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

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### **6.1. Origin of Prison**

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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.

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### **6.2. Prison Reforming Movement in India**

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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 instruments urge upon 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] Homicide 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 prisons 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.

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### **6.3. Penal Reform in India**

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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 custion 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 Sobha held its sitting on Dec. 12, 1973 and passed the criminal procedure code Bill with 125 amendments. Finally the bill got the President is 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 fews

changes for removing certain difficulties and doubts. There has been simultaneously 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 penal system. Barbara Wooton 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 complex interplay of various socio-economic factors then a rational penal policy should address the most fundamental issues of crime and reformation 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 individualise. This means punishment should commensurate with the individual requirement of an offender. The individual offender is to be assessed and judged of 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 been 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 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 offender..... 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 what 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 excercise 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 seen that the accused can plead guilty by post in petty cases and remit the fund specified in the summons.

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## 6.4. Reference

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1. The Criminal procedure code 1973 by H. P. Tripathi

## **6.5 Exercises**

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- [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.

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

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**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 Presidency Jail**

**7.6 Alipore Central Jail**

**7.7 Books Recommended**

**7.8 Exercises**

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### **7.1 The Concept**

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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 coordinated work of all the connected departments of the government and criminal Justice system.

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## **7.2 Administration of Correctional Institutions**

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Prison is a major organisation for rendering correctional services to the imprison 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 Jailer 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.

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### **7.3 Human Right Approach**

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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.

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

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- [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 offenes 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] Proving compensation in case of unlawful arrest, confinement and detention as it tantamounts to violation of fundamental right.

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## **7.5 Presidency Jail**

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Presidency jail may 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 biggest jails in India having been established to accommodate atleast & 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 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.

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## **7.6 Alipore Central Jail**

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This jail was also established long before of independence. This was a central jail of Bengal jurisdiction. The prison from differnt districts of undivided Bengal used to accommodated here. It is also a very big jail training capacity of accommodating more than 2000 prisoner. The those prisoners are accomodated who have been sentenced over 3 years. The specially 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 measure to apply correctional and welfare service to the inmates. Special courts are arranged within the jail compound to give trial to specified cases like, terrorists, hard-core criminal or, political case having terrible influence on people. The compound of jail is very vast. It has sufficient recreational arrangement both for male and female inmates including sufficient arrangement

for games and sports. Keeping in view of the correctional and welfare services thus provides all amenities as sanctioned by the Prison Act. To offer income generation scope of the inmates this jail has a big and renowned printing press. Mostly government order of 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 prisoner. 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 correction service centre. The top executive of this jail special jailor who works under Director of Inspects General of Prisons.

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## 7.7 Reference

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

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## 7.8 Exercises

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- (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.