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Every society is governed by the ‘rule of law’ and the rule of law is to protect society from the liberties of people and an endeavour to reform and re-assimilate offenders in the social milieu by giving them appropriate correctional treatment. But the authority of the State and its duty to maintain law and order are always in conflict with the feelings and liberties of people.

Man is a social animal. In order to survive on earth, he needs to socialize and accept the norms of society. But crime, repression and injustice have always been parts of the human conditions. So are prisons in which persons condemned for their anti-social acts as well as those acts which are against law, are lodged. But lodging persons who have violated the law of land into prisons does not transform them into non-persons. Prison has a significant role to play in the criminal justice administration as a penal institution as well as a formal agency of control. Criminal law occupies a pre-dominant place among other agencies of social control right from the inception of society and is regarded as a formidable weapon that society has forged to protect itself against all anti-social behaviour. However, as a vital agency of criminal justice administration, prisons perform the twin role of incarcerating the convicts as well as providing custodial care for the under-trials and detainees. Thus, prisons come into picture not only after trial and conviction but right from the stage of investigation and the commitment of the accused to remand or in the course of preventive detention.

The basic reason for the existence of prisons is our society, which expresses its wishes through the means of courts, finds it necessary to separate and isolate some people, who have broken the law. The concept of segregation of different types of persons from that of the mainstream of society is as old as society itself. Traditionally, prisons have been used for punitive purposes only and it is in the recent times that public opinion has come round to accept the notion of using imprisonment to reform and rehabilitate the inmates.
Globally, the development in penal philosophy calls for a shift in penal principles from punishment and retribution to reformation to rehabilitation. This is in-fact true since imprisonment and punishment do not present themselves as the proper methods of dealing with criminals. In certain cases, as has been mentioned in Smiritis, fines were imposed on those who had violated the law in order to have an escape from the punishments. During different periods of the ancient times in India like Mughal Period, Maratha Period, etc. different forms of punishments were inflicted upon the persons for their violation of rules and norms of the society. They were more carrying with them the deterrent and retributive effects rather than reformative and rehabilitative. Prisoners were exposed to public gaze in order to deter others from doing such acts. Even Manu, the Great law-giver, had in his times suggested that prisons should be built in the public roads so that the public can become aware of the sufferings of criminals who have been disfigured in the prisons, whose bodies are shrunken with hunger and thrust, hair disordered, fettered in chains, and so would produce a horrible impression on the onlookers. This malicious type of penal system in ancient period continued till the downfall of the Mughal Rule, in which only Quranic law was followed and where prisons were used both for detention and punishment of offenders. But after India gained independence, views about the prisons as a means of punishing criminals changed and thereby a new thought of reformation and rehabilitation of criminals introduced as it was thought that crime is the outcome of diseased mind and this disease has to be removed.

Unfortunately, most prison workers have the attitude that prisoners must be punished and that the prisoners are all dangerous individuals. They lose sight of the fact that all individuals are potential criminals and that with our multiplicity of laws today, it is almost impossible for an individual to go through life without breaking one or more of these laws and that prison as a system have grossly failed in preventing the spread of crime. Just as mental hospitals were like custodial institutions so are the prisons still planned to wreak the vengeance of society upon the unfortunate individuals who are so unlucky as to be caught in the infringement of society’s rules.
In this regard, many of the developed countries have devised other alternatives to imprisonment. Since prison congestion is a problem across the globe, many alternatives have been devised in lieu of the imprisonment such as probation and parole. These are two such systems which have proved to be beneficial for the rehabilitation of prisoners. However, under such systems, prisoners are kept under continuous surveillance of the probation officer in order to see whether the person is willing to retain himself or not. These are not the only alternatives yet there is the system of imposing fine upon the criminals for their criminal acts. These fines are the monetary payments imposed upon the criminals as an intermediate punishment for their criminal acts. However, the amount of fine to be imposed upon a criminal depends upon the proportionality of crime and the class of offender. These alternatives to imprisonment are in-fact the better ways to curb the wrongdoing in society.

Prison society is a separate world by itself, which is composed of the ruling-group i.e. staff and the subordinate group of prisoners. The authority of the ruling-group is almost total. There is a traditional gap between the ruling-group and the subordinate group. However, these gaps are bridged at many places as otherwise the system cannot function.

The prison administration in Jammu and Kashmir is a legacy of British rule. There has been a very slow growth of prisons in this State. However, the present administration of jails is carried on according to the provisions of earlier Jail Manual and Jammu and Kashmir Prisons Act of 1977 (1920 AD). The State of Jammu and Kashmir has not lagged behind in the matters of jail administration. The improvements in service conditions of personnel has undoubtedly manifested in the overall improvement in jail administration with attendant benefits to the prison population. The jail functionaries are better trained, equipped and motivated to administer the custodial and correctional services, which have become increasingly challenging.

In the State of Jammu and Kashmir, the crime rate has considerably been low as compared to other States in India. Corresponding to this, there is also the lower jail population. The existing two Central Jails, seven District Jails and three Sub-Jails provide adequate accommodation to the present prison population. An
overall view of the contemporary prison scene has proved it beyond doubt that prisons of today have miserably failed to correct the prisoners. They are the victims to poor living conditions, sub-standard and unhygienic food and subject to various kinds of tortures and humiliation besides other problems, during the period of their incarceration. The prisoners suffer the problems silently and there is none who better knows what happens to a prisoner behind those fortified walls and iron bars. Even the political leaders and other high ranking administrative officials visit these jails casually that too for ceremonial purposes or official inspection.

The Ministry of Home Affairs, Government of India has been implementing comprehensive schemes for the modernization of prisons in consultation with the Bureau of Police Research and Development, which is a nodal agency for prison reforms in our country. At the same time, the National Human Rights Commission in its first Annual Report (1993-94) had expressed grave concern over the problems in prisons in our country. The Commission has made recommendations on the major problems in the prisons, which include over-crowding, delay in trials, privacy of inmates, prison hygiene, system of jail visitors, sentence review Board and open prisons.

Before British arrived in India, there was no modern prison system. The modern prison system is the result of the appointment of different Commissions and Committees that have so far been constituted from time to time to bring about reformation in prisons. A mandate was given to the modern prison system to isolate its members who have been defined refractory and threatening to social order and so custodial function became the prime function of the prison. But custodial function should not only serve as an institution to house the wrong doers into the four walls behind the fenced bars. Its main objective should be to provide treatment and training to its inmates.

As regards the prison reformation before independence, different committees and commissions have expressed their views on the prisons in India to bring about reformation in the prisons. The movement of reformation, however, started right from 1835 when Lord Macaulay made an in-depth study of the prisons in India. The committee after conducting study recommended valuable
suggestions. The Committee of 1919-20 called as the Indian Jails Committee, which was under the chairmanship of Sir Alexander Cardrew, also looked deep into the problems and thereby suggested measures for the improvement of the jails in India. It made valuable recommendations which almost touched each and every sphere of the prison system. This was the last pre-independence Jail Committee constituted to bring about an overall change in Indian jails.

The Government of India showed more interest in the matters of changes in the prison system in the post-independence period. On requests, Dr. W. C. Reckless was sent by the United Nations as an expert to study the Prison Administration in India. Though his recommendations were no more different from that of the Indian Jails Committee of 1919-20, he specifically wanted the development of whole-time probation and after-care services, separation of juveniles from adult prisoners, etc. However, until 1980, the condition of jails was not better to the extent as it was desired to be. But in 1980, a committee was appointed by the Government of India called as All India Committee on Jail Reforms, which was headed by (retired) Justice A.N. Mulla in 1980. This Committee made a comprehensive review of prison administration in the country and suggested suitable measures for its improvement. The Committee touched almost all the spheres of the system in its report, which was submitted in 1983.

In-spite of the fact that a number of Committees and Commissions were constituted from time to time by the Government of India, who in their reports touched different aspects of the prison system but the concern about the women prisoners was least carried out in those reports. As a result of this, the Government of India constituted a Committee on women prisoners with Justice Krishna Iyer (retired justice of Supreme Court) as its chairman. The Committee looked deep into the matters related to female prisoners and thereby suggested measures for their betterment. Though a lot has been done to bring about reformation in the Indian prisons, there is still the need to do much more as the condition is still not good to that extent.

In regard to the administration in the prisons, there is a hierarchy in the officials of the prison with Inspector General at the top-most position. At the lower end, there are warders and other supporting staff. All these perform their
roles as per their official ranks. It is the prison administration that governs all the tasks inside the system right from the entry of a prisoner into a jail. Maintaining discipline among prisoners is the first and most vital element, which is possible only when there is the maintenance of discipline among the staff itself. The discipline has not to be maintained by force but fairness which can result in its firmness. This will further result in envisaging an orderly environment in the premises. The discipline in prison should be given a human face by initiating such a system as will make rapid progress in the correction of inmates. Failure to follow the rules of jail discipline, punishments are awarded to the prisoners, however, before that a warning is addressed.

So far as the prison labour is concerned, it acts as a vital organ for the reformation and rehabilitation of prisoners. Prisoners are put to labour work in order to train them for their future life after they are released from the prisons. This system of utilizing prisoners for labour work was recommended by the Committee of 1949 under which there should not be any intensive supervision on them during them. The committee of 1864 looked up at prison labour as a means of enforcing discipline. It was also suggested that different categories of labour-hard, medium and simple – should be allotted to the prisoners on the basis of their length of sentence. The logic behind this classification of labour was somewhat to make it punitive as well as to indulge prisoners into it so as to keep them away from the criminality.

Education is also provided to the prisoners in the light of the Article 26 of the Universal Declaration of Human Rights. Those having no education were provided primary education while those having achieved a little education were provided with higher education or so. In this context IGNOU has contributed a lot. In-fact, rehabilitation of prisoners will prove to be useful only if they are aided after their release from the prisons such as the provision of education. For that purpose, educational facilities have been provided to the jail inmates. Many of the jails in our country have started imparting vocational training including the establishment of full-fledged computer training centers. The inmates are also provided training in carpentry and fabric painting. Many jails have also initiated programs for women empowerment by training them in weaving, making toys,
stitching and making embroidery items. Wage earning and gratuity schemes and incentives are also used to reduce the psychological burden on the convicts.

Besides, prison hygiene and health of prisoners were given due importance so that they can retain the fundamental right to enjoy this basic right of good health. Sufficient diet was provided to the prisoners. There are usually two scales of diet as suggested by Jammu and Kashmir Jail Manual (2000) among which one is for those prisoners who are indulged in labour work and other for the non-labouring prisoners. Other facilities like clothing and bedding, utensils and other necessary items have also been made available to the prisoners in prisons.

Visiting system in jails was also there. This system of visiting prisons was introduced in order to check the overall status of prisons as well as those of prisoners. The visitors were both the officials and non-official members. Board of Visitors was constituted which comprised members at Divisional, Sub-divisional and District Levels who meet in the Superintendent's office to look into the matters of the prisons through visitation. However, visiting prisoners by the members of the Board depends upon the willingness of the prisoner. Besides, visit by family members also take place there in our prisons however, there needs to be introduced the system of conjugal visitation inside the prisons so as to meet the sexual desires of the prisoners which though has been criticized on certain grounds.

Being aware of the fact that the population in prisons is to be handled by the prison administration, therefore, the administration has to rest primarily on the objective of weaning the offender away from wrong-doing in future thus transforming him into a useful citizen. This population has so far been divided into a number of classes depending on the type of crime they have committed. These classes, as discussed in Chapter 4, include convicts, under-trials, detenues, women prisoners and others. The Indian Model Prison Manual has laid down objectives in regard to the classification of the prisoners which include: to study the offender as an individual and to understand the sequence of his criminal behaviour; to segregate inmates into homogenous groups for the purpose of treatment; To organize an overall, balanced, integrated and individualized training and treatment programme; to review the inmate's response to institutional regime...
and treatment and to adjust the programme to suit his needs; to coordinate and integrate all institutional activities and to develop a system of constructive institutional discipline; to ensure maximum utilization of resources and treatment facilities available in the institution as well as the community.

Thus we see that the main purpose of the classification of prisoners into different types on the basis of their crime is to segregate them and provide custodial supervision and control as per their sentence. In this regard scientific classification is essential in the modern prison system but it requires a lot of expenditure on the part of the government for requiring a number of professional personnel in prison administration. This system of the classification of prisoners was emphasized by the Indian Jails Committee of 1919-20. The classification of prisoners in Indian Prisons is made on the following criteria: segregation of habitual offenders from first offenders; segregation of offenders involved in heinous crimes with the prisoners involved in petty offences; segregation of convicted prisoners from the under-trial prisoners; segregation of adolescent prisoner with adult prisoners; segregation of female prisoners with the male prisoner; segregation of prisoners having communicable infection and mentally ill prisoners; segregation of condemned prisoners; segregation of detenues; and segregation of high security prisoners.

Classification system in-fact places a prisoner at a custody level that will determine where the prisoner will be housed. It depends upon whether the prisoner is a habitual of casual. As such, once a prisoner arrives inside the prison, the internal unit has to check about the cell in which the prisoner is to be confined inside of the prison. Besides this, the internal unit or the so called prison staff has to determine too about the programs or facilities that has to be provided to a prisoner on his arrival to the prison depending upon the nature of the crime that he has committed. This demands a well structured internal classification of the prisoners since little is known about institutional conduct of the prisoners who is having no history of incarceration.

But looking at the different classes of prisoners, until a prisoner is sentenced, the treatment they receive in custody reflects the fundamental principle that an individual is innocent until proven guilty and the one who is found guilty
and is thereby sentenced is called a convict prisoner. These convicted prisoners are segregated from the under-trials and other types of prisoners. However the person who has not completed his trial period in the courts cannot be counted among the convicted prisoners. Under-trial prisons have to wait till they have a hearing and till their trial-period is over and the final decision is announced. In our country, as has been mentioned in Chapter 4, the problem of under-trial prisoners is the result of the delay in their trials. This delay in trials has given rise to another major problem witnessed in Indian jails, which is the problem of overcrowding.

In the State of Jammu and Kashmir, the insurgency on the part of militants is on the rise since 1989 on the demand of a complete freedom to the State. In the State, there is a class of prisoners called as detenues. Detenues include those prisoners who are involved in anti-national or terrorist or militancy acts and have been detained in the prisons. A detenue who is no way an ordinary gun-wielding rebellion but an ideal log of the out-fit organizations who is indulged in the activities of preaching the cult of violence and polluting the minds of youths of impressionable age. These detenues are considered as hardcore criminals, the aims and objectives of which are to create terror amongst the people in general and youth in particular by resorting to acts of violence in order to achieve their goal. They need high security arrangements once they are detained and lodged in prisons since they turn to continue their activities inside the four walls also. These high-security prisoners are usually housed in separate institutions or other camps away from the prison and are usually not under the control of the prison organization.

There is yet one more category of prisoners as discussed in Chapter 4 and that is those of women prisoners. These women prisoners do not contribute much to the total prisoners’ population in prisons. They are not provided with the service provisions as are needed by them from time to time and so they are the neglected sections in the prison population. Some women prisoners are having their children with them in the prisons which have either been delivered in the prisons or earlier before they were detained. It has been recommended that children below the age of 6 years can be permitted to stay with their mother in the
jails. However, some criminologists have suggested that these children should not be allowed to stay with their mother since they are lodged in jails and as a result of this they might be in stress and thereby use abusive or rude language, which might have a negative impact on their children. However, as such, children are permitted to stay with their mothers in jails.

Classification of prisoners has in-fact proved to be beneficial for the prisoners, prisons and the staff as well. Since there are different types of prisoners with different criminal backgrounds, so they need to be segregated from each other for their safety. All these categories of prisoners need to be provided with proper care and treatment besides other services so as to reform and rehabilitate them into law-abiding citizens once they are released from the prisons.

As prisons form one of the important wings of the criminal justice administration, so there needs to be the provision of adequate funding system from time to time for their maintenance. In the minds of all the officials, there should not arise the need for the construction of more prisons to overcome the main problems, instead they should focus most on the disease in which young and innocent people are caught up.