

Prison life matters: humanizing the jails

[Law](#), [Crime](#)



This paper talks about the current situation relating to the quality of life in prisons which is degraded and under par. After years of progress and development we still aren't coming out of our adamant perception about punishment and are unwilling to accept a prisoner as a person who comes with human needs. The purpose of serving prison is to cultivate a good human when a prisoner leaves the jail and to prevent the person from falling back into crime.

Through this paper we seek to address the problems in prison and its reformation. To humanize prison life, we need to humanize the outlook of the ones dealing with it upfront. We must go to the grass root level and improve the situation inside the prison by providing the prisoners with an opportunity to develop intellectually and physically.

There should be a balance between the collective rights (criminal justice) and individual causes (human rights). A system where a dedicated interactive attention is given to a prisoner creates a healthy environment inside the jail, humanizing the prison life. There should be balance between deterrence and reform. The paper aims at challenging the dark side of prison life.

Introduction

In prison, those things withheld from and denied to the prisoner become precisely what he wants most of all. Eldridge Cleaver

The procedure established by law does not allow torturing a person, be it a criminal or not. Eradicating crime is not the same as mistreating prisoners. The prevailing prison system in our country is a flawed one. Inadequate basic

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human amenities, derogation of human rights, poor living conditions, this is the plight of prisoners in our Indian jails. The dark dingy cells represent how we have failed to progress and be independent, despite attaining independence from colonial rule. Most importantly it takes away from him the; right of self-determination and he is at the mercy of prison officials, who regulate the minutest details of his life. State is under a constitutional obligation to organize prison system in such a manner that the imprisonment does not result in further degeneration of a prisoner. It is clearly established that a court sentence does not deprive the prisoner of his fundamental rights. He retains all his rights except those which are inconsistent with his incarceration. (prison can function as a correctional institution, bringing about the reformation and rehabilitation of the offender by honoring his basic human dignity Thus, the prison system should aim at ensuring the return of an offender to society as not only willing but also able to lead a well-adjusted and self-supporting life. In this regard, the humanization of prisons assumes a greater significance. Humanization of prisons is a system, which seeks to protect the basic human dignity of every prisoner. Further it aims to create humane conditions in a prison and secures social re-education of the prisoner for the purpose of realigning and re-organizing his life for smooth resettlement in society. Humanization emphasizes that the prison should be a centre of correctional treatment, where major emphasis shall be given on the re-education and reformation of offender. The impact of institutional environment and treatment shall aim at producing constructive changes in the offender, as would be having profound and lasting effect on his habits, attitudes, approaches and on his total value schemes of life.

Unfortunately, realities in Indian prisons, as reported by the All India Committee on Jail Reforms (1980-83) present a totally unsatisfactory picture. According to the Committee most of the prisons are overcrowded and majority of persons lodged in prisons consisted of people belonging to the under privileged sections of the society. A large number of persons coming to prisons consist of first offenders involved in technical or minor violations of law. More than half of the total prison population in the country consists of inmates waiting or standing trials or who have failed to furnish necessary security to secure bail, due to their poverty. 6 The Committee was shocked to find all categories of inmates being huddled together in most of the prisons. Young offenders were confined in prisons with adults and were exposed to the degenerative impact of prison atmospheres.

The institution of prison visitors has become almost defunct in most of the states and union territories. Recently, the National Human Rights Commission has come out with similar observations. The Commission has noted the increase in the number of custodial deaths. The absence of human rights orientation in prison officials. Thus, it could be summed up in the words of the Committee of 1980-83 that ' the existing prison organization in the country is in disarray' and ' does not conform to the required standards of a correctional department'.

The three links that form the chain of prison system are the prison laws, the judiciary and the prison administration. The Indian prison laws are archaic and there is no uniformity in them in various states. The judiciary at times finds itself helpless in the absence of ' executive sword, and the prison

personnel lack human rights orientation. For achieving an effective humanization of prisons each link in the chain needs to be remolded, reoriented on the basis of humanistic values.

HISTORY

Since the ages till now we evolved our punishment techniques. From retributive *lex talionis* to imprisonments.

Earlier it used to be either confinement till death, death or monetary compensation or brutal punishments like mutilation etc. but with time imprisonment was thought as a better option to reform a criminal rather than just killing him. Reformation of the offender was regarded as an aim of the prison sentence. Rehabilitation was thought of as the main objective of the imprisonment, and now when these heavy words like imprisonment, reformation, rehabilitation etc. were used they were meant to introduce some human factors inside jails to make a criminal deviate from his path of crime to path of public good, but what we have done is just took in the words and punishments but no human treatment is still provided in many of the infamous jails where there is less, controllable or no surveillance. And for stopping this inhuman treatment and providing humanized environment starting from a very grass root level we need to maintain an inter-departmental interaction with good tracking and records.

Education is the biggest teacher for good and bad if especially criminal minds are seen. Education can help in covering up for not less than 50-60 % of crimes. We need to provide linkage between education standard and criminality. To deflect prisoners from deviant paths their hobbies, and minds

need to be engaged in productive activities and enhancing their self-confidence towards a thinking which makes them feel they can live an organized life too. Corrective actions are needed to be taught.

In India the year 1835 marks the beginning of prison reforms. In that year Lord Macaulay arrived in India as a Member of the Indian Law Commission. He drew the attention of the Government of India to the terrible conditions in the Indian Jails. The Government of India passed the Prisons Act, 1894 which is the existing law governing management and administration of prisons in India. The Britishers had found it efficacious for the achievement of their political ends to run prisons according to the provisions of this Act.

Description of prison

The Lawyers Collective in Bombay, which has been permitted to visit lock-ups and prisons under court order, has provided this description: The lock-up is a bare room with no piece of furniture at all, usually divided into two parts, the living area and the toilet area, separated from each other by a one foot divider. It is almost always a very poorly ventilated room with usually only one small window built close to the ceiling. There is never a fan in the cell. The lock-up is also poorly lit, usually by just one bulb for the whole room, which is never switched off. In lock-ups in the urban areas, the urinal area is usually enclosed, but without a door. There is normally no commode – just a pot in a corner which is cleaned out occasionally. The water supply is unpredictable and intermittent at best. The stench is unbearable and flies abound. The undertrial is not provided with a change of clothes nor with soap, oil or toothpaste. No mats are provided for sleeping nor are coverlets

supplied. The lock-ups are inevitably overcrowded, especially at night. From the uniformity in their filthy and overcrowded conditions, and in the brutal, dehumanizing treatment meted out by the police to their occupants, it seems lock-ups are specially built to oppress detainees and make their stay a type of deterrent to crime.

To improve the prison conditions what does not mean that prison life should be made soft; it means that it should be made human and sensible for prisoners. Nobody wants to be punished or go to prison. A prisoner is already deprived of so many civil, political liberties, that shouldn't disable their basic human rights.

Problems

Overcrowding

The word Overcrowding of prisons denotes when prison population goes beyond it's normal capacity of accommodation.

Overcrowding in the prisons is a human right issue which is not taken seriously. It results in worsening of the general living conditions of the prisoners. Prison officers find it difficult to initiate and continue reformative measures as this overcrowding creates interferences in the correctional process.

In this case, Justice Bhagwati directed the release of many undertrial prisoners in Bihar jails who had already served longer periods than if they had been convicted for the crimes with which they had been charged.

Torture

What remains largely unseen is how, beneath a misleading veneer of due process and legal protocol, thousands of death row inmates are often subject to conditions that constitute torture, sometimes for decades on end, while waiting to be executed or exonerated. These conditions, as much as the death penalty itself, constitute violations of established international human rights law as well as the constitutional right against cruel and unusual punishment.

Death rows leaves prisoners in the most dehumanizing conditions possible to waiting for court appeals to go through. Prisoners on death row in India are living in inhumane conditions, facing unfair trials and horrific acts of police torture, according to a new study released.

Mental health is flagged as a serious and under-researched issue in prisons, with many facing violence and humiliation from fellow inmates. More than 100 prisoners spoke about sleep deprivation, many saying they could not sleep for more than three or four hours a night because of the uncertainty of their fate.

The use of torture is ubiquitous, the report said. Inmates spoke about being hung by wires, being forced to drink urine, being placed on a slab of ice and having a leg broken, forced anal penetration, and extreme stretching. Some gave specific details - being tied in a sack of chillies and beaten with the butts of police guns. Others left it vague, simply saying "unexplainable things" had been done to them.

Women

Because of the stigma that an Indian woman suffers if she has been raped, the authorities apparently fear that the victim will not show up in court to testify against her rapist. Accordingly, she is imprisoned to make certain that she is available to testify at trial. While not seemingly designed to punish the victims, this is the effect of confinement in protective custody, which may last for two, three or four years. Moreover, though it may make a particular victim available to testify in court against her alleged rapist, the imprisonment of rape victims can hardly be expected to enhance the willingness of rape victims generally to come forward to accuse their rapists. So far as the conditions of confinement are concerned, the accounts heard accorded with those described by former Supreme Court Justice V. K. Krishna Iyer who headed the National Expert Committee on Women Prisoners. After visiting one prison, he noted that 15 women confined in one cell had no amenities — clothing, work, education or even medical examination. There were no beds, bedsheets or pillows, just a cane mat.

Custodial death

The case law indicates that over the last several decades this Court and almost every High Court has relied on Article 21 of the Constitution and thought it appropriate to compensate the next of kin for an unnatural custodial death. The constitutional courts can go on delivering judgment after judgment on this issue and award compensation, but unless the State realizes that custodial death is itself a crime and monetary compensation is not necessarily the only appropriate relief that can be granted to the next of kin of the deceased, such unnatural deaths will continue unabated.

Therefore, what is needed is a review of all prisons with a humanitarian nuance. As, a civil remedy can never be justifiable for a criminal wrong.

No constitutional window dressing can legitimize state sponsored murder or the system that justifies it. *Kewal Pati v. State of Bihar*, in this case the kin of the person who died in custody was merely compensated in monetary terms. This outlook needs to change. Legal murder is no justice.

Solution

In India, legal aid for those who cannot afford to avail counsel is available at trial, but that does not happen, not at least, in practice. Since the majority of all prisoners in India, those confined in the prisons as well as those held in police lock-ups have not been tried, the absence of legal aid until the point of trial reduces greatly the value of the country's system of legal representation of the poor. Lawyers are not available to assist most prisoners at the point when many of them require such assistance.

The use of modern techniques such as video conferencing should be emphasized at basic level of trials, as it will be time saving, energy saving and cost friendly also. As per the prevailing practices a lot of money, time and manpower is being wasted in escorting the prisoners from prisons to the courts. The courts should consider granting the bails to the petty offenders/ first timers especially during the trials. As this will be stopping the exposure of petty offenders to the grave offenders in prisons and will also bring down the overcrowding of the prisons. The speedy trials shall also be encouraged to provide speedy justice and which will save the prisons space for deserving culprits. The practice of holding monthly meetings between the judiciary

police prosecution and prisons departments should be encouraged and mandatory on district level. The provision should be made for setting up wing of mobile courts in the prisons which may be helpful in speedy dispersal of bails and trials in petty cases. The basic cooperation between the police and prisons department needs to be improved and an atmosphere of accountability and inter faith requires improvement at the earliest. The number of employees with the prison department should be increased. if major recruitments are made in the ranks of constables, warders, head warders, security etc. it is a big cause of overwork load, mismanagement and also threatening the ratio of inmates and administrators i. e the ratio of prisoners and prison staff. There is a huge shortage of employees on the lower ranks of prisons department. It is due to these circumstances that there are riots and gang wars in prisons almost every day. It can be disastrous and no wonder why there is increase in the drug abuse and easy access to the dangerous weapons even in the prisons. The department should immediately recruit regular employees who should be accountable for their duty on lower ranks. The infrastructure in the prisons should be modernized and the staff should be trained accordingly and be literate as per the changing technology. The prison department has been found to be even lacking in transport facilities due to which for every transport of prisoners or otherwise the prison department has to look to the police department at every such requirement. The infrastructure of the prisons department needs to have a big facelift and it should not be treated as a neglected wing of criminal justice administration. The supreme court even suggested the concept of ' open prisons', considering poor situation of prisoners. Semi-open

prisons or open prisons lets the convicts to work outside the jail premises and earn a livelihood and return in the evening.

The concept was brought in to inculcate the convicts with the society and reduce their psychological damage as they faced lack of confidence in leading normal lives outside.

Humanizing prison life in India

It is clear that increasing the gravity of punishment doesn't help in controlling or reducing the crime as crime rate has increased with time even after all the increase in the intensity of punishment that has been increased with time.

This continuous repulsion and lack of support for existing attempts to humanize prisoners is the most inhuman thing that has been prevailing since long back. One of the ways to reform a criminal or a criminal mind is to use an already acquitted person who have highly changed and reformed as a good human to help and hit the minds of prisoners present in the jails by holding certain sessions or interactions on a personal level. No one can understand a criminal mind better than another criminal.

This can be understood easily by the example of Deepika Padukone who went through depression and is now helping those who are going through it.

What can help in stabilizing or lowering the crimes is the only sole solution of "humanizing them", building sensitiveness and humanity inside them. For this they need to be provided with that kind of environment and treatment as a human. Shifting the focus from "static institution" (which treats &

isolates prisoner, brutal punishments) to the “ active humanizer” (which considers prisoners as humans and uses punishments along with keeping other human rights in minds).

Tihar jail is an exception example for how our country’s law system is providing with all the reformative measures that a prisoner should get in order to align with the rehabilitation and reformation.

This jail has better humane environment and several reformative schemes such as:

- Yoga and meditation
- Societal participation in reformation
- Prisoner’s participation in various sports
- Education both formal and adult with library facility
- Ventilation of grievances
- Vocational classes
- Helping to make their own products and sell, so that they can help their families.

The official website of Andhra Pradesh Prison Department states that there are various facilities that the prisoner gets like television, radio, newspapers and indoor games etc. Further septic toilets, clean environment etc. are also been provided along with certificate courses, diploma programs etc. by distance learning at government costs.

The High Court Calcutta rules that even prisoners are entitled to the right to trade, occupation and profession guaranteed under article 19(1)(g) of the

Indian Constitution. These are some of the examples where our prison system is upholding human rights, but is it enough? We need reform in every prison of the country, we need every jail to follow what these examples have set.

Conclusion

There are several judgments and pronouncement by different courts for protecting the rights of prisoners but the practical implications are still not been applied to almost all the unpopular or other jails which are out of sight from the judicial or official surveillance. Instead of removing or torturing the prisoner from the society, attention should be paid on reforming and rehabilitating the person and the environment.

The need for reform is felt because despite there being numerous provisions and legislations, its execution is not being done. The problem needs to be addressed at the grassroot level, for which we need to reform the administrative wing of criminal justice.

“ If people get sick, we take them to the hospital and give them the right medicine to get better. If people’s behavior is sick, we bring them to the prison, but we forget the medicines.” – Sri Sri Ravi Shankar