

# Prison Reforms in India: A Study

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## 2.1 Introduction:

The penal reforms in India during the past few decades have brought about a remarkable change in the attitude of people towards the offenders. The old concept about crime, criminal and convicts have radically changed. The emphasis has now shifted from deterrence to reformatory of the criminal. The age old discriminatory and draconian punishments no longer find place in the modern penal system. Indian penologists are greatly impressed by the recent Anglo-American penal reforms and have adopted many of them in the indigenous system.<sup>1</sup> A prison today serves three purposes which may be described as custody, care and correctional. Though the last of these which concerns the use of imprisonment as a form of legal punishment, now takes the primary place, it is in historical perspective a comparatively new conception, not all the implications of which have yet been worked out. In its origin prison served only the custodial functions; it was a place in which an alleged offender could be kept in lawful custody until he could be tried, and if found guilty punished.<sup>2</sup> In India, the Central Government constituted number of committees on prison reforms and introduced the reformation and rehabilitation methods for the prisoners, providing rights to them. A person being a prisoner, cannot be deprived of all his rights by the authority, even though he is convicted as he is having fundamental rights guaranteed by the Art.21 of the Constitution and protected by the Supreme Court and High Courts under Art.32 and Art.226 of the Constitution.

## PRISON REFORMS

Prisons in the shape of dungeons had existed from time immemorial in all the old countries of the world. The punitive imprisonment used extensively in Rome, Egypt, China, India, Assyria and Babylon and firmly established in Renaissance Europe.<sup>3</sup> In India, prisons are even today deemed created merely to maintain law and order. It has to be viewed as an essential means of preserving and raising the quality of human life. Investment on prisons is still considered as non-developmental. Indian's attitude is greatly ambivalent. As most of the prisoners in India are themselves a victim of stark deprivation and of forced induction into criminogenic culture, they hardly have an advocacy of their own or on their behalf. Rationalization of prison reformation is not in India. As a consequence, prisons received the lowest priority within the criminal justice system in India.<sup>4</sup> The Prison conditions under various dynasty's is barbaric and inhuman methods were prevailed, the man became prisoner, all his rights are curtailed and he became slave. In those periods, different types of punishments were there. After independence, the prison conditions were changed from barbaric to reformation and rehabilitation methods.

<sup>1</sup> Prof.N.V. Paranjape, Criminology and Penology, Central Law Publications, Allahabad, 12th Edition, 2006, p.218

<sup>2</sup> Frank New Sam, "The Home Office" Allen and Unwin, London, 1954, p.144

<sup>3</sup> Norval Morris, The Future of Imprisonment, University of Chicago Press, Chicago, 1974.

<sup>4</sup> Narayankar B.D, The New Indian Express, 2nd April 2001, p.9,

The Dharma Sutras and the Dharma Shastras (the earliest is that of Manu and other important Dharma Shastras are those of Yagnavalkya, Vishnu and Narada), reveal a more or less full-fledged and well-developed judiciary. Law or dharma was not a measure passed by legislature in Ancient India, it was based upon Shrutis (hearings) and Smritis (remembrance). It was enforced by social approval or the dread of hell and not by the force of the state. King was at its head and it was his pious duty to punish the wrong doers, if he fails from discharging it, he would go to hell.<sup>5</sup> Sutras and Shastras, we rarely come across the words prison or jailor. The early prisons were only places of detention where an offender was detained until trial and judgment and the execution of the latter. The structure of society in Ancient India was founded on the principles enunciated by Manu and explained by Yijnu Valkya, Kautilya and others.<sup>6</sup> Among various types of corporal punishments are branding, hanging, mutilation and death, the imprisonment was the mild kind of penalty known prominently in ancient Indian penology. Imprisonment occupied an ordinary place among the penal treatment and the type of Corporal punishment was suggested in the Hindu scriptures. The main aim of imprisonment was to keep away the wrongdoers; they might not defile the members of social order.<sup>7</sup> These prisons were totally dark dens, cool and damp, unlighted, and unwarmed. There was not proper arrangement for the sanitation and no means of facility for human dwelling.<sup>8</sup> To maintain law and order in society, to remove the criminals or wrongdoers by using force and punish the accused in public places, it will create fear among members of the society. At the time punishment is very cruel, inhuman treatment like as bounded labour and slavery.

Kautilya stated in his Arthashastra, that the prison should be constructed in a capital and provide separate accommodation for men and women. He was personally of the view that as far as possible the prisons should be constructed road side so that monotony of prison life is reduced to a considerable extent, the problems of prisoner's life and their welfare. He is of the opinion that every fifth day some prisoner's should be made free who pay some money as fine or undergo some other mild corporal punishment or promise to work for social uplift. He has also suggested that general amnesty on the birth of a prince or coronation of a royal heir. Kautilya was of the view that social festivals were proper occasion for amnesty as that would draw the attention of others. The third occasion for making prisoners as free citizens was the birth day of the ruling monarch who inspects prison, old prisoners, sick persons in the jail or orphans undergoing imprisonment. They were allowed to go out of the jail boundary and lead a life of free law abiding citizens. Kautilya stated that in his Arthasastha, the duties of the jailer is to provide facilities to prisoners and imposed fines for misconduct in their duties.

The prisoners of the Pre Buddhist times were terrible indeed. There were dangerous and the prisoners were kept under chains and heavy loads, and whipped on the slightest pretext. Whipping was a principle punishment in Europe and in India in the ancient times and in even the Middle Ages the prisoners were brutally chained and whipped every now and then. In the early years of Ashoka, there was an unreformed prison in which most of the traditional fiendish tortures were inflicted and from which no prisoner came out alive.<sup>9</sup> But from his moral edicts which belong to his later period of rule was influenced by Buddhism. It appears that many reformatory measures were taken. Professor Ram Chandra Dikhitar in his book entitled 'Mauryan Polity', has suggested that Ashoka was familiar with the Arthashastra.<sup>10</sup> After the

<sup>5</sup> Basham, A.L: The Wonder That Was India, Macmillan Company, New York, 1959, pp.133,247

<sup>6</sup> K.V.R. Aiyanger, "Some Aspects of Ancient Indian Polity" Madras, 1935, p. 94.

<sup>7</sup> Vasudev Upadhyaya, "A Study of Hindu Criminology", Chawkhambha Orientalia, Varanasi, 1978, p. 322.

<sup>8</sup> S. Prakash, "History of Indian Prison System", the Journal of Correctional Work, No. XXII, Lucknow, 1976, p. 89.

<sup>9</sup> Basham, A.L: The Wonder That Was India, Fontana, Calcutta, 1975, pp.119

<sup>10</sup> V.R.Ramachandra Dikhitar, The Mauryan polity, Madras University Historical Series, No.21, 1953, pp. 173-176

mouryan dynasty, Jatakas given clear picture on crime and punishment, in this time, the release of political prisoners at the time of war and employed in their army. Emperor Ashoka was constructed twenty five jails in his period and implemented reformative measures in prisons, because Ashok is followed Buddhism. Later in jatakas period they used the prisoners as army in war times. From, Harshacharita it appears that the condition of the prisoners was far from satisfactory. The life of Hiuen-Tsang records, prisoners generally received harsh treatment. They were not allowed to shave. They had hairy faces and matted beards. They were, however, occasions when prisoners were released. Kalidasa records when the constellation on which a King was born in evil aspect, astrologers advised release of all the prisoners. At the time of Royal Coronation all prisoners were released. The Bharhat Samhita adds that release of prisoners could even be ordered when the king took the puyasana (as auspicious bath).<sup>11</sup> The prison system was not regular, the conditions of the prisoners changed basing on the rulers attitude and the treatment of political prisoner was different when compared to the other prisoners. The rulers used inhuman methods on prisoners and the conditions of prisons in olden days.

The legal system of Medieval India resembled that of ancient India. The contemporary Muslim sovereigns seldom attempted to tamper with the day to day administration of justice. During Mughal period sources of law and its character were essentially Quaranic. The crudeness and insufficiency of the judicial systems were aggravated by the fact that only law recognized by the emperor and his judge was the Quaranic law, which had originated and grown to maturity outside India. Brahmanic Courts and Gentoc Code a loose mass of Sanskrit legal rules and sacred injunctions-survived Emperor Akbar. During Mughal period sources of law and its character essentially remained Quranic. Crimes were divided into three groups, namely offences against God, offences against the State, offences against private persons. The punishments for these offences were hadd, tazir, quisas, and tashir.<sup>12</sup> There were three main prisons in Mughal India. One was at Gwalior, second at Ranthambore and the third was at Rohtas. Criminals condemned to death punishment were usually sent to the fort of Ranthambore. They met their death two months after their survival there. The Gwalior Fort was reserved for the nobles that offend. To Rohats were sent those nobles who were condemned to perpetual imprisonment, from where very few return home. Princes of Royal Blood were often sent to this place.<sup>13</sup> The release of prisoners was that, the orders for their release were issued on special occasions. These occasions were birth of crowned prince, recovery of the Emperor or any of his sons from long illness, or some occasional Royal visit to a prison fortress. On the birth of prince Salim, Emperor Akbar ordered that all the prisoners in the imperial dominions who were confined in the fortresses for great accounts were to be released. On the occasion of the celebrations of recovery from illness of the favorite princess, Begum Sahib, Shahajahan ordered the release of prisoners in 1638. In Mughal period, the prisons were overcrowded and inhuman treatment to the prisoners. The prisoners were sent to different prisons, the prisoners were died within two months of their prison life. The offences were different types and the punishments were mutilation, branding, whipping and etc., the kings released prisoners on the happiest occasions in their life.

The main features of the prison system as it prevailed in pre British period that is no prisons in the modern sense. It was no description of the internal administration of prisons. No separate prison service existed and courts were not feeding centers for prisons, no rules for maintenance of prisons. The conditions of the

<sup>11</sup> Sukla Das, Crime and Punishment in Ancient India, Abhinav, New Delhi, 1977, p.74

<sup>12</sup> Sarkar Jadunath; Mughal Administration in India, Calcutta, 1935, pp. 114-117

<sup>13</sup> Satya Prakash Sagar, Crime and Punishment in Mughal India, sterling, Delhi, 1967, p. 47

prisons were degrading; solitary confinement was given to the prisoners and not allowed to meet their families. It was no uniformity in treating the prisoners and the conditions in the prisons was deplorable. In 1783, the agreement written between Britishers and Tipu Sulthan is relating to war prisoners. The Tipu Sultan bravely fought against Britishers. Tipu captured brigadier Mathews, in 1783. Then in November 1783, Colonel Fullarton captured Coimbatore. Tired of the war, the two sides concluded the Treaty of Mangalore in 1784. According to the treaty, both the parties decided to restore each other's conquered territories and free all the prisoners. The British colonial period remains the Indian equivalent of the Dark Ages. Lord Macaulay rejected the ancient Indian legal political system as dotages of brahminical superstition, and condemned ancient legal heritage and its inner care as an immense apparatus of cruel absurdities. Britishers passed rule, The Regulating Act was passed in 1773, established the Supreme Court at Calcutta to exercise all civil, criminal, admiralty and ecclesiastical jurisdiction and indicated the intention of the British Government to introduce English Rule of laws and English superintendence of law and justice.<sup>14</sup> The British colonial rule in India marked the beginning of penal reforms in the country. The British prison authorities made strenuous efforts to improve the condition of Indian prisons and prisoners. They introduced radical changes in the then existing prison system keeping in view the sentiments of the indigenous people.<sup>15</sup> In 1835, Under East India Company Rule, 143 civil jails, 75 criminal jails and 68 mixed jails, with a total accommodation for 75, 100 had been built in Bengal, North-Western Provinces, Madras and Bombay.<sup>16</sup> Reforms in prison administration came to occupy public attention; the British Parliament passed an enactment in 1824 in regard to the essentials of prison administration.<sup>17</sup> In 1836, the East India Company constituted committee for modern administrative structure of prisons. Lord Macalaly is the member of that committee. The committee criticized that the corruption of prison staff and laxity of discipline. The main recommendation of the committee was Central Jails should be built to accommodate not more than 1000 prisoners each. Inspector General of Prisons should be appointed in all provinces. Sufficient buildings should be provided in all jails to accommodate prisoners comfortably. The First committee which has been setup on prisons conditions in India constituted by the East India Company. Basing on that committee recommendation, the first central prison was constructed in Agra in 1846. The recommendations of the first Committee could not be implemented, the East India Company rule ended in 1858 and the rule of British Crown started in India. During this period, The Indian penal code, 1860 and code of criminal procedure came into force. The Indian Prison System changed from barbaric to modern but not fully equipped to meet the prisoner's needs. The British rulers were sent as prisoners to the Andaman Islands. In 1858 to 1860 up to 2000 to 4000 prisoners were sent to Andaman Celluer Jail and many of them died. A second committee was constituted in 1864 to consider the deaths in prison and prison management. The committee came to the conclusion and submitted a report that due to overcrowding, bad conservancy, bad drainage, insufficient food, and insufficient medical facility. In 1877, the third jail committee was constituted entirely officials; it reviewed conditions of prisons and general administration.

In 1888, the Fourth Committee was appointed on an all India basis. This Committee was expressly directed towards the routine working of the prisons. The report covered nearly the whole field of internal management of jails and laid down elaborate rules for prison management. The Committee recommended

<sup>14</sup> Vidya Bhushan, Prison Administration in Utterpradesh, 1953, P.12

<sup>15</sup> Prof. N.V.Paranjape, Criminology and Penology, Central Law Publications, 12th Edition, 2006, p. 359

<sup>16</sup> Devakar, Prison and prison Reforms in British India, Social Defence, Vol.xx, January 1985,

<sup>17</sup> Orissa Jail Reform Committees Report (chairmen- Justice Harihar Mahapatra), 1981, p.1

the separation of under trial prisoners and the classification of prisoners into casuals and habitual. Most of the recommendations of the Committee were incorporated in the jail manuals of various provinces. In 1892, the fifth all India jail committee was appointed and it reviewed total prison administration in India and recommended that the punishments of prison offences and separate under trails from the other prisoners and classification of prisoners like offenders and habitual. Britishers accepted the committee report and passed The Prisons Act, 1894. The act provided classification of prisoners and important aspect to be considered is the sentence of whipping was abolished. The medical facilities made available to the prisoners in 1896 were further improved and better amenities were provided to women inmates to protect them against contagious disease. Despite those changes, the prison policy as reflected through the Act.<sup>18</sup> In 1897, the Reformatory School Act was passed, that was the landmark in the history of prison reforms in India. The court directed to the prison authorities, to separate the youth offenders from the other prisoners. The Prisoners Act was passed in the year 1900, incorporated prisoner's rights and duties in prisons.

After the First World War, the revolutionary changes came in to Indian prison system. The sixth Jail Committee was appointed in 1919 under the chairmanship of Sir Alexander G Cadrew. The process of review of prison problems in India continued the enactment of Prisons Act, 1894. The first ever comprehensive study was launched on this subject with the appointment of All India Jail Committee (1919-1920). Landmark in the history of prison reforms in India and is appropriately called the corner stone of modern prison reforms. The prison administration, reformation and rehabilitation of offenders were identified as one of the objectives of prison administration. The care of prisoners should be entrusted to the adequately trained staff drawing sufficient salary to render faithful service. The separations of executive/custodial, ministerial and technical staff are in prison service. The diversification of the prison institutions i.e. separate jail for various categories of prisoners and a minimum area of 675 Sq. Feet (75 Sq. Yards) per prisoner was prescribed within the enclosed walls of the prison. It is ironical that the recommendations made by this Committee could not be implemented due to disadvantageous political environment.<sup>19</sup> The All India Jail Committee (1919-1920) played a significant role in the prison reforms under British rule and that the committee was introduced reformation and rehabilitation methods for the prisoners to deter them after release from prisons and also suggested that to classify the prisoners under various categories and provide minimum facilities to them. The categories are classified into habitual offenders, offenders, under trial, convicted and women prisoners. The provincial governments of India appointed number of committees on prison reforms after the All India Jail Committee (1919-1920).<sup>20</sup> The British India Government taken nominal steps to reform the prisons, particularly privileges given to political prisoners only.

### **Post Independence Era:**

The first decade after independence was marked by strenuous efforts for improvements in living conditions in prisons. A number of Jail Reforms Committees were appointed by the State Governments, to achieve a certain measure of humanization of prison conditions and to put the treatment of offenders on a scientific footing. The East Punjab Jail Reforms Committee, 1948-49, the Madras Jail Reforms

<sup>18</sup> Vidya Bhushan: Prison Administration in India, p.21

<sup>19</sup> Draft National Policy on Prison Reform and Correctional Administration, Historical Review of Prison Reforms in India

<sup>20</sup> Planning commission, Plans and Prospects of Social Welfare in India, Government of India, New Delhi, 1963, p. 143

Committee, 1950-51, The Jail Reforms Committee of Orissa, 1952-55, The Jail Reforms Committee of Travancore and Cochin, 1953-55, The U.P. Jail Industries Inquiry Committee, 1955-56.

The Government of India released 1,222 out of 1,736 detenus, and 7,893 out of 9,218 political prisoners. On the recommendations of the Pakwasa committee a Model Prison was constructed at Lucknow in 1949. In 1951, Dr.W.C.Reckless was appointed by the Govt. of India for the recommendations of the prison reforms in India. He made several recommendations to relate juveniles, under trail prisoners, convicted prisoners and their facilities, suggested to enact statutes relating to probation and after care schemes for the welfare of the prisoners. In 1961, The Govt. of India developed Central Bureau of Correctional Services and that was the first Central Agency to undertake research, training, education and documentation on the matters relating to Social Defense. The Government of India constituted Working Group on Prisons in 1972, which submitted its report in 1973. The committee made a number of recommendations and the State Governments were asked by Central Government to implement such recommendations.<sup>21</sup> In 1979, a Conference of Chief Secretaries made a number of recommendations to reduce the overcrowding in Jails. This included the establishment of an effective system of regular review of cases of under-trials, appointment of part-time or whole-time law officers in jails to enable the under-trials to contest their cases in courts, setting up of new Courts and amendment of the law relating to the transfer of prisoners.<sup>22</sup> The committee recommended not only formal instead of suggested care, correction facilities in prisons. The rights of prisoners and their protection.

The Govt. of India requested to the State Governments and Union Territory's Administrations for the protection of prisons and prisoners and which is considered as an important document for prisoners regulating and prison reforms, to revise their prison manuals on the lines of the Model Prison Manual by the end of the year, to appoint Review Committees for the under trial prisoners at the district and state levels, to provide legal aid to indigent prisoners and to appoint whole time or part-time law officers in prisons, to enforce existing provisions with respect to grant of bail and to liberalize bail system after considering all its aspects, to strictly adhere to the provisions of the Code of Criminal Procedure, 1973 and Bharatiya Nagarika Suraksha Sanhitha, 2023 with regard to the limitations on time for investigation and inquiry, to ensure that no child in conflict with law be sent to the prison for want of specialized services under the Central Children Act, 1960, to have at least one Borstal School set up under the Borstal Schools Act, 1929 for youthful offenders in each State, to create separate facilities for the care, treatment and rehabilitation of women offenders, to arrange for the treatment of lunatics in specialized institutions, to provide special camp accommodation under conditions of minimum security to political agitators coming to prisons, to prepare a time bound programme for improvement in the living conditions of prisoners with priority attention to sanitary facilities, water supply, electrification.<sup>23</sup> The Committee had, therefore, formulated the draft of a National Policy on Prisons and recommended for its adoption by the Government of India in consultation with the State Government and Union Territory Administrations. The goals and objectives of prisons in India, according to the proposed National Policy on Prisons, were to protect society and to reform and re assimilate offenders in the social milieu by giving them appropriate correctional treatment. The Committee strongly recommended that the protection and caring of prisoners is the duty of the states and also to create a regular plan aiming at creating a rehabilitation culture towards prisoners.

<sup>21</sup> C.S.Malliah, Development of Prison Administration in India, Social Defence, Vol. XVII, No.67, Ministry of Social Welfare, Government of India, Jan. 1982.p.40

<sup>22</sup> Amerendra Mohanty, Narayan Hazary, Indian Prison System, Ashish Publications House, New Delhi, 1990.

<sup>23</sup> Draft national policy on prison reform and correctional administration, Historical Review of Prison Reforms in India

The subject of Prisons and allied institutions were to be included in the Concurrent List of Seventh Schedule of the Constitution. The follow up action on the report had been initiated by the Ministry of Home Affairs in consultation with concerned ministries and department of the Central and State Governments.<sup>24</sup> The committee suggested that the national prison policy was necessary for uniform rules and regulations to the prisoners though out India, to review existing laws and Manuals relating to the prisoners and amendment to the Indian Penal code.

In 1980, the Central Government of India appointed committee under the chairmanship of Justice A.N.Mulla on All India Jail Reforms, his recommendations has great impact on prison reforms in India as that committee examined all areas of the prison and prisoners, suggested to amend legislations relating to prisoners, to enact separate statutes for the protection of prisoners, facilities for the women prisoners, free legal aid to the under trail prisoners, to construct separate jails for women and also for the improvements of prison conditions like sanitation, diet and medical care in prisons. A total of 658 recommendations made by this committee on various issues on prison management were circulated to all States and UTs for its implementation, because the responsibility of managing the prisons is that of the State Governments as 'Prisons' is a 'State' subject under the List II State List of the Seventh Schedule of the Constitution of India. The Committee has suggested that there is an immediate need to have a national policy on prisons.

There shall be in each State and Union Territory a Department of Prisons and Correctional Services dealing with adult and young offenders their institutional care, treatment, aftercare, probation and other non-institutional services. The State shall endeavour to evolve proper mechanism to ensure that no undertrial prisoner is unnecessarily detained and achieved by speeding up trials, simplification of bail procedures and periodic review of cases of undertrial prisoners. Undertrial prisoners shall, as far as possible, be confined in separate institutions. Living conditions in every prison and allied institution meant for the custody, care, treatment and rehabilitation of offenders shall be compatible with human dignity in such as accommodation, hygiene, sanitation, food, clothing, and medical facilities.<sup>25</sup> All factors responsible for vitiating the atmosphere of these institutions shall be identified and dealt with effectively. In consonance with the goals and objectives of prisons, the State shall provide appropriate facilities and professional personnel for the classification of prisoners on a scientific basis. The Programmes for the treatment of offenders shall be individualized and shall aim at providing them with opportunities for diversified education, development of work habits and skills, change in attitude, modification of behavior and implantation of social and moral values. The State shall Endeavour to develop vocational training and work programmes in prisons for all inmates eligible to work. The aim of such training and work programmes shall be to equip inmates with better skills and work habits for their rehabilitation. Payment of fair wages and other incentives shall be associated with work programmes to encourage inmate participation in such programmes. The incentives of leave, remission and premature release to convicts shall also be utilized for improvement of their behaviour, strengthening, of family ties and their early return to society. Custody being the basic function of prisons, appropriate security arrangements shall be made in accordance with the need for graded custody in different types of institutions. The management of prisons shall be characterized by firm and positive discipline, with due regard, however, to the maintenance of human rights of prisoners. The State recognizes that a prisoner loses his right to liberty but maintains his residuary rights. It shall be the endeavour of the State to protect these residuary rights of

<sup>24</sup> M.B. Mahaworkar, Prison Management, Problems and solutions, Kalpaz Publications, Delhi, 2006.p.43

<sup>25</sup> Bansal . V.K. Right to Life and Personal Liberty in India, Deep and Deep Publications, New Delhi, ed I (1987)

the prisoners. The State shall provide free legal aid to all needy prisoners. Prisons are not the places for confinement of children. Children (under 18 years of age) shall in no case be sent to prisons. All children confined in prisons shall be transferred forthwith to appropriate institutions, meant exclusively for children with facilities for their care, education, training and rehabilitation<sup>26</sup>. Benefit of non-institutional facilities shall, whenever possible, be extended to such children.

Young offenders (between 18 to 21 years) shall not be confined in prisons meant for adult offenders. There shall be separate institutions for them where, in view of their young and impressionable age, they shall be given treatment and training suited to their special needs of rehabilitation. Women offenders shall, as far as possible, be confined in separate institutions specially meant for them. Wherever such arrangements are not possible they shall be kept in separate annexes of prisons with proper arrangements. The staff for these institutions and annexes shall comprise of women employees only. Women prisoners shall be protected against all exploitation. Work and treatment programmes shall be devised for them in consonance with their special needs. Mentally ill prisoners shall not be confined in prisons. Proper arrangements shall be made for the care and treatment of mentally ill prisoners. Persons courting arrest during non-violent sociopolitical- economic agitations for declared public cause shall not be confined in prisons along with other prisoners. Separate prison camps with proper and adequate facilities shall be provided for such nonviolent agitators<sup>27</sup>. In view of the importance of uniform development of prisons in the country the Government of India has to play an effective role in this field. For this purpose the Central Government shall set up a high status National Commission on Prisons on a permanent basis.<sup>28</sup> The Government of India has shown serious concern over the growing threats to the security and discipline in prisons for this, taken several reformatory steps to reform the prisoners and conditions in prisons.

Thereafter, Government of India has constituted another committee on 26th May, 1986, namely, National Expert Committee on Women Prisoners under the chairmanship of Justice V.R. Krishna Iyer who has submitted its report on 18th May, 1987. This report has also been circulated to all States for taking necessary follow-up action. Provision of a national policy are relating to the women prisoners in India and for formation of new rules and regulations relating to their punishment and conduct for Maintenance of proper coordination among the police, law and prison for providing justice to women prisoners. Provisions are legal-aid for women. A recommendation was made for Construction of separate prisons for women prisoners. Proper care of the baby born in jail to a woman prisoner and provision of nutritious diet is for the mother and the child.<sup>29</sup>

Consequently, the Ministry of Home Affairs, Government of India has constituted a All India Group on Prison Administration-Security and discipline on 28th July, 1986 under the chairmanship of Shri R.K. Kapoor who submitted their report on 29th July, 1987. In pursuance to the recommendations made by the All India Committee on Jails Reforms, the Government of India identified Bureau of Police Research & Development (BPR&D) as a nodal agency at the national level in the field of Correctional Administration on November 16, 1995 with specific charter of duties. To review Training Programmes keeping in view the changing social conditions, introduction of new scientific techniques and other related aspects in the field of correction administration. To prepare uniform Training Modules, including courses, syllabi, curriculum are providing training at various levels to the Prison Staff in the field of Correctional

<sup>26</sup> N.Ravi, Human rights scenario in India -an overview, Lap Lambert Academic publishing,2013

<sup>27</sup> Prof.N.V. Paranjape, Criminology and Penology, Central Law Publications, Allahabad, 12th Edition, 2006

<sup>28</sup> Justice A.N.Mulla Committee on All India Jail Reforms Report, (1980-1983)

<sup>29</sup> *ibid*

Administration. Publication of reports, newsletters, bulletins and preparation of Audio Visual aids etc. in the field of Correctional Administration. To set up an Advisory Committee is to guide the work relating to Correctional Administration.<sup>30</sup> The Juvenile Justice Act was enacted by the central government. The Central Government enacted the Juvenile Justice(Care and Protection) Act, 2000, for the juvenile delinquents. It laid down a uniform legal framework so as to ensure that no child under any circumstances is lodged in jail or police lock-up. Juvenile welfare boards and juvenile courts have been established to provide for a specialized approach towards neglected and delinquent juveniles respectively.<sup>31</sup> The Act represents a blue print for fair, equitable and just treatment of juveniles with due emphasis on the rights of child.

Prison reforms started effectively since the late '60s recognizes that prisoners do not lose all their rights because of imprisonment. The Supreme Court of India, by interpreting Article 21 of the Constitution, has developed rights for the preservation and protection of prisoners rights to maintain human dignity. Although it is clearly mentioned that deprivation of Article 21 is justifiable according to procedure established by law, this procedure cannot be arbitrary, unfair or unreasonable. Article 21 imposed a restriction upon the state where it prescribed a procedure for depriving a person of his life or personal liberty. This was further upheld in Francis Coralie Mullin case, Article 21 requires that no one shall be deprived of his life or personal liberty except by procedure established by law and this procedure must be reasonable, fair and just and not arbitrary, whimsical or fanciful.<sup>32</sup> The Maneka Gandhi's case, but before this case the violations of rights are dealt by executive only, but after this case the legislature violations has also been identified by the Apex Court.

Land mark judgment pronounce by the judiciary is the right to compensation in cases of illegal deprivation of personal liberty in Rudal Shah case (Rudal Shah V. State of Bihar, 1983). There is no expressed provision in the Constitution of India for grant of compensation for violation of a fundamental right to life and personal liberty. But the judiciary has evolved a right to compensation in cases of illegal deprivation of personal liberty. The Court granted monetary compensation of Rs.35,000 against the Bihar Government for keeping the person in illegal detention for 14 years even after his acquittal. The Court departed from the traditional approach, ignored the technicalities while granting compensation and upholding the rights of prisoners. In this case the Apex Court extended a new branch of Jurisprudence has emerged called compensatory Jurisprudence where in for the violations of the prisoners' rights to the executive action, compensation was awarded to the victim by the court. This concept changed the total scenario of Criminal Law. This humanitarian attitude of the judges has helped the poor, illiterate and needy victims who were victimized by the acts of the authorities.

The Model Prison Manual 2003 was framed by the Ministry of Home Affairs, Government of India. Since Independence, prison administration in the country has been a matter of intense debate and criticism at various public fora. In the recent years, the Supreme Court of India has come down heavily on the sub-human conditions obtaining in prisons. In many States, the problems of dilapidated prison structure, overcrowding and congestion, increasing proportion of undertrial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, etc., have been engaging the attention of the press and social activists. The prison reforms are being addressed holistically. The Government of India has been

<sup>30</sup> Justice V.R.Krishana Iyer, National Expert Committee on Women Prisoners, (1986-1987)

<sup>31</sup> The Juvenile Justice(Care and Protection) Act, 2000

<sup>32</sup> Suresh Bada Math, Pratima Murthy, Rajani Parthasarthy, C Naveen Kumar, S Madhusudhan., Minds Imprisoned: Mental Health Care in Prisons. Publication, National Institute of Mental Health Neuro Sciences, Bangalore (2011).

providing all possible financial and technical assistance to State Governments to modernize prisons as also to achieve more efficaciously the over all objective of prisons in terms of the reformation and rehabilitation of offenders. The Bureau of Police Research and Development has been seriously concerned about the modernization of the prison system in the country in the light of the directives issued by the Supreme Court in a number of judgments pronounced from time to time. More recently, the apex Court in Ramamurthy Vs. State of Karnataka (1996) brought to the fore an urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and State Governments to formulate a new Model Prison Manual. Earlier, the All India Committee on Jail Reforms (1980-83) had also emphasized the need for a consolidated law on prisons. Accordingly, with the approval of Ministry of Home Affairs, the BPR&D constituted a Model Prison Manual Committee at the national level for the formulation of a Model Prison Manual.<sup>33</sup> The Model Prison Manual 2003 consisting of the Institutional Personnel, Custodial Management, Maintenance of Prisoners, Medical care to the Prisoners, Contracts with the outside world, transfer of prisoners, execution of sentences, education of prisoners, vocational training and work programmes, welfare of prisoners, remission regarding to punishment, leave and special leave, premature release, prisoners discipline, after-care and rehabilitation, open institution i.e., open prisons, under trail prisoners, high security prisoners, women prisoners, young offenders, board of visitors and other related facilities to the prisoners.

### **Model Prison Manual (2016)**

The Model Prison Manual 2016 represents best practices from across the country and strives to reflect the understanding behind constitutional provisions, Supreme Court directions on prison administration and international instruments. The key features of the new Manual include emphasis on prison computerization, special provisions for women prisoners, after care services, prison inspections, rights of prisoners sentenced to death, repatriation of prisoners from abroad, enhanced focus on prison correctional staff to name a few. It is hoped that the manual is adopted by States so as to ensure uniformity in basic principles governing prisons, and as a useful tool for prison administration in India.<sup>34</sup> The Model Prison Manual 2003 replaced by the Model Prison Manual, 2016 and highlighted facilities regarding to women prisoners and after care facilities.

### **Justice Amitava Roy Panel (2018)**

The Justice Amitava Roy Panel (2018) was established by the Supreme Court to address widespread issues in prisons, focusing on overcrowding, violence, lack of legal aid, and poor medical facilities, recommending reforms like special fast-track courts, improved legal support, better infrastructure and measures for women/transgender prisoners to align prison conditions with human rights.

## **CONCLUSIONS**

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<sup>33</sup> MODEL PRISON MANUAL FOR THE SUPERINTENDENCE AND MANAGEMENT OF PRISONS IN INDIA, Prepared By Bureau of Police Research and Development Ministry of Home Affairs Government of India New Delhi 2003

<sup>34</sup> [https://www.mha.gov.in/sites/default/files/2025-04/PrisonManualA2016\\_20122024\\_2.pdf](https://www.mha.gov.in/sites/default/files/2025-04/PrisonManualA2016_20122024_2.pdf)

A man on becoming a prisoner, whether convict or under trial, does not cease to be human being. Though the prisoners can't be treated as animals yet the barbarous treatment sometimes given to them in prisons is not qualitatively human compared to the one given to the caged inmates. The grim scenario of prison justice assumes in human misanthropic fragrance when the intellect of prisoners is blemished, personhood of prison is fortified and they are forced to lose their integrity and individuality and thereby compelling them to become the right less slaves of the of the state It become gruesome indeed and calls for interference of judicial power as constitutional sentinel, when the jurisprudence of prison justice becomes an escalating torture and the violent violation of the human rights is perpetrated by agencies of the state. The mandates of preamble, fundamental rights and Directive Principles Provisions of the Indian Constitution seem to be outlawed from the security bound prohibited areas of high walled jails.<sup>35</sup> A man whether undertrail or convicted prisoner is having all fundamental rights like human being residing in society except some restrictions imposed by his incarceration. The Constitution of India in its preamble clearly stated that, justice social, economical and political should be given to the people. The prisoners also cannot be deprived of those rights basing on the fact that he is undertrail or prisoner.

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<sup>35</sup> Bansal . V.K. Right to Life and Personal Liberty in India, Deep and Deep Publications, New Delhi, ed I (1987).