



## **From Custody to Correction: The Evolution of Rehabilitative Jurisprudence in India**

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### **ABSTRACT**

It was the current law in India that dealt with prison management and administration because it was built on deterrent principles. This Act was more concerned with prison management than with the treatment of inmates, and it accorded more weight to prisons, offences, and punishments than to their consequences. The Act outlines the prison administration and organizational framework, as well as the prison officer's responsibilities and subordination.

The act explains the provisions relating to admission, removal and discharge, food, clothing and employment and health and classification of prisoners.

**Key words:** Custody, Jurisprudence, Prison, Lord McCauley

## INTRODUCTION

### **The Modern Prison Administration**

British prison rules and their dominance in India resulted in modern prison management. While reviewing jail reforms in India, the Mulla Committee observed that our current prison administration is a relic of British rule, and that Lord McCauley, the author of the Indian Penal Code, provided for imprisonment as the most widely employed instrument of penal treatment. According to Macauley, "We must primarily rely on incarceration as a form of retribution. In ninety circumstances out of a hundred, it will almost certainly be used."

The beginning of India's contemporary prison system may be traced back to McCauley's idea to build huge central prisons and smaller regional jails. In his minutes dated December 14, 1835, Lord McCauley, as the first Law Member of the Governor General's Council, made a case for the institution of a Committee for gathering information on the Indian Prisons and preparing a strategy for improving prison discipline.

### ***First Commission on Prison Discipline, 1834***

This was the intellectual cornerstone upon which those day's jails were built. The report's main recommendations included the elimination of outdoor labour, the general introduction of indoor work, the establishment of a separate system, better classification of convicts, careful separation of untried prisoners from convicts, improvement of diet, clothing bedding, medical care and the general regulation of the prison system through the employment of prison inspectors.. This report was prepared by Lord McCauley, the then Law Member of the Supreme Court of India in 1835 Lord Macauley 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. In this report Lord McCauley expressed the idea that the best Criminal Code can be of very little use to a community unless there be good machinery for the infliction of punishment.

### ***First Jail Reform Committee, 1838***

In the early nineteenth century, the circumstances in prisons were deplorable, and the environment was filthy. Lord McCauley initially drew the attention of the government in 1838, prompting the

formation of the First Jail Reform Committee, which made the following recommendations:

The following merits should be included in the creation of a Central Jail

- Prisoners who have been sentenced to more than a year in prison shall be housed in these facilities.

These prisons should be able to hold 1000 inmates at a time.

- In every State a Prison Inspector should be appointed, who can inspect from time to time and examine the administration of the jails in the State. Therefore, Uttar Pradesh (1844), Punjab (1852), Bengal (1854), and Bombay-Madras (1862) appointed the Prison Inspector.

### ***Second Jail Reform Committee, 1862***

The Second Jail Reform Committee was established in 1862. This committee made recommendations for food, clothes, and living circumstances. It suggested that jails have medical facilities and that prisoners be classified according to the severity and type of their crimes.

Aside from these, third, fourth, and fifth committees were formed to reform the jail administration, and they made various recommendations, some of which were approved by the government.

### ***Second Commission on Jail Management and Discipline, 1864***

In 1864, a second commission was created to revisit the entire issue addressed by the first committee. It was established by Lord Dalhousie, under the supervision of Sir John Lawrence, to investigate the state of India's prisons. The prison was only important to the British authority in terms of administration and discipline. This Commission gave detailed suggestions for prisoner accommodations, meals, clothes, bedding, and medical treatment, as well as the appointment of Medical Officers in all jails. The Commission also suggested that male and female practitioners be separated, prisoners from females and children from adults.

### ***The Fourth Jail Commission, 1888***

Lord Dufferin formed the Fourth Jail Commission in 1888 to investigate the circumstances of imprisonment. This Commission examined the previous reports (reports from 1836, 1864, and 1877) and conducted a thorough investigation of all aspects of jail administration. It was thought that without enacting a single Prisons Act, uniformity could not be established. It also advocated

for the establishment of correctional hospitals.

### ***Introduction of the Prisons Act, 1894***

In British India, four distinct Acts governed the control of jails and the enforcement of discipline within them. These Acts differed in crucial ways, such as the jail offences listed in them, the punishments that may be imposed for these offences, and the authority that could impose these punishments. As a result, various jail administration systems arose in several provinces, making uniform enforcing of prison sentences impossible.

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### ***The Indian Jail Committee, 1919-20***

In 1919-20, the Indian Jail Committee looked into the country's prison problems in depth. This committee issued a report that is a watershed moment in the country's jail reform efforts.

The Committee also advised that the care of criminals be assigned to appropriately trained personnel, criticized the idea of excessive offender employment, and recommended that such employment be reduced. The committee criticized the presence of children in jails and suggested that a children's court and juvenile homes be established. The suggestions of the Indian Jail Committee in 1919-20 were not adopted for several reasons. Nonetheless, they serve as a beacon of hope.

It made a number of proposals and recommendations, including that while in prison, offenders should be exposed to humanizing and improving influences that will not only deter them from committing future crimes but also result in actual character reformation. Measures should be taken to reconsider every sentence of extended incarceration and grant extra remissions for good behavior in order to minimize prison term. The prison system should be divided into two branches, each with its own recruitment process. Only mutiny and violent assaults on government employees

or guests should be punished with prison time. To provide inmates with incentives like, prolonged remission, facilities to write two or more letters. Arrangements for education up to the elementary stage, library of books suitable for issue to prisoners in prisons and endeavor should be made to provide religious and moral instructions for all prisoners avoiding interference with genuine or caste prejudices of prisoners. It was against public policy to commit children and young prisoners to prison, whether after conviction or while on remand. For such children, remand homes and children's courts should be established, with the procedure in these courts being as informal and flexible as feasible. The committee handed the country's prison reform a major boost. Many major prison reform laws, such as the Borstal Act, the Children's Act, and the Probations Acts, were directly or indirectly influenced by the report.

#### ***All India Committee on Jail Reforms, 1980-83 (Mulla Committee)***

The All-India Committee on Jail Reforms, chaired by Justice Anand Narain Mulla, was established by the Indian government in 1980-83. After-care, rehabilitation, and probation should all be a part of the jail experience. In 1983, the Mulla Committee issued its report. Mulla Jail Committee made recommendations to improve condition of prisoners. The Mulla Jail Committee provided proposals to improve the prisoner's living conditions. The jail staff should be well-trained and organized into several cadres. The number of detainees awaiting trial in jails should be maintained to a bare minimum, and they should be kept apart from those who have been convicted. The prison's conditions should be improved by, among other things, providing enough food, clothing, sanitation, and ventilation. The public and the media should be allowed to visit prisons so that they can learn firsthand about the conditions inside and be willing to collaborate with jail officials on rehabilitation efforts. The government should make every effort to allocate sufficient resources and funding to jail reform.

#### ***Krishna Iyer Committee, 1987***

In 1987, the Government of India appointed the Justice Krishna Iyer Committee to undertake a study on the situation of women prisoners in India. It has recommended induction of more women in the police force in view of their special role in tackling women and child offenders.

In 1987, the Indian government commissioned the Krishna Iyer Committee to conduct a study on the issue of women prisoners in the country. The committee advised that more women be recruited

into the police force because of their unique role in dealing with child and female offenders. In 2000, India's Ministry of Home Affairs created a group to draught a practical Model Jail Manual in order to improve Indian prison management and administration in accordance with international standards. In pursuance to the recommendations made by the All India.<sup>1</sup> The Government of India Act of 1919 assigned the subject of prisons to the Provincial Governments for evaluation and judgment, with no effective supervision or oversight from the Central Government. As a result, provincial administrations have given prison reform a low priority. In contrast, the years 1937–1947 were pivotal in the history of Indian jails because they increased public awareness of the need for prison reform.

### ***Jail Reformation Committee, 1946-1948***

In 1946, a committee was established to overhaul the jails. The following suggestions were made by this committee:

- Children who commit crimes should be dealt differently.
- Modern prisons should be built.
- Offenders should be classified scientifically as (a) children offenders, (b) adults, (c) women offenders, (d) casual offenders, (e) chronic offenders, (f) mentally ill criminals, and (g) disabled offenders.

Aside from the aforementioned recommendations, the Committee suggested that institutions be diversified based on sex, age, criminal record, security status, and treatment.

## **Major Issues faced by Prisoners in India**

### **Delay in trial or Slow Trials**

The most serious issue is the delay in trial, which occurs as a result of a lack of judges, delayed police investigation and inquiry, and the extension of detention or deferral of hearing by the court owing to a lack of time or patience. Due to inefficient administration of the legal aid scheme, the poor are unable to hire lawyers, resulting in trial delays. The right to speedy trial was recognized by Supreme Court in Hussainara Khatoon (No.1) v. Home Secretary, Bihar<sup>2</sup>, but guidelines have

not been strictly followed due to lack of prosecutors and judges. In many cases the person has stayed in prison exceeding the maximum sentence for the crime.

According to the 'Prison Statistics India 2015' report, which was released by National Crime Records Bureau (NCRB) in October 2016, sixty-seven per cent (two-thirds) of the people in Indian jails are under-trials.

In India the trial of offenders is very slow which leads to overcrowding and other problems i.e. health problems, prison violence etc.

### **OVERCROWDING**

Overcrowding is a serious issue in Indian prisons, which is caused by a lack of jails, unwarranted detentions, and sluggish trials. In its 268th report, the Law Commission stated that over 60 arrest warrants are superfluous because the majority of those arrested had been convicted of minor offences. According to the 78th report of the Law Commission, out of a total jail population of 1,84,169, 1,01,083 (approximately 55 percent) were awaiting trial on 1 April, 1977.

### **HEALTH AND HYGIENE**

Due to congestion and a lack of infrastructure, there is no focus on health and hygiene issues in jails. At the tehsil level, jails lack even basic latrine and bathroom facilities to meet the everyday demands of inmates. Access to safe drinking water and suitable food preparation areas free of bed bugs, cockroaches, and other pests. If basic hygiene is not maintained, sickness can spread and become dangerous during times of corona. The problem of hygiene was exacerbated by the overcrowding in jails.

### **PROBLEM OF CRIMINALITY AND CUSTODIAL VIOLENCE**

Because of overpopulation and a lack of proper classification techniques, crimes in jail are widespread. Young offenders who have been convicted of minor offences are grouped with criminals. They may torture them or turn them into hardened criminals. Murders, sexual assaults, and fights have occurred among the inmates, all of which are in violation of the Minimum Rules for the Treatment of Prisoners. Apart from sexual abuse in Tihar prisoners are tortured in a variety of ways. Prison gangs benefit from the culture of abuse and torture. If the inmate is suited to their needs, he is induced into their group. The gang provides protection. In return, he pays them and

fights for the gang.

## SYSTEM OF JAIL VISITORS

Many visitors, both official and non-official, pay visits to jails but miss key issues such as under-trial imprisonment, lack of basic necessities, inadequacy of medicines, and problems faced by female prisoners, among others. Visitors should concentrate on all elements of prison life, with an emphasis on human living conditions and the true portrayal of prisons.

## MENTAL HEALTH ISSUES

Mental health issues are very common in jails, since offenders experience tough trips and are harassed by police, jail authorities, and hardened criminal inmates. Many of them are depressed or have other mental health problems. Long-term incarceration, separation from family, loss of money, harsh treatment, and powerlessness, among other things, all contribute to mental breakdown. They experience social stigma even after being freed from prison. In India, mental health is rarely discussed, and there are no facilities in place to promote mental health in prisons.

## CONCLUSION

The evolution of Indian prison administration reveals a fundamental shift in legal philosophy. For over a century, the system remained shackled to the Macaulayian doctrine of the 19th century, where prisons were designed as "machinery for the infliction of punishment" and retribution. The Prisons Act of 1894 codified this rigid, security-centric approach, focusing on discipline and custody rather than the human rights of the incarcerated.

However, the post-independence era, led by landmark interventions like the Mulla Committee (1980-83) and the Krishna Iyer Committee (1987), introduced a "rehabilitative jurisprudence." This modern perspective asserts that prisoners are not stripped of their fundamental rights upon entry and that the ultimate goal of incarceration should be social reintegration and character reformation.

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