



Historical Evolution of Prison System in India

KEYWORDS

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ABSTRACT *During Vedic period administration of Justice was not a part of the state duties. Offences like murder, theft and adultery are mentioned, but there is nothing to indicate that the king or an authorized officer as a judge, either in civil or criminal cases, passed any judicial judgment. Usually the aggrieved party had itself to take such steps which could redress him. Distrain of the defendant or the accused by the plaintiff, his sitting before the latter's house and not allowing him to move out till his claim was satisfied or wrong righted was a well-established practice in Vedic India. Even in the 'Sutras' and Shastras' we rarely come across words 'prison' or 'jail'. This paper inspects the prison system in India.*

INTRODUCTION

The word 'Prison' and 'Goal' derive from the Latin words which mean respectively to "Seize" and "cage"¹. The Oxford English Dictionary defines prison as, "A place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or punishment"².

According to the Government of India Prisons Act of 1870, 'Prison' meant any goal or penitentiary and includes the airing grounds or other grounds or buildings occupied for the use of the prison. Prison means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoner.³ The Encyclopedia Britannica defines, 'prison as an institution for the confinement of persons convicted of major crimes or felonies'.⁴

Prison traditionally defined as a place in which persons are kept in custody pending trial or in which they are confined as punishment after conviction. The word prison means different things to different people. To the law abiding it is a place where the criminals end up. To the criminal it may be a vague hazard or an unavoidable indignity. To the social inadequate it may be a shelter. To some isolated individuals it may be the only place where they can find some semblance of companionship. To a prison officer it is his place of work. To the psychologist, a career in studying behavior. But to thousands of people, an experience which slows up time, which crowds them together, sets them apart and changes the course of their lives.⁵

Three phases may be distinguished in the history of prisons in general. During the first, which lasted until the middle of the 16th century, penal institutions were chiefly dungeons of detention rooms in secure parts of castles or city, in which prisoners awaiting trial or execution of sentences were kept. The second phase was one of experimentation with imprisonment a form of punishment for certain types of offenders, mostly, Juveniles. The third phase was universal adaptation of imprisonment as a substitute for all capital punishments.⁶

Prisons in the shape of dungeons had existed from the time immemorial in all the countries of the world. In his book, 'The Future of imprisonment', Norvel Morris refers to punitive imprisonment used extensively in Rome, Egypt, China, India, Assyria and Babylon and firmly established in Renaissance Europe. But prison sentence, as a specific punishment, is relatively recent origin. The prison as we know it now came into existence largely as an interim house of detention of an offender pending trial and punishment.

ANCIENT INDIA

In India, 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 the society in ancient India was founded on the principles enunciated by Manu and explained by Yagnavalkya, Kautilya and others.⁷ Among various types of corporal punishments – branding, hanging, mutilation and death, the imprisonment was the most mild kind of penalty known prominently in ancient Indian penology. Imprisonment occupied an ordinary place among the penal treatment and this type of corporal punishment was suggested in Hindu scriptures, the evildoer was put into prison to segregate him from the society. The main aim of imprisonment was to keep away the wrong doers, so that they might not defile the members of social order.⁸ 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.⁹

Fine, imprisonment, banishment, mutilation and death sentence were the punishments in vogue. Fine was the most common and condemned person who could not pay his bill to bondage until it was paid by his labour.¹² Fines for murder of a Brahmin were 1000 cows, for killing a Kshatriya 500 cows, for a Vaishya 100 cows and for a Sudra or women of any caste.¹³ Though the Indian law gives had a little description of jail life, even then historical account gave a clear picture after the analysis of the available data. A few Smiriti writers supplied some information concerning jail. Yajnavalkya had narrated that person who was instrumental for the escape of a prisoner had undergone capital punishment. Vishnu suggested the penalty of imprisonment to a person who hurt the eyes of a man.¹⁴

Kautilya described the place of prison location as well as the occasions when the prisoners can be released. The officers of the jail were known as *Bhandanagaradhyaksa and Karka*. The former was superintendent and the latter was one of his assistants. The jail department was under the charge of *Sannidhata*. There are references to prisoners in Ashokan inscriptions especially the fifth Rock Edict. Kautilya has further described the duties of the jailor who always keeps eyes on the movements of prisoners and the proper functioning of the prison.¹⁵

Prof. Ramachandra Dikshitar in his book entitled "Mauryan Polity, has suggested that Ashoka was familiar with the Arthashastra, for Ashoka speaks of as much as twentyfive jail deliveries effected by him in the course of 26 years since his appointment to the throne.¹⁶

In the post Ashokan age the jatakas gives a picture of the

prisoners being released at the time of war. From HarshaCharitha, it appears that the condition of the prisoners was far from satisfactory. According to Hiuen – Tsang prisoners generally received harsh treatment. At the time of Royal coronation prisoners were released.¹⁷

From the above discussion it is quite evident that regular prison system as such was not in existence in ancient India an imprisonment as a mode of punishment was not aregular feature when compared to the modern system in India.¹⁸

MEDIAEVAL INDIA

The legal system in the Mediaeval India resembled that of Ancient India and the contemporary Muslim rulers seldom, if at all, attempted to tamper with the day to day administration of Justice.

During the Mughal period sources of law and its character essentially remained Quranic. Crimes were divided into three groups, namely, a) Offences against God, b) offences against State, c) offences against private persons. Punishment for these offences were of four classes, they were, 1) Hadd 2) tazir 3) Quisas 4) Tasir. Imprisonment was not resorted as a form of punishment in the case of ordinary criminals. It was used mostly as a means of detention only. There were fortress situated in different part of the country, in which the criminals were detained pending trial and judgement.¹⁹ There used to be three 'Noble prisons or Castles' in Mughal India. One was at Gwalior, second one at Ranathambore and the last one at Rohtas.²⁰ The only redeeming feature of the prisoners was that orders for their release were issued on special occasions. On the occasion of the celebrations of recovery from illness of the favorite Princes Begum Sahib, Shahajahan ordered the release of prisoners in 1638 AD.²¹ Some rooms in forts popularly known as the *Bhandhikahanas or Adab – Khanas* were reserved for prisoners, and culprits who had committed serious crimes were sent to such from different places.²²

During the Maratha period also, imprisonment as a form of punishment was not very common. Death, Mutilation, fine were common forms of punishments. The form of punishment, as during the ancient and Mughal period, continued in Maratha period also.²³ The main features of the prison system prevailed in pre- British period may be summarized as below:

- a) There were no prisons in Modern sense.
- b) There was no description of internal administration of prisons.
- c) No separate prison service existed and courts were not feeding centers for prisons.
- d) There were no rules for maintenance of prisons.²

MODERN INDIA

The prison system as it operates today in our country is a legacy of the British rule. It was an ingenious creation of the colonial rulers Over our indigenous penal system with the prime motive of making imprisonment "a terror to wrong doers"²⁵. Nevertheless it was a great leap in the history of our penal reforms as it facilitated the abolition of our old fashion system of barbarous punishments and substitution of imprisonment as the chief form of punishment for crimes.

In 1784 the British Parliament empowered the East India Company to rule India and since then some attempts were made to introduce reforms in the administration of Law and Justice. At that time there were 143 civil jails, 75 criminal jails and 68 mixed jails.²⁶ In fact these jails were an extension Mughal rule which were managed by the personnel of the East India Company in their efforts to maintain peace and establish their trade. As Dr. BK Bhattacharya has very aptly observed, " the British believed only in keepingin custody the prisoners as economically as possible and with the maximum profit to the Government".²⁷ It was quite natural that the early British Administration had formulated its Prison Policy with

a view to serving it colonial interests alone.

In 1835 Lord Macaulay drew the attention of Legislative Council of India to the deplorable conditions of the Indian Jails and proposed to appoint a committee " for the purpose of collecting information as to the state of Indian Prisons and of preparing an improved plan of prison discipline.....and to suggest such reforms as may make the place (the jail at Alipore) a model for other prisons". The council accepted Macaulay's proposal and appointed 'The Prison Discipline Committee' with Hon'ble H Shakespeare as President and Lord Macaulay as one of the members. The report of the Committee came out in 1838. The Enquiry Committee was a landmark in the history penal administration in India. Prisons were given different treatment, the nature and character of the institution assumed a changed meaning, though it was punitive basically.

The committee directed for the first time the attention of the English rulers of India to various vices of the administration of Indian Jails. It criticized the corruption of subordinate establishment, the laxity of discipline and the system of employing prisoners in extra mural labour or public roads.

The committee deliberately rejected all such reforming influences a moral and religious teaching, education or any system of rewards for good conduct, it through the whole weight of its authority in favor of increased rigour of treatment, and proposed to engage all convicts in some dull, monotonous wear some and interesting task in which quicker relief could be secured by working harder for a time. The purposes the prisons according this committee was to make "thegoal a place of dread" through a ruthless process of "severe privation, really hard work, solitude, silence and separation".²⁸

In pursuance of the recommendations of the committee a Central Prison was constructed at Agra in 1846. This was the first Central Prison in India and was followed by the construction of central prisons at Bareilly and Allahabad in 1848, at Lahore in 1852, at Madras in 1857, at Bombay in 1864, at Alipore in 1864 at Banaras and Fatehgarh in 1864 and at Lucknow 1867.²⁹ This was the positive contribution in the spear of Prison Reforms in this country, along with its advocacy of the theory of retribution in prison administration.

In 1844 the first inspector General of Prisons was appointed in the North Western Province on an experimental basis for two years and was extended further, in 1850 the Government of India Made it a permanent post and suggested that each province should appoint an Inspector General of Prisons. In 1862 the North Western Province employed civil Surgeons as Superintendents of District Jails.

In 1870 the Government of India passed Prisons Act. It lay down that there should be a Superintendent, a Medical Officer, a Jailor and such subordinate officers as the local government thinks necessary.³⁰ This act categorically specified the duties of the prison officials. It also made provision for the separation of prisoners of male from females, of children offenders from adults, of criminal from civil offenders.³¹

In 1877 and 1889 third and fourth enquiry committees were instituted. Based on the recommendations of the committees the Prison Act of 1894 was passed. By this the jails appeared to have achieved considerable material progress during this period.

In 1919 the British Government appointed a JointCommission of officials to investigate the whole subject of jail management and to suggest improvement. The commission recommended the establishment of separate institutions like Borstal School for juvenile delinquents. The under trials were to be kept separate from the convicted and the adult convicts were to be classified as habitual and casuals.³² The committee report also took serious views on transportation

of convicts to Andaman Islands and recommended for the discontinuation of the practice. Solitary confinement was abolished. All convicts below 29 years of age were to be cared under adult education programmes and libraries were to be established in all Jails. Quality of food to be improved and prisoners were to be provided with two sets of clothing. The commission underlined the idea of reform of inmates as ultimate objective of imprisonment and rehabilitation of prisoners as social necessity.³³

Unfortunately the prison reform movement received a sudden setback due to the constitutional changes brought about by the Government of India Act of 1919. The Act transferred the jail department from the control of the Government of India to that of Provincial Government.

With the dawn of independence, prison reform was given

increased attention. Indian leaders were ready with a blue print for the industrial development of the country, but the jail reform could not escape their eyes as all of them passed their prime life in the jails.³⁴

Prison administration is a state subject under the constitution of India. The organization, headed by the Inspector General of Prisons consists of central prisons, sub jails or district jails. Different states have adopted different patterns of jail administration. The central Jails are intended for long term prisoners who are convicted in courts.

CONCLUSION

The prison system as it operates today in our country is a legacy of the British Rule. It was the creation of the colonial rulers over our penal system with prime motive of making imprisonment "a terror to wrongdoers".

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