

Jail reforms in India: A study of Indian jail reform committees

Zubair Ahmed

Research Scholar and Guest faculty, Department of Law, Assam University, Silchar, Assam, India.

Abstract

In India the prison is considered as a place like that of a living hell. Study of groups, committees and commissions, initiated from time to time, have rendered a holistic approaches of the prison authorities and administrators towards bringing out changes in prison system. The reports submitted by different authorities from time to time draws public and legislative attention towards the situation, issues and problems confronting prisons in the country. This is abundantly exemplified by the deliberations of the All India Committee on Jail Reforms, that prisons administration and living conditions of prisoners need to be paid a pointed and systematic attention. The Committees appointed from time to time has made a large number of recommendations.

Keywords: Prison, committees, changes, reforms, administration, rights

Introduction

Prisonization symbolizes a system of punishment and also a sort of institutional placement of under trials and suspects during the period of trial. Since there cannot be a society without crime and criminals, the institution of prison is indispensable for every country. Punishing the offenders is a primary function of all civil societies. The drama of wrong doing and its retribution has indeed been an unending fascination for human mind. However, during the last two hundred years, the practice of punishment and public opinion concerning it has been profoundly modified due to the rapidly changing social values and sentiments of the people. Punishment was used as a method of reducing the incidence of criminal behavior either by deterring the potential offenders or by incapacitating and preventing them from repeating the offence or by reforming them into law-abiding citizens. The objective of punishment can only be achieved by the prison institution.

Concept of prison reforms

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. Initially there was a belief that rigorous isolation and custodial measures would reform the offenders. In due course it is being substituted by the modern concept of social defence. Various problems prevailing in prisons are acknowledged by government and authorities from time to time.

John Locke, the great English political theorist of seventeenth century expressed that men were basically good but laws were still needed to keep down '*The few desperate men in society*'. The aim of the society as expressed in its criminal law is to safeguard its own existence to maintain order and to make it possible for all citizens to lead a good life, free from molestation of others. The law enforcement agencies have been given the powers by the society to curtail the freedom of its citizens by taking them into custody in connection with their deviant conduct.

Before the 1700's, governments seldom imprisoned criminals for punishment. Instead, people were imprisoned while awaiting trial or punishment. Common punishments at that time included branding, imposing fines, whipping, and capital punishment (execution). The authorities punished most offenders in public in order to discourage other people from breaking the law. Some criminals were punished by being made to row the oars on ships called galleys. However, English and French rulers kept their political enemies in as such addition; people who owed money and defaulted on payments were held in debtor's prisons. In many such cases, offenders' families could stay with them and come and go as they pleased^[1].

During the 1700's, many people including British Judge Sir William Blackstone criticized use of executions and other harsh punishments. As a result, governments turned more and more to imprisonment as a form of punishment. Early prisons were dark, dirty and overcrowded. They locked all types of prisoners together, including men, women, children, dangerous criminals, debtors and the insane. During the late 1700's, the British reformer John Howard toured Europe to observe prison conditions. His book *The State of the Prisons in England and Wales (1777)* influenced the passage of a law that led to the construction of the first British prisons designed partly for reform. These prisons attempted to make their inmates feel penitent (sorry for doing wrong) and became known as 'penitentiaries'^[2].

Indian prison reforms

The contemporary prison administration in India is a legacy of the British Rule. Lord Macaulay, while presenting a note to the Legislative Council in India on December 21, 1835, for the first time, pointed out the terrible inhumane conditions prevalent in Indian prisons and he termed it as a "*shocking to humanity*". He recommended that a committee be appointed to suggest measures to improve discipline in prisons. Consequently, on 2nd January, 1836, a Prison Discipline Committee was constituted by Lord William Bentinck for this purpose. The committee submitted their report in 1838 to Lord Auckland, the then Governor General which revealed prevalence of rampant corruption in the subordinate

establishments, the laxity in discipline and the system of employing prisoners on extramural labour on public roads. The committee recommended more rigorous treatment of prisoners and rejected all notions of reforming criminals lodged in the prison through moral and religious teaching, education or any system of rewards for good conduct ^[3].

Sir John Lawrence, a renowned jurist, again examined the conditions of Indian prisons in 1864. Consequently Second Commission of Enquiry to look into prison management and discipline was appointed by Lord Dalhousie. The commission in their report did not dwell upon, the concept of reformation and welfare of prisoners. It, instead, laid down a system of prison regimentation occasioned with physical torture in the name of prison discipline. However, the commission made some specific recommendations in respect of accommodation, diet, clothing, bedding, medical care of prisoners only to the extent that these were incidental to discipline and management of prisons and prisoners.

A Conference of Experts was held in 1877 to inquire into the prison administration in detail. The conference resolved that a Prison Law should be enacted which could secure uniformity of system and to address such basic issues which were to be reckoned for deciding term of sentence. In pursuance to the resolution passed in this conference, a draft Prison Bill was actually prepared but finally postponed due to unfavourable circumstances.

The Fourth Jail Commission was appointed by Lord Dufferin in 1888 to inquire into the prison administration. This commission reiterated that the uniformity could not be achieved without the enactment of a single Prisons Act. The commission drafted a bill. This Bill was circulated to all local Governments by the Home Secretary to the Government of India on 25th March, 1893 with a view to obtaining their views. It was later presented to the Governor General in Council and ultimately Prisons Act of 1894 came into existence which is the current law governing management and administration of prisons.

The process of review of prison problems in the country, continued even after the enactment of Prisons Act, 1894. The first ever comprehensive study was launched on this subject with the appointment of 'All India Jail Committee' (1919-1920). It is indeed a major landmark in the history of prison reforms in India and is appropriately called the corner stone of modern prison reforms in the country. For the first time, in the history of prison administration, reformation and rehabilitation of offenders were identified as one of the objectives of prison administration.

Indian jail reform committee 1919-20

The Indian Jail Reform Committee 1919-20 which was appointed to suggest measures for prison reforms was headed by Sir Alexander Cardew. The Committee visited prisons in Burma, Japan, Philippines, Hong Kong and Britain besides the Indian jails, and came to the conclusion that prisons should not only have deterring influence but they should also have a reforming effect on inmates. The Committee underlined the need for reformatory approach to prison inmates and discouraged the use of corporal punishment in jails. It recommended utilization of prison inmates in productive work so as to bring about their reformation. The Committee also emphasized the need for an intensive after-care programme for the released prisoners for their rehabilitation ^[4].

Recommendations of the Committee

The Committee of 1919-20 was appointed to suggest various recommendations for improving the various conditions in India. The principles recommendations can be summed up as:

1. The care of prisoners should be entrusted to the adequately trained staff drawing sufficient salary to render faithful service.
2. The separation of executive/custodial, ministerial and technical staff in prison service.
3. The diversification of the prison institutions i.e. separate jail for various categories of prisoners and a minimum area of 675 Sq. Feet (75 Sq. Yards) per prisoner was prescribed within the enclosed walls of the prison ^[5].

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

The recommendations made by the Committee could not be implemented due to inappropriate political environment. The constitutional changes brought about by the Government of India Act of 1935, which resulted in the transfer of the subject of prisons in the control of provincial governments, further reduced the possibilities of uniform implementation of the recommendations of the Indian Jails Committee 1919-1920 in the country ^[6]. When the subject matter of prison gets transferred to State governments then they framed their own rules for the day to day administration of prisons, upkeep and maintenance of prisoners, and prescribing procedures.

Post-independence reform committees

After independence various committees were made so as to improve the conditions of prison in India. The Pakwasa Committee in 1949 accepted the system of utilizing prisoners as labour for road work without any intensive supervision over them. It was from this time onwards that the system of payment of wages to inmates for their labour was introduced. Certain good time laws were also introduced in jails under which the inmates who behaved well during their term of imprisonment were rewarded by suitable reduction in the periods of their sentence. The ultimate object of these reforms was to protect the society from criminals, to reform the offenders, to deter them and to extract retribution for criminal acts to the satisfaction of the society.

In 1951, the Government of India invited the United Nations expert on correctional work, Dr. W.C. Reckless, to undertake a study on prison administration and to suggest policy reform. His report titled 'Jail Administration in India' made a plea for transforming jails into reformation centers. He also recommended the revision of outdated jail manuals. In 1952, the Eighth Conference of the Inspector General's of Prisons also supported the recommendations of Dr. Reckless regarding prison reform. Accordingly, the Government of India appointed the All India Jail Manual Committee in 1957 to prepare a model prison manual. The committee submitted its report in 1960. The report made forceful pleas for formulating a uniform policy and latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory school, borstals and protective homes, suppression of immoral traffic etc. The report also suggested amendments in the Prison Act 1894 to provide a legal base for correctional work ^[7]. In pursuance of

the recommendations the Central Bureau of Correctional Services was set up under Ministry of Home Affairs in 1961. The Bureau observed as 1971 as Probation Year, further in 1973, Bureau released National Policies on Prison^[8].

Indian Jail Reform Committee 1980-83

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^[9].

The All India Jail Reforms Committee (1980-83) has made several recommendations which concern Government of India. These mostly relate to legal framework and coordination between States and Union Territories. Further these have been examined by the Ministry of Home Affairs and current position of implementation of these recommendations has been indicated^[10].

Recommendations were submitted to prison management and circulated to all States and Union Territories for their implementation. The Committee suggested setting up of a National Prison Commission as a continuing body to bring about modernization of prisons in India. The Committee also made a Suggestion that the existing dichotomy of prison administration at Union and State level should be removed. It recommended a total ban on the heinous practice of clubbing together juvenile offenders with the hardened criminals in prisons. The Mulla Committee also recommended segregation of mentally disturbed prisoners and their placement in mental asylums. Yet another recommendation of the Jail Committee was regarding classification of prisoners on scientific and rational basis^[11].

Important recommendations of the Mulla jail committee

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.
4. The media and public men should be allowed to visit prisons and allied correctional institutions periodically so that public may have first-hand information about conditions inside prisons and be willing to co-operate with prison officials in rehabilitation work.
5. Lodging of under trials in jail should be reduced to bare minimum and they should be kept separate from the convicted prisoners. Since under trials constitute a sizable portion of prison population, their number can be reduced by speedy trials and liberalization of bail provisions.
6. The Government should make an Endeavour to provide adequate resources and funds for prison reforms^[12].

Krishna Iyer Committee on Jail Reform

In 1987, the Government of India appointed the Justice Krishna Iyer Committee to undertake a study on the situation of women prisoners in India. It has recommended induction of more women in the police force in view of their special role in tackling women and child offenders. The National Expert Committee on Women Prisoners headed by Justice V.R. Krishna Iyer report submitted its report to the Government in February 1988.

Various State Jail Reform Committees

The period from 1937 to 1947 was important in the history of Indian prisons because it aroused public consciousness and general awareness for prison reforms at least in some progressive States like, West Bengal, Tamil Nadu, and Maharashtra etc. Efforts of some of the eminent freedom fighters who had known firsthand the conditions in prisons succeeded in persuading the governments of these progressive States to appoint committees to further enquire into prison conditions and suggest improvements in consonance with their local conditions. Some of the Committees appointed during the period were:

1. The Mysore Committee on Prison Reforms, 1940-41;
2. The U.P. Jail Reforms Committee, 1946; and
3. The Bombay Jail Reforms Committee, 1946-48.

In the late thirties, the U.P. Government appointed a 'Jail Enquiry Committee' and in pursuance of its recommendations, the 'First Jail Training School' in India was established at Lucknow in 1940 for the training of jail officers and warders. When India gained independence in 1947, the memories of horrible conditions in prisons were still fresh in the minds of political leaders and they, on assumption of power, embarked upon effecting prison reforms. However, the Constitution of India which came into force in 1950 retained the position of the Government of India Act, 1935 in the matter of prisons and kept 'Prisons' as a State subject by including it in List II—State List, of the Seventh Schedule (Entry 4)^[13].

The first decade after independence was marked by strenuous efforts for improvements in living conditions in prisons. A number of Jail Reforms Committees were appointed by the State Governments, to achieve a certain measure of humanization of prison conditions and to put the treatment of offenders on a scientific footing. Some of the committees which made notable recommendations on these lines were:

1. The East Punjab Jail Reforms Committee, 1948-49;
2. The Madras Jail Reforms Committee, 1950-51;
3. The Jail Reforms Committee of Orissa, 1952-55;
4. The Jail Reforms Committee of Travancore and Cochin, 1953-55;
5. The U.P. Jail Industries Inquiry Committee, 1955-56; and
6. The Maharashtra Jail Industries Reorganization Committee, 1958-59.

While local Committees were being appointed by State Governments to suggest prison reforms, the Government of India invited technical assistance in this field from the United Nations^[14].

Steps Taken by Government of India for Administration of Prison Reforms in India

The Government of India requested to State Government and

different Union Territories to bring out changes so as to make proper administration of changes. Various states from time to time had adopted such recommendations in their prison manuals. These recommendations can be summed up as follows:

1. To revise their prison manuals on the lines of the Model Prison Manual by the end of the year.
2. To appoint Review Committees for the under trial prisoners at the district and state levels;
3. To provide legal aid to indigent prisoners and to appoint whole-time or part-time law officers in prisons;
4. To enforce existing provisions with respect to grant of bail and to liberalize bail system after considering all its aspects;
5. To strictly adhere to the provisions of the Code of Criminal Procedure, 1973, with regard to the limitations on time for investigation and inquiry;
6. To ensure that no child in conflict with law be sent to the prison for want of specialized services under the Central Children Act, 1960.
7. To have at least one Borstal School set up under the Borstal Schools Act, 1929 for youthful offenders in each State;
8. To create separate facilities for the care, treatment and rehabilitation of women offenders;
9. To arrange for the treatment of lunatics in specialized institutions;
10. To provide special camp accommodation under conditions of minimum security to political agitators coming to prisons;
11. To prepare a time bound programme for improvement in the living conditions of prisoners with priority attention to sanitary facilities, water supply, electrification and to send it to the Ministry of Home Affairs for approval;
12. To develop systematically the programmes of education, training and work in prisons;
13. To strengthen the machinery for inspection, supervision and monitoring of prison development programme and to ensure that the financial provisions made for up gradation of prison administration by the Seventh Finance Commission are properly utilized.
14. To organize a systematic programme of prison personnel training on State and Regional level;
15. To abolish the system of convict officers in a phased manner;
16. To mobilize additional resources for modernization of prisons and development of correctional services in prison;
17. To set up a State Board of Visitors to visit prisons at regular periodicity and to report on conditions prevailing in the prisons for consideration of the State Government;
18. To examine and furnish views to Government of India on proposal for setting up of the National Board of Visitors^[15].

Conclusion

Through various committees and acts were passed from time to time for improving the conditions of prisons in India but still majority of the problems is left unsolved. The administration procedure in India is lacking much behind that of western states and hence we are unable to provide good conditions in prisons.

The prisons in country shall endeavor to reform offenders in the social stratification by giving them appropriate correctional treatment. The constitution also provides that principles of management and treatment of offenders should be made prescribed under the Directive Principles of State Policy Part IV of the Constitution. The State must take initiative to improve the conditions of under trial prisoners which can achieved by speeding of the trial procedure, simplification of the bail procedure and periodic induce of causes related to under trial prisoners. At least the under trial should be kept in separate cell. Though various recommendations have been made from time to time but these recommendations did not paved way from report books to reality. It is seen that such reports are based on conditions prevailing in developed countries whereas India being a developing country the situation is totally different and there is problem of adopting such suggestions but constant endeavor should be made for bringing out positive changes.

Reference

1. National Policy on Prison Reforms and Correctional Administration, Bureau of Police Research & Development, Ministry of Home Affairs, Government of India, New Delhi, 2007. available at : www.bprd.nic.in.
2. *Ibid.*
3. *Ibid.*
4. Paranjape NV. *Criminology & Penology with Victimology*, Central Law Publications; Sixteenth Edition; 2014, p-479.
5. *Ibid.*
6. *Supra, note 1.*
7. Prisons in India: An overview of reforms and current situation, pp.31-53; available at www.rajprisons.nic.in.
8. *Ibid.*
9. *Ibid.*
10. Bureau of Police Research & Development, Ministry of Home Affairs, New Delhi. Implementation of the Recommendations of All-India Committee on Jail Reform (1980-83); Volume I; 2003; available at: www.mha1.nic.in.
11. *Supra* note 4, p. 481.
12. *Id.*, p-482.
13. *Supra* note 1.
14. *Ibid.*
15. *Ibid.*