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## Prison reforms in India - with special reference to the major provisions of the prison act, 1894

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### Abstract

Prison is known by different names in different countries like Correctional Facilities, 'Detention Centers, Jails, and Remand Centers etc. Existence of prisons can be traced back to the ancient period. It was believed that rigorous isolation and custodial measures would reform the offenders. Today Prison is treated more as a correctional or improvement facility which itself indicates that there is more emphasis on reformation of prisoners in the form of punishment. The Constitution of India, the Universal Declaration of Human Rights and the Standard Minimum Rules for Treatment of Prisoners clearly specify the standards of treatment with the prisoners in jails. It is the Prisons Act, 1894, on the basis of which the present jail management and administration operates in India. This Act has hardly undergone any substantial change. Though various bodies have studied the problems of prisons in India and laws are made for improving jail conditions, it is a fact that many problems plague our prisons. This paper attempts to evaluate prison reforms in India and to analyze the salient provisions of the Prison Act, 1894.

**Keywords:** Constitution, Prison Act, 1894, Prison, correctional homes, inmates, reforms

### Introduction

The system of prison administration in our country is more than 100 years old. If one looks back one cannot but be impressed with the vast change made during this period. The innovation, while still halting and employed only in some and not in all the prisons of the country, nevertheless give promise of the system of treating offenders. Gone are now many of the brutal methods of treatment yielding place to several new methods including outdoor labour, facilities for higher education, recreational and correction plans, group work and payment of wages. Attempts are now being made to treat the prisoners under less repressive discipline and with greater freedom <sup>[1]</sup>.

Administration of prisons and reformation of prisoners has been a matter of intense debate and sharp criticism at various public fora. Hon'ble Supreme Court of India in the recent years has come down heavily on the inhuman and degrading conditions in prisons. In many states, the problems of dilapidated prison structure, overcrowding and congestion, increasing proportion of undertrial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, etc., have been engaging the attention of the press and social activists. With a growing advocacy for the protection of human rights in the various walks of lives, the plight of prisoners has emerged as a critical issue of public policy <sup>[2]</sup>.

### Concept and Meaning of Prisons

A prison, gaol or jail is a facility in which inmates are forcibly confined and denied a variety of freedoms under the authority of the state as a form of punishment. The most common use of prisons is as part of a criminal justice system, in which individuals officially charged with or convicted of crimes are confined to a jail or prison until they are either brought to trial to determine their guilt or complete the period of incarceration they were sentenced to after being found guilty at their trial. Outside of their use for punishing civil crimes, authoritarian regimes also frequently use prisons and jails as tools of political repression to punish political crimes, often without trial or other legal due process; this use is illegal under most forms of international law governing fair administration of justice. In times of war or conflict, prisoners of war may also be detained in military prisons or prisoner of war camps, and large groups of civilians might be imprisoned in internment camps <sup>[3]</sup>.

Apart from other punishments awarded, imprisonment plays an important role in protecting the community against the most dangerous offenders and in punishing the most serious crimes.

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Law is continuous process and recent research and experience have shown the many disadvantages of over using imprisonment. Imprisonment can harm the chances of people to amend and fulfil their potential as reformed citizens.

According to Donald Taft Prisons are deliberately so planned as to provide unpleasant compulsory isolation from society. A Prison characterizes rigid discipline, provision of bare necessities, strict security arrangements and monotonous routine life. Life inside the prison necessarily pre-supposes certain restrictions on the liberty of inmates against their free will. The original term of Prison is jail or penitentiary. Prison has been defined as a place properly arranged and equipped for reception of persons who by legal processes are committed to it for safe custody while awaiting trial or for punishment. A prison or jail is a facility in which individuals are forcibly confined and denied a variety of freedoms under the authority of the state as a form of punishment. Hence in its origin the prison was considered as a place of detention of offenders until trial and judgment and the execution of the latter<sup>[4]</sup>.

Section 3 (a) "prison" means any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include

(b) Any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882 (10 of 1882); or (c) Any place which has been declared by the State Government by general or special order, to be a subsidiary jail.

### **Development of Prison Reforms in India**

Broadly speaking, the existence of prisons in our society is an ancient phenomenon since Vedic period where the anti-social elements were kept in a place identified by the rulers to protect the society against crime. Prisons' were considered as a 'House of Captives' where prisoners were kept for retributory and deterrent punishment. The major prison reforms in India can be summarized as under-

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

The cutting-edge prison in India began with the Minute by TB Macaulay in 1835. A committee to be specific Prison Discipline Committee was delegated, which presented its report in 1838. The committee prescribed expanded thoroughness of treatment while dismissing every single philanthropic need and changes for the prisoners. Following the proposals of the Macaulay Committee between 1836 - 1838, Central Prisons were developed from 1846.

An office of Inspector general of prison was created whose duty was to maintain discipline among the prisoners and by this, 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.

#### **The Second Commission of Inquiry into Jail Management and Discipline 1864**

The contemporary Prison organization in India is consequently a heritage of British run the show. It is in view of the thought that the best criminal code can be of little use to a group unless there is great hardware for the curse of disciplines. In 1864, the Second Commission of Inquiry into Jail Management and Discipline made comparative

suggestions as to the 1836 Committee. In addition, this Commission made a few recommendations with respect to convenience for prisoners, improvement in diet, and clothing, bedding and therapeutic care.

#### **The Fourth Jail Commission 1888**

In 1888, the Fourth Jail Commission was designated. On the premise of its suggestion, a consolidated prison bill was formulated. Arrangements with respect to the jail offences and discipline were exceptionally analyzed by a meeting of specialists on Jail Administration. In 1894, the draft charge moved toward becoming law with the consent of the Governor General of India.

#### **Prisons Act, 1894**

The Prisons Act, 1894 is the only consolidated framework with regards to jail management and administration which operates across all parts of India. This is an antediluvian act which operates without any amends to it. This act, however, failed to resolve certain issues. The loopholes in the act were subsequently addressed in the report of the Indian Jail Committee 1919-1920 pertaining to the rehabilitation and reformation of offenders, which were recognized to be as the key objective of prison administrator.

#### **Indian Jail Reform Committee 1919-20**

In the year 1919-20, the Indian jail reform committee, appointed to suggest prison reforms was headed by Sir Alexander Cardew. The committee took a stand on an international perspective after observing the condition of prison across the globe and laid down an inference that prisons should not only have a deterrent effect but also have a reformatory approach. The committee emphasized the need for a reformatory approach to prison inmates and dejected the use of corporal punishment in jails.

It suggested the utilization of an inmate in productive activities. The Committee underlined the need for aftercare programs for the released prisoners for the purpose of rehabilitation.

As a measure of prison reform, the Jail Committee further suggested that the maximum intake capacity of each jail should be set, depending on its shape and size. In the meantime, there was an outcry for retention of solitary confinement as a method of punishment.

#### **Government of India Act, 1935**

The Government of India Act, 1935 is an important legislative framework which resulted in the transfer of the subject of jails from the Center list to that under the control and administration of provincial governments. This further condensed the possibility of a uniform prison policy at a national level. Thereafter the States started having their own prison policies, rules and procedure.

#### **The Reckless Report, 1951**

The Government of India invited the United Nations expert on correctional work, Dr. Reckless in the year 1951, to embark a study on the prison administration and to recommend policy reforms. He made a plea of transforming jails into reformation centers through this report titled "Jail Administration in India". Furthermore, he also laid emphasis on modification to be made in the outdated manuals.

#### **All India Jail Manual Committee 1957**

The Government of India in the year 1957 accorded its assent to appoint All India jail manual committee to prepare a model prison manual. The committee laid down its submission in the year 1960. The report made forceful pleas for formulating a uniform policy and latest methods relating to jail administration, probation, aftercare, juvenile and remand homes, certified and reformatory school, borstal schools and protective homes, suppression of immoral traffic, etc. Moreover, the report suggested amendments in the century old Prisons Act of 1894 to provide a legal base for correctional work.

The committee prepared the Model prison manual and presented it to the Government of India in 1960 for its implementation. The manual is the basis on which the current Indian prison management is regulated. The Model prison manual paved way for the Ministry of home affairs Government of India, to appoint a working group on prisons in the year 1972,

### **Working Group on Prisons**

In 1972, the Ministry of Home Affairs, Government of India, appointed a *Working Group on Prisons* which presented its report in 1973. This Working Group brought out in its report the need for a National Policy on Prisons. Its salient features are as under:

1. To make effective use of alternatives to imprisonment as a measure of sentencing policy.
2. Emphasized the desirability of proper training of prison personnel and improvement in their service conditions.
3. To classify and treat the offenders scientifically and laid down principles of follow-up and after-care procedures.
4. That the development of prisons and the correctional administration should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of the national planning process.
5. Identified an order of priority for the development of prison administration.
6. The certain aspects of a prison administration are included in the five-year Plans.
7. An amendment to the Constitution be brought to include the subject of prisons and allied institutions in the Concurrent List, the enactment of suitable prison legislation by the Centre and the States, and the revision of State Prison Manuals be undertaken.

### **Mulla Committee**

In 1980, the Government of India set-up a Committee on Jail Reform under the chairmanship of Justice AN. Mulla, The basic objective of the Committee was to review the laws, rules and regulations keeping in view the overall objective of protecting society and rehabilitating offenders. The Mulla Committee submitted its report in 1983. The All India Jail Committee focuses on bringing equilibrium between States and Union territories on the legal framework concerning prison administration.

The Committee suggested setting up of a National Prison Commission as an enduring body to bring about modernization of prisons in India. The Committee also made a proposition that the existing dichotomy of prison administration at Union and State level should be removed. It recommended a total ban on the atrocious practice of associating together juvenile offenders with hardened

criminals in prisons. The Committee also recommended separation of mentally disturbed prisoners and their placement in mental asylums. Another recommendation of the Jail Committee was a vis-à-vis classification of prisoners on the scientific and rational basis.

Some of the prominent recommendations of the Mulla Committee are:

1. The condition of prisons should be improved by making adequate arrangements for food, clothing, sanitation, ventilation etc.
2. The prison staff should be properly trained and organized into different cadres. It would be advisable to constitute an All India Service called the Indian Prisons & Correctional Service for recruitment of Prison officials.
3. After-care, rehabilitation and probation should constitute an integral part of prison service. Unfortunately, probation law is not being properly implemented in the country.

### **Krishna Iyer Committee**

The Government of India in the year 1987 appointed the Krishna Iyer committee to carry out a study on plight of the women prisoners in India. It has recommended the induction of more women in the police force with a view of their special role in controlling women and child offenders. The committee submitted its report in the year 1988 to the Government of India.

### **Major Provisions of the Prisons Act, 1894**

The Prison Act, 1894 is an Act to provide for the transfer of certain prisoners from India to country or place outside India and reception in India of certain prisoners from country or place outside India

### **Accommodation for Prisoners**

The State Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners <sup>[5]</sup>.

### **Inspector General**

An Inspector General shall be appointed for the territories subject to each State Government, and shall exercise, subject to the orders of the State Government, the general control and superintendence of all prisons situated in the territories under such Government <sup>[6]</sup>.

### **Officers of Prisons**

For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the State Government thinks necessary: Provided that the State Government of Bombay may declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent <sup>[7]</sup>.

### **Temporary Accommodation for Prisoners**

Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison, or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary

shelter and safe custody of any prisoners, provision shall be made, by such officer and in such manner as the State Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison <sup>[8]</sup>.

### **Control and Duties of Officers of Prisons**

All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 3 <sup>[9]</sup>.

### **Officers not to have Business Dealings with Prisoners**

No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings, directly or indirectly, with any prisoner <sup>[10]</sup>.

Officers not to be interested in prison-contracts

No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner <sup>[11]</sup>.

### **Superintendent**

Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control. Subject to such general or special directions as may be given by the State Government, the Superintendent of a prison other than a central prison or a prison situated in a Presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon <sup>[12]</sup>.

### **Records to be kept by Superintendent**

The Superintendent shall keep, or cause to be kept, the following records <sup>[13]</sup>:

1. A register of prisoners admitted;
2. A book showing when each prisoner is to be released;
3. A punishment-book for the entry of the punishments inflicted on prisoners for prison-offences;
4. A visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;
5. A record of the money and other articles taken from prisoners; and all such other records as may be prescribed by rules under section 59.

### **Duties of Medical Officer**

Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the State Government under section 59 <sup>[14]</sup>.

### **Medical Officer to Report in Certain Cases**

Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may

think proper. This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information <sup>[15]</sup>.

### **Report on Death of Prisoner**

On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely <sup>[16]</sup>:

1. The day on which the deceased first complained of illness or was observed to be ill,
2. The labour, if any, on which he was engaged on that day,
3. The scale of his diet on that day,
4. The day on which he was admitted to hospital,
5. The day on which the medical officer was first informed of the illness,
6. The nature of the disease,
7. When the deceased was last seen before his death by the medical officer or medical subordinate,
8. When the prisoner died, and
9. In cases where a postmortem examination is made an account of the appearances after death, together with any special remarks that appear to the medical officer to be required to be made.

### **Jailer**

The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere. The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment <sup>[17]</sup>.

### **Jailer to give Notice of Death of Prisoner**

Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate <sup>[18]</sup>.

### **Responsibility of Jailer**

The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners <sup>[19]</sup>.

### **Jailer to be Present at Night**

The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent <sup>[20]</sup>.

### **Powers of Deputy and Assistant Jailers**

Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule there under Subordinate Officers <sup>[21]</sup>.

### **Duties of gate Keeper**

The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer <sup>[22]</sup>.

**Subordinate Officers not to be absent without Leave**

Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer. 23. Convict officers.-Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860) <sup>[23]</sup>.

**Convict Officers**

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**Admission, Removal and Discharge of Prisoners - Prisoners to be examined on Admission**

Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him. Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add. (3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer <sup>[25]</sup>.

**Effects of Prisoners**

All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer <sup>[26]</sup>.

**Removal and Discharge of Prisoners**

All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer. No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal. No prisoner shall be discharged against his will from prison, if laboring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe <sup>[27]</sup>.

**Conclusion**

The real purpose of sending criminals to prison is to transform them into honest and law abiding citizens by inculcating in them distaste for crime and criminality. But in actual practice, the prison authorities try to bring out reformation of inmates by use of force and compulsive methods. Consequently, the change in the inmates is temporary and lasts only till they are in the prison and as soon as they are released they again get attracted towards criminality. It is for this reason that the modern trend is to lay down greater emphasis on the prisoners so that they can be rehabilitated to normal life in the community. This objective can be achieved through probation and parole. The sincerity, devotion and tactfulness of the prison officials also help in the process of offender's rehabilitation.

In India, prison reforms did not emerge out of the social movement but were necessarily an outcome of the worst conditions of treatment faced by the political sufferers in

prisons during the period of their imprisonment. They repeatedly launched protests with the prison authorities and made all possible efforts to see that the rigours of prison life are mitigated and prisoners are humanly treated.

The reforms were intended to safeguard society from criminals by rehabilitating offenders, deterring them, and extracting recompense for illegal behavior to the pleasure of society. The goal of instituting changes was to affect a change in behaviour in the prisoner's attitude toward community. Criminals are products of social situations, and as a result, they must be treated instead of punished. The goal of incarcerating criminals is to convert them into law-abiding individuals.

Though various bodies have studied the problems of prisons in India and laws are made for improving jail conditions, it is a fact that many problems plague our prisons. In many cases, prisoners come out of jails as hardened criminals more than as reformed wrong doers willing to join the mainstream social processes. The emphasis on correctional aspect needs to be strengthened through counseling programmes by experts. The mindset of the prison staff must change. The management of prisons must be marked by discipline and due regard to the human rights of prisoners. Prison reform is not just about prison buildings, but what goes on inside them that need to be changed. The focus must be on the human rights of prisoners besides improving their amenities.

Supreme Court on September 25, 2018 constituted a committee headed by its former judge Justice Amitava Rao to inquire into jail reforms across the country and suggest measures to handle them. One more committee is in row of the prison reforms. As one looks on to the recommendations made by various Jail Reform Committees, how many recommendations have been implemented till now; very few. Establishment of committees is not the need; the need is to implement those recommendations given by earlier committees. The Government needs to understand that prisoners are humans too and provide them basic facilities. More financial resources should be allocated to prisons so that proper facilities can be given to the inmates.

**References**

1. Bhushan V. Prison Administration in India 246 (S. Chand & Co.; c1970).
2. Model Prison Manual for the Superintendence and Management of Prisons in India, prepared by Bureau of Police Research and Development, Ministry of Home Affairs, Government of India 1 New Delhi; c2003.
3. *Ibid*
4. Bhargava R. A Critical Study of Prison Reforms in India Pen Acclaims, 2018, 2(2).
5. The Prison Act, 1894, 4.
6. *Ibid*, s. 5
7. *Ibid*, s. 6
8. *Ibid*, s. 7
9. *Ibid*, s. 8
10. *Ibid*, s. 9
11. *Ibid*, s. 10
12. *Ibid*, s. 11
13. *Ibid*, s. 12
14. *Ibid*, s. 13
15. *Ibid*, s. 14
16. *Ibid*, s. 15
17. *Ibid*, s. 16
18. *Ibid*, s. 17

19. Ibid, s. 18
20. Ibid, s. 19
21. Ibid, s. 20
22. Ibid, s. 21
23. Ibid, s. 22
24. Ibid, s. 23
25. Ibid, s. 24
26. Ibid, s. 25
27. Ibid, s. 26