

A REVIEW OF INDIA'S PRISON REFORMS

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Introduction

Prisons go by many different names over the world, including "Correctional Facilities," "Detention Centres," "Jails," and "Remand Room." Prison represents a system of punishment and a kind of institutional setting for defendants and under trials throughout every stage of the trial. Without crime and criminals, there can be no society. For this reason, prisons are essential in every nation. Penalizing offenders is one of civil society's main roles. Prison time can be used to accomplish the goal of the punishment.

As society's perspective of jail and prisoners changed, so did earlier ideas of prison as a place where convicts were kept against their will by being deprived of their freedom as a kind of punishment. A modern prison organization's three primary duties are custody, care, and treatment. For more than a century, there was a focus on custody since it was thought that order and discipline were necessary for good custody. Punishment in prison was intended to serve as a deterrent. As a result, harsh penalties and hard labour with no respect for the individual characteristics of the prisoners served as the mainstay of prison life. The jail guidelines of several States contain a list of more than 40 criminal offences, and any violation was met with severe penalties. The goal of jail gradually shifted from simple deterrence to deterrence and reformation. This resulted in the elimination of some of the harsher types of punishment and the establishment of a system of rewards for excellent performance and conduct, including sentence reviews, wages for prison labour, open-air treatment, release, furloughs, canteen amenities, etc. The fact that jail is now viewed more as a correctional or improvement centre alone suggests that reformation of two convicts is given more priority during the punishment process. A friendly environment must be developed in jails for the benefit of convicts in order to accomplish this goal. In addition to emphasising social and ethical norms for reintegration into society after release, facilities for education, recreation, and job training are needed for inmates. This will not only assist them in overcoming their hostility towards society, which will aid their assimilation into society, but it will also give them alternative means of support after they are released.

The early twentieth century incidents that took place in the United Kingdom can be linked to the origins of the correctional movement. The Universal Declaration of Human Rights marked a turning point in the humane treatment of populations held under guardianship. The U.N. reinforced these criteria even more. Standard Minimal Guidelines for Prisoner Treatment, 1955. In the case of India, the Indian Constitution, the Prisons Act of 1894, the judgements of the Supreme Court and High Courts, and the findings of several prison reform groups have brought attention to the issues pertaining to the state of prisons and offered possible solutions.

International Standard and Rules on Prison Reform

The primary international tool for defending imprisoned rights is the ICCPR¹. Since India joined the Covenant in 1979, it is required to implement these clauses into its national legislation and administrative procedures. According to the ICESR,² prisoners are entitled to the best possible physical and mental health conditions. In addition to their civil and political rights, inmates are also entitled to the so-called second generation of ICESR's economic, social, and human rights.

A separate facility aside from adult convicts for young and juvenile offenders is also required by the UN Standard Minimal Rule. Both the Body of Principles for the safeguarding of Every Individual under Any Form of Detention or Imprisonment (United Nations 1988) and the Basic Principles for the Welfare of Prisoners (United Nations 3 1990) are future UN directives.

India's Prisons and Prison Law

According to List-II of the Constitution's 7th Schedule, prison is a state matter. The Prisons Act of 1894 and the different State Governments' Prison Guides govern the supervision and administration of prisons, which is solely the responsibility of the State Governments.

¹ International Covenant on Civil and Political Rights

² International Covenant on Economic, Social, and Cultural Rights

Therefore, it is primarily up to the states to alter the existing prison laws, rules, and regulations. The following significant statutes have an impact on how the nation's prisons are governed and run:

- I. The IPC, 1860.
- II. The PA, 1894.
- III. The Prisoners Act, 1900.
- IV. The IPA, 1920.³
- V. Constitution of India, 1950
- VI. The TPA, 1950.⁴
- VII. The Representation of People Act, 1951.
- VIII. The POA, 1958.⁵
- IX. The CRPC, 1973.⁶
- X. The MHA, 1987.⁷
- XI. The JJA, 2000.⁸
- XII. The RPA, 2003.

Issues Related to Indian Prisons

There are some extremely serious issues in jails all over India, despite the fact that there are not as many people incarcerated as in many other nations. Insufficient social reintegration programmes, poor doing on healthcare and social services, a lack of legal aid, overcrowding, prolonged detention of unjustly convicted individuals, poor living conditions, staff shortages and inadequate training, bribery and extortion, and four allegations of unimportant or even cruel treatment of prisoners by prison staff are just a few examples. Sometimes, such as when prisoners in Bhagalpur were blinded, the dire human rights condition also garnered a lot of media attention. The murder of a female life prisoner in Mumbai's Byculla women's jail in June 2017 has refocused attention on institutional violence, particularly the susceptibility of convicts to dictatorial behaviour.⁹

India's prison reforms

The Minute by TB Macaulay, published in 1835, introduced the idea of the contemporary prison in India. An appointed Prison Discipline Committee turned up its report in 1838. The group rejected all humanitarian demands and prisoner reform while recommending more stringent punishment. The Committee's suggestions were followed, and starting in 1846, Central Prisons were built. Therefore, British dominance is still evident in the way that prisons are managed in India. Its foundation is the idea that even the strongest criminal code won't help a community much if there isn't an effective system in place for punishing offenders. The Second Commission of Investigation into Prison Administration and Discipline in 1864 made recommendations that were comparable to those made by the 1838 Committee. Additionally, this Commission provided several specific recommendations about prisoner housing, dietary enhancements, clothes, bedding, and medical attention.

The 4th Jail Commission was established in 1888. A combined prison law was created based on its recommendations. A team of experts on jail management specifically looked at the laws governing jail offences and punishment. The draught bill received the Viceroy's approval and was signed into law in 1894. This Act serves as the cornerstone for India's current system of managing and running detention facilities. Since its commencement, this Act has scarcely experienced any significant revisions.

However, the process of reviewing the issues with Indian prisons went on. For the first time in the background of prisons, "transformation and rehabilitation" of offenders were identified as the aims of jail in the Indian Jail Committee's 1919–20 report.

³ Identification of Prisoners Act,

⁴ Transfer of Prisoners Act,

⁵ Probation of Offenders Act

⁶ Code of Criminal Procedure

⁷ Mental Health Act

⁸ Juvenile Justice Act

⁹ Rishabh Bhargava. A Critical Study of Prison Reforms in India, Journal of Pen Acclaims, ISSN 2581-5504 Volume 2, (July 2018).

The GIA¹⁰ of 1935 led to the removal of prisons from the Central List and placed them within the jurisdiction of the provincial governments, which made it less likely that a uniform national prison strategy would be implemented. As a result, each State has its own set of laws and norms governing the daily operation of prisons, the care of inmates, and the prescribing of processes.¹¹

Indian Prison Reform Committees

A number of committees have been established that have outlined certain topics that must be investigated in order for prisons to serve as a setting for the reformation and rehabilitation of inmates while also preserving their human rights. The researcher will discuss several post-independence committees that were established in India and the suggestions they made in this paper.

• The 1957 All India Jail Manual Committee

This committee was constituted in 1957 by the Central government. It was created with the intention of creating a standard prison guide for all states to preserve uniformity in prison administration and guarantee that at the very least minimal reformatory measures were implemented in all prisons across the country. Page 1 of the 1960 All India Jail Manual Committee. As a result, the 1960 committee report that was submitted became the Draught Prison Guide. (All India Jail Manual Committee, 1960) The committee made a number of recommendations for corrective actions, including but not limited to using contemporary approaches to deal with problems relating to prison management, probation, after-care, juvenile, remand room, verified and reformatory schools, borstals, exclusion of immoral traffic, etc. According to the research, India should implement a national policy for prison reforms. The document also included guidelines for grouping convicts according to their needs in terms of care. Sadly, none of the committee's suggestions ever saw the light of day. The government has also been under fire from the Supreme Court for restricting this report on papers and has been urged to do so.¹²

• Justice Krishna Iyer Committee, 1987

An important step in India's reforms and prison administration was taken with the creation of this committee. This was the first time a committee was formed with the express purpose of addressing the situation of female prisoners. The committee's top suggestion was to increase the number of female police officers so that the suffering of female and juvenile detainees might be handled more humanely. This group placed a strong emphasis on hiring women for non-combat professions that call for more endurance, restraint, and patience. They should also receive specialised training to deal with mob outbursts in a delicate and humane way. The following are the committee's top suggestions.

1. The establishment of a national policy for Indian prisons housing female inmates;
2. The adoption of new laws and regulations governing the punishment and behaviour of female inmates;
3. Giving women convicts access to free legal counsel;
4. Building separate jails for women; and
5. Making arrangements for the proper care of a child delivered to a woman prisoner in terms of medical assistance and nourishment.

¹⁰ Government of India Act

¹¹https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/Prison_reforms_in_India.pdf

¹² NISHANT KRISHNA ADHIKAR. Prison and Prison Reforms in India, Journal of International Journal of Law Management & Humanities Vol. 4 Issue 4 (2021).

• **Model Prison Manual for the Superintendence and Management of Prisons in India, 2003**

It was the outcome of the Supreme Court's decision in the 1997 case of *Ramamurthy v. State of Karnataka*.¹³ The AIMP¹⁴ was established by the Central government in November 2000 under the direction of the Director General of BPRD to create a Model Prison Manual for the Superintendence and Management of Prison in India in order to maintain consistency in the operation of prisons across the nation. The AICJR¹⁵ suggestions, which were covered earlier in the paper, served as a major source of inspiration for the committee as it alluded to many recommendations made by its predecessors. Several working groups were established during the manual's preparation, and the committee's principal recommendations included the following:

- a. An overview of the current legislation, rules, and regulations governing prisons;
- b. a comparison of the content of the State Prison Manuals of India;
- c. a thorough investigation of the suggestions made by the AICJR;
- d. a close examination of the implications of the suggested bill on the prisons being finalised by the mini-committee;

• **National Policy on Prison Reforms and Correctional Administration – 2007**

Although significant steps were done to comprehend, address, and execute reformatory measures for India's prison administration, the reality did not much alter because the majority of these recommendations were not fully carried out. The central government established a committee in 2005 under the chairmanship of the Director General of BPRD to prepare a draught policy paper on the strategy relating to reforming prisons and correctional administration. This was another step towards understanding the prison administration and proposing reforms. (BPRD, 2007) The change was well received, and there were rumours that the government might completely overhaul the way it managed the jail system.

• **5th National Conference of Heads of Prisons of States and UTs on Prison Reforms (2007)**

This conference was organised by the MHA¹⁶ of the Indian government. The following is a list of the conference's key learnings.

- a). A scientific aggregate of the many types of prisoners must be used by the state to classify convicts in order to ensure proper care.
- b). Progress in the discipline of criminology Penology and to encourage study on the pattern of crime that aids in the creation of effective punishment for offenders.
- c). Individualising the treatment plans for criminals, including courses for job training, and offering all indigent prisoners' free legal representation.
- d) Promoting prisoners to become involved in work programmes by paying reasonable wages, using leave and remission incentives, and granting convict's early release.
- e). The state should uphold the prisoner's residual rights; build a well-organized prison cadre based on adequate work criteria, sound training, and suitable pathways for promotion; and promote community engagement in prison initiatives on a voluntary basis.
- f). Children of juvenile offenders and mentally ill inmates should not be housed in prisons; instead, they should be moved to suitable facilities. Women in jail should be housed in a separate facility, and the staff should solely be made up of women.
- g). The establishment of an experienced, non-official registered body to provide support for proper operation, with selected eminent public figures being permitted to visit prisons and provide reports Probation, parole, and rehabilitation must be an essential component of prison operations.
- h) The Central Government should establish a high-status National Commission on Prisons on a permanent basis. This commission will make a report on the administration and present it to the Parliament for consideration.

¹³ AIR 1997 SC 1739.

¹⁴ All India Model Prison Manual Committee

¹⁵ All India Committee on Jail Reforms

¹⁶ Ministry of Home Affairs

The government must make sure that the judiciary, prosecution, and police are coordinated. The government must support research in the realm of corrections to improve the efficiency of jail initiatives.

J). Using contemporary systems and technological devices, the state shall make the appropriate provisions for the security of prisons, inmates, and prison employees.¹⁷

Conclusion

The idea that criminals should be subjected to suffering in order for them to recognise their guilt and the consequences of their actions gave rise to the concept of jail. The original plan was to let the offender experience the same amount of suffering that he did to the victim of the crime and to society's conscience. But as society changed and people's concern for "individual" human rights grew, the liberties of prisoners were also acknowledged. There is a growing conviction that people should be treated with fundamental human decency and respect even after they have been found guilty or accused of a crime. Thus, the concept of using prisons as centres for reform, rehabilitation, and treatment of inmates so that they could be rendered capable of contributing to society and leading normal lives after being released from jail, arose. As a result, the jail received some basic amenities, correct standards were upheld, and the prison was kept from becoming "hell on earth," as was the traditional view of incarceration. The primary concern was to continue running the jail in a way that both fulfils the original intent behind its founding and can also accommodate growing societal expectations regarding how inmates should be treated. For this reason, several committees were formed in India to investigate into the situation. The committees formed made a number of proposals to enhance India's jail administration, which we have already covered in this project. The situation of the detainees has not significantly improved, and India's prisons continue to be havens for abuses of human rights. This was caused by the fact that the majority of the committees' recommendations stayed on paper. The prisons make little progress because to a serious shortage of funding, corruption, and a paucity of government improvement will. The recommendations made by the various committees were not fully implemented, as can be seen by examining their reports. The Justice A.N. Mulla committee's report, which had over 659 suggestions and would have been extremely beneficial in overhauling jail administration in India, did not receive the proper attention.

Even while the government has made some significant progress, such as with the creation and dissemination of the National Policy on Prison Reforms and Correctional Administration, much work still has to be done. According to the NHRC¹⁸ 2018 annual report, the percentage of cases of incarceration violence is rising quickly in India and has become a significant contributor to the violation of inmates' rights. The police have little checks and balances on their authority, which effectively allows them unrestricted discretion to mistreat inmates. Planning for appropriate solutions to issues with prison management, such as overcrowding, quick trials, torture in custody, and other similar issues, has not yet been completed. Jail staff members have very little knowledge of and training in jail administration. Since it is not a politically sensitive subject, the administration also lacks the funding from the government to conduct regular management of the jail operations. The prison guards in some areas of India aren't even routinely compensated. The government hasn't implemented any effective reformatory programmes or strategies. The government has been using the tried-and-true methods of probation and parole for reformation instead of implementing any reformatory procedures in the jails. The development of prisoner skills is not given high importance by policymakers. After the introduction of training plans, strong rules are required to control the performance of jail administration personnel.

¹⁷ Sahibnoor Singh Sidhu. Prison Reform in India- An Incomplete Saga, Journal of Positive School Psychology, Vol. 6, No. 7, 2234-2250 (2022).

¹⁸ National Human Rights Commission