CHAPTER 17

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Prisons i.e. the correctional institution form an important part of the Criminal Justice Administration. Hence, no systematic study of CJS would be complete without a discussion on the state of these correctional institutions and the reforms needed. The condition of Indian prisons is deplorable. The jail manuals are antiquated, the architecture is primitive and the attitude of the jail authorities in not only indifferent but dehumanizing. Subhuman living conditions, prisons riots, jailbreaks, suicides, custody deaths and frequent escapes are regular occurrences. All this not withstanding, we have to accept the reality and reform the jail system.

Jails are expected to serve four objectives: retribution, incapacitation, deterrence and rehabilitation. Crimes that disrupt society have to be punished and hence criminals must pay by losing part of their freedom. Lawbreakers ought to be segregated so that they do not harm innocent people. Future crimes have to be prevented by making the delinquent understand that the infringement of law is not permissible in civilized society. And when the jail term ends, the prisoner should be able to return to the mainstream as a law-abiding citizen.

Ironically the ground realities are different. No jail in the country has the resources for keeping prisoners in healthy surroundings. No prisons has an imaginative reformatory system governed by upright officers who want to bring about a change of heart in criminal. In that event jails make hardcore criminals even out of ordinary offenders. Unsanitary conditions, shortage of food, medicines and medical staff, laxity, mismanagement and corruption in the prison administration only add to the misery. A hierarchical system seems to be in operation where dreaded prisoners manage to get all comforts of life in their cells. Jail officials virtual pay obeisance to them. The effect that
all this has on the mind of a juvenile delinquent can be imagined. Instead of dreading the jail term he grows up wanting to become a similarly respected don.

The government has still to evolve guidelines for prison management on modern lines. Although the subject has been examined in depth by four committees since 1919-20 and in four landmark judgments of the apex 1978, 1980, 1981 and 1990 the fact remains that prisons authorities pay scant regard to the guidelines. They do not adhere to UN standard minimum rules for treatment of prisoners 1995. Worse still, their decisions are dictated by a piece of legislation- The Prisons Act 1894- which was enacted by a colonial regime that saw jails as places to break the back of the nationalist movement. No wonder our prisons continue to follow archaic traditions like allowing convict officers mostly hardened criminals to manage the affairs of their fellow inmates. This is because there is no all India cadre of officers to manage the prisons. The union government should evolve a standard Jail Manual applicable throughout the country with the help of human rights activists, judges, lawyers and eminent criminologists.

Overcrowding

The root cause of all problems in the country's 1215 jails is over crowding. In some cases, jails are filled to over 400 per cent of their capacity. For instance in Bihar, jails have a capacity of about 21,750 inmates, but over 38,000 prisoners are currently lodged in them. Similarly Asia's most prestigious Tihar jail had 12,500 inmates against a capacity of 3,700 in 2003. The position in states like Uttar Pradesh, Madhya Pradesh, Karnataka, Punjab, Gujarat and west Bengal is no better. The influx of new inmates adds to the problem. It goes without saying that overcrowding has its negative effects. Housing of juveniles and hardened criminals together can turn even first time offenders and minor criminals into hardened ones in a short time. Many gangsters recruit members of their criminal gangs out of these redeemable offenders. The outbreak of diseases like malaria, diarrhea and cholera is quite frequent, overcrowding hampers efforts to check the inflow of drugs inside jails. Staffers interested in making money bring in a regular supply of
The practice of homosexuality may enhance the risk of prisoners becoming AIDS victims.

The presence of a large number of under trial prisoners has led to overcrowding. According to the national Human Rights Commission’s report the under trials comprise 70-75 percent of all jail inmates. The national crime records bureau put their number as 2,17,659 towards the end of 2003. Inordinate delay in disposal of their cases often keeps them behind bars. Many under trial prisoners in spite of bail cannot furnish bail bonds or are unable to leave the jail, as they have no livelihood outside. The very rationale of punishment is defeated when detention without trial stretches beyond what is prescribed by law. Taking serious note of this, the Delhi High Court, last year, observed that poverty should not be the stumbling block for keeping a person in jail.

Concerned over large number of detainees in jails the union government is contemplating amending the Criminal Procedure Code to allow some amnesty in such cases in the form of remission of sentence. Under the proposed amendment those who have served half of their sentence for petty offences can look forward to walking out of jail. It is also aimed at completely withdrawing cases against those languishing in jails for years without being tried for murder for which the prison term is 10-14 years.

Human rights of prisoners have come into focus and the international community is vocal in its advocacy. A number of NGO’s as well as some of the committees set up by the state and the union governments have stressed the need to protect and safeguard the Human Rights of the prisoners. Questions should be raised on the significance and purpose of the criminal justice system and the government’s professed commitment to human rights.

Above all a visible prison policy should focus primarily on the “reductionist methods” which have helped countries like Japan, England, the U.S. and Holland to lessen prison population and improve infrastructure. For doing this, a multi-pronged strategy is needed. The judiciary should be asked to exercise restraint when dealing with minor offences.
Under trials must be let out on parole, probation and bail. The introduction of heavy fines and confiscation of property may also be simultaneously considered as a viable alternative to imprisonment as was done in Holland, England and Japan in the late seventies. While this measure seems unlikely to find favour in India, it may be tried out on white-collar criminals to start with. Purposeful programmes are needed towards the advancement of prison reforms to enable the prisoners to blossom out as good citizens having self-reliance, self-respect, self-discipline and the capacity to support themselves after they are released from prison.