

Indian Prison System

Km Himanshi Mishra

LLM (4TH Semester) (Criminal and Security Law), Faculty of Juridical Sciences, Rama University, Kanpur.

Abstract

The evolution of the Indian jail system from antiquity to the post-independence period is studied. It looks at the history of punishment, confinement techniques, and prison practices. The research also looks at how the jail system was affected by British colonial control, emphasizing how it suited imperial objectives and later improvements. Examined are the effects of overpopulation, such as living circumstances, access to healthcare, and the effectiveness of rehabilitation. In order to discover viable alternatives within India's socio-cultural framework, the research assesses current governmental initiatives and foreign standards. The results support structural changes to the Indian criminal justice system that put human rights, equity, and successful rehabilitation first.

Introduction-

Prisons in India are often overlooked and neglected, resulting in inhumane conditions and deprived of basic needs like food and sanitation. Prisoners should be given the chance to reform rather than just punishing them. Reforms should only be brought in society when criminals have the right chance of improvement. If a person commits a crime, they cannot be deprived of personal liberty.

Prison and their administration are a state subject covered by item number 4 under the state list of the seventh schedule of the Indian Constitution. The state government holds the sole authority to operate and administer prisons, as per the Prison Act of 1894 and state government's prison manuals. The state has the primary role and responsibility to change current prison laws, rules, and regulations. The central government has limited power to assist states in improving prison security, medical facilities, repairing old prisons, developing borstal schools, providing facilities for women offenders, vocational training, modernizing prison industries, training prison personnel, and creating high security enclosures. The Supreme Court of India has enumerated rules related to prison administration. The Indian Constitution guarantees individual liberty, but living as a person does not make one a non-person. Offence-corrupted individuals have human rights within confinement and limitations of imprisonment. If a person is already suffering due to punishment, they are not entitled to additional suffering. The Supreme Court of India has prioritized issues in prison, including inadequate healthcare, overcrowding, and provision of free legal aid, as outlined in the Constitution.

Meaning of prison system-

The Latin word that meaning to seize is where the word “prison” originates. According to the Oxford English Dictionary, a jail is a facility that is suitably equipped and run to house individuals who have been legally committed there for safe custody pending trial and punishment. Prisons have evolved from mere custodial institutions to focus on training and re-education of prisoners. The term “prison” translates to “to seize” and “cage”. The Oxford English dictionary defines a prison as a safe place for

individuals committed to it for trial or punishment. The administration of a country's prison depends on socio-economic conditions and practical considerations, which vary across countries and significantly influence plans, programs, and policies. The role of prisons has evolved from mere custodial institutions to a more comprehensive and effective system.

According to the Government of India Prisons Act of 1870, a prison is any purpose or penitentiary, including airing grounds and other facilities used for prison purposes. Prison refers to a jail or any location where inmates are held, either permanently or temporarily, in accordance with general or particular local government rules. Prison is an institution used to confine individuals convicted for major crimes or felonies. It has different meanings for different individuals. For law-abiding individuals, it is a place where criminals end up, while for criminals, it is a peril or humiliation. Socially inadequate individuals may find prison a shelter, while isolated individuals may find a sense of championship. Prison officers may find it a place of work, while psychologists may pursue careers in studying behavior. For others, prison is an experience that slows down time, crowds them together, sets them apart, and changes their lives.

History of Prison System-

The administration of justice was not a part of the responsibilities of the state throughout the Vedic era, and crimes such as adultery, murder, and theft were listed but not decided by the monarch or a designated judge. There are three distinct periods in the history of the prison system. In the first phase, which lasted until the 16th century, executed or awaiting trial inmates were housed in cell detention cells in secure locations. In the second phase, incarceration was tried as a punishment for some criminals, especially young ones, and in the third phase, it was adopted universally as an alternative to the death penalty. Seldom does the word "prison" appear in sutras or shastras. In ancient India, prisons were a place of detention for offenders until their trial and judgment. Society was based on principles pronounced by Manu and explained by Yagnavalkya, Kautilya, and others. Imprisonment was the easiest form of punishment in ancient Indian Penology, among others like branding, hanging, mutilation, and death. Hindu scriptures suggested that the main aim of imprisonment was to remove the wrongdoer from society and prevent corruption among social doers. These prisons were dark, cool, damp, unlighted, and unwarmed.

In ancient times, there was no proper sanitation and human residence facilities. Punishments included fines, imprisonment, banishment, mutilation, and death sentences. Fines were common, and those unable to pay were condemned to bondage until they paid. Murders of different castes were punishable by fines of 1000 cows, 500 cows, 100 cows, and Sudra or women of any caste. Indian law also provided descriptions of jail life, with Smriti writers stating that a person who assisted a prisoner in escaping was liable for capital punishment. Vishnu suggested imprisonment for someone who hurt a man's eye.

Ancient times in India were plagued by lack of sanitation and proper living facilities. Punishments included fines, imprisonment, banishment, mutilation, and death sentences. Non-payers were sentenced to bondage until payment was made. Murders varied by caste, and women were punished by fines. Indian law also provided descriptions of jail life, with Smriti writers stating that assisting a prisoner in escaping could lead to capital punishment.

The legal system in medieval India was similar to Ancient India, with Muslim rulers rarely present. The Mughal period used the Quran as the source of law, and crimes were divided into three groups-crime against god, crime against state, and crime against private person.

Punishments were divided into Hadd, tazir, quisas, and tasir. Imprisonment was not considered a punishment for ordinary criminals, but was used for detention in fortresses. Mughal India had three noble prisons or castles: one in Gwalior, Ranathambore, and Rohtas.

Prisoners were only released on special occasions, such as Princess Begum Sahib's recovery in 1638 AD. Special rooms called Bhandhikhanas or Adab khanas were reserved for serious crimes. During the Maratha period, imprisonment was not a common form of punishment, with death and mutilation fines being common. The form of punishment in the Maratha period was similar to the Ancient and Mughal periods. The rooms were known as Adab khanas. The pre-British prison system had no modern prisons, no descriptions of internal administration, no rules for maintenance and functioning, no separate prison service, and courts were not the feeding center for prisons, as they lacked a modern sense of prison.

Modern Prison System-

India's present jail system was created during British rule with the intention of intimidating wrongdoers. This marked a significant shift in history, as the old system of barbarous punishment was replaced by imprisonment as the primary form of punishment for crimes. In 1784, the British Parliament granted power to the East India Company, which introduced improvements in law and justice administration. The East India Company aimed to maintain peace and security, establish trade, and maintain trade. The British primarily focused on keeping prisoners in custody economically and profiting from the government. The early British administration formulated prison policies to serve colonial interests, resulting in a system that is still in use today.

In 1835, Lord Macaulay urged the Legislative Councils of India to address the unacceptable conditions of Indian Jails and proposed a committee to collect information and develop an improved plan for prison discipline. The committee, led by H Shakespeare and Macaulay, submitted its report in 1838, marking a significant milestone in the history of penal administration in India.

The committee criticized the corruption of subordinate establishments, carelessness of discipline, and the system of employing prisoners in extra-marital labor or public roads. It rejected reforms that influenced moral and religious teaching, education, or reward systems for good conduct. The committee's authority was focused on increased rigor of treatment and proposed engaging prisoners in dull, monotonous tasks for quicker relief.

The committee's purpose was to make prisons a place of dread through a brutal process of severe privation, hard work, solitude, silence, and separation. In response to the committee's recommendations, a Central Prison was established at Agra in 1846, marking the first Central Prison in India. Other Central Prisons were established in Barilley, Allahabad, Lahore, Madras, Bombay, Alipore, Banaras, Fatehgarh, and Lucknow.

This contributed positively to the history of prison reforms in India and advocated for the theory of retribution in prison administration. In 1884, the first inspector General of prison was appointed in the North Western province, and its tenure was extended in 1850. The Government of India later made this post permanent and recommended that each province appoint an inspector General of prisons. In 1862, a civil surgeon was appointed as Superintendent of District Jails. The Prison Act of 1870 established a Superintendent, medical officer, jailor, and other subordinate officers, and specified duties for prison officers. The Act also provided provisions for separation of male prisoners from female, children offenders from adult, and criminal from civil offenders.

In 1877 and 1889, a third and fourth enquiry committee was constituted, and the Prison Act 1894 was passed, leading to significant progress in jail management. In 1919, the British government appointed a joint commission to investigate jail management and suggest improvements. The commission recommended separate institutions like Borstal school for juvenile delinquents, separate custody of pending trial offenders, and classification of habitual and casual offenders. The report also abolished solitary confinement, adult education programs for convicts under 29 years old, and the establishment of libraries in jails. Food quality was improved, and prisoners were provided with two pairs of clothes. The committee's primary goal was to reform inmates and rehabilitation of prisoners as a social necessity. However, the Government of India Act, 1919, obstructed this reform system, transferring control of the Jail Department to the Provincial Government. After India's independence, prison reforms increased, but they were not easily overlooked by Indian leaders who spent their prime lives in jails. Under the Indian constitution, prison administration was the responsibility of the state, headed by the Inspector General of Prisons. The organization consisted of central, sub, and district jails, with different patterns adopted by states. Central jails were designed for long-term prisoners convicted in court.

Type Of Prison System-

There are three different levels of prisons in India: taluka, district, and central. Sub prisons, district jails, and central jails are the names given to the jails at these levels, respectively. Generally speaking, sub-jails have superior infrastructure, security, medical, educational, and rehabilitative services than central jails. Other jail types include open jails, special jails, women's jails, and Borstal schools.

Central jails- Central jails are confined to prisoners sentenced to over two years of imprisonment, often for lifers and heinous crimes. These jails aim to re-establish morality and integrity of the prisoners. They offer larger accommodation capacity and additional rehabilitation facilities. There are 134 central jails in India, with Delhi having the highest number at 16, followed by Madhya Pradesh at 11, Maharashtra at 11, Karnataka at 8, and Gujarat at 4. However, Arunachal Pradesh, Meghalaya, Andaman and Nicobar Islands, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep do not have a single central jail. The Andaman and Nicobar Islands, Meghalaya, Arunachal Pradesh, Dadra and Nagar Haveli, Daman and Diu, and Lakshadweep are all devoid of a central jail.

District jail- The district jails and the central jails are not all that different. In states and union territories without a central jail, district jails serve as the primary correctional facility. India has 379 district prisons in total. There are 57 district jails in Uttar Pradesh, 39 in Madhya Pradesh, 31 in Bihar, 28 in Maharashtra, 24 in Rajasthan, 22 in Assam, 19 in Jharkhand, 16 in Haryana, 11 in Gujarat, 11 in Kerala, 12 in West Bengal, 11 in Chhattisgarh, 11 in Jammu and Kashmir, and 10 in Nagaland.

Sub-divisional jails- In India are smaller institutions located at the lower level of the state, offering better organization and better prison setup. Maharashtra, Andhra Pradesh, Tamil Nadu, Madhya Pradesh, Karnataka, Odisha, Rajasthan, Telangana, and West Bengal have the highest number of sub-jails, with Maharashtra having 100, Andhra Pradesh having 99, Tamil Nadu having 96, Madhya Pradesh having 72, Karnataka having 70, Odisha having 73, Rajasthan having 60, Telangana and West Bengal each having 33. Seven states or union territories, including Arunachal Pradesh, Haryana, Mizoram, Manipur, Meghalaya, Nagaland, Sikkim, Chandigarh, and Delhi, do not have sub-jails.

Open jail- Open jails are minimum security prisons in India, allowing only convicted prisoners with good behavior and satisfying prison rules to enter. They are located without walls, bars, and locks, and prisoners are allowed to engage in agricultural activities and earn for their families. The first open jail

was introduced in Kerala in 1962 by Home Minister P.T. Chacko. There are now 63 open jails in 17 states, with Rajasthan having the highest number at 29. Until 2015, there were no open jails in the union territories of India. In December 2017, the Supreme Court of India directed the establishment of more open prisons in India.

Special Prison- These prisons feature particular accommodations for its inmates and are the highest security facilities. Inmates belonging to a specific class or classes are housed in these prisons. Those convicted of violent crimes, terrorism, repeat offenders, major infractions of prison rules, and violent and aggressive behavior against other convicts are the ones housed in special prisons. In India, there are forty-three special prisons. Kerala has 16 special prisons, the most of any state. Tamil Nadu, Gujarat, West Bengal, Kerala, Assam, Karnataka, and Maharashtra all have provisions pertaining to the detention of female inmates in special jails.

Jails for Women- Prisons designated solely for female inmates are known as women's prisons. The purpose of these prisons is to protect the female inmates. The employees of these prisons are women. These prisons are located at the central, district, and subdivision levels. India has a total of 20 women's prisons. Due to the limited capacity of women's prisons, the majority of female inmates are housed in other types of jails. Tamil Nadu and Kerala each have three women's prisons, while Maharashtra has five.

Borstal School- Borstal School is a youth detention center in India that primarily focuses on the care, welfare, and rehabilitation of juvenile offenders. These schools provide vocational and educational training to juveniles in conflict with the law, with the help of trained teachers. The main emphasis is on education, training, and moral influence to reform the juvenile and prevent them from crime. Borstal School is located in nine states: Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, and Telangana. Tamil Nadu has the highest capacity for keeping inmates in Borstal schools, while Himachal Pradesh and Kerala have the capacity to keep female inmates in two of their schools.

Other jails- Prisons that do not fit into any of the aforementioned categories are classified as other prisons. There are just three states with additional jails. Karnataka, Kerala, and Maharashtra are the names of these states, and each has its own jail. The ability to house prisoners in other jails is greatest in Karnataka, followed by Kerala and Maharashtra. Despite these states, there are no other jails in any other Indian state or union territory.

Function of Prison System-

India's legal system prioritizes non-violence, mutual respect, and treating all individuals with dignity. If a person commits a crime, they cannot be deprived of personal liberty or become non-human. Prisoners are entitled to human rights, as torture is a sign of the failure of the justice system. Article 21 of the Indian Constitution guarantees personal liberty and prohibits inhumane, cruel, and degrading treatment towards any person, including Indian nationals and aliens. Violations of this Article would result in Article 14 of the Constitution, which addresses equality and protection under the law. Prisoners' rights are protected under the Prison Act, 1894.

Prisons serve the purpose of protecting inmates' rights, which include the following-

Right to Legal Aid- If a person does not have the necessary legal assistance to ensure that they have appropriate access to justice in the event that their rights are violated, their human rights and personal freedom are meaningless. Legal assistance is not a charity; it is a legal entitlement for everyone. Legal

aids primary goal is to ensure that justice is effectively delivered and that it is readily available. Legal aid is a fundamental human right, ensuring access to justice for individuals who have been violated. It is not a charity but a legal right for every person, aimed at ensuring justice is administered properly and easily accessible. Legal aid provides opportunities for the poor and needy to redress damages and establish the rule of law. The judiciary plays a crucial role in developing the concept of legal aid and expanding its scope. The M.H. Wadanrao Hoskot vs. State of Maharashtra case established that the right to legal aid is a basic necessity of free trial, especially for indigent and poor accused.

Right to speedy trial- The fundamental right of prisoners, implied in Article 21 of the Indian Constitution, covers both social and public interests. The case of Hussainara Khatoon vs. State of Bihar (1979) laid the foundation for speedy justice, addressing the large number of pending cases of men, women, and juveniles in prison. In Mathew Areeparmtil and others vs. State of Bihar (1984), the court ordered the release of those in prison with pending cases, addressing the large number of people waiting for minor offences trials.

In Raj Deo Sharma vs. State of Bihar (1998), the Supreme Court issued directions to the trial court for crimes with a period of imprisonment exceeding seven years. The court has the power to release the accused on bail on certain conditions if they were in jail for half of the punishment period. If the offense is punishable with imprisonment for a period exceeding seven years, the prosecution must close evidence within three years from the date of the plea recording, regardless of the accused's status in jail.

Right to Torture Protection and Right Against Solitary Confinement- Torture is a morally significant issue, as it is considered normal by investigating officers or agencies for confession. In Prem Shankar Shukla vs. Delhi Administration, the Supreme Court ruled that handcuffs should only be used as a last resort in cases where a prisoner is under trial. In D.K. Basu vs. State of West Bengal, the court ruled that torture during custody is a gross violation of human dignity and degrades an individual's personality. The right to life and liberty is an expression of human right, and no person arrested can be detained without knowledge and information about the arrest grounds. The court held that no person should be denied for the right of the legal practitioner. Therefore, the use of handcuffs should only be used as a last resort.

MAJOR PROBLEMS WITH THE INDIAN PRISON SYSTEM-

Health and Hygiene- Many Indian prisons lack adequate medical facilities, leading to neglected prisoners and undiagnosed cases. Inmates' hygiene is also poor, and attorneys defending inmates must apply for basic necessities. In Delhi, inmates are not provided with adequate clothing during winter. The most money spent in Indian jails is on food, with West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi reporting higher medical spending. Bihar, Karnataka, and West Bengal have higher vocational and educational spending.

Custodial torture- Custodial torture is a form of punishment where a person suspected of committing a crime is held in the custody of law enforcement officers. Torture, according to the Supreme Court, is a flagrant breach of human dignity and humiliation that destroys, to a considerable part, human individuality. Prisoners are subjected to a lot of torture in their cells. Despite the fact that third-degree police torture is no longer permitted following the historic D.K. Basu case, there is still a high level of brutality in jail.

Poor Budget for Prison- In 2005, Indian jail officials spent an average of \$334 per year on welfare activities, food, clothes, medical expenses, vocational and educational programs, and other things for

each prisoner. Compared to the average annual operating cost per state inmate in the United States in 2001, which was \$22,650, this is a substantial reduction. In Indian jails, the largest expenditure is on food, while the highest medical expenditures are reported in West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi.

Lack of communication- In actuality, prisons serve as punishment facilities where criminals can get better and reintegrate into society. But because they are unable to contact their family members or the outside world, they get traumatized. They always fear not being accepted back into their family or society. This leads to mental illness, and many of them turn into violent criminals rather than getting well.

Abuse of Prisoners- Detainees are frequently physically mistreated by guards in Indian prisons. Certain nations still permit the frequent application of corporal punishment, such as leg irons, fetters, shackles, and chains. Unjustified beatings are common in prisons. lives in a lot of Indian jails. While detained, women in Indian jails are more susceptible to sexual assault. In many women's prisons across the world, especially in the US, there were more male guards than female guards. In a few of countries Haitian being the most extreme female prisoners were even housed in prison with male inmates. They run the danger of experiencing violence and sexual assault as a result.

Women and children- There are very few female offenders. They face psychological and physical obstacles include inadequate access to hygienic facilities, prenatal care, and educational opportunities. Additionally, the women experience rape while jailed, sexual assault, and physical aggression. Children are housed in correctional facilities rather than jails in order to help them recover and resume their regular lives. Despite this, they endure a considerable lot of psychological agony and torture.

Conclusion-

The Indian prison system, a legacy of British rule, aims to make imprisonment a terror for wrongdoers. The prison administration in India also includes prison administration, ensuring proper food, shelter, and healthcare for prisoners. The main motive of imprisonment is not to punish but to reform criminals, allowing them to live normally in society after their punishment. The punishment system in India is based on the reformatory theory, and while many reforms have been made, there is still a need for further improvements.

There is also a lack of strong legislation for prisoners, as many cases of suicide or murder occur due to torture or beating by prison officers. Proper legislation is needed to protect prisoners, as they are human beings with rights like other citizens. Additionally, the capacity of prisons is limited, and reforms in the prison system have been suggested by legislative members or jurists.