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Caste Based Division of Labour in Prisons and Segregation of Prisoners an Overview

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Abstract:
In a landmark judgement in October 2024, the Supreme Court ended caste based division of labour and segregation of prisoners in India. The paper brings into picture the state of prison labour from colonial times and its significance in current times. This paper also discusses the points raised by the petitioner and a summary of the discussion that was brought forward in Sukanya Shantha v. Union of India and Others (2024). A commendable judgement issued directions to deal with various kinds of institutional discrimination set by state prison manuals and paves way for a constitution based mandate that is equal for all.

Keywords: Supreme Court, Prisons, Caste, Model Prison Manual 2016, Untouchability, Forced Labour.

"In every country, this transformation from cruelty to compassion within jails has found resistance from the echelons and the Great Divide between pre- and post Constitution penology has yet to get into the metabolism of the Prison Services. And so on the national agenda of prison reform is on-going education for prison staff humanisation of the profession and recognition of the human rights of the human beings in their keep".
Justice Krishna Iyer in advocating for a humane system within prisons.

INTRODUCTION

Prison labour is an integral part of the penal order of the state, in managing the everyday lives of the prisoners in prison. Prison labour includes work done by prisoners to sustain the institution that includes prison household work like cleaning, sweeping, cooking to labour done to run the prison industries in the premises that can range from weaving, shoe-making, tailoring, carpentry etc as skills learnt by the prisoners during their time in the prison. Doing prison labour earns the prisoners 'remission', which reduces their time period of incarceration. The Prison Statistics report translates the work done by prisoners into a detailed section as 'Rehabilitation and Welfare of Prisoners', which enlists the number of prison inmates who are imparted training under vocational course and value of goods produced by inmates. However, the arrangement of prison labour in the prison premises can be understood in different periods of time as a critical site of unfolding the state's rehabilitative and reformative agenda in dealing with the incarcerated. Today, prison labour in India mostly follows the rehabilitation and reformative path in engaging with prisoners for their welfare according to many government policy documents and institutional reports[1]. There seems to be significant focus on rehabilitation, reformation and reintegration in the Model Prison Manual 2016 with relation to prison management. However, there

[1] https://tiharprisons.delhi.gov.in/tiharprisons/central-jail-factory

seems to be a gap in the written word and practice. A recent writ petition filed against the continuing colonial practices in prisons exposes the colonial hangover in the various state prison manuals in governing the prison population. These provisions were struck down as unconstitutional by the Supreme Court in October 2024.

Prison labour and its colonial roots

With one of the largest convict populations in the world, prison labour became a central part of British India's penal regime to transform criminals into 'loyal, orderly, and governable subjects' (Arnold, 2015). In colonial India, in the nineteenth and twentieth century, prison labour was often coerced labour in charge of extramural work and projects for the state. Convict labour was used in many colonial projects like, construction of bridges, military barracks, irrigation works, educational and medical institutions, and a lot more. It was only with the intervention of T.B. Macaulay that extramural labour were replaced by intramural work, with the report of the prison discipline committee marking a significant shift in the type of work done by prisoners. This trend was influenced by Benthamite doctrines of those times and also by reforms of John Howard. The 1838 prison discipline committee proposed that intramural prison labour should principally take the form of dull, monotonous and repetitive task work to enforce discipline in jails. This was also mainly done with a focus on increasing the severity of the conditions of incarceration (Yang, 2023).

David Arnold (2015) argues that the issue of division of labour inside the prison with respect to caste and community in India was a very complex issue with physical labour being the mark of the lowest Hindu castes. Caste became a major category of contestation in governing the prison population, with especially setting up common kitchens inside the prison premises. And hence prison manuals thereafter carried many provisions when it came to questions of labour and between respecting caste. Most of the state manuals are based on The Prisons Act, 1894 that detail the everyday life of prisoners right from the amount of food to the space they can access inside prisons, there have been barely any amendments to these colonial texts of the nineteenth century. This institutional sanction gave rise to the social identity of the prisoner, with the hierarchical occupational and social value structure followed outside the prison now entering the walls of the prison. A commendable judgement passed in 2024, issued directions to deal with these kinds of institutional discrimination set by state prison manuals and paves way for a constitution based mandate that is equal for all.

The Landmark Judgement

In Sukanya Shantha v. Union of India and Others (2024), a three judge bench of the Supreme Court comprising of Justice J.B.Pardiwala, Justice Manoj Misra, and Chief Justice of India D Y Chandrachud struck down several provisions of prison manuals across states that perpetrated caste-based discrimination violative of Articles 14,15,17, 21 and 23 of the Constitution of India in a 148 page document. The current judgement delves on the jurisprudence on constitutional protection against caste discrimination post independence. The petitioner identified three kinds of practices as discriminatory: the division of manual labour in prisons, the segregation of barracks where prisoners reside and provisions against 'habitual offenders' (Ravindranath et al., 2025).

The petitioner argued that, "That forced employment of "lower caste" prisoners in cleaning and manual scavenging work in the state prison manuals amounts to State-sanctioned untouchability, and such

practices need to be removed root and branch from society, including the prison system."[2]. She reports that the prisons follow discriminatory practices irrespective of dropping caste based practices in the prison rules. She also identifies discrimination against denotified tribes and their unjust classification as habitual offenders in the prison manuals. The petitioner also pointed out the silence and ambiguities of the Model Prison Manual (2016). And that the Manual has remnants of the already abolished Criminal Tribes Act of 1871. The petitioner reviews offending provisions in the state prison manuals of Uttar Pradesh, West Bengal, Madhya Pradesh, Andhra Pradesh, Telangana, Punjab, Odisha, Jharkhand, Kerala, Tamil Nadu, Maharashtra, Gujarat, Chattisgarh, Karnataka, Himachal Pradesh and Rajasthan and carries testimonies of discriminatory practices in the prison. The testimonies collected with regard to the experience of prisoners inside prisons indicated preferential treatment to upper caste prisoners in parole, legal assistance, work assignments, how prisoners from SC and ST are subjected to menial tasks, cleaning toilets based on caste identity, clearing septic tanks and lower wages compared to those from upper castes.

The Supreme Court in response to the submissions articulated through constitutional interpretation of articles 14, 15, 17, 21 and 23, and the jurisprudence on social protection in Post-Independence India, came up with conclusions and directions. Referring to Navtej Singh Johar v. Union of India, the document states that "By recognizing the injustices in the colonial and pre-colonial era we can certainly set the course for the future". The court marked that the Constitution stands as a testament to fight against historical injustices and for the establishment of an egalitarian social order and aims to prevent caste -based discrimination. The court takes cognizance and understands that caste as a category has mutated and diversified, with its presence visible across private and public sector spaces, and even various socio-economic and political institutions that interface with everyday lived experiences, quoting Rahul Choragudi (2024). The jurisprudence evolved, has had picked up from several judgements in the past, like for instance, the discriminatory laws based on stereotypes against a social group were struck down in Anuj Garg[3], Navtej Johar[4], Joseph Shine[5], and Indian Young Lawyers Association[6]; the dignity and aspirations of social groups that faced exclusion from equal rights in NALSA[7] and Babita Puniya[8]; indirect discrimination and systemic discrimination in Lt.Col.Nitisha[9]; the responsibility of the State to curb discrimination in Karma Dorjee[10] and providement of safeguards against discriminatory stereotypes in Nipun Malhotra[11]. The court also reiterated on Article 17 being a powerful guarantee against exclusion and to implement its mandate, the Parliament has enacted several legislations such as the Untouchability (Offenses) Act, 1955 (renamed as Protection of Civil Rights, 1955) , Scheduled Caste and Schedule Tribes (Prevention of Atrocities)Act 1989, Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, and Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

[2] Sukanya Shantha v Union of India Writ Petition (Civil) No 1404 of 2023.
[3] Anuj Garg v Hotel Association of India (2008) 3 SCC 1
[4] Navtej Singh Johar v Union of India (2018) 10 SCC 1.
[5] Joseph Shine v Union of India (2019) 3 SCC 39.
[6] Indian Young Lawyers Association v State of Kerala (2019) 11 SCC 1.
[7] National Legal Services Authority v Union of India (2014) 5 SCC 438
[8] Babita Puniya v Union of India (2020) 11 SCC 136.
[9] Lt Col Nitisha v Union of India (2021) 5 SCC 1.
[10] Karma Dorjee v Union of India (2024) 5 SCC 661.
[11] Nipun Malhotra v Sony Pictures Films India Pvt Ltd (2020) 267 DLT 179.

The Court in the document also recognizes that the right to live with dignity extends even to the incarcerated and that the prisoners are entitled to the right to dignity under Article 21. Only authoritarian regimes of the pre-constitutional era have seen prisons as tools of domination, and to deprive the prisoners of their dignity is a relic of the colonial and pre-colonial mechanisms, with caste based discrimination receiving direct support from British courts (Galanter, 1963). The Court also noted down various injustices which may be committed against a prisoner. The British Criminal Law was imbricated with pre-colonial notions of who should be punished and disciplined, which led to the repeal of the Criminal Tribes Act, but yet found its way in prison manuals as a place to mark habitual offenders.

The Out-dated Prison Manuals

With these points of entry, the Court examined the prison manuals with a nuanced approach identifying how remedying systemic discrimination requires multi-faceted efforts by all institutions. There is clarity that the Court does not deal with the validity of the Prison Act 1984. However the Court clearly identified that caste hierarchy outside the prison was replicated within the prison. The history of Caste in prison manuals dates back to the Committee on Prison Discipline where prisoners were granted food allowances and cooked their own meals based on customary practices. This has been clearly documented by many scholars (Vito et al, 2015) when there was resistance to common dining and messing in north Indian jails in the 1840s and 1850s. The complexity of managing caste in the prison by colonial administrators also entered in areas of governing labour and treatment of prisoners. Caste was used as a factor of classification in prisons. The current petition also points to the use of vague terms like 'suitable caste' or 'superior method of living', one's 'habit', 'custom', 'natural tendency to escape' creates stereotypes and advantage the higher castes to allocate intramural labour or food duties. These terms, according to the court, stand unconstitutionally vague and indeterminate. A classification of caste based on its obsolete understanding does not match correctional objectives in a prison and the provisions in manuals directly discriminate. The document also emphasizes on how reference to phrases like 'menial' and 'accustomed' in the manual upholds traditional caste roles even if it doesn't explicitly mention caste. The manuals thus normalize and reinforce social hierarchies and stereotypes, producing occupational immobility of prisoners who belong to certain castes. The court also elaborated on how imposition of 'impure' or 'low-grade' or 'degrading' work upon the marginalized communities amounts to 'forced labour' under Article 23, quoting Dr. Ambedkar that "socio-economic situation of oppressed communities should not be used to exploit their labour".

The discussion also extends to test the adequacy of the Model Prison Manual 2016 and identifies several lacunae. The petitioner had argued that the Model Prison Manual 2016 is not adequate and that "it does not address issues of caste-based division of labour, segregation and discrimination against denotified tribes". The first issue of the Model Prison Manual is with its classification of "habitual offenders". The Manual (2016) also doesn't prohibit physical caste based segregation of prisoners, except in prisons for women. Thirdly, the manual also doesn't prohibit division of work on the basis of caste except in cooking. Further, observing the above points, any resistance to perform labour is a prison offense. These provisions then may thus be used to target prisoners from marginalized castes. Fourth, the manual does not refer to the provisions of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013 and the court clarifies that the Act has a binding effect on prisons too. And hence "in relation to toilets, manual scavenging or hazardous cleaning of a sewer or a septic tank inside a prison shall not be permitted". Fifth, caste based privileges are also not forbidden.

The Court also discusses the Model Prisons and Correctional Services Act, 2023 and points out that the Act does not contain a reference to the prohibition of caste based discrimination. The document also points out how there is continued targeting of denotified tribes, with the classification of the 'habitual offender' that emerged before Criminal Tribes Act was repealed and the bench urges various State governments to reconsider the usage of habitual offender laws and check if such laws need to stay in a constitutional system.

The Role of Legal Service Authorities in Prisons thus become crucial in ensuring fundamental rights to prisoners. This has been reiterated by the Court referring to NALSA Standard Operating Procedures on Access to Legal Aid Services to Prisoners and functioning of the Prison Legal Aid Clinics. Referring to Bell Hooks (2001), the document emphasizes an institutional approach that is compassionate (Paton, 2002) where there is a space for the marginalized to express their pain and anguish about their future collectively.

Directives issued by the Court

In light of the above discussion, the Court issued nine directives. That the impugned provisions be declared unconstitutional for being violative of Articles 14,15,17,21, and 23 of the Constitution and the states and Union territories be directed to revise the Prison Manuals and Rules in accordance with the judgement in a period of three months. The judgement also directs the Union government to make necessary changes to address caste-based discrimination in the Model Prison Manual 2016 and Model Prisons and Correctional Services Act 2023 within a period of three months. The references and definitions of 'habitual offenders' in the impugned manuals and rules are declared unconstitutional. The Court also came up with a definitive removal of 'caste column' in prison registers and any reference to caste of undertrial or convicts in these registers inside the prisons shall be deleted. The judgement also directs the police to ensure that members of Denotified Tribes are not subject to arbitrary arrest. The Court also took suo motu cognizance of the discrimination inside prisons and any case shall list it as In Re:Discrimination Inside Prisons in India. There shall be regular inspections jointly by DLSAs and the Board of Visitors to identify discriminatory practices.

The Role of Caste Columns and the Future Debates on Prison Populations

This landmark judgement ended caste based division of labour and segregation of prisoners in India. However it is important to understand how a particular directive on removing caste columns brings forward a major discussion on how data on caste be collected hereafter. The only available data on how the carceral systems affects the various communities disproportionately are through these very columns that are collected by National Crime Record Bureau (NCRB)[12]. This can also affect the various welfare provisions for marginalized communities if any, to reach the persons with the erasure of identification of caste. For example, it is only through collection of such data, it brings to us identify how Scheduled Castes (SC) and Scheduled Tribes (ST) are the worst sufferers of crime and injustice in India[13]. The NCRB only through such data collection has presented how the SC ST population in prisons is much higher than their proportionate population in the country as a whole. While 34.4% of the undertrials (97129 out of 2,82,076) belong to the General Category, 21.6% (61139 out of 2,82,076) belong to

[12] https://thewire.in/law/supreme-court-caste-column-prison-sukanya-shantha
[13] "Why crime is rising against India's lowest castes and tribes," India Spend, 4 July 2016: http:// www.indiaspend.com/cover-story/why-crime-is-rising-against-indias-lowest-castes-and-tribes29049

Scheduled Castes, 12.4% (34999 out of 2,82,076) belong to Scheduled Tribes and 31.5% (88,809 out of 2,82,076) belong to the Other Backward Classes category. Dalit's make up 21.6% of prisoners, almost one in four. On the other hand, the 2011 Census indicates that 16.2% of the overall population belongs to Scheduled Caste and 8.2% of the overall population belongs to Scheduled Tribes, suggesting an over-representation of 33.33% by Scheduled Castes and of 51.22% by Scheduled Tribes in the prison population[14].

A detailed report produced by the National Dalit Movement for Justice- NCDHR in 2018, on conditions of prisoners from Dalit and Adivasi communities, points out that various forms of discrimination are faced by the marginalized. The SC and ST communities face several difficulties in navigating the criminal justice system, apart from just ill treatment inside prisons. Deeply entrenched prejudices against Dalit and Adivasis play an important role in their harassment and incarceration[15]. All these come to attention only because of collection of such data, identification of such a category and cognizance of the problem in entirety. The landmark judgement thus addresses such a pivotal issue and takes a step forward in removing colonial practices, and its directives open up discussions on the future of carceral systems and caste based practices inside prisons in India.

References:

1. Arnold, D. (2015). Labouring for the Raj: Convict Work Regimes in Colonial India, 1836–1939. In Global Convict Labour (pp. 197-221). Brill.
2. Choragudi, R., Pellissery, S., & Jayaram, N. (2022). Caste Matters in Public Policy. New Delhi: Routledge.
3. De Vito, C. G., & Lichtenstein, A. (2015). Global convict labour (Vol. 19). Brill.
4. Galanter, M. (1963). Law and caste in modern India. Asian Survey, 544-559.
5. Hooks, B. (2001). Salvation: Black people and love. Harper Perennial.
6. Yang, A. A. (2023). The prison-handicraft complex: Convict labour in colonial India. Modern Asian Studies, 57(3), 808-834.
7. National Crime Records Bureau. (2022). Prison statistics India 2022. Ministry of Home Affairs, Government of India.
8. Paton, A. (2002). Cry. The Beloved Country. Vintage Books.
9. Ravindranath, M., Mawase, M., Kinger, H., & Sonavane, N. (2025). The contours of caste in the criminal legal system: The Supreme Court's ruling on prison practices. Economic and Political Weekly, 60(2). https://doi.org/10.71279/epw.v60i2.42735

[14] Prison Statistics of India (2015)
[15] https://www.annihilatecaste.in/uploads/downloads/data_190118030229_21000.pdf