

# A Socio-Legal Study of Prison System and its Reforms in India

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**ABSTRACT:** The prison system in our country is now been improved much. In general effects of imprisonment are the nature of the progressive weakling of mental powers and of a deterioration of the character in a way which render the prisoners' life fit for useful social life and in consequence more liable to reconviction. The idea of the prisons as comprehensive methods for the reformation of the inmates was advanced in America and Europe. But in the previous time, the prison condition was not so good. Now, in Indian prison, the caring of the prisoners are better and even been improved as we compare with the ancient time. For the reformation in India, many of the steps are being taken so that it could be possible in India as per in the other countries. For this, the education system and its all facilities have been combined with the prison systems so that the prisoners could get the education, so that they can live their life when they come out from the prison and live their life respectfully. Through the education the prisoners can learn the socialism and learn how to behave with the people living in the society. Thus, through the education system collaborations with the prison, the reformation in India may be possible and also by the proper management and caring of the prison systems and the prisoners in Indian prison system.

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## 1. INTRODUCTION

Although prison systems everywhere are marked by inertia, few can match India's in immutability of practice. A country over of 40 years ago cast off British rule still administers its system under the colonial Prisons Act of 1894. Perhaps because the act is such a relic of the past, or perhaps because the prison officials prefer the route of least accountability, the various state prison manuals that embody the 1894 provisions are collectors' items, not only in short supply but expensive. A number of prison commissions, in India, have attempted to update and revise the code, but aside from a few states, these efforts have not received legislative approval. It is not only the rules and the regulations but the day to day reality of the Indian prisons which is so archaic. The most prestigious and thorough investigation of the prisons, the All India Committee on Jail Reform (under the chairmanship of the retired Supreme Court justice, Anand Mulla), found 1220 facilities in this country as of December 31, 1980, of which 822 (67 percent) were lock-ups, and almost all of the others, state prisons; together they held some 160,000 inmates. India's population, and incarcerates more than six times as many people as were actually counted in the Indian system a decade ago.) This conclusion is buttressed by the fact that with

all due allowance for overcrowding, India does not have the prison buildings to hold that many more inmates.

The overcrowding, lack of physical and mental activities, poor sanitary facilities, lack of decent health care, all increase the likelihood of health problems in prisons. **Kazi et al (2009)** mentioned that “prisons are excellent venues for infectious disease screening and intervention, given the conditions of poverty and drug addiction”. It is surprising and indeed shocking that despite the large prison population in India, there is a complete dearth of published information regarding the prevalence of health problems in prisons. An exception is a small study in the Central Jail at Hindalga in the Belgaum (the district of Karnataka) 850 prisoners were evaluated (**letter in the Indian J Community Medicine, Bellad et al 2007**).

**Prison Reforms and Social Change (Kaustubh Rote):** A well organized system of prisons is known to have existed in India from the earliest time. It has been kept in record that the Brahaspati laid a great stress on imprisonment of convicts in closed prisons. It was a common practice for the prisoners to keep in solitary confinement so as to afford them an opportunity of self introspection. The object of punishment during Hindu and Mughal period in India: deter offenders from repeating crime. The recognized modes of punishment were death sentence, hanging, whipping, flogging, branding or starving to death. The prisoners were ill-treated and even now, tortured and subjected to most inhuman treatment in the prison. The Prisoners were kept under strict control and supervision. Thus prisons were the places of terror and torture and prison authorities were expected to be most tough and rigorous in implementing sentences to the prisoners. The British colonial rules in India had been marked the beginning of penal reforms in this country. The British prison authorities made the emphatic efforts to improve the conditions of Indian prisons and prisoners as well. They introduced most radical changes in existing prison system keeping in view the sentiments of the home-grown people. The prison administrators, most of them were British officers, had classified the prisoners into two heads namely violent and non-violent prisoners.

In India, the International Covenant on Civil and Political Rights (ICCPR) remains the core international treaty on the protection of the rights of prisoners. India has ratified the Covenant in 1979 and is bound to incorporate its provisions into domestic law and state practice. The International Covenant on Economic, Social and Cultural Rights (ICESR) states that the prisoners should have a right for getting the highest attainable standard of physical and mental health. Apart from the civil and political rights, so called second generation economic and social human rights as set down in the ICESR also apply to the prisoners. Earlier, United Nations Standard Minimum Rules for the Treatment of Prisoners, 1955 consisting of five parts and ninety-five rules. Part one providing the rules for the general applications. It declares that there would be no discrimination on grounds of race, color, sex, the languages, religions, political views or other opinion, national or social origin, property, birth or any other status. At the same time it is strongly need of respecting the others’ religious belief and moral precepts of the group to which the prisoners belong. The standard rule respects the consideration to the separation of the different categories of prisoners. It is indicating that the men and women must be detained in separate institutions. The under- trial prisoners must have to keep separate from the convicted prisoners. Further, it advocates the complete separations between the prisoners detained under civil law and the criminal offences made by them. The UN standard Minimum Rule states that, it is mandatory to provide the separate residence for young and child prisoners from the adult prisoners. Subsequent UN directives have been the Basic Principles for the Treatment of Prisoners (United

Nations 1990) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (United Nations 1988).

## **2. STATEMENT OF PROBLEMS**

Despite the relatively low number of persons in prison as compared to many other countries in the world, there are some very common problems across the jails in India, and the situation is most likely to be the same or worse in many developing countries. Overcrowding, prolonged detention of under-trial prisoners, unsatisfactory living conditions, lack of treatment programmes and the allegations for indifferent and even inhuman approaches of prison staff have repeatedly attracted the attention of the critics over the years. Congestions in the jails, particularly among under trials has been a source of concern. Law Enforcement Assistance Administration National Jail Census in 1970 had revealed that 52% of the jail inmates were awaiting trial (Law Commission of India 1979). Obviously, if prison overcrowding is to be brought down then under-trial population has to be reduced drastically. Of course, this cannot be happened without the courts and the police working in tandem. The three wings of the criminal justice system would have to act harmonically.

Speedy trials are frustrated by a heavy court workload, police inability to produce the witnesses promptly and a recalcitrant defense lawyer who was bent upon seeking adjournments, even if such tactics harm his/her client. Fast track courts have helped to the much extent, but it has not made any measurable differences to the problem of pendency. Increasing the number of courts could not bring about a desired difference as long as the current 'adjournments culture' continues (Raghavan 2004).

Extortion by the prison staffs, and its less aggressive corollary, guard corruption, is common in prisons around the world. Given that the substantial power, for guards exercised over inmates, these problems are predictable, but the low salaries that guards are generally paid severely aggravate them. In exchange for contraband or special treatment, inmates supplement guards' salaries with bribes. An unpublished PhD dissertation from Punjab University on „The Functioning of Punjab Prisons: An appraisal in the context of correctional objectives“ cites several instances of corruption in prison. Another article suggested that food services are the most common sources of corruption in the Punjab jails. Ninety five percent of prisoners felt dissatisfied and disgusted with the food served (quoted in Roy 1989).

The overcrowding in the prisons leads itself to unsatisfactory living conditions. Although the several jails have reformed outlined earlier have focused on issues like diet, clothing and cleanliness, unsatisfactory living conditions continue in many prisons around the country. A special commission of inquiry, appointed after the 1995 death of a prominent businessman in India's high-security Tihar Central Jail, reported in 1997 that 10 000 inmates held in that institution endured serious health hazards, including overcrowding, "appalling" sanitary facilities and a shortage of medical staff (Human Rights Watch 2006).

“No one wants to go to prison however good the prison might be. To be deprived of the liberty and family life and friends and home surroundings is a terrible thing.”

**“To improve the prison conditions what does not mean that prison life should be made soft; it means that it should be made human and sensible for prisoners”.**

“Though the prisons may be supposed as the leveling institutions in the world where some different variables that could create/develop the vital effects on the conditions of confinement of the criminal records and their inmates and also their behaviour in prison, other factors play an important part in many countries” (Neier et al 1991). This report provided by the Human Rights, watch specifically cites countries like India and Pakistan, where a “rigid” class system exists in the prisons. It states that under this system, special privileges are accorded to the minority of the prisoners who came from upper and middle classes of their irrespective of the crimes they have committed or the way they comport themselves in prison.

### **3. OBJECTIVE**

In the year 1920 the Indian Jails Committee (IJC) had unequivocally declared that the reformations and the rehabilitations of the offenders, was the ultimate objective of the prison administrations. This declaration subsequently found its echo in the proceedings of the various Prison Reform Committees that had been appointed by the Central and State Governments under international influences. The United Nations Standard Minimum Rules for the Treatment of Prisoners was formulated in the year of 1955, provides the basic frameworks for such a goal. The International Covenant on Civil and Political Right propounded by United Nation in the year of 1977, to which India is a party what has clearly brought out that the penitentiary system shall comprise treatment of prisoners, the most essential aim of which shall be their reformation and social rehabilitation as well. It is, however have been seen that whereas India is the second to none in terms of an enlightened thinking with regard to the purpose and objectives of the imprisonment of the gap between proclaimed principles and actual practices that was appeared to have been widening in recent years. Objectives of the study are formulated are as follows:

1. To examine the relations in the prison community as like the social community.
2. To study the prison system or legal structures of the Prison system in India
3. To study the nature of relationships in the prison social system.
4. To present the Social system in Prisons and the issues related with the system complexity.
5. To analyze critically for the reformations in the Indian prison system.

### **4. PURPOSE OF STUDY**

The primary purpose of this study is to critically analyze the two fundamental issues related to the Prison system of India that are: the Socio-legal study of Prison System in India and the Reforms indentified by the Prisons in India.

### **5. HYPOTHESIS**

No society could be crime free in our country and also criminals are found in all age groups, among both sexes and in all strata of society. The contemporary of the Prison administrations in India is thus a legacy of British rule. It is based on the notion that the best criminal code could be of little use to a community unless there is good machinery for the infliction of punishments. Provisions regarding jail offences and the punishment would specially be examined by a conference of the experts on Jail management.

## **6. SIGNIFICANT OF STUDY**

This study can be important for the study since our main focus would be on the prison system and its reformation. This study could play a vital role in the reformation in Indian society as well. Hence this could be very significant for research.

## **7. NEED OF STUDY**

As per considerations of the prison systems in India and its overcrowding, the reformation process could be very important. Also it can make the prisoners to live their life much better when they come out of the prison.

## **8. SCOPE OF STUDY**

As per the all complexities of the prison system and India it is very important to study, how the prison system can be improved and well managed. Also by considering the reformations in India and the problems as discussed in this research this thesis could be very important to concern.

## **9. METHODOLOGY**

This research thesis would be exploratory in nature. It would be followed by descriptive research.

### **Exploratory Research:**

Exploratory research is an approach used to add new insight into the issues and the problems. Exploratory research often relies on the secondary research such as reviewing of available literature and/or data, or qualitative approaches etc.

### **Descriptive Research:**

This research thesis would be descriptive in nature. Descriptive research is also known as the statistical research what describes the data and characteristics about the population or phenomenon being studied.

### **Coverage of Study:**

The research area of this study is limited to the prisons of five identified districts of Rajasthan like Jaipur, Jodhpur, Udaipur, Chittorgarh and Ajmer and other cities like Delhi, Gujarat.

The study of the prison system and interrogation of the inmates and the staff members would be of the selected districts prisons only.

### **Sample and Sampling Method:**

The selection of the sample size would depend upon the several issues like:

- Cost considerations (e.g. maximum budget, desire to minimize cost).

- Administrative concerns (e.g. complexities of the design, research deadlines).
- Minimum acceptable level of the precision.
- Level of Confidences.
- Variabilities within the population or subpopulation (e.g. stratum and cluster) of interest.
- Sample and the Sampling methods.

So after reviewing all of the issues, it was estimated that 150 inmates and 50 staff members will be the respondents of the study. The classification would be such as follows:

1. 10 Staff Members of every prison of the selected districts for the study, which will result into 50 staff members.
2. 30 inmates of every prison of the selected districts for the study, what will result into 50 staff members.

Random sampling method is used for the purpose of this study for selecting the inmates and for selecting the districts and prisons judgmental sampling would be followed, which is influenced by the convenience and the popularity of the district.

## **10. RESULT**

The prison system as it operates today in our country is a legacy of the British Rule. The education system has been included with the prison system so that there could be reformation possible. The reformation in India is possible by the proper management system of the prisons, providing education, training to the people, use different policies that could be useful for the prisoners, providing legal rights to the prisoners.

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