

## **PRISONS IN INDIA: AN EPITOME OF COLONIAL LEGACY**

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### **ABSTRACT**

Prisons in India are administered by the state government under the Prisons Act of 1894. An Indian prison accurately depicts an old and despised residential area that is home to people whose physical and physical health is in danger. Facts have proved that its imprisonment rate is the lowest in the world: 33 prisoners per 100,000; however, there is no difference between sentenced and imprisoned. Under the current circumstances, the prison's goal—correcting prisoners—has not been achieved. In India, the idea of rebuilding a prison was caused by the cruellest conditions that prisoners must face when incarcerated. Even prisoners are treated as animals in trials because their human rights are buried, because this shows the urgent need to change prison rules to ensure discipline and good governance. It does this by classifying multiple prisoners into civil and civil criminal prisoners, temporary offenders and ordinary offenders and criminals. The study of how prisons have evolved in our nation throughout the periods of history which play a major role in passive reforms brought about by the change of time and the authority also shows the various measures that need to be taken to develop prisons in India. Explains the different approaches taken by many countries to improve and redesign existing prisons and prison management systems.

## INTRODUCTION

*“Stone walls do not make a prison, nor iron bars a cage.”*

-Richard Lovelace

A prison is something that may be described as a type of accommodation that is meant for people who've committed an offence and are undergoing trial for having committed that offence or are serving a crime sentence. The prisons and prisoners' law in India are one of those legal guidelines which are continuously left out and forgotten. They aren't given enough importance as they ought to be for reform in today's scenario. There is a consistent lacuna and hole as there's a loss of stringent law for humans staying within the prison who additionally have the requirement to sustain a lifestyle with all dignity and basic or minimal appreciation which all of the residents of our society are entitled to. There have been many times in which the prisoners have been subjected to inhuman situations and have been disadvantaged of facilities inclusive of balanced sanitary situations and right food.

Located at the river bed of the Indian criminal justice system, prisons receive next to no attention along with the prisoners there. In order to put them out of society, prisons are usually places of injustice, suffering and pain with next to no chances of rehabilitation of the prisoners living there. In most former Commonwealth nations, particularly where legacy/ the remains of colonial rule have left its mark on the police such that they have become unaccountable, where the judiciary is sluggish in the process of delivering justice and the bar indifferent, the prisons are overflowing with people who have not yet been proven guilty of a crime. The primary purpose of the existence of prisons have always been to deprive serious offenders of their basic liberties to protect the society and maintain law and order in the society, although there cannot be much more focus on the fact that apart from this one of the most basic and important facets of imprisonment is to rehabilitate, educate imprisoned offenders so that they can live a self-sustained, law abiding life in the society outside prison, somehow this objective is hindered and gripped with certain evils such as overcrowding, custodial violence, lack of proper sanitation facilities, worst possible quality of food, massive human right violations and

torture by jail authorities thus comes a necessity of having prison reforms because it's not a stranger fact that living under such uncivilised and inhumane conditions might turn them into greater criminals with a destructive and violent mindset than they ever were, Thus comes in the necessity of Prison Reforms In India.

## PRISONS IN INDIA

Historically, the history of prisons in India is divided into three phases

- 1) **Early phase** which lasted until the mid-16th century, wherein prisons were the places of detention for offences committed by someone, or places of awaiting trials or sentences of death or others. During this ancient period prisons were the easiest form of penologies apart from fines offered in times where forms of deterrence included branding, hanging and death. The society back then was structured on principles inferred by Manu. Prisons were simply places of isolating the offender from the society so they don't corrupt the society or inspire others to follow their footsteps. Prisons were not places of humane residences, usually they were dark cold holes, which were wet and unhygienic. Additionally, there were also certain occasions when prisoners were released such as the coronation of a new king or at times of war. Prison systems however were not regular and not uniform prison system was in existence as it is right now.
- 2) **The Medieval Phase** of history of prisons in India was quite similar to the early phase/ ancient phase of prison history, although the influx and invasion of Mughals brought out significant changes in the imprisonment, conviction and release procedures. The crimes were divided on the basis of crimes against God, crimes against state and crime against individuals. Back then prisons were mostly a mode of detention facilities only, several imprisonment fortresses were made which were usually situated on the outskirts of the city where prisoners were kept awaiting trial or execution, several rooms were made for criminals committing heinous crimes called *bandkhana*s. Release of the prisoners was subject to discretion of the ruler depending upon the occasion. Even in the Maratha period imprisonment served only the purpose of awaiting judgement or mutilation/ death by certain means as a sentence. In brief prisons in The Medieval Phase

lacked a uniform prison law or code of conduct, no rules existed for interior working of prisons, courts did not serve as feeding centres for prisons.

- 3) **The Modern Phase**, the modern phase of history of Prisons in India is also the present phase, which has its roots in the colonial rule of British ers. Since then there have been lots of reforms in the penology followed by the courts as back then under the colonial rule of British ers imprisonment was done with the motive of inflicting terror amongst the wrongdoers/prisoners and not only wrongdoers but also the people who might be taking inspiration from them to completely suppress any kind of freedom sentiments amongst the people. The main purpose of Imprisonment in British India was to suppress people, and to this day treading carefully on these broken glasses we can infer that some of the prison rules and imprisonment motives have stayed the same as the foundation of current system lies within the realms of British India regardless of the vehemence of such presence. We can conclude by saying prison laws in India are *a shadow of colonialism*.

## **NEED FOR PRISON REFORMS IN INDIA**

Diving into the history of prison system in India tells us how barbaric and inhumane prison systems have been throughout history specially under the British rule where prisoners were treated with a sense of hatred, bigotry and discrimination to break their beliefs and turn them into mere slaves of the crown. Coming to the present scenario The Ministry of Home Affairs released the Prison Statistics India 2019\* report which states clearly that around 1900 inmates died in custody or in the premises, this is a staggering amount as this is the highest it has ever been since the 2000. To understand the necessity for Prison Reforms in India we need to take a systematic look at the problems gripping our prisons-

- 1) **Torture**: Torture is a common practice in prisons. According to a report by the People's Democratic Union of India, although Indian laws make extrajudicial confessions unacceptable, the police repeatedly tortured the defendant to death. Rights: 48 detainees died between 1980 and 1990. In the city of Delhi, the country accounts for less than 1% of the country's population; the note stated that the death was the result of severe beatings and prolonged torture. He pointed out that every time a person is sentenced to prison for a crime, he will be

beaten and tortured. Sexual violence not only causes pain, but also humiliation. Tortured to the point of their death. The doctor's case and experience, when the police forced them to issue a death certificate stating the natural death of the designated prisoner. In 2015, the National Crime Registry recorded 1,584 prison deaths, 115 of which were natural deaths. Those who cannot be released on bail because they cannot afford a lawyer or bribe the police face torture. Police prisoners' torture motives If they receive money from the defendant or his family, he will not be tortured by the police, but those who cannot pay will be tortured.

**2) *Overcrowding:*** This surprised the Supreme Court. At that time, in May 2018, many of the 1,300 prisons nationwide were overcrowded. The prison researcher talked to 30,070 prisoners in Bihar prison. He said that the prison was so crowded that the prisoners had to sleep in a bar.<sup>15</sup> He did not mention the 1991 Human Rights Watch report that overcrowding in prisons is a serious legal problem that needs to be resolved urgently. According to the 1980-83 report of the Prison Commission. The main cause of overcrowding in prisons is juvenile detention. In 1980-83, the committee pointed out that prisons were overcrowded and prisoners slept in shifts. As mentioned above, the main cause of overcrowding is the detention of minors. It was founded in 1980 and continues to this day. According to prison statistics in 2015, the total number of inmates in Indian prisons is 3,66,781, and they can accommodate 4,19,623 prisoners, of which 2,822,076 are minors. 2% of the total number of prisoners

**3) *Lack of medical care:*** lack of housing due to overcrowding and physical torture of prisoners, resulting in inadequate sanitation facilities, and lack of Kazi and others, causing prisoners to get sick. Al., who rarely treated, said that he mentioned that the conditions of the cells in Indian prisons are very poor. He mentioned that most of the toilets in the prisons do not have enough water supply, and some cells only have flower pots. Many toilets are not available at night, so many toilets tend to overflow at night. These unsanitary conditions caused the prisoners to contract diseases. A Human Rights Watch report in 1991\*\* found that prisoners who had been in such unsanitary conditions could get sick. They are taken care of by the King's doctor in the prison. He takes painkillers or anti-fever medicines and prescribes nutritious foods such as fruits, eggs, milk, and meat. They will spend money to buy them. He also said that due to the lack of infrastructure and medical staff in the hospital, the hospitalized people are also very unlucky.

4) **Women in prisons:** Many women have been sexually abused and raped by the police in prisons. There is no data related to detention violations, but they did happen. A Human Rights Watch report in 1991 stated that it was impossible to estimate the incidence of rape during detention, but it showed that since the suspension or release in 1988, the Delhi police themselves had confirmed 14 cases involving 24 policemen. The K El Prison Reform Commission proposed to recruit more female officials dealing with women and children's issues.

5) **The necessity of classification:** There is no difference between the accused and the convicted, the person who has committed a misdemeanor and a serious crime, and the prisoner and the prisoner. According to the "Minimum Standards for the Treatment of Prisoners" established by the United Nations in 1955, they should be separated from criminals, men and women, juvenile offenders, civil offenders, and offenders, but they hardly did so.

## CHANGES IN PRISONS IN PAST DECADES

Prisons are also considered to be ineffective in achieving the established goals of rehabilitation and rehabilitation of offenders, or unable to deal with new types of crimes that are more destructive than previously known crimes. It is strictly regulated by the *Prison Act of 1894*\*\*\*. The policies and objectives reflected in the British government's legislation are not only outdated and outdated, but also hinder the development of prison management in line with the country's current trends. Several prison reform committees and committees have been established in various states to humanize prisons. However, the prison law of 1894 remained basically unchanged. Therefore, the prison administration in India usually completely contradicts modern criminological thinking and social philosophy. The entire *Indian Prison Reform Commission (1980-83)*\*\*\*\* chaired by **Judge A. Mulla** conducted a comprehensive review of individual circumstances and made specific recommendations for prison reform, but most of these recommendations have not been implemented so far. Take measures to update, revise and consolidate the provisions of the criminal law, and formulate new model prison guidelines, and formulate new model prison guidelines for national adoption and prison management. India is a party to various international instruments, such as the "*Universal Declaration of Human Rights*", and India is a party to international instruments. Protect all

prisons from cruel, deadly, harmful both physically and mentally as well as torturous punishment. According to the recommendations of the Reform Commission, detainees are divided into the following categories according to their crimes.

Taking into account the recommendations of the Reform Commission, prisoners are divided into the following categories according to their crimes:

- 1)homicide (including murder and murder)
- 2)crimes against people (including sexual crimes)
- 3)crimes against property (including robbery, robbery, etc.)

Every crime needs its own way of compensation. The deficiencies of the prison system have led to the emergence of an alternative concept of "conditionally deferred" punishment... The prison administration Before serving your sentence, you were sentenced to prison for entertainment purposes or as evidence of your release. "Probation" is a viable and working substitute for prison. This is when the court cancels the criminal's sentence and releases the criminal under certain conditions. The criminal can live in the community no matter under the supervision of the probation service inspector or without the supervision of the probation service inspector. Since the passage of the **Central Parole Act in 1958**, the system has been established in India. The biggest advantage of the trial system is that it will not bring stigma to trial officials.

## SUGGESTIONS

From my understanding of the issues pertaining to prisons of India, I believe that the problem of prison overcrowding can be solved by reducing the number of trials to a minimum of 27. Below them, road traffic needs to be accelerated. In addition, open prisons can solve the problem of overcrowding, as well as the correction and rehabilitation of prisoners. Statistics for 2015 Open prisons in Rajasthan are one of the best practices for the welfare and rehabilitation of prisoners<sup>28</sup>. The inmates of the Udaipur Open Air Prison run small businesses like a tea pavilion and return to the prison at night. Family in prison. Many of them were convicted of murder and rape. According to the report, they did not pose a threat to society and intend to continue working and seek a peaceful life after serving their sentences. The convicted person must serve one-third of the sentence and behave well. **Open prisons** provide prisoners

with social assimilation and economic independence before serving their sentences. Opening prisons is also good for the country, because the cost of imprisonment can be deducted from the prisoners' income. Rajasthan's goal is to open two open prisons in each district because the cost of Jaipur Central Prison is 14 times that of its Sanganer City Open Prison. 30 Among the 45 inmates in the Jaipur Open Prison, one escaped the Rajasthan Suspended Prison Plan. Or flooded, and in India, according to 2015 data, the number of closed prisons was 1 in 481 full load 33...Denmark is also a good example of open prisons. Inmates in Denmark cook their own meals, dress and meet with their families every week. The recidivism rate in Denmark is relatively low, about 27%, which is almost half of the average recidivism rate in all jurisdictions in the United States. Although according to NCRB data, the recurrence rate in India is very low, about 7.8%, it has increased 36% compared to previous years. In addition, male and female criminals will be separated. Those convicted of minor crimes are detained separately from criminals who have committed serious crimes. The central and state governments will ensure that prisoners are **not tortured** by the police. It is important to understand that prisoners are also humans and need to be treated with dignity. They should be provided with adequate space, food, clothing, sanitation and medical facilities. Police officers should be trained in **humane treatment**. You must be monitored at the police station. Due consideration must be given to the children of criminals who live with them or are born in prison. The mental and physical needs must be considered. The important thing is to stop treating prisoners differently. Any taxpayer is a political prisoner, etc. All prisoners must be treated equally. Everyone must complete training and continuing education. Use newspapers and TV for news broadcasting. Prisoners should be taught yoga and meditation to help them calm down and correct them.

## **SCENARIO OF PRISONS IN PANDEMIC AND PSYCHOLOGICAL REPERCUSSIONS**

As per the statistics received from the NCAT (National Campaign against torture) a leading NGO fighting injustice in our world by raising a voice and researching on the issues, who conducted a survey whose reports were published on a document dated 15th September 2020 states that -



“*The Status Of COVID-19 In Indian Prisons*, stated that out of the 1,350 jails in India, COVID-19 infections have been reported from at least 351 jails in 25 out of total 36 States/UTs of the country as of 31 August 2020. The maximum number of COVID-19 infections in prisons were reported from Uttar Pradesh (35 jails), followed by Madhya Pradesh (34), Maharashtra (32), Odisha (31), Andhra Pradesh (28), Rajasthan and Tamil Nadu (21 each), Assam (19), West Bengal (18), Punjab (17), Bihar (15), Delhi (14), Jharkhand (13), Karnataka (9), Haryana (8), Kerala (7), Gujarat and Chhattisgarh (6 each), Jammu & Kashmir and Uttarakhand (5 each), Telangana (3) and Andaman and Nicobar Islands, Goa, Puducherry and Tripura (1 each).

Among the COVID-19 infected prisons, 52 prisons had overcrowding from 101% to 312% as of 31.12.2018 as per the “Prison Statistics of India -2018” of the National Crime Records Bureau with Mumbai Central Jail topping the list with 312% overcrowding followed by Thiruvananthapuram Central Jail, Kerala (306%), Badaun District Jail, Uttar Pradesh (289%), Latehar District Jail, Jharkhand (268%), Moradabad District Jail, Uttar Pradesh (256%), Khandwa District Jail (252%) and Waidhan District Jail (251%) of Madhya Pradesh, Jail No.4 (239%) and Jail No. 1 (238%) of Tihar Jail Delhi and Jaunpur District Jail (237%) of Uttar Pradesh.”

Although the COVID-19 pandemic requires immediate action to unload prisons, cruel, inhuman and degrading treatment or punishment of prisoners due to overcrowded conditions is illegal. Perform appropriate work in violation of permitted capacity; assess the overcrowding of prisons, and recommend the transfer of prisoners from overcrowded prisons to other prisons where the number of prisoners is less than the permitted numbers.

Now looking at a **psychological** outbreak on this is that Throughout the community, many recreational and professional activities in prisons around the world have ceased. In prisons where computer and Internet access are restricted, alternative jobs are rare. Long cells (up to 23 hours per day), lack of activity, and little or no contact with other prisoners (especially those who are isolated or protected by COVID-19) can simulate solitary confinement. Even brief periods of solitary confinement can have psychological consequences, including anger, depression, anxiety, paranoia, psychosis, and relapse. Potential mental illness and post-prison

mortality increases. Prisons should learn and evaluate strategies that can promote mental health, such as: Cell exercise, mindfulness, health treatment and telephone psychotherapy.

## CONCLUSION

After conducting a detailed research on the chronological history of prisons in India, i found out that in the historic period prisons basically were places of detention or awaiting trial/execution, moving towards modern era and colonial era of the nation, the motive changes towards breaking the prisoners who were bleeding and sweating for independence of our nation both physically and mentally as well as leaving a mark on the society to not to follow their footsteps, now when the world is becoming more inclusive and accommodating of everyone in the society, why are we still following the footprints in the sand left behind by Britishers with their bloody history of colonial rule, when the prisons around the world are moving towards corrective facilities, i found that a majority of prisons of our nation to be traumatic places which have been completely ignored by the administration, If you look at the recommendations of the various committees for reforming the prison system, how many recommendations are currently being implemented? Rarely. There is no need to form a committee; the recommendations of the previous committee must be followed. The government needs to understand that prisoners are human beings and provide them with basic facilities. More financial resources need to be allocated to prisons to ensure that prisoners receive reasonable conditions. This should be the purpose of the prison. The rehabilitation and rehabilitation of prisoners is necessary to reduce crimes and ensure life after serving their sentences. Reading international reports such as Human Rights Watch in 1991 on the conditions of Indian prisons shocked a person's conscience. These reports reveal serious human rights violations. Police officers in prisons are committed to ensuring the safety of citizens. The inhumane treatment of prisoners by the police must be stopped. Examples like Udaipur need to be installed across the country for India to be an ideal choice Detention conditions and management in different countries in the world as well as learning the lessons from the horrific situation inside our overcrowded prisons in the covid 19 pandemic and making sure we are prepared for any future pandemic which may come, i have no single doubt that upon working on these lines, India would become a place with prisons to be admired of.

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