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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **PRISON REFORM: FROM A SOCIAL- DEMOCRATIC AND ECONOMIC POINT OF VIEW**

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## **Abstract**

The paper discusses the design of the Indian prison system, the issues that inmates confront, and the reformation programmes that have been put in place to help offenders become productive members of society. Prisons are no longer institutions created only for the sake of retributive and deterrent punishment. Prisons are today the settings where inmates are housed, not as abandoned or forgotten members of society, but as people who must return to their surroundings and behave in a reformatory manner.

## **Introduction**

Prisons are no longer just seen as custodial institutions because of the significant changes in their function over time. As a result, prisoner training and reeducation now take precedence over prisoner detention. A long-standing institution, the prison. "To grab" and "cage" are implied by the word "prison." The definition of "prison" according to the Oxford English Dictionary is "a location, properly planned and equipped for the reception of prisoners who by legal process, are committed to it for safe custody while under trial or for punishment." A nation's prison system depends on a number of socioeconomic and pragmatic factors.

The goals, programmes, and policies of a nation's jail administration differ greatly from one country to the next depending on the socioeconomic situation there. The goals of a nation's incarceration system are dictated by its financial resources and by the social and moral awareness of the local population. Prison was first intended as a facility for detaining offenders while they awaited trials and the most severe punishment possible. Over time, what was formerly considered a transit station became into a destination, and imprisonment came to be seen as a goal in and of itself. "Imprisonment is the punishment to which we must principally trust," wrote Lord Macaulay in his well-known "Minutes of 1835." He argued for the creation of such laws while also securing

their exclusion from any humanely horrifying circumstances. In addition to serving as a place of confinement, the jail evolved into a penal institution, with the main goal of eradicating the so-called criminal streak in those who had committed crimes. The core idea of jail administration in India had been one of retributive-cum-deterrent. To achieve these goals, a torment/terror regime with strong repressive elements, such as isolation, cells, and unproductive severe labour, has existed in jails. A philosophy of correction and rehabilitation of offenders is currently replacing the repressive-punitive strategy.

The United Nations convention adopted by the General Assembly on December 18, 1966, which states that the penitentiary system shall include treatment of prisoners, the primary goals of which shall be their reformation and social rehabilitation, reflects the global impact of this way of thinking. Act 10(3) of the Convention. The open camps, such as Sanganer Open Prison in Rajasthan, close to Jaipur, where inmates are permitted to live with their family, can act as the finest halfway house before their reintegration into society. Open camps give inmates the chance to interact with the community more frequently, which aids in their rehabilitation after serving their time. It is crucial to secure the availability of the required facilities, structures, staff, regulations, and procedures in order to assure the scientific and humane administration of prisons in line with the contemporary philosophy of reformation and rehabilitation.

The Atpadi Open Jails in Pune, which are sprawled across 61 acres and represent another example of an open-air jail, are a novel experiment in prisoner rehabilitation. By giving inmates a chance to resume their normal lives following release, open jails aim to restore their dignity. Prisoners' families are allowed to reside with them at Atpadi. These types of prisons provide the inmates a new purpose in life and the will to pursue their dreams. It involves duties and a level of trust that can imprison.

## **Types of jail in India**

- 1. Types of Prisons:** India has eight different types of prison facilities. The three types of jails that are most frequently used and accepted are Central, District, and Sub. There are also women's prisons, borstal schools, open prisons, and special prisons.

**1.1 Central Jail:** Each state has its own set of requirements for what constitutes a Central Jail. The Central Jails, which have a bigger capacity than other jails, are where inmates



who have been given lengthy prison sentences (more than 2 years) are kept, which is a prevalent practise seen throughout India. Rehabilitation centres are also present in these prisons.

**1.2 District Jail:** When there are no central jails in a state or UT, district jails are used as the primary detention facility.

**1.3 Sub Jail:** Smaller prisons known as "sub jails" are located at the subdivisional level in the States.

**2. Women Jail:** prisons created specifically to accomodate inmates who are women. These prisons typically employ a majority of female personnel.

**3. Borstal School:** Borstal Schools are a particular kind of adolescent detention facility that are only used to confine kids or juveniles. The main goal of Borstal Schools is to protect young offenders from the polluting atmosphere of the jail and to secure their care, welfare, and rehabilitation in a setting appropriate for children. With the aid of qualified teachers, the juvenile offenders housed at the Borstal Schools get a variety of practical training and education. The focus is on providing them with the knowledge, instruction, and moral guidance necessary for their reformation and crime prevention.

**4. Open Jail:** Prisons with a low level of security are open jails. In open prisons, inmates who exhibit good behaviour and meet specific standards outlined in the prison rules are accepted. Prisoners are working in agriculture in this instance.

**5. Special Jail:** High security jails with specific housing for criminals and prisoners convicted of violent crimes, terrorism, and insurgency are known as special jails. Any prison set aside for the incarceration of a specific class or classes of prisoners, broadly speaking, including the following:

- Inmates who have flagrantly broken the rules of prison discipline.
- Inmates who exhibit aggressive and violent inclinations.
- Cases of habitual offenders who face difficult discipline.
- Difficult discipline cases from a team of organized/professional criminals.

- 6. Other Jails:** Other Jails are prisons that don't fit into any of the categories mentioned above. Each of the three states of Maharashtra, Kerala, and Karnataka is home to one additional prison. By the end of 2015, there were no jails in any other states or the UT.

**Types of prison inmates:** Convicts, Under-trials, and Detenues are the three classifications for prisoners housed in Indian prisons. "A person found guilty of a crime and sentenced by a court" or "a person serving a sentence in jail" are both definitions of a convict. A individual who is currently being tried in court is known as an under-trial. Any person who is being held captive is a detenue.

Civil prisoners are those detained in jails in India as a result of offences not covered by the Indian Penal Code (IPC). There are both Under-trials and Convicts among them.

**Problems of prisoners in jail in India:** The Universal Declaration of Human Rights, the Standard Minimum Rules for the Treatment of Prisoners, and the Indian Constitution all clearly outline the standards of treatment for prisoners who are being put on trial. But prison realities play an entirely different melody. Given The following are some obstacles that every under prisoner on trial in Indian jails suffer from:

- 1. Prison violence:** The police blinded 80 suspected offenders in **Khattri v. State of Bihar** by poking their eyes with needles and dousing them in acid, which was considered the worst instance of prison violence. In reality, the court had already issued a writ in the matter of **Sunil Batra v. Delhi Administration**, instructing the authorities that the detainees were not to be exposed to physical mistreatment by jail staff and that they were to receive proper medical and health care.
- 2. Criminalizing effect of a prison :** The infection of first-time, circumstantial, and young offenders into full-fledged criminals into occurs regularly due to the presence of hardened criminals and the lack of scientific classification methods to distinguish them from others.
- 3. Health problems:** The majority of jails struggle with overcrowding and a lack of sufficient room to house inmates in secure and healthy circumstances. The majority of convicts in jails and prisons are from socioeconomically underprivileged areas of society where illness, malnutrition, and a lack of medical care are common. Infectious and communicable diseases

spread quickly among such people when they are crowded together in unsanitary surroundings.

- 4. Mentally ill prisoners:** Even though they make up a tiny portion of the population, mentally ill inmates are often forgotten about by both those outside and those inside. However, because of the nature of their condition and the prevailing social views, they are the most helpless victims of human rights abuses.
- 5. Drug Abuse:** People imprisoned for violations of anti-drug legislation make up a sizable portion of the jail population, second only to murder, attempted murder, and other serious anti-personal offences.
- 6. Effect on the families of prisoners:** Those who are incarcerated are unable to care for their families. The family is frequently thrown into poverty while the primary breadwinner is absent, with the youngsters often wandering off course. This, along with the societal stigmatisation they experience, creates situations that push them toward delinquency and other people's exploitation of them. It is a vicious circle.

## **Jail reforms and rehabilitation**

### **Recreational, Facilities.**

Inside the prisons, everyone observes all religious and national holidays. All prisons fly the national flag on Republic Day and Independence Day. All religious holidays, including Xmas, Guru Parv, Id, Holi, and Diwali, are observed by all. Sisters and brothers are permitted to visit the prisoners on Rakshbandhan Day and tie Rakhies. This significant event enables the jail staff to show the inmates that "We Care."

### **Educational, Facilities:**

For convicts, plans have been established for both formal and adult education. Government resources and NGO involvement are used to manage educational activities. The Tihar Prisons have been turned into study centres for the Indira Gandhi National Open University (IGNOU), New Delhi, and the National Institute of Open Schooling (NIOS), Delhi. Additionally, computer training facilities are operating within prisons to provide inmates with computer knowledge.

**Sports Activities:**

Sports activities are an essential component of every management. The Tihar Olympics are a series of inter-jail sporting events that are arranged. Regularly played games include cricket, badminton, volleyball, basketball, table tennis, chess, kho-kho, kabaddi, tug of war, and others.

**Yoga and Meditation:**

Yoga and meditation programmes were launched in a significant way with the assistance of several volunteer organisations for the purpose of purifying and disciplining the mind.

**Legal Aid Activities:**

There is a legal aid cell operating in each jail, and the counsel sent by the Delhi State Legal Service Authority and Delhi High Court Legal Service Committee go there to visit inmates. Additionally, it is made sure that every eligible prisoner has the opportunity to file an appeal at the expense of the State and that these inmates receive frequent legal advice from both the prison administration and a visiting legal aid attorney.

## **Societal Participation in Reformation**

Numerous respectable members of non-governmental organisations, a retired major general, professors from I.I.T. Delhi, eminent psychiatrists, psychologists, principals, and teachers from different educational institutions have been conducting various activities in the prisons as part of community involvement in the reformation and social integration of prisoners after release. Because of their interactions with the convicts, these NGOs have had a profoundly enlightening and uplifting effect on their psyches, teaching them how to live positively and constructively. Additionally, following their release, they help to rehabilitate these prisoners.

## **Intervention by the courts has failed**

Several prison improvements that were suggested by an apex court panel last year to promote access to justice have only been partially implemented. Additionally, it was stated that the government had yet to enact the committee's recommendations, three years after it turned in its report in response to a Bombay High Court decision on jail reforms.

All district magistrates were recently ordered by the Orissa High Court to conduct unexpected visits to jails and provide reports on the conditions of the prisons under their respective jurisdictions.

Even though the Supreme court has acknowledged prisoner rights in a number of rulings, convicts are nonetheless unable to exercise their rights. While building more jails may temporarily reduce overcrowding, historical data indicates that this is not a long-term strategy that is workable.

Additionally, the expense of building and maintaining new prisons strains already scarce resources. Instead, a number of international agreements demand that sentencing guidelines be reconsidered, with more emphasis placed on non-incarceration options.

## **Covid and requirement for jail reform**

The Supreme Court's ruling on May 7 to decongest jails while Covid-19 devastated the nation was just "temporary" and did not address the larger issue of the violation of prisoner rights. According to a report by Amnesty International, the epidemic resulted in violations of prisoners' rights all across the world.

Inmates' behaviour is significantly influenced by the environment in the prison. Conflicts that are either impulsive or intentional might occur in an environment that is violent because it heightens emotions and creates stress. Only in a civilised environment can violence in prisons be reduced.

The environment in a jail can have serious negative health effects on both new detainees who have already been diagnosed with illnesses and older inmates who get illnesses. Things get worse because of traffic, a lack of fresh air, and a balanced diet.

The average number of cases outstanding in High Courts climbed from 4.012 million in 2016–17 to 4.425 million in 2018–19, according to the 2020 India Justice Report. In comparison, for the corresponding years, the numbers in lower courts were 28.3 million and 29.7 million.

After the Coronavirus spread in overcrowded jails with little social segregation, the SC ordered the states and Union territories to form powerful committees to decongest prisons.

Inmates are mentally impacted by isolation and imprisonment, particularly first-time offenders. An inmate's mental health is impacted by seclusion, deprivation, family discord, and a growing sense of hopelessness. The problem has gotten worse as a result of the pandemic's severe reduction in court appearances, limits on visiting family members, restricted travel, and cessation of social



activities inside bars.

Pre-trial imprisonment, sometimes known as remand, is thought to be the phase of the criminal justice system that is most susceptible to abuse. Although such inmates should be regarded innocent until proven guilty because they live in constant fear and uncertainty, they are subject to worse conditions than those who have been found guilty.

According to the National Crime Records Bureau's Prison Statistics India-2019 report, in India, 69.05% of those incarcerated were awaiting trial, followed by 30.11% convicts and 0.67% detenues.

The Mental Healthcare Act of 2017 mandates that the state offer prisoners adequate, efficient, and top-notch mental health care. Section 103(7) of the Act mandates that prison-based mental health facilities register with either the Central or State Mental Health Boards and adhere to a set of standards and guidelines. But according to a recent investigation, there are no inmate-accessible mental health facilities at the Tihar Jail.

## **Rehabilitating or fostering violence?**

According to the rehabilitation hypothesis, people can improve their self-assurance, cooperation, and independence through a range of programmes. Of course, in order to remove inequality and prejudice, this system functions in conjunction with a thorough set of changes in other fields and industries.

Any significant prison improvements must be implemented while keeping in mind the institution's original goal of inmate reform and rehabilitation. Correctional methods must put more of an emphasis on rehabilitation than on punishment. It will enable those who were formerly incarcerated to lead regular lives without turning to crime when accompanied with enough aid and support.

Prisons have the potential to be either institutions for reformation or a breeding ground for violent, destructive ideas. An ineffective jail system poses a risk to society and wastes money when it fails to turn a criminal into a law-abiding citizen. In *Mohammad Giasuddin v. State Of Andhra Pradesh*, 1977, the SC itself stated that "a therapeutic rather than an in terrorem view should predominate

in our criminal courts since cruel detention of the offender just generates laceration of his mind."

## **CONCLUSION**

The goal of the changes was to keep criminals out of society, to rehabilitate convicts, to prevent them, and to exact just punishment for illegal acts that pleased the community. The goal of implementing reforms was to modify how the prisoner behaved and how they viewed society. Because criminals are products of a society, treating them rather than punishing them is necessary. The goal of locking up criminals is to turn them into moral, law-abiding citizens.

Prisons are no longer dungeons where inmates were housed and forced to spend their days in solitary confinement. The purpose of prisons is no longer limited to the retributive and deterrent features of punishment. Inmates are now housed in prisons not as abandoned or forgotten members of society, but as living, breathing people who must interact with the outside world and behave in a way that is consistent with their reformation. Prisons are supposed to be places of rehabilitation rather than further punishment, as imprisonment is already a form of punishment for a prisoner, and our nation has a very low rate of imprisonment.

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