

Prison System in India, In Ancient Times and in Modern Period- A Critical Overview

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Abstract- Prison in its inception was an institutional part of criminology and penology but with the development of humanitarian movement it is now looked into as reformatory and correctional institution. Earlier prison has no purpose other than to board offenders until trial starts and accommodates prisoner for the purpose of sentence. The article is an analysis of prison system in India, its historical evolution how it originates and develops through the passage of time. In Vedic Period prisons were used to keep the evildoer separated. Prior to that when there was summary punishment on offenders by the whip, mutilation, or death there was no need of prison, but later on jails or local prisons gradually grown up as places for detaining people waiting for trials, debtors or awaiting punishments as shipping, pillory the principles of stocks and execution. Later the humanitarian enlightenment brought new influence on the prison system. The researcher here examines how the prison system developed, prison inmates and looking into the life of the prisoners evolve with time along with the awareness to their inalienable rights as a human being. Researcher examines the journey of prison system from a coercive brutal demoralizing, dungeon, pit of hell where criminals were kept for the sake of punishment, discipline, coercion, with the deterrence and retributive aspect of punishment, to achieve as a place of reform and rehabilitation by treating prisoners as human being and correcting them by wiping out the criminality of mind and rebuild and re-orient the personality of the offender, to re-introduced them to the society as a reformed person.

Key words: *Prison, Punishment, Rehabilitation, Retributive, Humanities, Reorientation, Rehabilitation.*

1 INTRODUCTION

In criminal justice framework of India Prison system is a critical pillar that reflect the evolution of social

standards, legislations and government policies regarding crime and punishment. Primarily if we see prison system with custodial functions it has progressively recognized with correctional objective emphasizing on the rehabilitation and reformation of the inmates. In this study researcher aims to provide an analytical examination of the evolution of the prison system from the perspective of the intention, structure, living condition, social and psychological impacts, and rehabilitation efforts. The study also attempts to have a comparative analysis of the prison system in the ancient period and modern age.

2 OBJECTIVE OF THE STUDY

The purpose of this study is to present an analytical overview of the Indian jail system, with an emphasis on the system and the purpose and how well it aligns with the goals in ancient time and modern period. To evaluate the efficacy of the existing reformation and rehabilitation initiatives in Indian jails, taking into account the psychological, vocational, and educational assistance given to prisoners.

3 METHODOLOGY

This study focuses on the Indian prison system using doctrinal method research.

3.1 Prison in ancient days

Prisons have a long history, dating back with crimes against person, property, and administration considered heinous and punishments usually inflicted were mutilation, death, and penance, where rulers placed identified anti-social elements to protect society against crime. The origins of criminal jurisprudence in India can be traced back to 4000 BC.

Although incarceration is the primary form of penalty in penology but in ancient India more harsh forms of sanction such as branded, hanged, mutilated or punished with death were very common. Prison was used to isolate the criminal from the society so that they cannot infect the society with crime. They have evolved as social control institutions, shielding and cutting prisoners from the outside world. Prisons were initially based on principles of retribution and deterrence, which were punitive in character. The purpose of imprisonment was to protect society against crime, ensuring that offenders could return to law-abiding society and live a law-abiding life. However, traditionally, prisons and prisoners have been considered violent, mysterious, and frightful entities by society.

At that time penal system was intertwined with religious and moral principles. It was deeply rooted in the Vedic concept of “dharma” that emphasized on rigorous conduct and ethical duties and “Nyaya” represented justice and “danda” represented punishment. These philosophical thoughts were the bedrock of law and justice for centuries.

Kings and rulers were the law maker and they derived their authority from ‘dharma’ and their primary role was to uphold the morality for the maintenance of law and order in the society. “Danda” or punishment was to be given by the ruler impartially and required to be proportional to the guilt or crime and to provide justice. The rulers who were the forerunner of the dharma had to provide punishment for the purpose of retribution and deterrence like “eye for an eye” system often designed to maintain harmony and order in society. The offences like theft, burglary, adultery penalties were sever including lying the criminal to a stake, subjecting them to fine and water orders. The emphasis was on public corporal and monetary punishment and created a penal culture which was centred round deterrence and restitution rather than prolonged confinement.

Source of law was seminal treatises like Manu Smriti and Kautilya's Arthashastra written in around 400 BC. “Manusmriti” provided the foundation for controlling civil and criminal offences on the principles of “Dharma”, punishment and justice and the concept of “mens-rea” was there and found a connection between crime and motive. Justice was community based with brahmanical jurists and kings were active as judge.

Kautilya's ‘Arthashastra’ advocated authoritative legal counsel which provide the system of proportionality in crime and punishment. The doctrine of “graduated sanction, penalty commensurate with the severity of the offence balancing deterrence with fairness. Kautilya's punitive system was based on the intricate relationship not monetary and physical penalties which intended to enforce law and order through punishment while warning against arbitrary application.

So, in Kautilya's Arthashastra and in the codes of Manu and Yajnavalkya the concept of public and financial and corporal punishment were the penal principles for immediate deterrence and restitution. Imprisonment was primarily for war prisoners, enemies of the king and temporary restrain for the under trials. Arthashastra gives detail description of structure of jail at that time which were described as “dark, dens, cool and damp” and lack sanitation or amenities, the aim of penal system was a deterrence and to maintain social order not or restrict and detain, long term confinement for social control and refer nation were unknown to them. Moreover, penal system was cast based, society segmented into four varnas- Brahmin, Kshatriyas, Vaishya and Shudras. The same crime could incur different punishment on the basis of their casts. The social and economically backward classes receive disproportionate penalty.

In Kautilya's Arthashastra, he discusses the construction of prisons and prison management, suggesting separate accommodation for men and women. In the early years of Ashoka, there was an unreformed prison with traditional unpleasant tortures, and no prisoner came out alive. In the post Ashokan age, the jatakas provide information on society, crime and imprisonment. The early places of imprisonment ranged from large wood frame houses in cities, with the sole objective being detention. Long-term confinement was considered a progressive, humane improvement over the old system of whipping and execution.

3.2 Prison in Medieval Period

The medieval Indian prison system was similar to ancient India, with fortresses serving as detention centers for criminals awaiting trial and judgment. Imprisonment was not used as a punishment for ordinary criminals but rather as a means of detention. During the Mughal period, sources of law remained

quran, with Islamic criminal law in force. Crimes were divided into three groups: offenses against God, offenses against the state, and offenses against private persons.

Penalties for these crimes included liquidation, death, fines, and confiscation, forfeiture of rank and title, humiliations, banishment, whipping, mutilation of offending limbs, execution, and other corporal punishments.

The Delhi Sultanate and the Mughal Empire led to a shift in the administration of justice, moving away from a religious-philosophical framework to a more political and centralized system. Monarchs were considered the "Fountain of Justice" and held supreme judicial authority, often presiding over the highest courts. The legal framework was a blend of Islamic Shariat law and ruler's personal decrees. This led to the development of a judicial hierarchy with distinct courts at different levels, a feature later adopted by the British. However, justice was still largely dependent on the monarch's will and not governed by uniform legal principles.

The medieval penal system used public and corporeal punishments, such as death, amputation, whipping, and banishment, as a powerful deterrent. The Delhi Sultanate's system, based on Islamic law and a political philosophy called *siyasa*, employed penalties such as humiliation, confiscation of property, and exile, reinforcing a penal philosophy of retribution and public deterrence.

The use of forts and castle dungeons during the Delhi Sultanate, Mughal and Maratha periods, demonstrates a functional continuity with the ancient system. These facilities, known as *bandhi-khanas* or *adab-khanas*, which were reserved for the detention of under-trials, nobles, and political offenders, serving as temporary holding areas before a final sentence. This practice emphasized the absence of a rehabilitative or correctional philosophy. The medieval system maintained this pattern, setting the stage for the British colonial system, which used prisons to suppress political dissent.

Emperor Akbar's reign marked a brief departure from the prevailing penal norms, introducing imprisonment as a formal method of punishment. His reforms were part of his broader governance philosophy, incorporating diverse cultural and religious elements and aiming to establish a "unanimous system of justice for all," primarily applicable to Muslims.

During the Maratha period, imprisonment as a form of punishment was less common, with death, mutilation, and fine being common forms. Some rooms in forts, known as *bandhi-khanas* or *adabkhanas*, were reserved for prisoners, and they were treated according to their station in life and the nature of their crime. Lower castes were compelled to work hard on building fortresses, while the ranks determined their ration and leave for religious rites. Political prisoners were well treated, but communication with the outside world and relatives was prohibited.

3.3 Prison system in Colonial Period

The British arrival in India marked a significant shift in the country's legal traditions, replacing decentralized monarchical systems with a formalized judiciary. The Indian Penal Code (IPC) of 1860, drafted by Lord Macaulay, replaced various legal customs with a single, comprehensive criminal code. This transformation was not just a legal one but also a fundamental shift in penal philosophy, introducing the prison as a central instrument of social control. The British saw imprisonment as a more "humane improvement" over the old system of whipping and execution. To achieve this, the British began building Central Prisons from 1846, implementing a strict penal system based on remunerative labor. This approach served as a form of discipline and deterrence, as well as an economic policy, using prison labor to produce goods and reduce facility costs. The prison became a site of both social control and economic exploitation. During the colonial period, long-term imprisonment was not common, with execution being the prescribed for various offenses. Less serious offenders faced public punishment, such as pillorying, whipping, and maiming. The English rulers inherited a cruel and primitive criminal justice system, which practiced cruel and primitive methods of punishment.

The post-mutiny era saw the enactment of penological books and subsequent prison reorganization. The Criminal Procedure Code of India and the Indian Penal Code defined offences and prescribed jail terms for respective violations. The Indian Prison Act, 1894 improved the establishment and maintenance of jails at various levels, and jail manuals were prepared to govern the internal administration of these prisons. With the modern prison system being applied uniformly throughout India in 1860. Lord Macaulay was credited for the evolution of the modern prison

system in India, with his plan of setting up large central prisons and smaller district jails as the beginning of the modern prison system.

3.4 Prison system in Independent India

Prisons in India have historically been a dungeon-like environment, often located in dilapidated 19th-century buildings. The Prison Act 1894 continues to be primary Legal framework for the prison system in the Post Independent era along with Code of Criminal Procedure 1898 and Indian Penal Code 1860. The Prisons Act of 1894, a key legal framework for prison administration in many states, was a colonial system's focus on custody and discipline. It prioritized enforcing discipline and order, with no provisions for reform or rehabilitation. The British used the prison as a governance tool to maintain law and combat insurrection, leading to systemic failures in the modern Indian prison system. The influx of educated, middle-class freedom fighters led to resistance against the carceral system, resulting in hunger strikes and public support. This led to the establishment of the Indian Jails Committee of 1919-20, which explicitly identified "reformation" and "rehabilitation" as the objectives of prison administration for the first time in Indian history. This led to the reform and rehabilitation of the Indian prison system.

However, after World War-II with the human rights movements in 19th century a new dawn came in Criminal justice system which brought in its wake new ideas in penology system that subsequently led to the development of correctional services, education and aftercare within limitations of disciplinary control and the deprivation of civil liberty by conviction. The new ideas of principles of humanities have replaced the concept of retribution with reformation and social rehabilitation of offenders.

Radical changes were come in the prison administration with the humanitarian movement in international level. Universal declaration of human rights which ushered a new dawn in the prison system uphold certain rights for the accused and the incarcerated. The human rights movement brought out the universal norms that human rights are sacrosanct regardless of the status of the individual. These are such essential rights which are entitled to all human beings for being a human, not animal. The prisoners although are behind the bar could not be deprived of the basic rights which essential for a human being to

live his life and are so entitled to human beings even in incarceration. The preamble of the Universal Declaration of Human Rights explains the aim of the declaration as "recognition of the inherent dignity and of the equal and inalienable rights of all members of human family as the foundation of freedom, justice and peace in the world. Whatever the status of a person he should not be deprived of the inherent dignity and human rights as these are inalienable. International conventions on Civil and Political Rights (ICCPR) and United Nations Standard Minimum Rules for the treatment of Prisoners contains a large number of guiding rules for prisoners, like – (i) separation of categories of prisoners, provisions relating to their clothing, medical treatment, prohibition against corporal punishment, punishment by placing in the dark cell and all cruel inhuman degrading punishments, rights of the prisoners to contact with their family. United Nations basic principles for the treatment of prisoners was another milestone that came for the wake of prisoners which advocates that all prisoners should be treated without distinction of any kind with due respect for their inherent dignity and value as human beings.

Now, under the influence of humanitarian principles people tried to look at the circumstances which lead the person to do the crime rather blaming the individual for his behaviour. This shift of approach has led major change in policy decisions of government. Capital punishments, corporal punishments, torture and severe forms of punishments were gradually replaced by more human custodial conditions and emphasis have been given on more protection on the legal and human rights of the prisoners and their rehabilitation and social inclusion.

4.LEGAL FRAMEWORK FOR THE PRISON SYSTEM IN INDIA

4.1 The Prisons Act, 1894

The Prisons Act, 1894 is India's primary legal framework for controlling prison operations. It allows authorities to establish correctional institutions and establish prisoner categories. Section 3 of the Act allows state governments to create rules protecting prisoner rights, while Section 4 separates undertrials

from convicts and protection and suitable treatment for juveniles and young mind.

4.2 The Juvenile Justice (Care and Protection of Children) Act, 2015

The Act provides comprehensive protection for juveniles involved in law enforcement conflicts, prioritizing rehabilitation and societal return before deciding on punishment, ensuring respect and dignity for these children.

4.3 The Mental Health Care Act, 2017

The Act mandates authorities to safeguard the rights of individuals with mental health issues, both in prison and outside correctional institutions, requiring them to receive appropriate care to ensure their protection.

4.4 Prisoners Attendance in Courts Act, 1995

Prisoners Attendance in Courts Act, 1995 is a special law that governs the management of women prisoners in India and emphasizes on engagement of female staff for management of women prison.

4.5 The Right to Information Act, 2005

The Right to Information Act empowers prisoners to request information about their detention rights and prison facilities, ensuring authorities maintain public accountability and empowering them to understand their constitutional rights.

5.ROLE OF JUDICIARY

In modern time Indian judiciary particularly the Supreme Court has played an important role in interpreting and upholding the rights of prisoners. Due to the evolving correctional philosophy and change in concept of punishment a total denial of prisoners right has proven impractical and Supreme Court through a number of Judgement assert a new era in upholding inalienable the rights of the prisoners. Landmark cases such as Sunil Batra v. Delhi Administration (1978, 1980) and Charles Sobraj v. Superintendent, Central Jail. (1978) Supreme Court affirmed that prisoners retain their basic human rights even within the constraints of imprisonment, expanding Article 21 of the Constitution guaranteeing the right to life and dignity to all individuals, including those incarcerated. Hussainara Khatoon v. State of Bihar (1979) also highlighted on the right to a speedy trial for undertrial

prisoners. In a significant recent development, the Supreme Court in Sukanya Shantha v. Union of India (2024) struck down discriminatory rules in state prison manuals that perpetuated caste-based segregation and assignment of menial tasks, affirming the fundamental rights to equality, dignity, and the right to overcome caste prejudices for all individuals, including those incarcerated.

In Kishore Singh Ravinder Dev v. State of Rajasthan, the Supreme Court ruled that the Prisons Act and its rules cannot be read in absolute expansionism, implying that prisoners are not subject to the mercy of prison echelons. The court noted that the country has no totalitarian territory, even within the prison walls. The old rules and circulars issued under the Prisons Act should not be read incongruously with the Constitution, particularly in interpretation of Article 21. The court directed state governments to convert Supreme Court rulings on prison administration into rules and instructions to avoid violation of prisoners' freedom and prevent habeas corpus litigation. The court warned violation of Article 21 as interpreted by the Supreme Court.

The Supreme Court in Rakesh Kaushik v. B.L. Vig, Superintendent, Central Jail, New Delhi, ruled that the court would protect prisoner rights through writ jurisdiction and contempt. The court emphasized the need for free legal service for prisoners and recommended the District Bar to maintain a cell for their relief. The court emphasized that the provisions of the Prison Act and its rules should be interpreted in light of the Constitution, particularly Article 21.

Thus, the Constitution of India lays a strong foundation for the protection of prisoners' rights, the effective realization of these rights within the prison system and also emphasized on requirement of the ongoing efforts to modernize legislation and ensure consistent implementation of laws and guidelines. The judiciary's active role in interpreting and safeguarding prisoners' rights, particularly through landmark Supreme Court judgments, has been instrumental in addressing systemic deficiencies and upholding human dignity within correctional facilities.

The Supreme Court in Sunil Batra v. Delhi Administration has emphasized the importance of the writ of habeas corpus in protecting individuals from wrongful restraint on their liberty. The court has started to examine the manner in which an inmate is held or treated during their sentence, as it is a symptom

and signpost to human rights in prison situations. Justice Krishna Iyer J. emphasized that courts that send citizens into prisons have an obligation to ensure freedom from torture inflicted to the detainee. The court also banned the routine handcuffing of prisoners as a constitutional mandate and declared the distinction between classes of prisoners obsolete. It was held that it is arbitrary and irrational to classify prisoners into 'B' class and ordinary class, since the law treats them equally. The court's decision is a significant step towards ensuring that prisoners are treated fairly and without fear of torture which have been reflected in the legislation.

6.CONCLUSION

Nelson Mandela once remarked, "It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest.

Indeed, prisoners' rights along with prison system are a critical issue deserving serious consideration. Despite their incarceration, prisoners remain human beings entitled to basic respect and fair treatment. It is imperative that prisons operate not as isolated entities, but as integral parts of a broader societal framework that upholds human rights at every turn. However, these rights face significant implementation hurdles due to historical wrongs, institutional problems, and social economic conditions. Inadequate healthcare, overcrowding and ignorance about legal rights result in diminished humane treatment and reduced dignity for all inmates. The judiciary plays a crucial role in expanding prisoner rights, but proper execution on the ground is crucial. A joint organization of administrative institutions, civil groups and judicial bodies should collaborate to make prisons a correctional institute to reform and rehabilitate the evildoer. Prison reform development should include complete system overhauls, stronger legal aid programs, and prison-wide education on individual rights. As a member state of the United Nations, India carries a moral obligation to protect these rights, as reflected in the judiciary's proactive stance on human rights issues, particularly the right to life and personal liberty.

Nevertheless, challenges persist within the Indian penal system. Overcrowding, inadequate facilities, and

issues surrounding prisoners' rights and treatment remain significant hurdles.

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