ROLE OF OPEN PRISON IN INDIA: 
A SOCIO-LEGAL STUDY

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1. Abstract

In more than one word, India is the world's biggest democracy. It features free elections, a parliamentary system of several parties, a diverse and frankly free press, an independent judiciary, and the country abounds with NGOs which take pride in independence and help to form a lively civilian society. It appears from an examination of the imprisonment and detention of the police in our country. There is a substantial increase in the likelihood of violence or worse in some of the major cities of the country we were in visiting, and possibly elsewhere, than in other countries that do not have the maximum security for civil liberties available in India. Even if we knew in advance that we would find comprehensive police abuses of the prisoners, we were not prepared for what we learned about the jails, the prisoners to which the police were sent. They will be evil, if only because most Indians outside the prisons find their lives tough. While prisons are meant to lift the institutional character of the prisoners' criminal records and their actions in custody, the variables influencing the conditions for their imprisonment can also be considered in many countries.

KEYWORDS: convicted, overcrowding, prison, rehabilitation, prisoners

2. INTRODUCTION

The word prison at first brings negative sense. Maintaining law and order is in the possession of the government, and anyone breaches state law and commits another crime. It is called prison or jail wherever he is put. Jail is the oldest body to create criminals. Punishment,

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punishment, isolation, rehabilitation and reintegration may be loosely defined as the purpose of prisons. He's out in the bars when a person commits a crime. Prison therefore acts in the name of society as agents of punishment.

3. BRIEF HISTORY

The roots of prisons have their origins in the state's emergence as a social institution. The development of written languages was part of the state's emergence and enabled the development of formalized legal codes as official social guidelines. The Babylon Code, written around 1750 BC, is the most well-known of the early law codes. The punishments for the breach of the laws of the Hammurabi Code centered almost entirely on the principle of lex talionis ("the law of retaliation") in which men, mostly the offenders themselves, were punished for retribution. For several other early civilization legal codes, this word retribution as a retaliation or reprisal can be found, including “the old Sumerian codes”, “the Indian Manama Dharma Astra”, “The Egyptian Trismegitus”, and “the Mosaic code”.

Moderna:- In the 18th century, widespread resistance to the execution of men, torture and brutality, grew, and officials began to look for ways of punishing and manipulating their subjects in ways that did not involve people in the production of tyrannical and sadistic abuse. They began looking at mass incarceration programs as a solution. The British used to transport prisoners held between 1788 and 1768 in America during the British Empire to the United States Revolution in the seventeenth century and in Australia. France sent prisoners into tropical penal colonies and Louisiana at the beginning of the 18th century. Penal Guiana colonies, such as Île du Diable (Devil's Island), served in French Guiana in 1951. In the 17th century in Russia, Katorgaprisons were cruel labor camps in remote undernourished areas of
Sibiriia and in the Far East of Russia with little city or food. Siberia suddenly regained its awful discipline meaning.

The first US prisons were based on the model of Jeremy Bentham known as "panopticon" with the wings of a cell of a single person radiating from a central monitoring structure to the outside. It was later replaced by the jail so-called "Auburn Model" in which jail cells were put within rectangular structures, which were more conducive to large-scale criminal activity.

The Prison Act 1894 was introduced to establish uniformity with respect to Indian prison functions as a result of these recommendations. Throughout the developed provinces, the prison administration was empowered to enforce its own prison laws. The law decided that prisoners should be graded and the penalty was revoked. The law As early as 1866 prisoners were given more changes in medical facilities and improved care were offered for women inmates in order to protect them against infectious diseases.

A concerted effort was made to improve the status of young offenders during the period from 1907 onwards. They have now been kept isolated from hardened adult prisoners in order to prevent their contamination. Numerous model of reformatories and institutions in Borstal were developed in the early 20th century, based on British trends, for the care of young offenders.

4. OPEN PRISON IN INDIA – AN OVERVIEW

A. Objective

As ahead of schedule in the year of 1920, the The Committee for Indian Jails had explicitly declared that reorganization and rehabilitation of convicted prisoners was an essential goal. In the meetings of numerical prison reform commissions named by the Federal and State Governments of the nation, this assertion has implications. The basic structure for
this reason is the UN Standard Minimum Rules for the treatment of prisoners, set out in 1955. “The International Convention on Civil and Political Rights”, which was proposed in 1977 by the United Nations and to which India belongs, made it clear that the penitentiary system would include the processing of inmates, whose basic purpose should be the reform and rehabilitation of their society. Nevertheless, it is evident that while India is second to none in terms of an educated mindset about the purpose and objective of incarceration, there appears in recent years to be widening the distance between proclaimed values and actual practices.

An open penal institution aims to develop respect for itself and responsibility as well as a practical preparation for freedom, discipline is easier to maintain and punishment is not often the goal, tension in ordinary prison life is needed, prison conditions can be closer to normal life.

B. Problem

The overcrowding is one of the major problems and in places likes Andhra Pradesh, State of M.P. Gujarat, Maharashtra, State of U.P. and Delhi prisoners are far in excess of their capacity. One of the reasons for this overcrowding is undue delay in trails. These under trials along with new editions literally clog the system. These all the problems also point out of open prison in India.

C. Detention Centre

Juvenile prison is known as an establishment for young offenders or similar designation, holding juveniles in custody or prison for duty (persons under the age of 17 or 18, depending on the jurisdiction). In many countries, the criminal responsibility of children is their own age in which they are legally accountable for their crimes. Countries like Canada may try to impose sentences on a young person as anadult but have the juvenile sentence
served by them until the majority age is reachable, and they are transferred to an adult facility at that time.

**D. Prisoner-Of-War Camps**

Since the French Revolution, prisons have become part of military systems. In 1796, France established his system. In 1852, they were modernized and used for the purpose of housing war prisoners, illicit soldiers, Persons whose protection is considered a threat to national security by military or civil authorities, and military officials convicted of serious crime. Industrial prisons have also been converted into civilian prisons in the United States, including Alcatraz Island. During the American Civil War, Alcatraz once became a military prison for soldiers. British prisoners captured in the United States were distributed as slaves to local farmers during the American Revolution. The British keep US seafarers in ship-hulks at high mortality rates. The damaged hulks were also used by the naval prisoners during the Napoleonic Wars. The French physician recalled that he was in prison in Spain, packed with scorpion, vomiting, dysentery and typhus, deaths of prisoners were noticed in thousands:

"These great trunks of ships were immense coffins, in which living men were consigned to a slow death.... [In the hot weather we had] black army bread full of gritty particles, biscuit full of maggots, salt meat that was already decomposing, rancid lard, spoiled cod, stale rice, peas, and beans.” At first, war prisoners were released during the American Civil War after they promised not to fight any more until they exchanged formally. When the Confederation refused to trade in black prisoners and big PW prisons were established at both sides. The structure collapsed. Conditions for housing, food and medical care in the Confederation were poor and strict conditions in the Union were repressed. Under the legal structure of the Geneva and Hague Convention, there was considerable security by 1900. During the First
World War million prisoners were captured by both sides, without significant massacres. Privileged care was given to officers. The use of forced labor in all of Europe has increased. In general, food and medical care was comparable to the active military and accommodation was much better than the conditions in the front line.

**E. Political Prisons**

Many countries have retained or had political prison systems in the past: perhaps the most famous are the gulags synonymous with Stalinism in the Soviet Union. Administrative detention is a category of jails and detention facilities under which persons without charge are held.

**F. Psychiatric Facilities**

Some psychiatric institutions are prison property, especially if they are confined and considered unsafe by patients who have committed a crime. Moreover, A wide range of psychiatric conditions for housing abuse have been diagnosed in many jails. The psychiatric prisons were refered as "Federal Medical Centres (FMC)" by the government of United States.

**G. Open Facilities**

In Finland, The facility Suomenlinna Island represents a "free" correctional facility which was set up in the Scandinavian nations as well. Since 1971, the prison has been open and 95 male prisoners leave the prison every day for work or research in the corresponding city or travel to the mainland since September 2013. Prisoners can rent flat-screen TVs, sound systems and mini fridges that are paid for prison workers – the wages are from 4.10 to 7.3 Euros an hour, with the range of 5.30 to 9.50 U.S. dollars. In order to visit
their families in Helsinki and provide meals with prison staff, inmates can also use electronic surveillance. Insiders must wear their own clothes in Scandinavian prisons.

H. Open Jail

Minimum safety prisons are open jails. Prisoners with good behavior are admitted to open prisons in compliance with certain standards prescribed in prison rules. Agricultural activities are undertaken in prisoners.

In the respective jurisdiction, 14 states have open prisons. The largest number of open prisons was reported by Rajasthan. In any of the UTs there are no Open Jails.

There are 1328 facilities in India, 27 of which are prisons that are open prisons. These Open prisons have existed in India for nearly half a century in one way or another. They have evolved in various states differently, but in agriculture prisons and other work outside of prisons have mostly been performed by prison authorities (“Penal Reform and Justice Association / Penal Reform International 2002”). The three types of open prisons in India can be narrowly ranked:

* Open farms on which prisoners are allocated agricultural and farm labor and reside with other qualifying prisoners on open areas.

* Open farms, where prisoners do their farming and agriculture work and live with their families and the families of the other suitable prisoners in an open farm area.

* Open camps where the prisoners run their own factories, trade or other industries, build home and live with their families.

Sanganer Open Camp is one of Rajasthan State's seven opened prisons. There are 285 prisoners in the seven prisons. A story from March 2004 begins as follows in Data Shift News & Features:
Jagdish Prasad begins his day with a prayer. After breakfast he sets about cleaning his truck till it gleams and drives off to work at a stone quarry. When he returns, at 7 pm, he watches his favourite TV show and spends time with his wife. Sharma's life is no different from that of an ordinary man. But there is one big difference. He lives in a prison, where he is currently serving the last part of a 14-year murder sentence.

Approximately 15.5 miles from Jaipur, the capital of North-West Rajasthan is the village of Sanganer. At least one third of the 150 Sanganer prisoners / residents (10 women included) were not served; they are not serious killers, killers or rapists; No federal crime or drug trafficking offense have been committed by them. Some insiders build their own homes out of their own money, pay taxes, pay for water and electricity and can work till 7 pm starting from 6 in the morning. And, Over a radius of 6,2 miles. Your children go to schools nearby. They live as if they are living in their own villages. For new prisoners, the prison has constructed small two-room cottages. Insiders can conduct their own business, for example the sale of building materials or the transport of goods for the local industry, or they can work for local businessmen and traders. A person named A.K. Sharma, a homeopath who was accused of murder, runs a humble practice in Sanganer. Others instruct at neighboring schools or are vegetable sellers or paanwallahs. The jail in Sanganer is 10 hectares in length and comprises of 150 concrete homes, tin sheds and houses with stalago (Center for Communication and Growth Studies, 2004).

The use of open prisons in India begins with his Hindu film Do Aankhen Baarah Haat (Two Eyes, 12 Hands), which tells the story of a prisoner who takes killed people away from the jail to see if they can do a farm work, being inspired by the reformist Gov. Sampoornanand Radzhan who served from 1962 to 1967. The Rajasthan government started
the Sri Sampoornanand Khula Bandi Shivir (open jail), named after the governor, on an experimental basis in 1963. Up until the 1980s, inmates were allowed out from dawn to dusk to engage in agricultural work. A decade later, the government made it compulsory for convicted offenders to live with their families in jail as an important step toward their rehabilitation (Centre for Communication and Development Studies, 2004).

“The Penal Reform and Justice Association (PRAJA)” estimates that more than a third of families have television networks, which is an Indian NGO affiliated to Penal Reform International, (PRI). Many even have farm animals and sell their milk to the open market from their cows. The houseguests who come to offenders will be allowed to have the family of offenders and do not have to "keep hours" as the offenders wish. A number of weddings were held at the festival, and everyone (including people from the village) took part to make the events successful.

There are a lower boundary wall and two correctional officers in the facility. As per local police chief Bajrang Lai Meena, the camp runs on a trust relationship and is highly supervised. The Open Camp is appreciated for its effectiveness in recovery as well as being less costly than a conventional jail. "Everyone is anxious to get rid of prisoners," says Chandra Shekhar, Rajasthan's Minister of Jails. "The police to the courts, the courts to the prison. Somebody has to rehabilitate them and the open camp in Rajasthan is one way of doing this" (Centre for Communication and Development Studies, 2004).

Kerala: The open prison on the coast of Southwest India in the state of Kerala is an example of a somewhat different kind of open jail; the prisoners don't stay with their families. The functioning of the facilities is focused on the care and responsibility of prisoners, especially when it comes to their work on rubber plantations. This is focused on more
protective personnel and protection measures. There are no fences or supervisory towers, and the prison is located on 300 hectares of land. There was only one escape and one serial offender in the first 35 years of service. American writer Jim Merkel described the prison environment as being calm and comfortable, while watching the Earth Gaia Fellow in 1994. When he asks the guard how the detainees are treated, The guard laughs says, We have to treat them nicely, they are all murderers (Merkel, 2000).

The Kerala open prison is based on the "equality of religions" theory of Gandhi, which demonstrates reverence for religious beliefs. Kerala Open Prison therefore does not accept the structure of castes and encourages an expression of religious faith in the mosque, the church or the temple, observed Merkel. Holders are expected to work on the 200 acre rubber plantation of the prison, tap rubber, produce rubber sheets and grow rice paddies. Each prisoner works 4 to 6 hours a day and is paid for his work. The rubber obtained comes with another 3,000,000 rupees (approximately $75,000), which cover the annual operating costs in the prison. The remainder of the money goes to the government of Kerala (Merkel, 2000). Insiders are allowed to go home with their families for one month out of six. In the event of the death of a family member, marriage or any other important opportunity, a five day break will be granted. During the weekend in prison, prisoners may visit their family.

5. Types of Prisoners

At the time when responses to crime were overwhelmingly punitive, the classification of prisoners was little required and they were flocked in a single prison together. However, this single treatment program of prisoners has turned jails into a living hell for all manner of vices on earth. The only precondition at that time was that the detainees should receive the highest possible amount of torture and pain, which means that they were not classified. Different
categories of offenders were classified according to their sex, age and severity as the criminal science evolved in the late 18th and the early 19th centuries. Also at the time, there was no established systematic approach to prisoners. It was towards the end of the 19th century, and this theory has been firmly developed since then, that the notion of the individualization of prisoners attracted attention from penologists. The cardinal principle of modern penology has now become the individualization of offenders as a rehabilitation method. The earlier classification of offenders based on their physical distinctions obviously serves no useful function in the changed circumstances. Thus, modern criminologists have drawn up a goal of differential treatment classification of prisoners. While the new inmates are held in the highest-security jails, they are being transferred to both penal and non-penal facilities for rehabilitation. The inmates are now rated by the care with which they most often respond. Social security is the primary object of the contemporary sense, namely the protection of society against offenders and the registration of prisoners for treatment is its method. The offenders are grouped into two broader groups for this purpose: (1) hardened inmates who are in a traditional jail for treatment, and (2) Incidental prisoners that are fit to be held in medium custody or are fit to be sent or released on probation to Borstal or Reformatory.

The task of classifying prisoners for recovery is carried out by the following agencies under the current correctional system in the United States:

(1) The Central Classification Centre;

(2) The Classification Committee; and

(3) The Reception Centre.

All convicted persons must first be taken to the Central Assessment Center, where specialist psychologists and psychiatrists must analyze extensively their backgrounds,
personal experience and mental attitude etc. When in the view of these experts the inmate is viewed as improving, he shall be referred by the Central Classification Centre to a corresponding correctional facility.

Each correctional institution is associated with a classification committee that determines its mental position, psychology and possible reaction to the treatment outline of the treatment scheme for an individual inmate.

On the other side, the Reception Center in each of the correctional institutions receives the new prisoner for a month or so in court, and aims to train him for his eventual stay. Therefore Donald Traft plays the key role of the reception center that is "inmate-orientation through group meetings, pictures booklets and interviews".

The prison authorities will consider it easier to fix the issues of inmates and inmates if the method of classification is followed in India and at the same time will promote prisoner reform.

Prisoners in Indian prisons are listed as accused, imprisoned and subjugated. A convict is "a person found guilty of a crime and sentenced by a court" or "a person serving a sentence in prison". The person currently being tried is a person who is on trial before a court. Anyone in custody shall be detained. Prisoned prisoners who are in Indian prisons in connection with crimes not covered by the Indian penal code (IPC) are classified as civilian prisoners. They are convicts and subjected to trials.

The Prisons Act 1894 addresses the following kinds of prisoners:-

Section 23. Officers of conviction. – Prisoners who are appointed as officers shall, under the terms of the Indian Penal Code, be considered as public servants in 1860 (45 out of 1860).
6. CLASSIFICATIONS OF PRISONERS

The Karnataka State Court at Ramamurthy Vs stressed the pressing need for the continuity of prison law and prompted governments of Central and State to develop a new Model Prison Manual. Consequently, with the approval of the Ministry of Interior, the Police Research and Development Office has formed the National Prison Model Manual Committee to draft a model Prison Manual. The following prison form is set out in this model Prison Manual.

7. CONCLUSION

I would like to conclude by saying that in India it is important to have a clear and specialized legislation to identify and categorize prisons and prisoners. In the Indian prisons, the Act of 1894 on prisons, the Act of 1900 on prisoners and the Transfer of prisoners of 1950, three Acts which do not even describe the prison types in detail or identify the various prison types in India thoroughly and classifies them. In my view, the categorizing of the various categories of prisoners for convictions would prevent the emergence of potential inmates from being subjected to trials that might not be guilty of convicted offenders. The Setting limitations on the jail sentences of certain cases by statute also meant that the delivery mechanism for criminal justice was easier and would eventually result in fewer prisons in India. The adoption of the type of prisoner categorization in the USA and of a modified system of prisoner categorization in the USA and India would significantly contribute to the reduction of the burden and restrictions on Indian prisons. It helps treat the inmate rather than keep him untreated in jail.
8. SUGGESTIONS

Although, lot of reformative measures have been taken but very needs to be done. One cannot over’s look the problems faced by the prison administration. The following suggestions are as under.

- To the person should be confined in prison for minimum period.
- To the women of female prisoners should be treated mor sympathy.
- To the need of the hour is prisoners should be classified.
- To prisoners also hoarse a right to privacy.
- To skills development should be inculcated to the male and female prisoners.
- To the revamping of the jail administration is required.

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