



FACULTY OF JURIDICAL SCIENCES

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Lecture-3



International Legislations

- The Universal Declaration of Human Rights

The General Assembly of the United Nations started a movement in the form of the Universal Declaration of human rights in the year 1948. It lays down principles of administration of justice. Following are few important provisions which have been embedded in the draft-

(1) No one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

(2) Everyone has the right to life, liberty and security of person.

(3) No one shall be subjected to arbitrary arrest, detention or exile.^[7]

(4) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

- The International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) remains the core international treaty on the protection of the rights of prisoners. India ratified the Covenant in 1979 and is bound to incorporate its provisions into domestic law and state practice.^[9]

- The International Covenant on Economic, Social and Cultural Rights (ICESR)

The International Covenant on Economic, Social and Cultural Rights (ICESR) states that prisoners have a right to the highest attainable standard of physical and mental health.^[10] Apart from civil and political rights, the so called second-generation economic and social human rights as set down in the ICESR also apply to the prisoners.

- Declaration on Protection from Torture, 1975

The UN General Assembly by consensus adopted a declaration on the protection of torture. This declaration acts in tandem with the human rights principles of an individual and protects that person from any kind of torture, or inhuman and cruel behaviour.^[11]

- General UN directives

The UN standard Minimum Rule also made it mandatory to provide separate residence for young and child prisoners from the adult prisoners. Subsequent UN directives have been the Basic Principles for the Treatment of Prisoners (United Nations 1990)^[12] for the Protection of All Persons under Any Form of Detention or Imprisonment (United Nations 1988)^[13]

- Convention against Torture and other Cruel, Inhuman or Degrading Treatment

The UN Assembly adopted, a document called Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment wherein the responsibility is shouldered on the state to take steps for effective judicial, legislative and administrative methods. Further, it clearly lays down the rules for interrogation and certain other instructions have been enumerated.⁷ Though this is a concrete piece of legislation but unfortunately India has yet not ratified to it.

International Best Practices

India is no less, no way behind in promoting prison reforms and incorporating them into practice but some practices which are laudable and can be easily adopted by India are mentioned under-

- United States of America

1. Tele Medicine Technology

Tele-medicine is a practice where two health professionals, or a health professional and a patient, are in long-distance communication with each other. This may be helpful in cases where it is difficult to transport prisoners, or in far-away rural prisons, or in difficult-to-reach places. Tele-medicine can provide improved security, personal safety, cost savings and access to specialists, which might otherwise be impossible.

- United Kingdom

1. Prison and Probation Ombudsman (Grievance Redressal)

A specialized inspection of prisons takes place every year in the UK. A routine Government follow-up takes place every year. This makes for greater accountability and increased system transparency.

- Singapore

1. Yellow Ribbon Project (Community Involvement)

The goal of the yellow ribbon project is to reintegrate and rehabilitate prisoners. It involves prisoners voluntarily giving up all gang associations (including having tattoos removed). Part of the challenge prisoners faces after being released is that of the social stigma of having been in prison. Its objectives are:

- (a) Creating awareness of the need to give ex-offenders a second chance;
- (b) Generating acceptance of ex-offenders and their families in the community;
- (c) Inspiring community action to support the rehabilitation and reintegration of ex-offenders.

Indian Committees and Acts

During the post-independence era various committees and acts have been constituted to tackle the problems relating to prison administration in India. The following entails brief insight into all the important committees and acts.

- All India Jail Manual Committee

The Government of India in the year 1957 accorded its assent to appoint All India jail manual committee to prepare a model prison manual. The committee laid down its submission in the year 1960. The report made forceful pleas for formulating a uniform policy and latest methods relating to jail administration, probation, aftercare, juvenile and remand homes, certified and reformatory school, borstal schools and protective homes, suppression of immoral traffic, etc. Moreover, the report suggested amendments in the century old Prisons Act of 1894 to provide a legal base for correctional work.

- Model Prison Manual

The committee prepared the Model prison manual and presented it to the Government of India in 1960 for its implementation. The manual is the basis on which the current Indian prison management is regulated. The Model prison manual paved way for the Ministry of home affairs, Government of India in the year 1972, to appoint a working group on prisons.

- Working Group on Prisons

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. Its salient features are as under: –

- (1) To make effective use of alternatives to imprisonment as a measure of sentencing policy.
- (2) Emphasized the desirability of proper training of prison personnel and improvement in their service conditions.

(3) To classify and treat the offenders scientifically and laid down principles of follow-up and after-care procedures.

(4) That the development of prisons and the correctional administration should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of the national planning process.

(5) Identified an order of priority for the development of prison administration.

(6) The certain aspects of a prison administration are included in the five-year Plans.

(7) An amendment to the Constitution be brought to include the subject of prisons and allied institutions in the Concurrent List, the enactment of suitable prison legislation by the Centre and the States, and the revision of State Prison Manuals be undertaken.

- Mulla Committee

In 1980, the Government of India set-up a Committee on Jail Reform, under the chairmanship of Justice AN. Mulla. The basic objective of the Committee was to review the laws, rules and regulations keeping in view the overall objective of protecting society and rehabilitating offenders. The Mulla Committee submitted its report in 1983 The All India Jail Committee focuses on bringing equilibrium between States and Union territories on the legal framework concerning prison administration.

The Committee suggested setting up of a National Prison Commission as an enduring body to bring about modernization of prisons in India. The Committee also made a proposition that the existing dichotomy of prison administration at Union and State level should be removed. It

recommended a total ban on the atrocious practice of associating together juvenile offenders with hardened criminals in prisons. The Committee also recommended separation of mentally disturbed prisoners and their placement in mental asylums. Another recommendation of the Jail Committee was a vis-à-vis classification of prisoners on the scientific and rational basis.

Some of the prominent recommendations of the Mulla Committee are:

1. The condition of prisons should be improved by making adequate arrangements for food, clothing, sanitation, ventilation etc.
2. The prison staff should be properly trained and organized into different cadres. It would be advisable to constitute an All India Service called the Indian Prisons & Correctional Service for recruitment of Prison officials.
3. After-care, rehabilitation and probation should constitute an integral part of prison service. Unfortunately, probation law is not being properly implemented in the country.
4. The media and public men should be allowed to visit prisons and allied correctional institutions periodically so that public may have first-hand information about conditions inside prisons and be willing to co-operate with prison officials in rehabilitation work.
5. Lodging of undertrials in jail should be reduced to bare minimum and they should be kept separate from the convicted prisoners. Since under trials constitute a sizable portion of the prison population, their number can be reduced by speedy trials and liberalization of bail provisions.
6. The Government should make an Endeavour to provide adequate resources and funds for prison reforms .

- Krishna Iyer Committee

The Government of India in the year 1987 appointed the Krishna Iyer committee to carry out a study on plight of the women prisoners in India. It has recommended the induction of more women in the police force with a view of their special role in controlling women and child offenders. The committee submitted its report in the year 1988 to the Government of India.

Subsequent Developments

The Supreme Court in Ramamurthy vs. State of Karnataka.laid directions to bring about a unified national consolidated framework on prison laws and to prepare a draft model prison manual, subsequently a committee was set up in the Bureau of Police Research and Development (BPR&D).

In 1999, a Draft Model Prisons Management Bill was circulated to replace the Prisons Act, 1894 by the Government of India but the bill is still limping to find its place.

The All India Committee on Jail Reforms (1980-1983), the Supreme Court of India and the Committee of empowerment of women (2001-2002) have all pressed on the need for a comprehensive revision of the prison laws but the process of revision and implementation have a remorseful future.

