
Unit-06 □ Origin of Prison, Prison Reform Movement in India and Penal Reform in India

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6.1. Origin of Prison

Prison has a long history. Right from primitive age to modern age confinement of any form was the only way to punish the offender or probable offender. Historically prisons have developed as a secured place for temporary detention and interim custody of undertrial prisoners. Incarceration, as a means of punishment or, any other form of detention by the authority was a popular method of temporary incapacitation. Imprisonment and confinement in prison is the oldest and most universal mode of dealing with offenders. The system of prisons clearly reflects society's reaction to crime. The early history of Prison could be traced from Pennsylvania system, the Auburn system (New York 1818). In India prison came into being from later part of 19th century with the introduction of Penal laws. In India, imprisonment of criminals, was a system followed from ancient times under various monarchies also. Kings threw traitors into dungeons usually without any prior trial. In 1920 the Indian Jail Committee laid the basis for rationalisation of the Prison system. Previously there was no system of classification of prisoners. Living condition in most of Prison was worse. There was no correctional services within prison. It was altogether a mess.

6.2. Prison Reforming Movement in India

In India service the very inception, of prisons were perceived as a potential source of human rights violations. Thus there is certainly an urgent need for a fresh look on the role, efficiency and functioning of prisons. Historically, recalcitrants or, deviants were confined in solitary cells for even moral transgressions. People were even imprisoned for professing a different religious faith than the one propagated by the state Even minor thefts or, adultery were punishable by lifelong imprisonments

under terrible conditions. Prisons were neither thought to be effective in achieving its proclaimed goal of reformation and rehabilitation of offenders nor capable of coping with the newly emerging forms of criminality which are much more destructive than traditionally known crimes.

The Prison administration in the country even now is largely governed by the Prison Act of 1894. The Policies and objectives reflected in the legislation formulated during British regime become not only outdated and antiquated but have been obstructing development of prison administration on modern lines in this country.

After independence a number of jail reforms committees and commissions were set up in different states with a view to humanizing prisons. But the Prisons Act 1894, remains substantially unchanged. The Prison Administration in India thus, by and large, remains totally out of tune with modern criminological thinking and social philosophy. The All India Committee on Jail Reforms (1980-83) under the chairmanship of Justice A. N. Mulla made a thorough inquiry into prison conditions and concrete recommendations for jail reforms which have so far remained unimplemented to a great extent. In pursuance of the recommendations of the Reforms Committee, the central government initiated action for the updating revision and consolidation of prison laws and to prepare a new model Prison Manual laws and to prepare a new model prison manual for the states to adopt and administer prison. Such a course will also enable the central government to appropriately draw upon the principles enunciated in various International Instruments to which India is a Party, such as the universal Declaration of Human Rights, the international instruments to which India is a party. All these international instrument urge upto the signatory states to follow United Nations Standard Minimum Rules for the treatment of prisoner and the declaration in protection of all prisoners from being subjected to torture and other cruel inhuman and Degrading treatment of punishment.

Keeping in view of the recommendation of the Reforms Committee, Prisoners are classified according to the crimes into following groups.

- [1] Homocide including murder and manslaughter.
- [2] Offences against person including sex offences.
- [3] Offences against property including burglary, robbery etc.
- [4] Social disorganisation including drunkenness, disorderly conduct, petty larceny etc.

Each of crime requires a different remedial approach. The inadequacies of the penal system had led to the alternative concept “Conditional suspension” of punishment.... prison authority to a prisoners undergoing a prison sentence either as an amenity or, to test for release before his term is complete. ‘Probation’ is an alternative to prison. It is suspension of sentence of an offender by the court and releasing him on certain conditions to live in the community with or, without supervision of a probation officer. This system has been introduced in India since 1958 by passing the central probation Act. The greatest advantage of “probation” system is that no stigma is attached to the offender released on probation.

Attention has been given to the treatment of vulnerable categories of prisoners, women prisoners, Juvenile delinquents, non criminal lunatics. Women inmates in jails are raped by jail superintendents, police wardens etc. Regular inspection by independent bodies are monitored to check the notorious activities in jail. Public Interest litigation is a powerful instrument to move courts on behalf of disadvantaged people. Investigative journalism by a free press is another mechanism for human rights protection through exposures on executive excesses or, in action. The proposed National policy on prisons as recommended by Jail. Reforms committee, should spell out the immediate objectives and ultimate goals of prison administration to cater adequately to the differential requirements of custody and correction including basic needs of food, clothing, shelter and environment.

6.3. Penal Reform in India

Imprisonment is the oldest and most universal mode of dealing with criminals and offender and wrong doers. So Prison have developed as a secured place for temporary detention and interim custody of undertrial prisoners. Incarnation as a mode of punishment came to be known at a later stage. In course of gradual development prison administration, there had been gradual evolution of penology. Presently reformation is the primary object of penology. The system of prisons clearly reflects society's reaction to crime and penal measures.

Sociologists and criminologists have been broadly concerned with locating the causes of crime and analysing the effectiveness of criminal justice system and penal provisions. Recently, some scholars have moved beyond these narrow Twin-concerns and have raised cusion about the enactment of laws improving the penal provisions, police system, judicial activism, protecting the interest of the victims, improving the condition in prisons and humanizing the divient.

The criminal procedure code has also been amended in India from time to time keeping space with Indian Penal Law. After independence and after establishment of law commission in 1955, there has been significant changes of the criminal procedure code of 1898. The law commission keeping in view of..... to the Government for revision of code and penal justice system in September 1969. The recommendations of the commission were examined carefully by the government keeping in view of the following basic considerations:—

- [I] I am accused person should get a fair trial in accordance with the accepted principles of natural justice.
- [II] Every effort should be made to avoid delay in investigation and trial which is harmful not only to the individuals involved but also to the society and,
- [III] The procedure should not be complicated and should to the utmost extent possible, ensure fair deal to the poorer section of the community.

The Lok Sabha held its sitting on Dec. 12, 1973 and passed the criminal procedure code Bill with 125 amendments. Finally the bill got the President's assent and the enactment came into being on the 1st day of April 1974. The working of the new code of 1974 has been carefully watched and in the light of the experience, it has been found necessary to make few changes for removing certain difficulties and doubts. There has been a simultaneous procedure code in 2000 and finally through the Mallinath Committee Report 2005.

Human Rights and the dignity of the individual offenders can be best protected by suitable reforms in the penal system. Barbara Wootton recommends that a more rational policy with a scientific approach to the problem of crime and punishment should be adopted. If we accept that crime is due to a complex interplay of various socio-economic factors then a rational penal policy should address the most fundamental issues of crime and reformation rather than mere prison reforms here and there. The primary object of punishment is to socialise an offender and inculcate the commonly accepted norms and values of the society so that he can rehabilitate himself as a socially useful person. In modern penology, punishment is invariably individualised. This means punishment should commensurate with the individual requirements of an offender. The individual offender is to be assessed and judged by expert sociologists and psychologists, probation officers and others who will study the socio-economic background of an offender and accordingly recommend punishment. Quantum of punishment should always be indeterminate. Different offenders will respond to punishment differently. In our penal code, however, the period of punishment is rigidly laid down and the judges have no scope to go beyond the law.

Human dignity and the worth of a human person enshrined in Article 12 read with Article 14 and 19 obligates the states to provide fair, just and reasonable procedural essence to convicts and offenders.... the constitution and the Trial court is duty-bound to inform the accused who can't afford a lawyer that he is entitled to get free legal aid. The system of imprisonment should be a regular course of judicial scrutiny so that offenders are given a fair, rational and human treatment.

The recommendations of the Law Commission of India for effective penal reform should also be incorporated and particularly the following recommendations :

- [1] An uniform set of Criminal courts be established throughout the country.
- [2] The process of Speedy Trial be emphasised so that delay and procrastination in justice delivery system be carefully remedied.
- [3] The procedure for trial of summary cases shall be the same as that for summons cases except with few variations as stated in section 262 of the code.
- [4] The court of session also be given power to exercise revisional jurisdiction in addition to High Courts.
- [5] The provision should be duly made for service of summons by registered post in certain cases and it is to be seen that the accused can plead guilty by post in petty cases and remit the fund specified in the summons.

6.4. Reference

1. The Criminal procedure code 1973 by H. P. Tripathi
2. Ram Ahuja — Social problems in India—Rawat Publication New Delhi.

6.5 Exercises

- [1] What is meant by Prison? State the origin of Prison in India.
- [2] What do you mean by the term prison reform? Narrate the prison reform movement in India before and Independent.
- [3] Do you find any nexus between prison reform and penal reform? If so, how and to what direction.
- [4] State the penal reform in India service 1898. Do find any implication of universal Declaration of Human Rights 1948 in the Penal Reform in India.

Unit-07 □ Administration and Functions of Correctional Institution with reference to Presidency Jail and Alipore Jail

Structure :

- 7.1 The Concept**
- 7.2 Administration of Correctional Institutions**
- 7.3 Human Right Approach**
- 7.4 Functions of Correctional Institution Major function of Correctional Administration includes the following**
- 7.5 Correctional homes in West Bengal**
- 7.6 Correctional homes for women in West Bengal**
- 7.7 Open Prison**
- 7.8 Presidency Jail**
- 7.9 Alipore Central Jail.**
- 7.10 Book Recommended**
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7.1 The Concept

Concept of correctional service is not of much old. It started evolving since the later part of Nineteenth century which led to the development of the idea that justice is not to punish criminals only. It essentially aims at reasserting the fundamental principles for a just society. Since crime involves not only criminals but the victims and society as well to be really effective justice has to take a comprehensive view of the individuals involved as well as the circumstances that provides the backdrop for such a crime. The newly emerging concept of Restorative looks at inter relationship not only between criminality and offenders, but also at the communities that provides the broad context to the crime. With the greater understanding of the causation of crime, the concept of correctional services too have undergone a change. Crime causation theories are now closely linked with Anthropology, Psychiatry, Sociology and Social Psychology. There has been a systematic effort to understand the offender. The noted sociologist Barker defines corrections as the attempt transform the offenders into non-offenders through imprisonment. Probation, education programmes and social service. Thus the emphasis has been shifted from

retributive which is motivated by vengeance and hatred and revenge. Instead the emphasis is on modifying the offender's behaviour in order to make it socially acceptable. Probation and Parole officers, social workers, psychologists and counsellors must work together to reintegrate the offender into society. The increasing awareness of civil liberties and human rights have influenced the institutional and non-institutional methods for the reformation and the rehabilitation of the offender. Correctional services include Prevention of Criminal activities through Government departments which are planned and systematically organized. This requires a good co-ordinated work of all the connected departments of the government and criminal Justice system.

7.2 Administration of Correctional Institutions

Prison is a major organisation for rendering correctional services to the imprisoned persons and offenders and criminals. Prison administration is one of the three major elements of criminal Justice system. The two other elements are the police and judiciary while the police and judiciary play major role of convicting and sentencing the offender, it is in the Prison where the Prison is controlled and reformed and given correctional services. It Prison today serves the purpose of being custodial, a deterrent, coercive, curative, correctional, and rehabilitative and for resocialisation. It is not independent system of power, but an instrument of the state shaped by its social milieu and by the stage of social and political development. It is a structure of ruling class and subordinal class. Various national forces (e.g. N.G.O's) as well as international ones (eg. i.e. N. Standard on Human Rights) influence its working. The Home department deals with prison affairs. It is usually placed under an independent Ministry both in the Central Cabinet as well in the State Cabinet.

The Jailor is the chief executive officer of the Jail. He works directly under the superintendent. He is assisted by the assistant and sub-assistant jailors. The jailor is responsible for providing basic sources like food, clothing, medical, vocational and recreational facilities to the Prison inmates. Each jail also has a male and female warden for the male and female section of the jail. The Home Ministry of each state as well as the central government has a minister in charge of prison. He is the political head of Penal Administration. The secretary of this Ministry is the administrative head. The Director General of prison or, the Director General of correctional services is the executive head of the executive staff pattern of the state. The superintendent of each District level jail discharges administrative executive, financial and other miscellaneous functions. This involves the day to day management of the jails, that is of the Prisoners, the jail staff, the jail-budget etc.

In addition to these staff there are several correction staff who offer welfare services to prisoners or, perform routine clerical jobs at the Prison, these are Medical Officers, Probation officer, Social welfare officer are also among prison staff. Usually the jail has a hospital with medical instruments and medicines. Both outdoor and indoor facilities are available here. The welfare officers try to establish rapport with the offender. The prisoners are also provided with

free legal aid if necessary. This is specially for undertrials who may be too poor to afford a lawyer. The prisoner and his family are given guidance in the use of community resources and services. If the prisoner is the sole bread earner of the family, may require financial from any NGO etc or, alternative employment. The basic needs and medicals expenses of the prisoners family need to be met by other sources during the offenders from of imprisonment. The prisoner also need to undertake educational and vocational training so that he can find livelihood after his release. Psychological counselling is also essential for the prisoners-both adults and juvenile delinquents other branded offenders.

7.3 Human Right Approach

An action towards developing a uniform legal frame work has been suggested long before by various commissions and committees time to time appointed for the purpose of scrutinising the activities in various prisons in India. The All India jail reform committee 1980-83 has recommended inter alia, the updating, revision and consolidation of all prison law so that prisons in India could function uniformly keeping in view of the U.N Declaration 1948 and 1st and 2nd covenants of 1976. The most important factor to be aware of, with regard to prison reforms, is that prisons constitute a critical area for the protection of human rights of the prisoners. The right of freedom of a person should not be taken away a day longer than absolutely necessary to protect society or, in the offender's interest. The state is duty-bound to ensure a timely return of the offender to a free society. Thus keeping under trials in prison without trial is a violation of this rights. Similarly imprisoning lunatics or, confining minor children in jail also constitute illegal and wrongful-confinement. The state has to spell out the basis for providing minimum standards of care, maintenance and opportunities for growth and development of the prisoner.

The correctional programme for the treatment of adult offenders being undertaken in this country are classified into following heads :—

(a) Prison administration and reformation (b) Probation (c) Poyrole (c) other alternatives to punishment and (d) After-care of prisoners.

7.4 Functions of Correctional Institution Major functions of Correctional Administration includes the Following

- [1] To take due care of the prisoner strictly in terms of legal provisions provided in the prison act.
- [2] To ensure implementation of policies and directions time to time enunciated and pronounced by the National Human Rights Commissions.
- [3] To render educational and vocational training.

- [4] To render correctional and welfare services.
- [5] To provide legal aid services to the under trial and convicted offenders in case of need.
- [6] To maintain United Nations minimum standard norms for the prisoners.
- [7] To check undue imprisonment and confinement and detention causing human harassment.
- [8] To provide civil and political rights to the prisoner.
- [9] To develop scope of income generation of the inmates thereby broadening avenue to show good conduct by the prisoner as well improving earning capacity.
- [10] To provide rehabilitative assistance for their future better living and main streaming.
- [11] Providing compensation in case of unlawful arrest, confinement and detention as it tantamounts to violation of fundamental right.

7.5 Correctional Homes in West Bengal

All jails have been designated as "Correctional Homes" in the state and are now governed by the West Bengal Correctional Services Act, 1992

Eminent Persons in Charge of Correctional Homes in West Bengal-

Mr. Abani Mohan Joardar

MIC, Dept. of Correctional Administration

Mr. Sivaji Ghosh, IPS

Principal Secretary, Dept. of Correctional Administration

Mr. Arun Kumar Gupta, IPS

Director General & Inspector General of Correctional Services, West Bengal

At Present West Bengal has about 59 correctional Homes and 1 Training Institute

Central Correctional Homes	7
Open Air Correctional Home	3
District Correctional Homes	12
Special Correctional Homes	5
Women's Correctional Homes	5
Sub-Correctional Homes	31
Total	59

The Major Objectives of the Correctional Home are-

- Speedy trial
- Free & competent legal aid
- Legal literacy
- Timely release
- Training programmes for correctional staff

7.6 Correctional Homes for Women in West Bengal

The first correctional Home exclusively for women inmates came up in 1995, in Purulia district to accommodate 100 inmates.

The number of such children varies from 2-3% of the total prison population. In order to maintain, privacy and dignity of women inmates, the State has separate correctional homes for them. It may be noted that, there is no female ward in Alipore Central Correctional Home and in a few more Sub-correctional homes within the state. According to the statistics of West Bengal Correctional Service, on an average there are about 8-10% women inmates in the correctional homes of the West Bengal. Children up to the age of 6 years are allowed to accompany their parents/mothers. These children stay with their mothers within the enclosure of the correctional homes.

Most of the Correctional homes have wide range of facilities for its women inmates which include scope for education along with library and vocational training. There are also facilities for medical care, recreational activities, cultural events etc. The correctional home has also initiated HIV/AIDS awareness activities. The state has also sanctioned an ICDS Centre by the Dept. of Child Development & Social Welfare. To bring about a qualitative change there are following facilities are available-

- Vocational training is provided to them through NGOs. There are arrangements for training in cooking, sewing, wool knitting, embroidery, garment making, jute handloom etc. in different correctional homes. Computer training for women has also been introduced.
- Legal aid is provided to them through Legal Aid Clinics.
- Complaints representations received are redressed as far as possible within the framework of law.
- There are 'Anganwari Centers' under ICDS programme for welfare of the children of women inmates.
- There are also Lady Welfare Officers who attend to different problems of the women inmates.
- There is no congestion in the Correctional Home as the capacity far exceeds the total number of inmates.

- TV sets, Newspapers, Magazines are also provided.
- There are arrangements for indoor games for the women inmates.

7.7 Open Prison

An open prison also called minimum-security prison, open camp, or prison without bars, IS a part of the rehabilitation programme, where the convicted persons due to their good behaviour, are trusted to serve their sentences with minimal supervision and perimeter security and are not locked up in prison cells. They are also entitled to take up employment while serving their sentence, however their freedom is restricted and they are only allowed to leave the premises for doing jobs.

Open Prison in India-Perhaps the idea of Open Prison has been initiated keeping in mind the two concepts of Parole and Probation, which are based on the idea of reforming and rehabilitating the inmates within a community setting. Open Prison may be considered as a fruitful method in the correctional services.

In this system of mainstreaming and rehabilitation, the inmates are helped to re-socialize themselves, by becoming self-reliant, dependable, better persons, disciplined, attentive, aware and responsible towards their family and society as a whole and Prevent frustration.

The concept of **Open Prison may be applied** for inmates of correctional home who are considered a low risk to the public. This is a system where inmates with good behaviour and satisfying certain norms prescribed by the correctional setting are allowed to serve their sentences with minimal supervision and perimeter security and are not locked up in **prison** cells. They are permitted to take up employment, while serving their sentence.

The first open prison was started in 1905 in Bombay Presidency. Rajasthan has highest number open jails while there were no Open Jails in any of the UTs till the end of 2014.

The objectives of establishing open prisons are-

- To reduce overcrowding in Correctional Homes.
- To reward and acknowledge good behaviour.
- To prepare them for resocialization, mainstreaming and be a part of the community life.
- To provide them opportunities for jobs and economic empowerment.
- To give them a family life.
- Help them to realize their capabilities and decide what they want to do in future.
- Learn to be Self dependent and work with confidence.

The Open Prison Are Open from four perspectives-

- (i) Open to prisoners - inmates may go out during the day but have to return back in the evening.
 - (ii) Open in security - there are no precautionary measures against escape, such as walls, bars, locks and armed guards.
 - (iii) Open in organisation - working is based on inmates' sense of self-responsibility, self-discipline, and self-confidence.
 - (iv) Open to public - people from outside may come to visit the inmates.
- **Eligibility conditions for admission to open prisons vary from state to state. The main conditions are:**
 - (1) Prisoners should be willing to abide by the rules of open prisons;
 - (2) They should be physically and mentally fit to work;
 - (3) They should have been sentenced for terms of one year or more and must have spent at least one-fourth of the total term of imprisonment in jail;
 - (4) They should have record of good behaviour in prisons;
 - (5) They should not be below 21 years or above 50 years as prescribed by the state;
 - (6) They should not have been convicted for certain types of crimes (like dacoity, forgery, etc.);
 - (7) They should not have any case pending in the courts;
 - (8) They should not be habitual offenders; and (9) they should not be class I (one) prisoners or women prisoners.

7.8 Presidency Jail

Presidency jail may be established by the British Administration in the early nineteenth century to imprison classified offenders. This was established in the Presidency Town, Calcutta under the direct supervision and control of Presidency Jailor and indirect supervision of Inspector General of Police. Presidency jail is one of the biggest jails in India having been established to accommodate at least 1800 offenders of various categories. This was a central jail or, prison that prisoners that have been sentenced for over 3 years and has some adjoining but separate area for female under trials. In course of time, especially after independence, the Presidency jail has been gradually changed. It has a pioneer role in championing the cause for rendering effective correctional services to prisoners as provided in the Amended Prison Act. Most of the prisons of the Presidency Jail come from various courts situated in the Presidency jurisdiction of Calcutta, special provisions have been made after 1950 to accommodate political prisoners also. It has sufficient arrangement for recreational activities like football ground and other playing fields, indoor games, music and prayer hall. It has separate educational and vocational school for imparting due training to the prisoners.

7.9 Alipore Central Jail

This jail was also established long before of independence. This was a central jail of Bengal jurisdiction. The prison from different districts of undivided Bengal used to be accommodated here. It is also a very big jail with a training capacity of accommodating more than 2000 prisoners. Those prisoners are accommodated who have been sentenced over 3 years. The specialty of the Alipore central jail is that it is very much attached to the Alipur Court. Male and female wards are completely separated. There is also a measure to apply correctional and welfare services to the inmates. Special courts are arranged within the jail compound to give trial to specified cases like, terrorists, hard-core criminals or, political cases having a terrible influence on people. The compound of the jail is very vast. It has sufficient recreational arrangements both for male and female inmates including sufficient arrangements for games and sports. Keeping in view of the correctional and welfare services, it thus provides all amenities as sanctioned by the Prison Act. To offer an income-generating scope for the inmates, this jail has a big and renowned printing press. Mostly government orders for printing are given so that the inmates can have sufficient scope for earning and vocational training. This jail has a very good hospital to render medical services to the prisoners. Apart from these, this jail has a counselling centre to give the criminal and offender due psychological counselling for their resocialisation and mainstreaming. The government proposes this jail to make an ideal correctional service centre. The top executive of this jail is a special jailor who works under the Director of Inspectors General of Prisons.

7.10 Reference

- (i) The Indian Prison Act 1980-83 (Govt. of India Publication).
- (ii) Indian Social Problems by G. R. Madan.
- (iii) Indian Jail by — Kanoongo.

7.11 Exercises

- (i) What is meant by Correctional Service. Describe the Pattern of Correctional Service given in Indian Prisons.
- (ii) Discuss the executive Pattern of Correctional Service System.
- (iii) State the Special features of the Presidency jail and Alipur jail.
- (iv) Estimate the intervention of National Human Rights Commission on Prison in light of protecting fundamental rights.

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