neglect of health and Hygiene.
4. Labor is extracted from them without paying proper wages.
5. Overcrowding of prison leading to congestion.
6. Increasing number of under-trial prisoners.
7. Inadequate prison staff.
8. Lack of proper care and treatment of prisoners.
9. Insubstantial food and inadequate clothing.
10. Lack of uniformity in the law relating to the prisons across various states.

### IV. REFORM-ORIENTED

In *Sunil Batra v. Delhi Administration*<sup>1</sup> in relation to prisoner's rights court held that prisoners are prisoners and not animals and punish the deviant guardians of the prison system where they go berserk and defile the dignity of the human inmate. It was also held that prison houses cannot be held at bay by jail officials. When a prisoner is traumatized our constitution suffers a shock.

*Kishore Singh and others v. the State of Rajasthan*<sup>2</sup>, in this case, it was observed by the court that it is the duty of the Session's judge to use their judicial authority and should supervise over sentences and the conditions of their incarceration so that violation of the prisoner's freedom can be avoided.

*D.B.M Patnaik v. State of Andhra Pradesh*<sup>3</sup>, In this case, the inmate was a Naxalite. He was put in quarantine and was subjected to inhuman treatment. A three-judge bench held that resort to oppressive measures to curb the political belief could not be permitted at any cost. It was observed by the court that "the subtle form of punishment to which convicts and undertrial prisoners are subjected to offends the letter and spirit of our constitution and even the convicts are entitled to precious rights guaranteed under Article 21 of the constitution".

In *Charles Sobraj v. Delhi Administration*<sup>4</sup>, in this case, it was observed by the court that this court would interfere even in the prison administration when constitutional rights and statutory prescription are transgressed to the injury of a prisoner.

The *Report of Royal Commission*, 1949-53 also mentioned that "imprisonment itself is the penalty and it is not the function of the prison authorities to add further penalties day by day by the punitive condition of discipline labor and diet".

In *Sanjay Suri and others v. Delhi Administration and others*<sup>5</sup> taking the reform-oriented approach court pointed out that efforts must be made to generate a sense of humanism in the officials and those in the ranks below them. So that prisoners should have direct contact with those officials in getting round to right approach in life.

<sup>1</sup> AIR 1978 SC 1675

<sup>2</sup> (1981)1 SCC 503

<sup>3</sup> AIR 1974 SC 2092

<sup>4</sup> AIR 1978 SC 1675

<sup>5</sup> AIR 1988 SC 414

*Vikram Deo Singh Tomar v. State of Bihar*<sup>6</sup> in this case court directed for the renovation of the building of the care home so as to provide the provide amenities to inmates like adequate water, electricity, blanket, proper clothing and it was also directed to home superintendent to ensure doctor's visit to these care homes daily.

### Need for reform

In *Sunil Batra v. Delhi Administration and Others*<sup>7</sup> V. R. Krishna Iyer J. pronounced that "prisoners have enforceable liberties, devalued may be but not demonetized and under our basic scheme, Prison Power must bow before Judge Power, if fundamental freedoms are in jeopardy". In this case, it was further mentioned that "No prisoner can be personally subjected to deprivation not necessitated by the fact of incarceration and the sentence of the court. All other freedoms belong to him – to read and write, exercise and recreation, meditation and chant, creative comforts like protection from extreme cold and heat, freedom from indignities like compulsory nudity, forced sodomy and other unbearable vulgarity, movement within the prison campus subject to requirements of discipline and security, the minimum joys of self-expression, to acquire skills and techniques and all other fundamental rights tailored to the limitations of imprisonment".

### V. RIGHTS OF PRISONERS

All India Committee on Jail Reforms, 1980-83 has suggested that there are certain rights available to the prisoners such as:

#### **The right to Human Dignity:**

- a. The right to the integrity of the body, immunity from use of repression and personal abuse, whether by custodial staff or by fellow prisoners.
- b. The right to non-deprivation of fundamental rights guaranteed by the Constitution of India, except in accordance with law prescribing conditions of confinement.

#### **The right to Basic Minimum Needs:**

Every prisoner has the right to fulfillment of minimum basic needs such as proper diet, health, proper medical care facility and treatment, access to clean and adequate drinking water, clean and hygienic conditions of living accommodation, personal hygiene and sanitation, adequate clothing, bedding and other equipment.

#### **Right to Access the Law**

Every prisoner has right to communicate with the prison administration, appropriate Government, and judicial authorities, as the case may be, for redressal of violation of any of prisoner's rights and for redressal of grievances and right to access to State Legal Aid Boards or similar organizations providing legal services.

#### **Right to Meaningful and Gainful Employment**

Every under trial prisoners volunteering to do work may be given suitable work wherever practicable. Such prisoners should be paid wages as per rules. He has right to get paid for the work done by him. It is a constitutional mandate under Article 23 that no person can be forced to do work as 'beggar'.

<sup>6</sup> AIR 1988 SC 1782

<sup>7</sup> AIR 1978 SC1675

## VI. PRISON LABOR

In XII International penal and penitentiary Conference, 1950 it was regarded as a best reformatory method to bring about the rehabilitation of offenders. Productive work always keeps the inmates physically as well as mentally fit and brings a sense of teamwork in them which infuse self-confidence in them. The wage which is earned by them helps them in self-supporting them. But it should always be kept in mind that their working condition should be on par with a free worker.

### New Technique Mechanism

There should be an alternative mechanism to work as a correctional system instead of jail and some of the best examples of it are:

1. Open prisons.
2. Community service.
3. Public censure.
4. Payment of compensation to the victims.
5. Releasing on the probation, under the Probation of Offenders Act, 1958.

### Programs in Prison

These programs should be such which has an individual approach and which educate them in and provide them with various vocational opportunities. By these programs, there is also a development of work habits and skills among the prisoners and there is a change in attitude, modification of behavior. These programs also lead to implantation of social and moral values. These programs also work as a good rehabilitation tool in the hand of authorities. However, there should be incentives attached to these like fair wages and early release on the basis of good behavior or allow more communication with the family or release on parole or leave.

### All India Prison Service

In its formulation of national policy, Bureau of Police Research and Development Ministry of Home Affairs suggested that there should be an *All India Indian Prisons and Correctional Service* constituted to induct better qualified and talented persons at higher echelons and proper training should be there for prison personnel at the national, regional and State levels.

### Adequate resources

Prisons should be supplied to the adequate funds so that they can properly cater their infrastructural needs, carry on various rehabilitation and correctional activities and make a suitable addition to these programs with time.

## VII. SUGGESTIONS:

1. **Media's Role:** There should be regular visits by the media and press to study the condition of the inmates and these reports should be published and the plight of prisoners should be highlighted by media. The reason for this is that even there is no public opinion regarding these matters and it is the duty of media to form a public opinion in these matters.
2. **Institutional Publication:** There should be some institutional publication in every correctional system in which inmates should be allowed to express themselves freely. This would improve their ability to express themselves and the

loopholes or drawback in the jail administration would also be brought forth to the light.

3. **Regular transfer of Jail Officials:** There should be a regular transfer of the authorities of a jail. So that these officials do not get involved in corrupt and torturing nefarious activities.
4. **Strict implementation of Bail Provisions:** The provision bail no Jail should be implemented in letter and spirit.
5. **Fine Cases:** In the case of default in paying fine there should be a provision that the person who is not able to pay fine should be allowed to pay it in installments.
6. **Effective Legal Service:** should be provided to the prisoners which will in turn help in decongestion of the jails and for this there should be an increase in remuneration of the counsel of legal aid. Also, there should be the appointment of duty counsel in every prison to guide the prisoners in the legal matters in the same line as a medical officer in every jail. Good attractive salary should be offered to such lawyers so as to attract good legal acumen.
7. **Pregnant Woman Inmates:** There should be special care for the pregnant woman inmates in the correctional systems. Special diets should be provided to them, there should be a facility of regular health check up of such inmates. Lady Doctor should be appointed by the government as permanent staff in the prisons.
8. **Judicial Surveillance:** Every District judge should be given the responsibility of visiting the prison in his area of jurisdiction. This would put check on the various nefarious activities which usually go on in prisons and it will also help in curbing the menace of corruption in the prisons. It will also infuse confidence among the inmates as they would be able to complain against the jail authorities and ventilate their grievances.
9. **Change in List:** It is important to note that prisons come under the State list. In this regard, the All India Committee on Jail Reforms, 1980-83, had recommended that the subject of prisons and allied institutions should be included in the Concurrent List of the Seventh Schedule of the Constitution of India.
10. **New Prison Manual:** There is dire need for a prison manual which is applicable throughout of India and this is also stressed upon by the Supreme Court in *Ramamurthy v. State of Karnataka*<sup>8</sup> where it brought to the fore an urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and State Governments to formulate a new *Model Prison Manual*. Even the All India Committee on Jail Reforms<sup>9</sup> had also emphasized the need for a consolidated law on prisons.

<sup>8</sup> 1996

<sup>9</sup> 1980-83

### VIII. CONCLUSION

In this age protection of the legal and human rights should be the focus of every human activity and to this jails are no exception. In this evolving age of human rights, it is the solemn and constitutional duty of the correctional systems to focus on retraining, rehabilitation, and social inclusion. Prison system has granted a mission to reform the convicts and take them back to the society. An ideal prison must provide for adequate work, vocational training, and basic educational, medical and recreational facilities

### IX. REFERENCES

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