
REFORMS OF PRISONERS

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DOI: <https://doi-doi.org/101555/ijarp.9163>**ABSTRACT:**

The reform of prisoners is a crucial aspect of the criminal justice system aimed at promoting humane treatment, social reintegration, and reducing recidivism. Effective prison reforms focus on improving living conditions, ensuring access to education and vocational training, and providing psychological support to inmates. These measures not only uphold human rights but also facilitate the rehabilitation of offenders, enabling them to reintegrate into society as productive citizens. Recent reforms emphasize the need for a more compassionate approach, moving away from punitive measures towards restorative justice practices. Additionally, policy changes aim to address issues such as overcrowding, health care, and the fair treatment of undertrial prisoners. The successful implementation of prison reforms can significantly contribute to societal peace and security by reducing the likelihood of reoffending and promoting social harmony. Overall, prison reforms are vital for building a more just and humane criminal justice system that balances punishment with rehabilitation, ultimately fostering social progress and individual dignity.

KEYWORDS: Prison reforms, Rehabilitation, Human rights, Recidivism, Restorative justice, Prison conditions, Social reintegration, Criminal justice system, Overcrowding, Inmate welfare.

INTRODUCTION

In India, prison reforms did not emerge out of the social movement but were necessarily an outcome of the worst conditions of treatment faced by the political sufferers in prisons during

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the period of their imprisonment. They repeatedly launched protests with the prison authorities and made all possible efforts to see that the rigors of prison life are mitigated and prisoners are humanly treated.

Definition of Prisoners:-

“In our world prisons are still laboratories of torture, warehouses in which human commodities are sadistically kept and where spectrums of inmates range from driftwood juveniles to heroic dissenters”

“Convicts are not by mere reason of the conviction denuded of all the fundamental rights which they otherwise possess.”³

The word 'prisoner' means any person who is kept under custody in jail or prison because he/she committed an act prohibited by law of the land. A prisoner also known as an inmate is anyone who, against their will, is deprived of liberty. This liberty can be deprived by forceful restraint or confinement.

The Indian socio-legal is based on non-violence, mutual respect and human dignity of the individual. By committing a crime, a person does not change from being human and still is endowed with all the aspects which demand him to be treated with human dignity and respect that a human being deserves.

Human rights are necessitated because of the reason of human life. Being in civilized society organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life.⁴ Even if the person is confined or imprisoned because of his wrong, he is entitled to their rights unaffected by the punishment for wrongs, simply because if a person under trial or a convict, his rights cannot be denuded.

“No one shall be subject to torture or cruel, inhuman or degrading treatment of punishment.”⁵

Prisoners have basic legal rights that can't be taken away from them. These include:

- The right to food and water.
- Protection from torture, violence and racial harassment.
- Being able to get in touch with an attorney to defend himself.

The Need of Prison Reform:

A sentence of life imprisonment deprives a person from his right to liberty. Imprisonment affects the prisoner and also his family living in poverty. When an income generating member

³ Justice V.R. Krishna Iyer.

⁴ Article 21 of the Constitution of India.

⁵ Universal Declaration of Human Rights, 1948

of the family is imprisoned the whole family has to suffer and adjust to the loss of income. The family has to suffer financial loss because they have to engage a lawyer, arrange food for the prisoner, transport to prison to visit the prison etc.

Prisons have very serious health implications. Some prisoners suffer from various diseases before entering prison, while others become affected after being incarcerated. In the prison. Hence there is no healthy atmosphere in the prison. It is overcrowded, there is no fresh air, absence of proper and nutritious food etc. Imprisonment disrupts relationships and weakens social cohesion, since the maintenance of such cohesion is based on long-term relationships. When a member of a family is imprisoned, the disruption of the family structure affects relationships between spouses, as well as between parents and children, reshaping the family and community across generations. Mass imprisonment produces a deep social transformation in families and communities.

The Prison Statistics India 2016, published by the National Crime Records Bureau (NCRB) in 2019 highlights the plight of prisoners in India. The data, with its set of advantages and limitations, can guide policy framework towards better prison reforms in India.

Prisons are expected to undertake human engineering, influencing and modifying perceptions, attitudes and behaviour of those who come into their charge, but Indian prisons have become workshops of crime and atrocities.

Prisons'/persons detained therein' is a State subject under Entry 4 of List II of the Seventh Schedule to the Constitution of India. So administration and management of prisons is the responsibility of respective State Governments.

Some of the key findings of the report are:

- India's under-trial population remains among the highest in the world and more than half of all undertrials were detained for less than six months in 2016.
- The report highlights that at the end of 2016, there were 4,33,033 people in prison; of them 68% were undertrials.
- This suggests that the high proportion of undertrials in the overall prison population may be the result of unnecessary arrests and ineffective legal aid during remand hearings.

Undertrials

- Undertrials are the people who are yet to be found guilty of the crimes they have been accused of.
- There is a rise in the number of people held under administrative (or preventive) detention laws in Jammu and Kashmir.

- A 300% increase, with 431 detainees in 2016 compared to 90 in 2015.
- Administrative or preventive detention is used by authorities to unfairly detain persons without charge or trial and to circumvent regular criminal justice procedures.

Preventive Detention

- The imprisonment of a person with the aim of preventing them from committing further offences or of maintaining public order.
- There is a gap between the number of prisoners eligible to be released and actually released, under Section 436A of the Code of Criminal Procedure.
- Section 436A allows undertrials to be released on a personal bond if they have undergone half of the maximum term of imprisonment they would have faced if convicted.
- In 2016, out of 1,557 undertrials found eligible for release under Section 436A, only 929 were released.
- Also, research by Amnesty India has found that prison officials are frequently unaware of this section and unwilling to apply it.
- The number of “unnatural” deaths in prisons has doubled between 2015 and 2016, from 115 to 231.
- The rate of suicide among prisoners also increased by 28%, from 77 suicides in 2015 to 102 in 2016.
- The National Human Rights Commission in 2014 had stated that on average, a person is one-and-a-half times more likely to commit suicide in prison than outside. This is a possible indicator of the magnitude of mental health concerns within Indian prisons.
- There was only one mental health professional for every 21,650 prisoners in 2016, with only six States and one Union Territory having psychologists/psychiatrists.
- Also, the NCRB had said that about 6,013 individuals with mental illness were in jail in 2016.
- As per the Prison Act, 1894 and Prisoner Act, 1900, there should be a welfare officer and a law officer in each jail but recruitment of these officers is still pending. This state explains the low political and budgetary priority which prisons have received during the preceding century.

Limitations of the Data

- The data does not include demographic details of religion and the Scheduled Caste and Scheduled Tribe status of prisoners, which are crucial to understanding India's prison population.

- This information was consistently published for the last 20 years and instrumental in revealing the problematic overrepresentation of Muslims, Dalits and Adivasis among under-trials in prisons.
- The data does not include the number of prison visits by official and non-official visitors which typically include district magistrates and judges, social workers and researchers.
- This is essential to uncover torture and other forms of ill-treatment, increase transparency and balance the power asymmetry in prisons.
- The data on the mental well-being of the prisoners does not provide information on whether these prisoners were diagnosed with mental illness before entering prison.
- This makes it difficult to determine whether prison conditions worsened their plight.

Prison reform scheme:

- Pre-trial detention has become the particular source of injustice in the Indian justice system, this is majorly because of lack of legal services to the under-trials.
- It is high time that the access to legal aid (which is a directive principle to state policy under Article 39A) should be made a fundamental right.
- Under-trials should be released on Bail: In 2017, the Law Commission of India had recommended that under-trials who have completed a third of their maximum sentence for offences attracting up to seven years of imprisonment be released on bail.
- Unified prison management system: There should be a unified prison management system that has records of all inmates so they don't have to run from pillar to post for copies of documents like court orders. The project has been recommended by NALSA as well. Also, this project has worked well in Delhi's Tihar jail.
- Capacity building of prison staff: It is of paramount importance that the prison staff is trained in how to treat and deal with inmates.
- The Supreme Court, in September 2017, has directed that there should be proper training manuals for senior staff.
- Post-release financial security for prisoners: Wages paid to prisoners serving sentences should be increased and aligned with global benchmarks, ensuring that upon release, they have better financial stability.
- Skill development of prisoners: Prisons should primarily focus on reformation by providing various skill development programs, which will help inmates to reintegrate into society effectively and improve their earning opportunities.
- Open prisons should be encouraged.

- Implementation of the recommendations of the All India Jail Reforms Committee (Mulla Committee) must be carried out as soon as possible.

Case Laws

Prisoners are also entitled to rights to some extent as a normal human being when they are behind the prison. These rights are provided under the Constitution of India, the Prisons Act, 1894 etc. Prisoners are persons and have some rights and do not lose their basic constitutional rights. In the case of *State of A.P.v.Challa Ramkrishna Reddy*,⁶ it was held that a prisoner is entitled to all his fundamental rights unless his liberty has been constitutionally curtailed. The Supreme Court has emphasized that a prisoner, whether a convict, under-trial, or detenu, does not cease to be a human being. While lodged in jail, he enjoys all his fundamental rights guaranteed by the Constitution of India, including the right to life guaranteed by the Constitution. Even a person is convicted and deprived of his liberty in accordance with the procedure established by law; a prisoner still retains the residue of constitutional rights.⁷

The word "prisoner" means any person who is kept in custody in jail or prison because he/she committed an act prohibited by law of the land. A prisoner also known as an inmate is anyone who against their will is deprived of liberty. This liberty can be deprived by forceful restraint or confinement. Prisoners rights deal with the rights of the inmates while behind bars. Prisoners have basic legal rights that can't be taken away from them.⁶ The basic rights include right to food and water, right to have an attorney to defend himself, protection from torture, violence and racial harassment. Section 1 of the Prison Security Act 1992, defines the term prisoner. The word prisoner means any person for the time being in a prison as a result of any requirement imposed by a court or otherwise that he be detained in legal custody. This paper presents the rights of the prisoners in detail with related case laws.

International Human Rights Law:

International human rights laws protect people from racial discrimination, from torture and from enforced disappearances. They also recognise the rights of specific groups of people, including women, children, and people with disability, indigenous peoples and migrant workers. Some of these treaties are complemented by optional protocols that deal with specific issues or allow people to make complaints.

⁶ (2000) 5 SCC 712, AIR 2000 SC 2083.

⁷ Jain, M.P., *Indian Constitutional Law*, 5th Edition, Vol. 1, Wadhwa and Company, Nagpur, 2003, p. 1295.

a.UN Charter:

The charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations conference on international organization, and came into force on October 24 1945.

Basic Principles for The Treatment of Prisoners⁷ was adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990. The principles are as follows:

- Prisoners shall be treated with inherent dignity and valued as human beings.
- No discrimination on the grounds of race, sex, colour, language, religion, political, national, social origin, property, birth, or other status.
- Respect the religious beliefs and cultural precepts of the group to which the prisoners belong.
- The responsibility of the prisons for the custody of the prisoners and for the protection of the society against crime and its fundamental responsibilities for promoting the well-being and development of all members of the society.
- All prisoners shall retain the human rights and fundamental freedoms set out in UDHR, ICESCR, ICCPR and the optional protocol as well as such other rights as are set out in other United Nations covenants.
- Right of the prisoners to take part in cultural activities and education aimed at the full development of the human personality.
- Abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken or encouraged.
- Prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.
- Access to health services without discrimination on the grounds of their legal situation.
- With the participation and help of the community and social institutions and with regard to the interest of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society.
- The above principles shall be applied impartially.

1. CONCLUSION

The data can provide a strong base for the prison reform policy in the country. Its limitations should be analysed by the policymakers to bring out a strong, humane and transparent reform structure.

The reform policy should deal with both, the problem of paucity of resources and the mindset that those in jail do not deserve better.

Overcrowding, brutality, a lack of sanitation and unacceptable standards of health care should be taken into serious consideration. Growing aggressive nature of public discourse on the treatment of offenders should also be acknowledged and debate should be reinitiated keeping in mind the human rights concerns.

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