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Lecture-2



Prison Reforms

Introduction

Prison is where the criminal equity framework put its whole expectations. The correctional mechanism, if falls flat will make the entire criminal methodology futile. The regulation behind discipline for a crime has been changed considerably by the advancement of new human rights statutes. The idea of transformation has turned into the watchword for prison organization. Human rights statutes advocate that no crime ought to be punished in a pitiless, corrupting or in a cruel way. Despite what might be expected, it is held that any discipline that adds up to remorseless, humiliating or brutal ought to be dealt with as an offence by itself. The change caused to the criminal equity framework and its correctional mechanism has been embraced around the world and question of incorporation of the same in Indian scenario remains unanswered.

Internationally, it turns into an all-round acknowledged decision that the correctional mechanism in criminal equity organization ought to agree to reformative arrangements. It is likewise announced that all prisoners might be approached with deference because of their innate respect and incentive as human beings. There is an arrangement of rights distinguished by the international legal framework to spare the human poise and estimation of prisoners and thereby the reformative topic of rectification. It is additionally emphatically contended that the group can never endure a plan of adjustment that does not keep up an association with the evilness of the crime done. This discipline dependably keeps up a subjective point of view. The privileges of the imprisoned individuals must be perused regardless of this observation. It is genuinely implied that there can be changed disciplines for the same offence; however, one ought not to be dealt

awfully while the sentence once pronounced by the Court goes on. In this domain, the rights ensured under the international legal framework are to be investigated and are to be incorporated in India.

Concept of Prison

Prisons serve as an arm of criminal justice system to punish the deviant behavior of a miscreant.

John Locke, the great English political theorist of seventeenth-century expressed that men were basically good, but laws were still needed to keep down 'the few desperate men in society'.

The Online Oxford English dictionary defines prison as, "A building to which people are legally committed as a punishment for a crime or while awaiting trial"^[1]. In our country "Prison" falls under State subject in List II of the Seventh Schedule to the Constitution of India. The administration of Prisons falls under the ambit the State Governments and is administered by the Prisons Act, 1894 and the Prison Manual of the respective State Governments. Thus, States have the preliminary responsibility and authority to change the current prison laws, rules and regulations.

Importance of Prisons

The presence of prisons in our general public is an antiquated wonder since Vedic period where the counter social components were kept in a place recognized by the rulers to secure the general public against wrongdoing. Prisons' were considered as a 'Place of Captives', the place prisoners were kept for retribution and discipline. At first, there was a conviction that detachment and custodial measures would change the guilty parties but gradually it is being substituted by the

advanced idea of social defence. Various issues concerning prisons are recognized by government and specialists from time to time.

Justice V.R. Krishna Iyer has rightly observed: “In our world prisons are still laboratories of torture, warehouses in which human commodities are sadistically kept and where spectrums of inmates range from drift-wood juveniles to heroic dissenters”^[2]

Today prisons serve mainly three purposes, which may be described as custodial, coercive and correctional. Prison as a place of correction historically is developing in conception.

Earlier prisons served only the custodial function, where an alleged offender could be kept in lawful custody until he could be tried and if found guilty, punished.

The Digest of Justinian, in Roman law, established the custodial principle with the statement that “prison is for confinement, not for punishment”^[3]. The coercive function means that imprisonment may be used to command a person to comply with an order made by the Court of law, whether civil or criminal; if he complies, he is released.

The purpose of prison can be clearly said to be as that of the imposition of punishment, rehabilitation of the prisoners and protection of prisoners.

Background

The cutting-edge prison in India began with the Minute by TB Macaulay in 1835. A committee to be specific Prison Discipline Committee was delegated, which presented its report in 1838. The committee prescribed expanded thoroughness of treatment while dismissing every single

philanthropic need and changes for the prisoners. Following the proposals of the Macaulay Committee between 1836-1838, Central Prisons were developed from 1846.

The contemporary Prison organization in India is consequently a heritage of British run the show. It is in view of the thought that the best criminal code can be of little use to a group unless there is great hardware for the curse of disciplines. In 1864, the Second Commission of Inquiry into Jail Management and Discipline made comparative suggestions as to the 1836 Committee. In addition, this Commission made a few recommendations with respect to convenience for prisoners, improvement in diet, clothing, bedding and therapeutic care.

In 1888, the Fourth Jail Commission was designated. On the premise of its suggestion, a consolidated prison bill was formulated. Arrangements with respect to the jail offences and discipline were exceptionally analyzed by a meeting of specialists on Jail Administration. In 1894, the draft charge moved toward becoming law with the consent of the Governor General of India.

- Prisons Act,1894

The Prisons Act, 1894 is the only consolidated framework with regards to jail management and administration which operates across all parts of India. This is an antediluvian act which operates without any amends to it. This act, however, failed to resolve certain issues. The loopholes in the act were subsequently addressed in the report of the Indian Jail Committee 1919-1920 pertaining to the rehabilitation and reformation of offenders, which were recognized to be as the key objective of prison administrator.

- Indian Jail Reform Committee

In the year 1919-20, the Indian jail reform committee, appointed to suggest prison reforms was headed by Sir Alexander Cardew. The committee took a stand on an international perspective after observing the condition of prison across the globe and laid down an inference that prisons should not only have a deterrent effect but also have a reformatory approach. The committee emphasized the need for a reformatory approach to prison inmates and dejected the use of corporal punishment in jails. It suggested the utilization of an inmate in productive activities. The Committee underlined the need for aftercare programs for the released prisoners for the purpose of rehabilitation.^[4]

As a measure of prison reform, the Jail Committee further suggested that the maximum intake capacity of each jail should be set, depending on its shape and size. In the meantime, there was an outcry for retention of solitary confinement as a method of punishment.

- Government of India Act, 1935

The Government of India Act, 1935 is an important legislative framework which resulted in the transfer of the subject of jails from the Center list to that under the control and administration of provincial governments. This further condensed the possibility of a uniform prison policy at a national level. Thereafter the States started having their own prison policies, rules and procedure.

- The Reckless Report, 1951

The Government of India invited the United Nations expert on correctional work, Dr. Reckless in the year 1951, to embark a study on the prison administration and to recommend policy reforms. He made a plea of transforming jails into reformation centers through this report titled “Jail Administration in India”. Furthermore, he also laid emphasis on modification to be made in the outdated manuals.

