

JAIL REFORMS IN INDIA

By

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In olden days the prisoners were kept for retributive and deterrent punishment. In the modern days the prisoners are kept for reformatory punishment. Early prisons were dark, dirty and overcrowded. They locked all types of prisoners together, including men, women, children, dangerous criminals, debtors and the insane. The Pennsylvania System¹ was the first attempt to rehabilitate criminals by classifying and separating them on the basis of their crimes. As a result, the most dangerous inmates spent all their time alone in their cells. In time, however, the system failed, chiefly because overcrowding made such separation impossible.

In India, the Prisons Act, 1894 is the current law governing management and administration of prisons. It has remained into force for over 65 years after our independence. It has hardly undergone any substantial change during all these years despite lot of new thinking having emerged respecting objectives, management and administration of prisons. The process of review of prison problems in the country, continued even after 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). It is indeed a major landmark in the history of prison

reforms in India and is appropriately called the corner stone of modern prison reforms in the country.

The Government of India Act, 1935 provided that the subject of prisons would be in the control of provincial Governments which obstructed the possibilities of Uniform implementation of the Indian Jails Committee recommendations. However, some provincial states *viz.*, West Bengal, Tamil Nadu, Maharashtra appointed committees² to enquire prison condition and suggest measures for improvement.

Thereafter, the Constitution of India which came into force in 1950 retained the position of the Government of India Act, 1935 in the matter of prisons, kept 'Prisons' as a State subject by including it in List II—State List, of the Seventh Schedule (Entry 4). 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.

In order to improve the prison administration, the Government of India invited technical assistance from the United Nations. Dr. *W.C. Reckless*, a U.N. Expert on Correctional Work, visited India during the year 1951-52 to study prison administration

1. In 1787, a group of influential Philadelphians, mostly Quakers, formed the Philadelphia Society for Alleviating the Miseries of Public Prisons (now the Pennsylvania Prison Society).
2. (i) The Mysore Committee on Prison Reforms, 1940-41;
(ii) The U.P. Jail Reforms Committee, 1946; and
(iii) The Bombay Jail Reforms Committee, 1946-48. It was around this period that such progressive legislations as
(i) The Bombay Probation of Offenders Act, 1936
(ii) The C.P. and Berar Conditional Release of Prisoners Act, 1936; and
(iii) The U.P. First Offenders Probation Act, 1938.

in the country and to suggest ways and means of improving it. His report 'Jail Administration in India' is another landmark document in the history of prison reforms.

The year 1952 witnessed a significant break-through in national coordination on correctional work as in that year the Eighth Conference of the Inspector General of Prisons was Held. In pursuance to the recommendations made by the Eighth Conference of the Inspector General of Prisons and also by Dr. *W.C. Reckless*, the Government of India appointed the All India Jail Manual Committee in 1957 to prepare a Model Prison Manual. The All India Jail Manual Committee was also asked to examine the problems of prison administration and to make suitable suggestions for improvement to be adopted uniformly throughout the country. In pursuance to the recommendations made by the All India Jail Manual Committee, the Central Bureau of Correctional Services was set up under the Ministry of Home Affairs in 1961 to formulate a uniform policy and to advise the State Governments on the latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory schools, Borstals and protective homes, suppression of immoral traffic, *etc.*;

In 1972, the Ministry of Home Affairs, Government of India, appointed a Working Group on Prisons which presented its report in 1973. This Working Group brought out in its report the need for a National Policy on Prisons.

The Seventh Finance Commission³ in its Report of 1978, on an analysis of the material received from the Ministry of Home Affairs and the Department of Social Welfare in the Government of India and

that obtained by it from State Governments, recognized that prisons had been neglected for far too long and that there had been practically no improvement in their physical environments or in the method of handling inmates. Although the Commission did not regard itself competent to lay down the requirements of modernization of prisons and correctional services, it did identify certain basic areas needing urgent attention.

The Seventh Finance Commission considered it necessary that a norm of Rs.3/- per head for diet and Re.1/- per prisoner for other item like, medicine, clothing *etc.*, per day should be a minimum, and that inclusive of prison overheads (not including the headquarters cost of direction and administration) a minimum of Rs.6/- per day per prisoner should be provided for all in the States. Accordingly, the Commission recommended an allocation of Rs.48.31 Crore for the State which were found lagging behind in these respects.

The Government of India has constituted an All India Committee on Jail Reforms under the chairmanship of Mr. Justice *A.N. Mulla* in 1980 the committee submitted their report in 1983. This committee examined all aspects of prison administration and made suitable recommendation respected various issue involved. A total of 658 recommendations made by this committee on various issue on prison management were circulated to all State and UTs for its implementation, because the responsibility of managing the prisons is that of the State Government as 'Prisons' is a 'State' subject under the List II–State List of the Seventh Schedule (Entry 4) of the Constitution of India. The Committee has also suggested that there is an immediate need to have a national policy on prisons and proposed a draft National Policy on Prisons.

3. The Seventh Finance Commission was incorporated in the year 1978 consisting of Shri *J.M. Shelat* as the Chairman and the following four other Members, namely Dr. *Raj Krishna*, Dr. *Ch. Hanumantha Rao* Shri *H.N. Ray*, Shri *V.B. Eswaran*, Member Secretary.

The draft of the proposed National Policy on Prisons would require some changes in view of the developments that have taken place in the intervening period. For instance, the present committee is of the opinion that the enactment of a uniform and comprehensive legislation on prisons would be possible within the existing provisions of the Constitution of India, as India is a party to the International Covenant on Civil and Political Rights, 1966.

Thereafter, Government of India has constituted another committee on 26th May, 1986, namely, National Expert Committee on Women Prisoners under the chairmanship of Mr. Justice *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.

In pursuance to the directions given by the Hon'ble Supreme Court in the year 1997 in case of *Sbri Ramamurthy v. State of Karnataka*⁴, the Government of India has constituted All India Model Prison Manual Committee in November, 2000 under the Chairmanship of Director General of Bureau of Police Research and Development (BPR&D) to prepare a Model Prison Manual for the Superintendence and Management of Prison in India in order to maintain uniformity in the working of prisons throughout the country.

The Government of India has constituted a high powered committee under the chairmanship of Director General, BPR&D for drafting a national policy paper on Prison Reforms and Correctional Administration on 1st December, 2005.

BPR&D has also placed a draft policy paper in the meeting of Advisory Committee on Prison Reforms held on 3rd November, 2006 for discussion to make document more viable. The BPR&D has finalized the draft national policy on prison reforms in the light of suggestions received from the States and the Advisory Committee on Prison Reforms of the BPR&D.⁵

The system of prison in India is governed by a statute enacted several decades ago; the rights of the prisoners could be located within the framework of a statute and the statutory rules. The Prisons Act and the Jail Manual therefore, were the main sources of the rights of the prisoners. The Prisons Act and Jail Manual are being inadequate; the need is felt of revamping the system of prisons. It is to be looked in drafting the national policy on prison reforms and correctional administration about reformatory aspect said by Justice *Krishna Iyer* that the State has to rehabilitate rather than avenge and re-culturalization to counter the anti-social behaviour.

EMPLOYMENT SECURITY IN CASE OF LAY-OFF AND RETRENCHMENT COMPENSATION IN INDIA

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The Industrial Disputes Act, 1947 contains provisions relating to the payment of compensation to the workers for lay-off, retrenchment, transfer of undertakings

and closure which are the one of the Social Security measures enacted to protect the workers from the contingency of unemployment. Lay-off arises when

4. 1997 AIR 1739

5. National Policy on Prisons <<http://bprd.nic.in/index3.asp?sslid=435&subsublinkid=151&lang=1>>